PRACTICE AND PROCEDURE OF PARLIAMENT



M.N. Kaul
S.L. Shakdher

Utpal Kumar Singh
Editor

LOK SABHA SECRETARIAT
NEW DELHI

Practice and Procedure of Parliament

(with particular reference to the Lok Sabha)

"संविधान का क्रियाकरण पूर्णतया संविधान के प्रकार पर निर्भर नहीं करता है। संविधान केवल विधानमंडल, कार्यपालिका और न्यायपालिका जैसे अंगों के लिए व्यवस्था कर सकता है। राज्य के इन अंगों का क्रियाकरण जिनपर निर्भर करता है, वह जनता और उसके द्वारा स्थापित किये गए राजनैतिक पक्ष हैं जो उसकी इच्छा और नीति पालन करने के साधन होते हैं।"

डॉ. बी.आर. अम्बेडकर
भारतीय संविधान सभा के वाद विवाद, 25 नवंबर 1949

"The working of a Constitution does not depend wholly upon the nature of the Constitution. The Constitution can provide only the organs of State such as the Legislature, the Executive and the Judiciary. The factors on which the working of those organs of the State depend are the people and the political parties they will set up as their instruments to carry out their wishes and their politics."

Dr. B.R. Ambedkar
Constituent Assembly Debates, 25 November 1949

M.N. KAUL
S.L. SHAKDHER

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प्रधानमंत्री
Prime Minister

MESSAGE

It is heart-warming to learn about the 8th revised edition of "Practice and Procedure of Parliament" being brought out by the Lok Sabha Secretariat. Published since 1968, it has evolved as a comprehensive reference guide for lawmakers, experts, scholars and the average reader alike.

Dialogue and discussions have been an integral part of our socio-cultural ethos and heritage. Today, India is celebrated as the mother of democracy and proudly holds the title of the world's largest democracy. Our unique unity in diversity is our greatest strength that inspires us to face challenges together and resolve any obstacle that comes our way.

It is my firm belief that a nation is governed on the basis of consensus, which lies at the heart of democracy.

The foresight and vision of our Constituent Assembly and the combined experience of generations of illustrious Members of Parliament get showcased through the skilfully crafted practices and procedures of our Parliament.

The evolution of our Parliamentary procedures has further strengthened our democracy.

While we bade farewell to the old premises – now aptly called the *Samvidhan Sadan* – and shifted to a new building of Parliament, we continue to be inspired by the legacy of work that has been bequeathed to us by previous generations of Parliamentarians.

Over the decades, the most notable achievement has been the deep trust reposed by the people in the Parliament and Parliamentarians. This has been made possible, in a large measure, due to the strength of our democratic traditions and principles.

Through various initiatives that include e-Parliament, a paperless secretariat and an e-Portal for the benefit of members, the emphasis has been on modernising the day-to-day functioning of the Parliament.

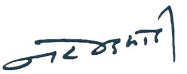
While several generations of Members of Parliament have enriched the process of dialogue, thousands of members of the Lok Sabha Secretariat team have also worked behind-the-scenes to ensure accuracy of our Parliamentary processes and procedures.

The "Practice and Procedure of Parliament" is a seminal work that has guided Parliamentarians, scholars and legislative personnel in India and many countries across the world. May the 8th revised edition of "Practice and Procedure of Parliament" carry forward the pioneering effort of Shri M.N. Kaul and Shri S.L. Shakdher.

The initiative by the Hon'ble Speaker, Lok Sabha, Shri Om Birla in bringing out this revised edition is truly commendable.

May the publication continue to nurture and nourish our democratic traditions and principles, culminating in the building of Viksit Bharat@2047.

Best wishes for the success of the publication.



(Narendra Modi)

NEW DELHI
फाल्गुन 18, *शक संवत्* 1945
08 March, 2024

INTRODUCTION

India is the largest and most successful functioning democracy in the world. The values and customs associated with the concept of democracy have had their roots in the ancient Indian tradition. Since the ancient times, India has been home to republican form of governments, deliberative representative bodies and self-governing institutions. The *Rigveda* and the *Atharvaveda* mention institutions such as *Sabhas* and *Samitis* which used to function as per democratic principles. Our ancient texts such as Panini's *Ashtadhyayi,* Kautilya's *Arthashastra*, Ashokan pillar inscriptions as well as texts in Buddhist and Jain traditions, among many others, bear testimony to the fact that democracy was a way of life even during ancient India. Even where democratic governance was not manifestly present, the King was expected to act in accordance with Dharma, which is akin to the rule of law and constitutionalism. Thus it was natural for us to draw from our ancient democratic heritage, and adopt parliamentary democracy as our preferred form of governance. This has ensured stability, peace and all round progress in our country by harmonising our linguistic, religious and cultural diversity. Showing their abiding faith in a system based on justice, equality, and liberty, our great leaders gave us our Constitution which has since guided us to the path of progress and prosperity.

Successful completion of 17 General Elections as well as elections to State Legislatures and local bodies and wide public participation in those elections bear testimony to the fact of deepening of parliamentary democracy in our country. As the supreme representative and legislative body, Parliament has been accorded a pivotal position in our democratic edifice. It is an institution which represents the people. It is through parliament that people participate in the management of public affairs. Our Parliament has been instrumental in ushering in social change and development through progressive legislations and meaningful debates, thus paving the way for good governance and socio-economic transformation.

The strength and effectiveness of Parliament as a representative body undoubtedly depends on the active participation of the members. A member of Parliament is the most important link between the people and the Parliament on the one hand, and the Parliament and the Executive on the other. The elected representatives are expected to work to fulfil people's aspirations and expectations. With their grassroots knowledge and understanding, Members bring in different shades of opinion and dimensions in the legislature which is useful for the executive in providing good governance.

Effective working of Parliament depends largely on its practices and procedures that are meant to provide for orderly and expeditious transaction of business in the legislature. The origin of rules of procedures of Indian Parliament dates back to 1921 when the Central Legislative Assembly came into being at the Centre. After India

attained Independence, each House of the Parliament has been mandated under article 118 of the Constitution, to make rules for regulating its procedure and the conduct of business, subject to the provisions of the Constitution. Accordingly, Rules of Procedure and Conduct of Business were modified substantially and published as the Rules of Procedure and Conduct of Business in the House of the People in the Gazette of India, dated 17th April 1952. From time to time, these Rules have been amended on the recommendations of the Rules Committee of the House.

In implementing and interpreting these rules and managing the business of the House, the office of Speaker plays a vital role. The Speaker acts as the guardian of the rights and privileges of the House, its Committees and the members. If needed, the Speaker helps in evolving new practices by using discretionary powers, giving directions and pronouncing rulings. Symbolizing the dignity and authority of the House of the People, the Speaker helps to strengthen and promote healthy parliamentary culture and constructive debates in the House.

The success of the Indian parliamentary democracy for more than seven decades can be mainly attributed to its responsiveness to the changing needs of the times. Due to several innovations in the parliamentary procedures during the Seventeenth Lok Sabha, ample opportunities have been provided to all Members to raise important matters in the House under various procedural devices. A conscious effort was made to enable new members to participate in the proceedings of the House.

The tenure of the 17th Lok Sabha has been full of challenges, opportunities and innovation. The challenges posed by COVID-19 remain unparalleled in our history. The pandemic had an all pervasive impact on the functioning of democratic institutions including our Parliament. Rising to the occasion, Lok Sabha took pro-active measures to ensure that the sittings of the House take place in accordance with the relevant COVID-19 Guidelines issued by the Government of India. It also led to innovative strategies including having staggered sitting hours for both the Houses, using galleries and the chambers of both Houses for making seating arrangements for Members to follow social distancing norms, etc.

The trying times of pandemic also underlined the need for innovative digital infrastructure and virtual parliament. With the help of a robust amalgamation of infrastructure and technology, the Parliament of India took significant steps in using Information and Communication Technology effectively, in its functioning. Using digital platform for parliamentary functioning has enabled us to connect more effectively with the people. We have moved towards e-Parliament to ensure that democracy is participatory, deliberative and transparent. We have also made large strides in making our secretariat paperless.

It is matter of deep personal pride for me that the New Building of Parliament was dedicated to the nation by Prime Minister Shri Narendra Modi on 28 May 2023. The new building of Parliament has a futuristic vision and is a glorious symbol of the aspirations of new India. It is equipped with state-of-the- art facilities, enabling the

parliamentarians to perform their functions effectively. The *Sengol* placed in the Lok Sabha Chamber encapsulates our deep commitment to the values of morality, purity and probity in public life. It is a living tribute to our glorious democratic traditions and constitutional values. It is a reflection of the diversity of our Country and the underlying unity.

I commend the efforts of the Lok Sabha Secretariat in bringing out the Eighth Edition of Practice and Procedure of Parliament by M. N. Kaul and S. L. Shakdher. The publication intends to facilitate valuable information on various parliamentary practices and procedures, evolved over the years. The publication would be immensely helpful to the Members of Parliament in discharging their parliamentary duties.

We are deeply grateful to the Honourable Prime Minister Shri Narendra Modi for contributing an enlightening Message to this treatise which has added greatly to the value of the publication.

I compliment the Secretary-General, Lok Sabha and the team of officers of Research & Information Division (LARRDIS), Lok Sabha Secretariat, who have worked hard to bring out this publication. I am sure, the publication would be well-received by the parliamentarians, academicians and scholars, and all those who have keen interest in the intricacies, nuances and functioning of parliamentary democracy.



NEW DELHI
March, 2024

(OM BIRLA)
Speaker, Lok Sabha

PREFACE

The Parliament of India is a growing, evolving institution, pulsating with the energy of 1.4 billion citizens. It is a site for public contestations between divergent ideas and ideologies, political positions and world views that are espoused by people's representatives. It is also the highest national forum for consensus building, where differences of opinion in matters of public policy and law are acknowledged and respected. In the past seven decades, it was through debates and discussions that Parliament has been able to successfully guide the nation through many crises and seemingly intractable problems. It is, therefore, imperative that a congenial environment is created in the Houses of Parliament for free, fair and orderly conduct of business. It is with this purpose in mind that self governing Rules have been framed by Lok Sabha to lay down the terms of engagement in the House. In addition, Presiding Officers and Members have always looked upto the 'Directions of the Chair', rulings on Points of Order and useful precedents to help navigate through the business agenda of the House. Together, these Rules, Directions, rulings and precedents constitute practices and procedures, the Lok Sabha follows for conduct of business.

In a vibrant parliamentary democracy, as can be normally expected, the practices and procedures can never remain frozen in time, but will be subjected again and again to interrogation, redefinition and adjustment, as the nation wends its way through the political thicket. It is, therefore, only to be expected that during the terms of each of the seventeen Lok Sabhas constituted so far, new precedents, directions and rulings, will have emerged in response to specific situations, to be bequeathed as legacies for posterity. In addition, each Lok Sabha have also left their distinctive mark by way of innovative House management practices, modern technological tools and infrastructure. This is understandable considering that successive Speakers have taken resolute steps during their tenures to make participation of Members in House related business as simple and as free from tedium as possible. To curate these developments and place them in the right perspective, the value of a publication like 'Practice and Procedure of Parliament' cannot be overstated from the point of view of readers. In this sense, it is hoped that the current publication will be seen, as in the past, a repository of relevant, updated and comprehensive information arranged in a single volume. It is not surprising that over the years, Members of Parliament have come to depend more and more on this publication as an authoritative text on parliamentary practices and procedures.

The current edition of this popular and widely used treatise, 'Practice and Procedure of Parliament', is the eighth in the series since the time the first volume was published in 1968.

Each new edition has sought to add yet another rich layer of unique learnings and experiences from our parliamentary system of governance to those of the past editions. Thus the wide and eclectic readership going beyond the cohort of Presiding Officers,

parliamentarians and legislators, legal fraternity and legislative personnel have found these volumes a valuable reference text. The Seventh edition published in 2016 had sought to curate noteworthy developments upto the term of the Fifteenth Lok Sabha. The present edition is an attempt at bringing the treatise up to speed with developments which have served to enrich the language and lexicon of parliamentary democracy in India during the terms of the Sixteenth and Seventeenth Lok Sabhas.

The decade since the end of term of the Fifteenth Lok Sabha has seen some notable developments in parliamentary practices. A significant step taken during the Sixteenth Lok Sabha was reflected in the initiation of the new practice of presenting a single, integrated Budget. For the first time, the Railway Budget and General Budget were merged and presented by the Government as a single Budget in Parliament. It was a step which signaled a major break with a ninety year old tradition of presenting two separate budgets. The integration and merger of the General and Railway budgets has gone a long way in bringing about greater clarity and transparency in our understanding of the financial health and public policy roadmap of the Central Government. The Sixteenth Lok Sabha was also responsible for bringing into sharper focus an issue that has continued to agitate common citizens since the birth of our Republic – how to establish the primacy of ethics and ethical behavior in our public life, in particular, among our public representatives? It was during the term of this Lok Sabha when purposeful steps were taken to address the issue. This was manifest in the constitution of a standing Committee on Ethics, hitherto an *ad hoc* Committee, to deal with matters related to ethical behavior on the part of Members of Lok Sabha and meant to send out a clear message to the nation that the Lok Sabha attaches a very high value to probity and ethics in public life.

The Seventeenth Lok Sabha was witness to a truly epochal event – the dedication of the new building of Parliament of India to the nation. This modern, 'green' rated, grand edifice was completed in a remarkably short time span. It took little less than two and a half years between the ground breaking ceremony in December, 2020 and the inauguration in May, 2023. This was no mean achievement given the size, scale and complexity of the new architectural icon. With construction of its new abode having been completed in record time, the Seventeenth Lok Sabha stood witness to a unique transition. The Lok Sabha chamber housed in the historic Parliament building since 1927 (now rechristened the *Samvidhan Sadan*), held its last sitting under its hallowed dome on 18th September 2023. It was a poignant moment for Members when the Speaker announced at the end of the sitting that day that the House would henceforth re-assemble from the 19th of September, 2023 in the new Lok Sabha Chamber in the new Parliament of India building. It was an emotional moment filled with conflicting feelings of nostalgia and euphoria for all those who were privileged enough to be witness to the two memorable events – the last sitting in old Chamber and the debut sitting in the grand new chamber. The new home of Parliament has already been host to three sessions since the inauguration - a Special session in September 2023, a winter session in November-December, 2023 and a Budget session in January-February of 2023.

The Seventeenth Lok Sabha was witness to another a tumultuous event – a catastrophe of global proportions brought about by COVID – 19 virus. All normal activities, including the functioning of Parliament, faced serious disruptions during the years between 2020 and 2022. The extraordinary situation created by this once-in-a-century global pandemic called for extraordinary measures. Parliament was forced to adopt stringent public health protocols and guidelines for the safety of MPs and officials, particularly during Lok Sabha sessions, committee meetings etc. in 2020, 2021 and 2022 so that constitutional duties could be performed without any hindrance. Perhaps for the first time in parliamentary legend, enforcement of social distancing norms and COVID appropriate behavior protocols necessitated use of both Lok Sabha and Rajya Sabha Chambers and their visitors' galleries (then in the *Samvidhan Sadan*) for Lok Sabha sittings. A similar arrangement had to be replicated in the Rajya Sabha for holding its sittings. Fortunately, modern technology and equipments allowed special arrangements to be put in place in the two chambers to enable synchronized transmission and projection of audio-video proceedings from multiple locations on real time basis. As a result, sittings of the Houses could be conducted seamlessly, even though Members were made to sit at multiple locations. Simultaneous interpretation had to be accordingly synchronised in different chambers and galleries. The Lok Sabha and Rajya Sabha had to be convened at different times and the duration of sittings were compelled to be truncated so that the two Houses could meet sequentially and not simultaneously. Transparent screens had to be installed between Members' seats for additional safety. The then extant public health guidelines required Members to wear protective masks, particularly when inhabiting closed areas and maintain a social distance of 6 feet. Members were also encouraged to have themselves tested at regular intervals and vaccinated as per health protocol for which necessary facilities were created in the Parliament Estate. All these measures, with the unstinted support and cooperation of Members and staff, led to the success in containing spread of the contagion within the Estate, even when the parliament was in session.

An unexpected but positive spin-off from the measures that were undertaken around this time to mitigate the spread of the pandemic was the general recognition of merit in patronising paperless and human contact free e-mode in transmission and exchange of information and in carrying out various transactions. This was clearly evident in the rapid and voluntary adoption of paperless IT software and hardware by Members and staff for their official work. Members, Secretariat and Ministries displayed greater alacrity in accepting digital means for regular parliament business, such as submission of Questions and Notices, circulation of Bills and transmission of parliamentary papers etc. Likewise, Secretariat work almost entirely shifted to the e-office platform. This is therefore an appropriate juncture to acknowledge and place on record the contributions and efforts of my distinguished predecessors, Shri Anoop Mishra and Smt. Snehlata Shrivastava for preparing the ground which made the transition from paper mode to the electronic possible in Parliament.

A noteworthy reform during the Seventeenth Lok Sabha was the creation of new entity – Sansad TV. This was achieved through the merger of the Lok Sabha and

Rajya Sabha TV Channels. The merger was effected with the objective of bringing about greater efficiency, cost effectiveness and quality in the telecasts from the parliament TV channel. A step was also taken during Seventeenth Lok Sabha to professionalise the catering services in the Parliament Estate. As such the management of the canteen and catering facility in the Parliament Estate was handed over to the Central Public Sector Undertaking – India Tourism Development Corporation.

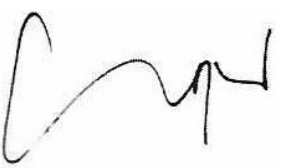
We are indebted to the Hon'ble Prime Minister, Shri Narendra Modi for the valuable Message for this edition.

We are deeply grateful to the Hon'ble Speaker, Shri Om Birla for his enlightening Introduction to the publication and for his constant guidance and inspiration.

The eighth edition is also homage to my illustrious predecessors and authors of this treatise, Shri M.N. Kaul and Shri S.L. Shakdher. It was their deep understanding of the parliamentary procedures, having seen from close quarters the efflorescence of constitutional democracy in India and evolution of our structures of governance that led to the conception of the idea of this treatise. All distinguished Secretary Generals, who have adorned this office, contributed in their own ways as editors to keep this publication relevant and useful through the seven editions. This unique and evolving tome on parliamentary practice and procedure has benefitted immensely from their erudition and deep understanding of the way Parliament works. I also acknowledge the hard work of Shri Prasenjit Singh, former Additional Secretary; Shri Jadu Mani Baisakh, Joint Secretary; Shri Neeraj Semwal, the then Joint Secretary; Smt. Rachana Sharma, Director; Shri Prasanta Kumar Mallick, Director; Shri Tushar Kant, Joint Director; Shri Pradeep Kumar, Deputy Director; Smt. Nisha, Deputy Director; Shri Rakesh Kumar Prasad, Assistant Research Officer and all other Branch officers of the Secretariat who have sieved through monumental amount of information to put out what may be of interest and relevance to the readers of this volume.

My thanks to Shri Sudhir Kumar Jain of Jainco Art India for printing this revised edition in a short time.

We hope that this revised edition would, as always continue to serve as useful reference book to all those who have been following the functioning of Indian Parliament with interest.



NEW DELHI
May, 2024

(UTPAL KUMAR SINGH)
Secretary-General, Lok Sabha

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TABLE OF ABBREVIATIONS

AAP	Aam Aadmi Party
AASAA	All Adivasi Students Association of Assam
ABHMS	Akhil Bharatiya Hindu Maha Sabha
ABLTC	Akhil Bharatiya Lokatantrik Congress
Abraham and Hawtrey	Parliamentary Dictionary by L.A. Abraham and S.C. Hawtrey (1956 edition)
AC	Arunachal Congress
AD	Apna Dal
AD(S)	Apna Dal (Soneylal)
AGP	Asom Gana Parishad
A.I.A.D.M.K.	All India Anna Dravida Munnetra Kazhagam
A.I.C.C.	All India Congress Committee
AIFB	All India Forward Bloc
AIIC(S)	All India Indira Congress (Secular)
AIIC(T)	All India Indira Congress (Tiwari)
AIMIM	All India Majlis-e-Ittehadul Muslimeen
AINRC	All India N.R. Congress
A.I.R.	All India Reporter
AIR	All India Radio
AIRJP	All India Rashtriya Janata Party
AITC	All India Trinamool Congress
AJSU	All Jharkhand Students Union
A.L.J.	Allahabad Law Journal
Amdt.	Amendment
Andh.Pr.	Andhra Pradesh
APA	Asian Parliamentary Assembly
A.P.L.C.	Andhra Pradesh Legislative Council
Art.	Article of the Constitution of India
ASDC	Autonomous State Demand Committee
ASPKR	Aazad Samaj Party (Kanshi Ram)
ATM	Automated Teller Machine
AUDF	Assam United Democratic Front
A.V.R.	Automatic Vote Recorder
BAC	Business Advisory Committee
BHRTADVSIP	Bharat Adivasi Party

BJD	Biju Janata Dal
BJP	Bharatiya Janata Party
BKD	Bahujan Kisan Dal
Bn.	Lok Sabha Bulletin
BNP	Bharatiya Navshakti Party
B & P	Budget and Payment Branch
BPF	Bodoland Peoples Front
B.P.S.T.	Bureau of Parliamentary Studies and Training
BRS	Bharat Rashtra Samithi
BSNL	Bharat Sanchar Nigam Limited
BSP	Bahujan Samaj Party
BVA	Bahujan Vikas Aaghadi
c.;cc	Column(s) no. (s) in the Debates
C.A.D./C.A.Deb	Debates of the Constituent Assembly of India
C.A.(Leg) Deb.	Debates of the Constituent Assembly of India (Legislative)
C&AG	Comptroller & Auditor General
CAM	Committee on Absence of Members from the Sittings of the House
Campion	An Introduction to the Procedure of the House of Commons by Sir Gilbert Campion (3rd edition)
CAPIO	Central Assistant Public Information Officer
CAR	Computer Assisted Retrieval
Car. & M.	Carrington and Marshman's Reports, Nisi Prius, 1841-1842
CAS	Current Awareness Service
CAT	Central Administrative Tribunal
CCTV	Close Circuit Television
cf	Compare
CGA	Committee on Government Assurances
C.G.H.S.	Central Government Health Scheme
CHOGM	Commonwealth Heads of Government Meet
CIC	Central Information Commissioner
C.J.	*Journals of House of Commons, U.K. (followed by sessional year or years)/Chief Justice (according to context)*
CJI	Chief Justice of India
cl.	Clause
C.L.R.	Commonwealth Law Reports
CMC	Computer Maintenance Corporation

Cong(O)	Congress (Organisation)
Cong(S)	Congress (Socialist)
Cong(U)	Congress (Urs)
Constitution	Constitution of India
COVID	Corona Virus Disease
C.P.	Committee on Petitions
C.P.A.	Commonwealth Parliamentary Association
C.P.B.R.	Committee on Private Members' Bills and Resolu-tions
C.P.C.	Civil Procedure Code
C.P.I.	Communist Party of India
CPIC	Centralised Pass Issue Cell
C.P.I.(M)	Communist Party of India (Marxist)
C.P.I.(M-L)	Communist Party of India (Marxist-Leninist)
CPI (M-L)L	Communist Party of India (Marxist-Leninist) Libera-tion
CPIO	Central Public Information Officer
C.P.L.T.	Committee on Papers Laid on the Table
CPR	Committee of Privileges
CPU	Committee on Public Undertakings
CPwD	Commonwealth Parliamentarians with Disabilities Network
CPWD	Central Public Works Department
Cr.P.C.	Criminal Procedure Code
C.S.Deb.	Debates of the Council of State(s) (according to the period)
CSL	Committee on Subordinate Legislation
C.W.N.	Calcutta Weekly Notes
CWP	Commonwealth Women Parliamentarian
Deptt.	Department
Dir.	Direction in Directions by the Speaker under the Rules of Procedure of Lok Sabha (4th edition)
D.M.K.	Dravida Munnetra Kazhagam
D.O.	Demi-Official
Dod	Dod's Parliamentary Companion
D.P.A.	Department/Ministry of Parliamentary Affairs
D.R.S.C.	Departmentally Related Standing Committees
DVD	Digital Versatile Disk
East	East's Reports, King's Bench, 1800-1812
EC	Estimates Committee
Ed.	Edition
E.L.R	Election Law Reports
Ex.( )	Extraordinary (followed by Part and Sec. Nos. Within brackets and then the date)

F.B.	Full Bench
Fin.	Finance
FSSAI	Food Safety Standards Authority of India
Gaz..( )/Gaz.	Gazette of India/Gazette of India Extraordinary (followed by Part and Sec. Nos. Within brackets and then the date)
GNLF	Gorkha National Liberation Front
Govt.	Government
GPC	General Purposes Committee
Guj.	Gujarat
HACCP	Hazard Analysis Critical Control Points (HACCP)
HAMS	Hindustani Awam Morcha (Secular)
H.C.	House Committee/House of Commons, U.K./High Court (according to context)
H.C. Deb.,	Debates of the House of Commons, U.K. (preceded by volume no. and followed by date and column no.)
HJC(BL)	Haryana Janhit Congress(BL) (Bhajan Lal)
H.L. Deb.	Debates of the House of Lords, U.K.
House	Lok Sabha
Houses	Rajya Sabha and Lok Sabha
H.P.	House of the People
H.P.Deb. ( )	Debates of the House of the People (followed by Part No. within brackets and then the date, page or column no.)
HVC	Himachal Vikas Congress
HVP	Haryana Vikas Party
HW & SW	Hardware and Software
ICS	Indian Civil Service
IC (SCS)	Indian Congress (Sarat Chandra Sinha)
ICS (SCS)	Indian Congress (Socialist-Sarat Chandra Sinha)
IFS	Indian Foreign Service
IFU	Integrated Finance Unit
I.L.R.	*Indian Law Reports*
INC	Indian National Congress
INLD	Indian National Lok Dal
I.O.	Instructional Order
In *re*-	In the matter of
Ins.	Inscribed

IPF	Indian People's Front
I.P.G.	Indian Parliamentary Group
I.P.U.	Inter-Parliamentary Union
IR	Internal Rules (followed by the name of the Committee within brackets)
IT	Information Technology
IUML	Indian Union Muslim League
JCOP	Joint Committee on Office of Profit
JD(G)	Janata Dal (Gurajat)
JD(S)	Janata Dal (Secular)
JD(U)	Janata Dal (United)
J&KNC	Jammu and Kashmir National Conference
J&KPDP	Jammu and Kashmir Peoples Democratic Party
JMM	Jharkhand Mukti Morcha
JnP	Janasena Party
JP	Janata Party
J.P.C.	Joint Parliamentary Committee
J.P.I.	*Journal of Parliamentary Information* (Lok Sabha Secretariat)
JSA	Joint Committee on Salaries and Allowances of Members of Parliament
J.S.H.Parl.Deb.	Joint Sitting of the Houses of Parliament Debates
Judl.	Judicial
JVM(P)	Jharkhand Vikas Morcha (Prajatantrik)
K.B.	*Law Reports,* King's Bench Division
KC(M)	Kerala Congress (M)
KEC	Kerala Congress
K.L.R.	*Kerala Law Report*
KWIC	Keyword in Context
L.A.Deb.	Debates of the Central Legislative Assembly
LAN	Local Area Network
LARRDIS	Library and Reference, Research, Documentation and Information Service
L.C.	Legislative Council (predecessor of the Central Legislative Assembly)
Leader of the House	Prime Minister, if he is a member of the House,or a Minister who is a member of the House and is nominated by the Prime Minister to function as the Leader of the House
Legn.	Legislation

LJ.	Journals of the House of Lords (followed by sessional year or years)
LJPRV	Lok Jan Shakti Party (Ram Vilas)
LJSP	Lok Jan Shakti Party
Lobby	Covered corridor immediately adjoining the Chamber and conterminous with it
L.R. Ir.	*Law Reports* (Ireland), Chancery and Common Law, 1877-1893
L.R.Q.B.	*Law Reports,* Queen's Bench, 1865-1875
L.S.	Lok Sabha (preceded by a figure to indicate First, Second or Third Lok Sabha: *e.g., 2* LS means Second Lok Sabha)
L.S. Deb.( )	Debates of Lok Sabha (followed by Part No. wherever necessary, within brackets and then the date and column no.)
LSP	Lok Shakti Party
LSTV	Lok Sabha Television
Maxwell	Maxwell on the Interpretation of Statutes
May	Sir Thomas Erskine May's Treatise on *the Law, Privileges, Proceedings and Usage of Parliament,* 21st edition (unless where otherwise stated)
MC	Marxist Co-ordination
MDMK	Marumalarchi Dravida Munnetra Kazhagam
Member	Member of Lok Sabha, unless otherwise stated
MGP	Maharashtrawadi Gomantak Party
M.H.A	Ministry of Home Affairs
Min.( )	Minutes (followed by the name of the Committee in brackets and then the date)
Minister	Member of the Council of Ministers, a Minister of State, a Deputy Minister or a Parliamentary Secretary
Miny./Min n.s	Ministry
MIP	Memorandum of Important Points
ML	Muslim League
M.L.A.	Member of Legislative Assembly
MLKSC	Muslim League Kerala State Committee
MNF	Mizo National Front
M.P.	Member of Parliament
MPP	Manipur People's Party
M.P.L.A.	Madhya Pradesh Legislative Assembly
M.P.L.A.D.S.	Member of Parliament Local Area Development Scheme

MPVC	Madhya Pradesh Vikas Congress
M.P.V.S.	Madhya Pradesh Vidhan Sabha
M. &. S.	*Maule and Setwyn's Reports,* King's Bench, 1813-1817
MSCP	Manipur State Congress Party
MTNL	Mahanagar Telephone Nigam Limited
MUD	Ministry of Urban Development
NCP	Nationalist Congress Party
NCPSP	Nationalist Congress Party- Sharadchandra Pawar
NDA	National Democratic Alliance
NDPP	Nationalist Democratic Progressive Party
NIC	National Informatics Centre
NIELIT	National Institute of Electronic and Information Technology
NLP	National Loktantrik Party
Norm, p. ;	New Series Notification
NPC	Nagaland People's Council
NPF	Nagaland People's Front
NPP	National People's Party
PAC	Committee on Public Accounts
Parl. Deb.	Parliamentary Debates in England (from 1668-1740; Vols. I-XIX and 1892 to 1908; Vols. 1-199)
PARLIS	Parliament Library Information System
Parl. Register	Parliamentary Register of the House of Commons Debates from 1774 to 1794
Parl. Sectt.	Parliament Secretariat
PCR	Pay Commission Report
P.D.	*Privileges Digest*
P. Deb.	Debates of the Provisional Parliament
PFG	Parliamentary Friendship Groups
PIB	Press Information Bureau
PMA	Parliament Museum and Archives
PMK	Pattali Makkal Katchi
P.N.O.	Parliamentary Notice Office (of Lok Sabha Secretariat)
P.O.C. Proceedings	Proceedings of the Conference of Presiding Officers
PNP	Peasants and Workers Party
pp.	Pages(s) No.(s) in the Debates, Reports, Documents, etc.

Precincts of the House	Includes the Chamber, Lobbies, the Galleries and such other places as the Speaker may from time to time specify
PRIDE	Parliamentary Research and Training Institute for Democracies
Private Member	A member other than a Minister
P.S.P.	Praja Socialist Party
P.S.V.	Private Secretary to Viceroy
Pt.	Part
Q.B.D.	Queen's Bench Division (England)
R	Report (preceded by the number of the report and followed within brackets by the name of the Committee and the Lok Sabha to which it belongs; thus 5R (CPR-2LS) stands' for Fifth Report of the Committee of Privileges of Second Lok Sabha)
Raj.	Rajasthan
R.C.	Rules Committee
R.C.C.	Railway Convention Committee
R.&C.S.	Recruitment and Conditions of Service Order
re.	Concerning/in the matter of
RJD	Rashtriya Janata Dal
RLD	Rashtriya Lok Dal
RLP	Rashtriya Loktantrik Party
RLSP	Rashtriya Lok Samta Party
R.P. Act	Representation of the People Act
RPI	Republican Party of India
R.O.	Routine Order
R.S.	Rajya Sabha
R.S. Deb.	Debates of Rajya Sabha
R.S.P.	Revolutionary Socialist Party
RTI	Right to Information
Rules	Unless otherwise specified, means the Rules of Procedure and Conduct of Business in Lok Sabha (9th edition) and 'Rule....' means the specified rule in these Rules
Russell	Sir Alison Russell's *Legislative Drafting and Forms,* 4th edition
SAARC	South Asian Association for Regional Cooperation
SAD	Shiromani Akali Dal
SAD (S) (SSM)	Shiromani Akali Dal (Amritsar) (Simranjit Singh Mann)

SCAAP	Special Commonwealth Africa Assistant Plan
S.C.	Select Committee/Supreme Court (according to context)
S.C.C.	Supreme Court Cases
S.C.J.	Supreme Court Journal
S.C.R.	Supreme Court Reports
SDF	Sikkim Democratic Front
Secretariat	Lok Sabha Secretariat, unless otherwise specified
Secretary-General	Secretary/Secretary-General of Lok Sabha
SHSUBT	Shiv Sena (Uddhav Balasaheb Thackrey)
SJP (R)	Samajwadi Janta Party (Rashtriya)
SKM	Sikkim Krantikari Morcha
SMP	Samata Party
S.O.	Standing Orders/Statutory Orders
S.P.	Socialist Party
Speaker	Speaker of Lok Sabha, unless otherwise specified, or unless context otherwise indicates
S.Q.	Starred Question
S.R.O.	Statutory Rules and Orders
SS	Shiv Sena
S.S.P.	Samyukta Socialist Party
S.; Ss.	Section (s), where followed by the Section no., and series where preceded by the series no. Thus, s. 56 stands for Section 56 and 5 s. stands for Fifth Series.
STAC	Standing Technical Advisory Committee
S.V.D.	Samyukta Vidhayak Dal
Sw. P	Swabhimani Paksha
Table	Table of the House
TDP	Telugu Desham Party
TMC	Tamil Maanila Congress (Moopanar)
TRS	Telangana Rashtriya Samithi
U.A.S.L.	Unified Access Service Licence
UGDP	United Goa Democratic Party
UMF	United Minorities Front
UPA	United Progressive Alliance
UPPL	United Peoples' Party (Liberal)

U.P.S.C.	Union Public Service Commission
U.S.Q.	Unstarred Question
VCK	Viduthalai Chiruthaigal Katchi
Vol.	Volume
VOTPP	Voice of the People Party
VSAT	Very Small Aperture Terminal
V.S. Deb.	Vidhan Sabha Debates
W.B.L.A.	West Bengal Legislative Assembly
WBTC	West Bengal Trinamool Congress
WCSP	World Conference of Speakers of Parliament
w.e.f.	with effect from
YSRCP	Yuvajana Sramika Rythu Congress Party
ZPM	Zoram People's Movement

CHAPTER 1

The Authority and Jurisdiction of Parliament

The Constitution of India, republican in character and federal in structure, embodies the salient features of the parliamentary system. It provides for a Parliament for the Union consisting of the President and the two Houses, namely, the Rajya Sabha (Council of States) and the Lok Sabha (House of the People); a Union Executive, drawn from both the Houses of Parliament and collectively responsible to the Lok Sabha; ensuring thereby an intimate relationship between the Union Executive and Parliament; a head of the State called the President of India, acting on the aid and advice of the Union Council of Ministers; a number of States with basic provisions, parallel to those for the Union in respect of the Executive and Legislature of each State; Rule of law; independent Judiciary and a permanent Civil Service. The Parliament in India is not a sovereign body[1]; it functions within the bounds of a written Constitution. The authority and jurisdiction of Parliament are limited by the distribution of powers between the Union and the States and by the incorporation of a code of justiciable fundamental rights in the Constitution. There is also provision for judicial review which means that all laws passed by Parliament must be in conformity with the provisions of the Constitution and liable to be tested for constitutionality by an independent Judiciary[2]. All these provisions tend to qualify the nature and extent of the authority and jurisdiction of Parliament.

Nevertheless, Parliament occupies a pivotal position in the present day Indian polity and constitutional limitations on its sovereign authority are, therefore, to be

1. *In re.* Delhi Laws Act (1912), A.I.R.1951 S.C.332.

2. *Vide* S. 55 of the Constitution (Forty-second Amendment) Act, 1976, Parliament inserted Cl. (4) and Cl. (5) in article 368 so as to provide that no amendment of the Constitution made under the said article "shall be called in question in any court on any ground" [Cl.(4)] and that "There shall be no limitation whatever on the constituent power of Parliament to amend by way of addition, variation or repeal, the provisions of this Constitution under this article" [Cl. (5)]. However, the Supreme Court, in the *Minerva Mills Case (A.I.R. 1980,* S.C. *1789),* declared CIs. (4) & (5) of article 368 to be invalid on the ground that these clauses, which removed all limitations upon the power of Parliament to amend the Constitution and precluded judicial review of a Constitution Amendment Act, on any ground sought to destroy an 'essential feature,' or 'basic structure' of the Constitution. The concept of basic structure has been further developed by the Supreme Court in several subsequent cases. More and more new essential features of basic structure have been added *vide Waman Rao* v. *Union of India,* A.I.R.,1981, S.C. 271; *Bhim Singhji* v. *Union of India,* A.I.R. 1981, S.C. 234; *S.P. Gupta v. President of India,* A.I.R. 1982, S.C. 149 (Transfer of Judges Case); *S.P. Sampath Kumar* v. *Union of India,* A.I.R. 1987, S.C. 386; *P. Samba Murthy* v. *State of A.P.,* A.I.R. 1987, S.C. 663; *Kihota Hollohon* v. *Zachilhu and Others,* 1992 SCC 309; *R.C. Poudyal v. Union of India,* A.I.R.1993 S.C.1804; *S.R.Bommai v .Union of India and others,* A.I.R. 1994 S.C. 1918; *L. Chandra Kumar v. Union of India and others* A.I.R. 1997 S.C. 1125; *P.V. Narasimha Rao* v. *State (CBI/SPE)* A.I.R. 1998 S.C. 2120; *B.R. Kapur v. State of Tamil Nadu,* A.I.R. 2001 S.C. 3435; *Kuldip Nayar* v. *Union of India and others* A.I.R. 2006 S.C. 3127; *M. Nagaraj and others* v. *Union of India and others,* A.I.R. 2007 S.C. 71; *I.R. Coelho (dead) by L. Rs.* v. *State of Tamil Nadu, and others,* A.I.R. 2007 S.C. 861; and *Raja Ram Pal v. The Hon'ble Speaker, Lok Sabha and others* JT 2007(2) S.C. 1.

   The Supreme Court in *Kesavananda Bharati v. State of Kerala Case,* without fore closing the list of basic structure found the following to be the essential features of the Constitution: "(a) Supremacy

understood with important qualifications. Such powers as Parliament possesses under the Constitution are immense and it fulfils the role which a sovereign Legislature does in any other independent country[3]. The plenitude of its powers, at once, becomes vident on analysis of the extent of jurisdiction it has under the scheme of distribution of powers, the constituent powers it possesses, its role in emergencies and its relationship *vis-a-vis* the Judiciary, the Executive, the State Legislatures and other authorities under the Constitution.

The Constitution assigns and distributes the legislative powers between Parliament and the State Legislatures in three lists—the Union List, the State List and the Concurrent List. Broadly speaking, while Parliament has exclusive jurisdiction over the subjects in the Union List, the State Legislatures over those in the State List, and at the same time, both may legislate on the subjects listed in the Concurrent List[4]. Residuary powers of legislation vest in Parliament, *i.e.* matters not enumerated in the Concurrent List or the State List, including the power of making any law imposing a tax not mentioned in either of those Lists, belong to Parliament[5]. Parliament, in addition, may legislate with respect to any matter for any part of the territory of India not included in a State notwithstanding that such matter is a matter enumerated in the State List[6].

While in their own respective spheres Parliament as well as the State Legislatures enjoy plenary powers, the scheme of distribution of powers followed by the Constitution emphasizes in many ways the general predominance of Parliament in the legislative field. In the first place, while a State law cannot operate beyond the limits of the State, a law by Parliament may extend to the whole of India and may have even extra territorial operations[7]. These apart, if any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by the Parliament which it is competent to enact, the law made by the Parliament prevails and the State law to the extent of the repugnancy becomes void[8]. The only exception to this Rule is that where a law made by the Legislature of a State with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by the Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for consideration of the President and has received his assent, prevail in that State. But even here, this does not prevent Parliament from subsequently amending, varying or even repealing the law made by the State Legislature[9].

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of the Constitution, (b) Rule of Law, (c) The principle of Separation of Powers, (d) The objectives specified in the Preamble to the Constitution, (e) Judicial review: articles 32 and 226, (f) Federalism, (g) Secularism, (h) The sovereign, democratic and republican structure, (i) Freedom and dignity of the individual, (j) Unity and integrity of the Nation, (k) The principle of equality, not every feature of equality but the quintessence of equal justice, (l) The 'essence' of other Fundamental Rights in Part III, (m) The concept of social and economic justice — to build a welfare State; Part IV *i.e.* the Directive Principles of State Policies, *in toto*, (n) The balance between Fundamental Rights and Directive Principles, (o) The Parliamentary system of Government, (p) The principle of free and fair elections, (q) Limitations upon the amending power conferred by art. 368, (r) Independence of the Judiciary, (s) Effective access to justice, (t) Powers of the Supreme Court under arts. 32, 136, 141, 142, (u) Legislation seeking to nullify the awards made in exercise of the judicial power of the State by Arbitration Tribunals constituted under an Act."

3. In re. Delhi Laws Act (1912) op. cit., cf. observations by Fazl Ali, J.
4. Art. 246 read with the Seventh Schedule.
5. Art. 248 and Entry 97 of List I of the Seventh Schedule.
6. Art. 246(4).
7. Art. 245.
8. Art. 254 (1).
9. Art. 254(2), Proviso.

Since the power of a State Legislature to legislate with respect to matters in the State list is made subject to the power of Parliament to legislate with respect to matters in the Union List, it follows that if an entry in the Union List and an entry in the State List appear to overlap, that is, if they appear partly to cover the same field, the field of legislation covered by the entry in the Union List will be considered to be taken out of the scope of the entry in the State List and reserved to be specifically dealt with by Parliament; in other words, to that extent the power of the State Legislature will be considered to be curtailed[10].

Even in the sphere exclusively reserved for the States, the Constitution authorizes Parliament to legislate under certain circumstances. Parliament may thus legislate on any specified matter in the State List, whenever the Rajya Sabha, by a resolution supported by not less than two-thirds of the members present and voting, declares it necessary or expedient in the national interest to do so[11]. Further, when a Proclamation of Emergency is in operation, the legislative competence of Parliament becomes widened so as to extend to any matter in the State List[12]. Although any power so exercised by Parliament in the national interest or during an emergency does not restrict the normal legislative power of a State Legislature, in case of conflict the law by Parliament prevails and, so long as it remains in force, the State law to the extent of its repugnancy remains inoperative[13]. Parliament also enjoys the power to legislate for implementing any treaty, agreement or convention with any country or any decision made at an international conference or association on any subject, even if it should fall in the State List[14].

Parliament may also make laws in respect of entries in the State List if two or more State Legislatures consider it desirable that any of the matters within their exclusive legislative competence should be regulated by parliamentary legislation and pass resolutions to the effect, Parliament can undertake the necessary legislation[15].

It is also noteworthy that some of the entries in the Union List themselves empower Parliament to take over to itself, by making the requisite declaration by law, certain spheres and subjects from the State field[16].

If at anytime, when both Houses of Parliament are not in session, circumstances warrant immediate action, the President is empowered to promulgate Ordinances[17] which have the same force and effect as Acts of Parliament but are of temporary duration. Every such Ordinance is required to be laid before both Houses of Parliament

10. *L.B. Paradise Lottery Centre v. the State of Andhra Pradesh,* A.I.R.1975 AP 50.
11. Art. 249. Such legislation in its very nature is temporary in as much as the resolution initially remains in force for a period not exceeding one year and has to be renewed for a period of one year every time—the Rajya Sabha passed a resolution under this article on 13 August 1986 authorising the Parliament to legislate on certain matters covered by entries 1, 2, 4, 64, 65 and 66 of the State List. *R.S. Deb.,* 12-8-1986, cc. 395-511; 13-8-1986, cc.183-227.
12. Art. 250 (1).
13. Art. 251.
14. Art. 253.
15. Art. 252. The legislation so passed has effect in the States which had requested and those others which may adopt it afterwards by a resolution passed in that behalf. *See,* for instance the Estate Duty Act, 1953; the Prize Competitions Act, 1955; and the Urban Land (Ceiling and Regulation) Act,1976.
16. Entries 7, 23, 24, 27, 33(a), 52, 54, 55, 56, 62, 63, 64 and 67 of List 1.
17. Art.123.Governors enjoy similar powers in the States *vide* art.213. For details regarding legislation by Ordinance, *see* Chapter 23— 'Ordinances and Proclamations'.

and ceases to operate at the expiration of six weeks from the re-assembly of Parliament, unless earlier withdrawn by the President, or disapproved by Parliament[18]. If the legislation is intended to be permanent or have a longer life, the Ordinance must be replaced by a regular legislation by Parliament.

The ambit of this power of the President is co-extensive with the legislative competence of Parliament[19] and the Courts have no power to question the jurisdiction either as to the occasion or purpose or the subject matter of an Ordinance except on justiciable ground of exceeding the legislative powers conferred on the Union by the Constitution[20]. Parliament, however, has not viewed with favour resort to this mode of legislation except to the extent unavoidable and there are Rules meant to keep a check on the exercise of this power[21].

In the event of failure of constitutional machinery in a State, the President may, by proclamation, assume to himself the functions of the Government of the State and powers of anybody or authority in the State except those of the State Legislature. The powers of the State Legislatures are in that case declared to be exercisable by or under the authority of the Parliament[22]. Parliament may, in that case, in its turn, confer on the President the power of the State Legislature to make laws or even authorize the President to delegate that power to any other authority[23]. Whenever such power is conferred by the Parliament, it is done through a Delegation of Powers Act[24] which has invariably required that the laws made by the President (called President's Acts) shall be laid before the Parliament and be open to such modifications as Parliament may suggest within the time specified for the purpose[25]. In some cases, the President has further been required to consult a Committee consisting of Members of Parliament,

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18. The disapproval is expressed by resolutions passed by both the Houses of Parliament and the Ordinance ceases to operate on the passing of the second of these resolutions—Art.123 (2)(*a*).

19. *Cf. Art.* 123(3).

20. *Cf. Jnan Prasanna* v. *West Bengal,* (1948) 53 C.W. No. 27(70) (F.B.).

21. Rule 71 requires that when a Bill seeking to replace an Ordinance with or without modification is introduced in the Lok Sabha, a statement shall be placed before the House explaining the circumstances which had necessitated immediate legislation by Ordinance. Likewise, when an Ordinance which embodies wholly or partly or with modification the provisions of a Bill pending before the House, is promulgated, a similar statement has to be laid on the Table at the commencement of the session following the promulgation of the Ordinance.

22. Art. 356.

23. Art. 357.

24. *See* for example, the Punjab State Legislature (Delegation of Powers) Act, 1951; the Patiala and East Punjab States Union Legislatures (Delegation of Powers) Act,1953; the Andhra State Legislature (Delegation of Powers) Act, 1954; the Travancore-Cochin State Legislature (Delegation of Powers) Act,1965; the Punjab State Legislature (Delegation of Powers) Act, 1966 and 1987; the Tamil Nadu State Legislature (Delegation of Powers) Act, 1988; the Jammu and Kashmir State Legislature (Delegation of Powers) Act, 1992; the Himachal Pradesh State Legislature (Delegation of Powers) Act, 1993; the Madhya Pradesh State Legislature (Delegation of Powers) Act, 1993; and the Uttar Pradesh State Legislature (Delegation of Powers) Act, 1993 and 1996.

25. For an instance, *see* the resolution adopted by Parliament suggesting certain modifications in the Punjab Security of the State Act, 1951 - *P. Deb.* (II) 28-9-1951, c. 3748. The amendments suggested by the Parliament were later incorporated in the Punjab Security of the State (Amendment) Act (President's Act No. 3 of 1951). In another instance, *viz.* the Kerala University (Amendment) Act, 1966, a resolution for amending the Act was adopted by the Lok Sabha - *L.S. Deb.,* 12-4-1966, cc. 10654-55 and concurred by the Rajya Sabha— *R.S. Deb.,* 12-5-1966. The same was then forwarded to the Ministry concerned for necessary action.

whenever he considers it practicable to do so, before enacting any Act under the powers conferred upon him by the Parliament[26].

Besides the powers to legislate on a very wide field, the Constitution vests in the Parliament the constituent power or the power to amend the Constitution. The scope of this power is very wide and Parliament can amend in any way *i.e.* by addition, variation or repeal of any provision of the Constitution[27]. Also, no extraordinary terms and conditions (*e.g.* ratification by a convention orate referendum) fetter the exercise of this power[28]. Barring the requirement of special majority, ratification by State Legislatures in certain cases and the mandatory assent by the President, a Bill for the amendment of the Constitution follows practically the same legislative process as an ordinary piece of legislation.

There are several articles in the Constitution which leave matters subject to laws that may be made by the Parliament[29]. In such cases, by passing ordinary legislation, Parliament may, in effect, modify or annul the operation of certain provisions of the Constitution without actually amending them. There are again other provisions of the Constitution under which the Parliament may provide for very important matters by simple legislation containing, where necessary, even provisions amending the Constitution, but without attracting the special requirements of article 368. Article 4, for instance, provides that any law made by Parliament under article 2 (relating to admission or establishment of new States) or article 3 (relating to formation of new States[30] and alteration of areas, boundaries or names of existing States) could amend the First Schedule and the Fourth Schedule to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions as the Parliament may deem necessary, but no such law shall be deemed to be an amendment of the Constitution for the purposes of article 368. It was by virtue of this provision that the States Reorganisation Act, 1956[31] which brought about radical reorganization

26. *See* for example, the Delegation of Powers Acts passed by the Parliament in respect of PEPSU (Act No. 22 of 1953), Andhra (Act No. 45 of 1954), Travancore-Cochin (Act No. 29 of 1956), Kerala (Act No. 50 of 1959, Act No. 30 of 1964 and Act No. 12 of 1965), Orissa (Act No. 13 of 1961) and Punjab (Act No. 28 of 1966) provided for constitution of Committees consisting of M.Ps. These Committees were not Parliamentary Committees but Statutory Committees which were to act only in an advisory capacity.

27. The Constitution (Forty-second Amendment) Act, 1976 removed all limitations upon the power of Parliament to amend the Constitution and precluded judicial review, on any ground, of a Constitution Amendment Act by inserting cls. (4) and (5) in article 368. The Supreme Court, however, invalidated these clauses on the ground that they sought to destroy an 'essential feature' or 'basic structure' of the Constitution-*Minerva Mills Ltd.* v. *Union of India, op.cit.*

28. *See* Dr. B.R. Ambedkar, *C.A. Deb.,* Vol. VII, 4-11-1948, p.43.

    An attempt to introduce referendum for effecting changes in certain 'basic features' of the Constitution, by means of the Constitution (Forty-fifth Amendment) Bill, 1978, failed since the Government could not secure the required two-third majority in the Rajya Sabha.

29. For example, by article 11, Parliament is empowered to make provisions relating to citizenship notwithstanding anything in articles 5 to 10.

30. The word "States" used in several clauses of article 3 includes the Union territories specified in the First Schedule of the Constitution. *Ram Kishore Sen v. Union of India,* A.I.R.1966S. C. 644.

31. Besides the States Reorganisation Act, 1956, the other Acts which have been passed by virtue of this provision are: the Assam (Alteration of Boundaries) Act, 1951; the Andhra State Act, 1953; the Himachal Pradesh and Bilaspur (New State) Act, 1954; the Chandernagore (Merger) Act, 1954; the Bihar and West Bengal (Transfer of Territories) Act, 1956; the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959; the Rajasthan and Madhya Pradesh (Transfer of Territories) Act, 1959; the

of the States in India was passed by the Parliament as an ordinary piece of legislation[32]. Thus, without even formal recourse to its constituent power, Parliament may, in effect, amend the Constitution in respect of several matters.

It has been held that the power to reduce the total number of members of a Legislative Assembly below the minimum prescribed under article 170 (1) is implicit in the authority to make laws under article 4[33].

In the amendment of the Constitution, the association of the State Legislatures is limited. The related legislation can be introduced in Parliament alone. In the matter of creation or abolition of a Legislative Council in a State, a resolution in that behalf by the Legislative Assembly of the State concerned is envisaged, but even here the related legislation has to be initiated in Parliament[34]. Even where the Parliament undertakes

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Bombay Reorganisation Act, 1960; the Acquired Territories (Merger) Act, 1960; the State of Nagaland Act, 1962; the Reorganisation of the Punjab Act, 1966; the Bihar and Uttar Pradesh (Alteration of Boundaries) Act, 1968; the Andhra Pradesh and Mysore (Transfer of Territory) Act, 1968; the Madras State (Alteration of Name) Act, 1968; the State of Himachal Pradesh Act,1970; the North-Easten Areas (Reorganisation) Act,1971; the Mysore State (Alteration of Name) Act, 1973; the Laccadive, Minicoy and Amindivi Islands (Alteration of Name) Act, 1973; the Haryana and Uttar Pradesh (Alteration of Boundaries) Act, 1979; the State of Mizoram Act, 1986; the State of Arunachal Pradesh Act, 1986; the Goa, Daman and Diu Reorganisation Act, 1987. The Government of National Capital Territory of Delhi Act, 1991; the City of Madras (Alteration of Name) Act, 1996; the Maharashtra Restoration of Name "Mumbai" for 'Bombay' Act, 1996; the West Bengal Capital City (Change of Name) Act, 2001; the Pondicherry (Alteration of Name) Act, 2006; the Uttaranchal (Alteration of Name), Act, 2006; the Orissa (Alternation of Name) Act, 2011; the Andhra Pradesh Reorganisation Act, 2014; and the Jammu and Kashmir Reorganisation Act, 2019.

32. Further examples in this category are furnished by article 169, Para 7 of the Fifth Schedule and Para 21 of the Sixth Schedule.

    Article 169 which empowers Parliament to provide by law for the abolition or creation of Legislative Councils in States declares that though such law shall contain such provisions for the amendment of the Constitution as may be necessary, it shall not be deemed to be an amendment of the Constitution for the purposes of article 368. The Legislative Councils Act, 1957, passed by Parliament in exercise of power under this article, provided for the creation of a Legislative Council in Andhra Pradesh and for increasing the strength of the Legislative Councils in certain other States whereas the West Bengal Legislative Council (Abolition) Act, 1969; the Punjab Legislative Council (Abolition) Act, 1969; the Andhra Pradesh Legislative Council (Abolition) Act, 1985; and the Tamil Nadu Legislative Council (Abolition) Act, 1986 provided for the abolition of Legislative Councils in the States of West Bengal, Punjab, Andhra Pradesh and Tamil Nadu, respectively. In December 2005, the Parliament enacted the Andhra Pradesh Legislative Council Act (Act No. 1 of 2006) providing for the creation of Legislative Council for the State of Andhra Pradesh.

    The Fifth Schedule contains provisions as to the administration and control of the Scheduled Areas and Scheduled Tribes and para 7 thereof vests Parliament with plenary powers to amend by law any of the provisions of this Schedule. Para 21 of the Sixth Schedule (which contains provisions as to the administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram) confers similar power of amendment on Parliament. These paragraphs in the said Schedules also expressly declare that no law made in pursuance of the power conferred by them "shall be deemed to be an amendment of the Constitution for the purposes of article 368". The Assam Reorganisation (Meghalaya) Act, 1969 and the Government of Union territories (Amendment) Act, 1971 amended the Sixth Schedule; the North-Eastern Areas (Reorganisation) Act, 1971, the Constitution (Forty- ninth Amendment) Act, 1984 and the State of Mizoram Act, 1986 amended the Fifth and the Sixth Schedules; and the Fifth Schedule to the Constitution (Amendment) Act, 1976 amended paragraph 6 of the Fifth Schedule.

33. *Mangal Singh and another* v. *Union of India, A.I.R.* 1967 S.C. 944.

34. Art.169.

    The resolutions of the State Assembly in this regard do not have the effect of imposing any obligation either on the Union Government for initiating legislation or on Parliament to invoke the provisions of the article and make a law. *See L.S. Deb.,* 8-12-1970 cc. 216-18, 22-8-1984, cc.311-27.

legislation to form a new State out of the territory of an existing State or States or increase or diminish the area or alter the name or boundaries of any State, what is stipulated is only a reference of the Bill before its introduction to the affected States for expression of their views within the time allowed for the purpose[35], and this reference does not fetter the hands of Parliament in making any further amendments in the Bill it may choose to make[36]. Only when an amendment seeks to make any change in any of the provisions enumerated in the Proviso to article 368, ratification by the Legislatures of not less than one-half of the States is prescribed.

All laws in India, whether Union, State or delegated, are subject to the doctrine *of ultra vires* and liable to judicial review[37]. Apart from the specific provisions of the Constitution conferring power of judicial review on the Courts, the power enjoyed by the Courts in this regard may be regarded as *implicit* in the concept that the Constitution established the foundational or fundamental law, whose express provisions no ordinary law of the land may transgress[38]. In the last resort, Parliament can amend the Constitution itself to override the effect of a judicial decision but so long as the Constitution is not amended to the contrary, the final say as to what the Constitution means rests with the Supreme Court[39].

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35. This is the position under the Proviso to article 3. This Proviso prior to its amendment in 1955 to its present form casts an obligation on the President to 'ascertain' the views of the Legislature of the affected State. Now all that is required is that before its introduction in the Parliament, the Bill should have been referred by the President to the concerned State Legislature for expressing its views and the period specified in the reference (or any further period that may be allowed by the President) should have expired—*see* Speaker's ruling in the Lok Sabha in connection with the Acquired Territories (Merger) Bill, 1960, *L.S.Deb.,*16-12-1960, cc.5988-6002.

    Four States, namely Chhattisgarh, Uttarakhand, Jharkhand and Telangana were formed reorganising the States of Madhya Pradesh, Uttar Pradesh, Bihar and Andhra Pradesh *vide* the Madhya Pradesh Reorganisation Act, 2000, the Uttar Pradesh Reorganisation Act, 2000, the Bihar Reorganisation Act, 2000, Andhra Pradesh Reorganisation Act, 2014 respectively. Jammu and Kashmir Reorganisation Act, 2019 created two Union Territories out of the State of Jammu and Kashmir.

    Even this reference is a requirement only in the case of laws falling under article 3. Thus, in the case of cession of territory to a foreign country from out of the territory of a State (which has been held by the Supreme Court as not falling under article 3) there is no constitutional obligation for reference of the related Bill to the affected State.—; *see* Advisory Opinion of the Supreme Court on the Reference relating to Berubari *(Re. Berubari Union,* A.I.R.1960 S.C. 845).

36. In connection with the States Reorganisation Bill, 1956, it was held by the Speaker that when once a Bill has been introduced in Parliament after proper reference, no further reference to the State Legislature concerned was necessary in respect of any amendments that might be proposed or adopted in the Parliament and the Bill might be passed by Parliament in any form it might choose. *L.S. Deb.,* 7-8-1956, cc. 2426-31. The same view was taken by the Supreme Court in *Babulal* ***v.*** *State of Bombay.* A.I.R. 1960 S.C. 51.

37. *K.J. Thomas* v. *Commissioner of Agricultural Income-tax, Madras,* A.I.R. 1958 Kerala 6.

    The Supreme Court was provided with *exclusive* jurisdiction with regard to the determination of constitutional validity of Union Laws under article 131 A, inserted by the Constitution (Forty-second Amendment) Act, 1976. The article was, however, omitted by the Constitution (Forty-third Amendment) Act, 1977.

38. Art. 13 only declares that any law contravening the fundamental rights shall be void. But, it has been pointed out that this article does not exhaust the scope of judicial review in India. The article, which has been inserted by way of abundant caution, is actually unnecessary, for even without it the Courts would be bound to invalidate any law which violated such rights. It is the justiciability of a constitutional provision which constituted the foundation of judicial review—*see* Chief Justice Kania's observations in *Gopalan* v. *State of Madras,*(1950) S.C.R. 88.

39. Under article 132 (1), the Supreme Court has appellate jurisdiction in cases involving "a substantial question of law as to the interpretation of this Constitution", while article 141 provides that "the law declared by the Supreme Court shall be binding on all courts within the territory of India".

The scope of the review by the Courts in India is, however, limited to see whether the legislation falls within the periphery of the power conferred and has been made in the manner provided[40]. The Court is not a third chamber sitting in judgment on the policy laid down by the Legislature in the legislation which it is considering. However repugnant any legislation may be to the conception which the Court has of its being right or wrong, and howsoever drastic the provisions of such legislation may be, if it does not in fact contravene any of the articles of the Constitution, then it would be the duty of the Court to uphold such legislation[41].

Parliament enjoys an inherent right to conduct its affairs without interference from any outside body. It is the sole judge of its own procedure. Even procedural lapses do not vitiate its proceedings[42]. Until a Bill becomes law, the legislative process not being complete, the Courts cannot interfere nor can a Court *suo motu* declare void or directly annul a law immediately after it is promulgated unless its interpretative function is sought by any person or party who challenges that law as having infringed his rights on the ground of its being *ultra vires* of the power of the legislative body[43].

The traditional Rule regarding the *locus standi* has since been relaxed considerably and the Supreme Court has permitted "public interest litigation" at the instance of public spirited citizens for the enforcement of constitutional and legal rights of others who, because of their poverty or other reasons, may not be able to approach the Court[44].

Though the President is the head of the State and under the Constitution the executive power of the Union is vested in him[45] and all executive action is to be expressed to be taken in his name[46], the system of Government in India is parliamentary and not presidential[47]. The executive power vested in the President has to be exercised by him "in accordance with this Constitution"[48], which provides for a Council of Ministers with the Prime Minister at the head to aid and advise the President who "shall, in the exercise of his functions, act in accordance with such advice"[49]. Although the President "may require the Council of Ministers to reconsider such advice, either generally or otherwise," he "shall act in accordance with the advice tendered after

40. *K.J. Thomas* v. *Commissioner of Agricultural Income-tax, op.cit.*

41. Chief Justice Chagla in *Fram Nusservanji Balsara* v. *State of Bombay,* A.I.R. Bom. 210.

42. Art. 122(1).

43. *See* Alladi Krishnaswami Ayyar's speech. *C.A.Deb.,*Vol. IX,12-9-1949, p.1273-1274; *C. Shrikishen* v. *State of Hyderabad and Others.* A.I.R. 1956 Hyderabad 186; *Chotey Lal* v. *State of U.P.* A.I.R. 1951 Allahabad 228.

44. *See* for instance *Akhil Bhartiya Soshit Karamchari Sangh (Rly.)* v. *Union of India,* A.I.R.1981 S.C. 298; *S.P. Gupta and Others* v. *President of India and Others* A.I.R. 1982 S.C. 149; *Peoples' Union for Democratic Rights* v. *Union of India* A.I.R. 1982 S.C. 1473; *Bandhua Mukti Morcha* v. *Union of India,* A.I.R. 1984 S.C. 802; *Lakshmi Kant Pandey* v. *Union of India* A.I.R. 1984 S.C. 469; *M.C. Mehta v. Union of India,* A.I.R. 1992 S.C. 382; *Centre for Public Interest Litigation v. Union of India and another,* A.I.R. 2003 S.C. 3277; (2003) 7 S.C.C. 532; *Dr. D.B. Singh v. Union of India and others,* A.I.R. 2004 S.C. 1923, *Shanti Bhushan and Anr.* v. *Union of India and Anr.* (2009) 1 S.C.C. 657.

45. Art. 53.

46. Art. 77(1).

47. *See* Jawaharlal Nehru, *C.A. Deb.,* Vol. IV, 21-7-1947, p. 713; Dr. B.R. Ambedkar, *C.A. Deb.,* Vol. VII, 4-11-1948, p. 32; and T.T. Krishnamachari, *C.A. Deb.,* Vol. XI, 25-11-1949, p. 956.

48. Art. 53.

49. Art. 74(1).

such reconsideration"[50]. The President thus is a constitutional head[51], the Council of Ministers with the Prime Minister at the head being the real Executive. The Council of Ministers itself is wholly drawn from the membership of Parliament (no Minister being allowed to continue in office for more than six months without obtaining a seat in either House)[52] and it is collectively responsible to the Lok Sabha[53]. The President, as the head of the Executive, acts on the advice of the Council of Ministers who, in turn, are answerable to the Parliament. Like its British counterpart, the Council of Ministers in India has also been described as "a hyphen which joins, buckle which fastens, the legislative part of the State to the executive part"[54].

The scope and manner of functioning of Parliament are dictated by considerations of its size. Parliament in the modern day does not govern. Parliament can, and does, act only through the agency of the Executive enjoying its confidence. It has been said that a strong Executive Government tempered and controlled by constant vigilance and representative criticism, is the ideal at which parliamentary institutions aim[55].

The primary initiative in all legislation and revenue and expenditure rests with the Executive. Practically every legislation finally enacted into law comes from the Government, Private Members' legislation being subject to the chances of ballot and other handicaps[56]. No Bill or amendment providing for the imposition, abolition or regulation of any tax, the regulation of public borrowing, appropriation of moneys out of the Consolidated Fund of India or other financial matters can be introduced and no Bill which, if enacted, would involve expenditure from the Consolidated Fund of India can be passed without the previous recommendation of the President[57]. And, no demand for grant can be made, except on the recommendation of the President[58]. The Government "enjoying a majority in the Legislature concentrates in itself the virtual control of both legislative and executive functions" and the Ministers, acting on the principle of collective responsibility, formulate all the most important questions of policy to be submitted to Parliament[59].

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50. *Ibid.*

51. *See* Ambedkar, *C.A. Deb.,* Vol. VIII, 23-5-1949, pp. 215-16; and *Rai Sahib Ram Jawaya Kapur v. the State of Punjab,* 1955, 2 S.C.R. Vol. II 225, pp 236-7; S.C.J. 304

52. Art. 75(5).

53. Art. 75(3).

54. *In re.* Delhi Laws Act (1912) *op.cit.,* Mukherjee, J. (pp. 394-95).

55. C. Ilbert. *Parliament,* Third Edition (Revised by Sir Cecil Carr) 1948, p.103.

56. For example, the period of notice for leave to introduce Private Members' Bill is one month and there is the dependence on the Government for the recommendation of the President where required [Rule 65(2) and (3)]. It is also subject to scrutiny by the Committee on Private Members' Bills and Resolutions and its chances depend upon the classification accorded to it (Rule 294). Above all is the allotment of time of two and a half hours available every alternate week for the consideration of such legislation (Rule 26).

    So far, 14 Private Members' Bills have been enacted. During the 14th Lok Sabha (2004-2009), 327 Private Members' Bills were introduced while during the 15th Lok Sabha, 372 Private Members' Bills were introduced. During the 16th Lok Sabha a total number of 1117 Private Members' Bills were introduced (Valedictory Reference 13-02-2019). During the 17th Lok Sabha, a total number of 729 Private Members' Bills have been introduced**.**

57. Art. 117.

58. Art. 113(3).

59. *Rai Sahib Ram Jawaya Kapur* v. *State of Punjab,* 1955 S.C.R. 225.

The initiative enjoyed by the Executive is contingent, in the ultimate analysis, upon parliamentary support. Government programmes and policies involve expenditure and Parliament holds the power of the purse. Under the Constitution, an annual statement of the estimated receipts and expenditure, *i.e.* the budget, must be placed before the Parliament[60]. No tax or expenditure is legal unless authorised by law[61]. This financial power in the hands of Parliament secures accountability. The constitutional provisions that not more than six months shall intervene between the end of one session and the commencement of the following session further ensure an almost uninterrupted oversight of governmental policies and programmes by the Parliament. Thus, while the initiative in finance and formulation of policies is held by the Executive, the complementary function of critical scrutiny of such policies and surveillance over administration is performed by Parliament.

The procedure of Parliament affords sample opportunity for the "daily and periodic assessment" of ministerial responsibility. The procedure of Questions (with possibilities of supplementaries and, in case of unsatisfactory answer, of a Half-an-Hour Discussion), Adjournment Motions and Calling Attention enable information to be elicited and lapses to be exposed in governmental activities. The more significant occasions for review of administration are provided by the discussion on the Motion of Thanks on the Address by the President, the budget and debates on particular aspects of governmental policy or situations. These apart, specific matters may be discussed through motions on matters of urgent public importance, Private Members' resolutions and other substantive motions. Discussions can take place on annual reports of Departments. Government lapses in specific fields can be discussed or local problems aired through cut motions. Opportunities for criticism as well as for influencing governmental policy always exist during the various stages of discussion on Bills. In extreme cases, the Government can be censured or a motion of no-confidence moved against it.

Also, a close and continuous check on governmental activities is exercised in the Lok Sabha through a network of Parliamentary Committees, all functioning under the control of the Speaker[62]. The Business Advisory Committee on which different sections of the House are represented recommends the allocation of time for all items of Government business to be brought before the House, which on approval, takes effect as an Order of the House. The Committee on its own initiative has sometimes suggested important subjects for discussion in the House[63]. The classification of Bills of Private Members and allocation of time in respect of them is looked after by the Committee on Private Members' Bills and Resolutions. The Committee on Government

60. Art. 112(1).

61. Arts. 265 and 114(3).

62. For details regarding composition and working of these Committees, *see* Chapter 30 'Parliamentary Committees'.

63. For instance, discussions on the Peaceful Uses of Atomic Energy, Press Commission Report, General Agreement on Tariffs and Trade, New Education Policy, Environment, Revival of *Sati,* Price Rise, Population Growth, and Approach Papers on National Cultural Policy and National Housing Policy, Global Warming and Indo-US Nuclear Deal have taken place at the initiative of the Business Advisory Committee.

Assurances keeps a track of assurances or undertakings given by Ministers in the House and pursues them till their implementation. All Rules made by the Government, whether laid on the Table or not, are scrutinised by the Committee on Subordinate Legislation in order to see that the Rule-making power, wherever conferred on the Government, has been exercised within the scope of the delegation. The Committee on Petitions not only looks into petitions on Bills and other matters pending before the House, but also entertains representations on other matters from the public in order that no substantial grievance goes unremedied. The Committee on Papers Laid on the Table of the House, constituted since 1 June 1975, examines all papers laid on the Table other than those which fall within the purview of the Committee on Subordinate Legislation or any other Parliamentary Committee to see *inter alia* whether there has been any delay in laying the Papers and whether satisfactory explanation has been given in cases of delay. Most important among the Committees are the Financial Committees—Committee on Public Accounts, Committee on Estimates and the Committee on Public Undertakings. Besides, Parliament may constitute other Committees, the commonest of which are the Select or Joint Committees on Bills. The Committee on Empowerment of Women, constituted since 1997, considers the reports submitted by the National Commission for Women and other welfare measures relating to women. A number of *ad hoc* Committees have been constituted from time to time either by the two Houses on a motion adopted in that behalf, or by the Speaker/Chairman to enquire into and report on specific subjects. Some such Committees include Committee on Conduct of certain members during the President's Address, Committee on Draft Five-Year Plans, the Railway Convention Committee, Joint Committee on Amendments to Election Laws, Joint Committee of Houses to examine the question of working of Dowry Prohibition Act, Study Committee on Sports, Joint Committee to enquire into Bofors Contract and Joint Committee to enquire into the Irregularities in Securities and Banking Transactions, Committee on Security in Parliament, Committee on Ethics, Committee on Violation of Protocol Norms and Contemptuous Behaviour of Government Officers with Members of Lok Sabha; Committee to inquire into allegations of improper conduct on the part of some members (Cash for Query Inquiry Committee); Committee to inquire into allegations of improper conduct on the part of some members in the matter of implementation of MPLAD Scheme; Committee to inquire into the misconduct of members of Lok Sabha; Committee to inquire into the complaint made by some members regarding alleged offer of money to them in connection with voting on the motion of confidence (Cash for Vote Inquiry Committee), and Joint Committee on Office of Profit to examine the constitutional and legal position relating to the Office of Profit. On 15 December 2009, a Joint Parliamentary Committee on Maintenance of Heritage Character and Development of Parliament House Complex was constituted to formulate policies, guidelines and programmes on conservation, restoration, rehabilitation and maintenance works in Parliament House Complex in accordance with standard conservation principles and procedures. On 11 March 2011, a Joint Parliamentary Committee to examine matters relating to Allocation and Pricing of Telecom Licences and Spectrum was constituted.

A beginning was made in 1989 towards reforming the system of Parliamentary Committees by introducing three Departmentally Related Subject Committees,

one each on (i) Agriculture; (ii) Environment and Forests; and (iii) Science and Technology. This was intended to make the system more specialisation-oriented and to bring it in tune with the changing times and enable Parliament to exercise a greater surveillance over the Executive actions through these Committees. In the light of the experience gained with regard to their working, the Committee System was further improved upon in March 1993 and 17 such Departmentally Related Standing Committees were constituted. Again, in July 2004, the number of these Committees was increased from 17 to 24 (16 under Lok Sabha and 8 under Rajya Sabha). Now there is a full-fledged system of Departmentally Related Standing Committees covering the entire gamut of governmental activities. The functions of these Committees broadly include consideration of the Demands for Grants; examination of Bills referred to them by the Chairman, Rajya Sabha or the Speaker, as the case may be; consideration of Annual Reports; and consideration of national basic long-term policy documents presented to the House and referred to the Committee by the Chairman or the Speaker, as the case may be. The biggest achievement of these Standing Committees is that the Demands for Grants of most of the Ministries/Departments of the Government are now scrutinised by a Committee consisting of 31 Members of Parliament (21 from Lok Sabha, 10 from Rajya Sabha). This ensures greater participation of members in deliberating upon the policies and programmes, plans, projects, the underlying philosophies and their implementation by the Government. Previously, because of paucity of time, Parliament was able to scrutinise the Demands for Grants of only a few Ministries every year[64].

Besides, an initiative was taken in 2005 to constitute Parliamentary Forums with the objective of equipping members with information and knowledge on specific issues of national significance, besides providing a platform to the members to have interaction with subject experts and senior officials from the nodal Ministries. The forums sensitised the members about the key areas of concern and also about the ground level situation and supply them the latest information, knowledge, technical know-how and valuable inputs from experts, both from the country and abroad, to enable them to raise these issues effectively on the floor of the House. Eight Parliamentary Forums were constituted on Water Conservation and Management, Children, Youth, Population and Public Health, Global Warming and Climate Change, Disaster Management, Artisans and Crafts People and Millennium Development Goals[65].

The jurisdiction of the union of the State has been a subject of interpretation of constitutional law by the apex court from time to time. In *Kalpana Mehta* v. *Union of India*[66], the Supreme Court itself advised judicial restraint when it remarked that:–

> "When we speak about judicial review, it is also necessary to be alive to the concept of judicial restraint. The duty of judicial review which the Constitution has bestowed upon the judiciary is not unfettered; it comes within the conception of judicial restraint. The principle of judicial restraint requires that Judges ought to decide cases while being within their defined limits of power. Judges are expected to interpret any law or any provision of the Constitution as per the limits laid down by the Constitution."

64. Also *see* Chapter 30—*Parliamentary Committees.*
65. *See* Chapter 31, *Parliamentary Forums.*
66. (2018) 7 SCC 1.

Article 105 and Article 194 of the Constitution of India define parliamentary privileges of the members of the Parliament and State Legislature respectively. Sir Thomas Erskine May has defined Parliamentary Privilege in the following manner:[67]

> The sum of the peculiar rights enjoyed by each House collectively is a constituent part of the High Court of Parliament, and by members of each House individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals.

In *MSM Sharma* v. *Shri Krishna Sinha*,[68] popularly known as the Searchlight Case (1959), the Supreme Court, by a majority judgment held that Article 19(1)(a) of the Constitution did not take precedence over Articles 105(3) and 194(3). The Apex Court, in this case, did not allow the editor of a newspaper who had asserted rights under Article 19(1)(a) to publish expunged records of the Parliamentary proceedings. The Supreme Court in this case ruled that "the validity of the proceedings inside the Legislature of a State cannot be called in question on the allegation that the procedure laid down by the law had not been strictly followed"[69] since the houses of legislature possessed the authority 'to determine whether there has been any breach of privilege' and that this power was not in contravention of Article 21 of the Constitution. Similarly, in *Tej Kiran Jain* v. *N. Sanjiva Reddy*[70], the Supreme Court recognised and upheld the constitutional protection and immunity guaranteed to anything said in the Parliament. The Supreme Court opined that the term "anything" is of the widest amplitude, and the protection is therefore conferred on everything said in the Parliament. This is because the rationale behind conferring immunity to Parliamentary proceedings is to allow the members to speak freely without any fear of censure.

However, in the light of certain developments and judgments of the Supreme Court, at the Conference of Presiding Officers of Legislative Bodies convened by the Speaker of the Lok Sabha, 2005, the Presiding Officers expressed concern over court orders that disturbed "the delicate balance of power" between the legislature and the judiciary.

In *Raja Ram Pal* v. *Hon'ble Speaker, Lok Sabha*,[71] the Supreme Court while upholding the decision of Parliament to expel its members, held that, "if the proceedings of a legislature are tainted with substantive or gross illegality or unconstitutionality or are *mala fide* or have denied natural justice to a person, their proceedings would not be protected." In this case 11 members of the Parliament were expelled on the ground that they had accepted bribe for asking questions in the Parliament.

To sum up, in India, the Parliament occupies a unique position of primacy among the organs of the State. Notwithstanding the fact that the Parliament functions within the bounds of a written Constitution and a federal framework, the actual authority, power, scope and range of its jurisdiction are immense. While Parliament, under the scheme of the Constitution, does not itself govern the country, it exercises effective

67. Sir Thomas Erskine May, *Parliamentary Practice* (16th edn.) at 142.
68. AIR 1959 SC 395.
69. *Ibid.*
70. AIR 1970 SC 1573.
71. (2007) 3 SCC 184.

supervision, in various ways, through a purposive use of parliamentary procedures and a system of Committees.

The Chapters that follow explain the various parliamentary practices, processes and procedures as they have evolved in course of time.

CHAPTER 2

Composition of Parliament

The Parliament of India is a bicameral Legislature and is composed of the President, the Council of States (Rajya Sabha) and the House of the People (Lok Sabha)[1]. These three constituent parts collectively constitute the Parliament.

President

The President is an integral part of the Parliament though he is not a member of either House of Parliament. The powers of the President and his position in relation to Parliament are described in Chapter 3, and election to the Office of the President, his term of Office, oath of Office, etc. are explained in Chapter 5.

Rajya Sabha

The Rajya Sabha consists of 12 members nominated by the President and not more than 238 representatives of the States and the Union territories[2]. The members nominated by the President consist of persons having special knowledge or practical experience in respect of such matters as literature, science, art and social service[3].

The allocation of seats in the Rajya Sabha to be filled by representatives of the States and of the Union territories is in accordance with the provisions in that behalf contained in the Fourth Schedule[4] to the Constitution.

The Rajya Sabha was duly constituted for the first time on 3 April 1952[5]. It consisted of 216 members. Of these, 12 members were nominated by the President. The remaining 204 members were elected to represent the States[6]. The four representatives of the Jammu and Kashmir State were chosen by the President in consultation with the Government of the State as required by the Constitution (Application to Jammu and Kashmir) Order, 1950[7]. In actual practice, the State Government acted upon a unanimous resolution of the Constituent Assembly of that State in recommending the names of the persons to be chosen by the President. With the coming into force of the Jammu and Kashmir Reorganisation Act, 2019, the erstwhile State of Jammu and

1. Art. 79.

   On 14 May 1954, Speaker Mavalankar announced that the House of the People would thereafter be known as the "Lok Sabha". On 23 August 1954, the Chairman of the Council of States announced a similar decision changing the name of the Council of States as the "Rajya Sabha" from that date, *L.S. Deb.,* 14-5-1954, cc. 7388-90 and *R.S. Deb.,* 23-8-1954, cc. 35-37. The terms "Lok Sabha" and "Rajya Sabha" were used for the first time in an amendment to the Delhi (Control of Building Operations) Bill, 1955, which was adopted by the House.

2. Art. 80(1).

3. Art. 80(3).

4. Art. 80(2).

5. The first sitting of the Rajya Sabha was held on 13 May 1952.

6. 145 members represented Part A States, 49 members Part B States and 10 members Part C States as laid down in the then Fourth Schedule to the Constitution.

7. According to the terms of the Constitution (Application to Jammu and Kashmir) Order of 14 May 1954, all future vacancies in the Rajya Sabha arising in the State of Jammu and Kashmir shall be filled by election by the elected members of the Jammu and Kashmir Legislative Assembly. The first such election took place in November 1954.

Kashmir has been reorganised into the Union Territory of Ladakh (without legislature) and the Union Territory of Jammu & Kashmir (with legislature)[8]. Consequent on the formation of new States, the number of elective seats in the Rajya Sabha allotted to States and Union territories have increased, from time to time[9]. The total number of seats in the Rajya Sabha[10] at present is 245, including the 12 members nominated by the President. The allocation of the 233 seats to be filled by representatives elected through proportional representation by means of the single transferable vote is as follows[11]:

States	No. of Seats	States	No. of Seats
Andhra Pradesh[12]	11	Mizoram	1
Arunachal Pradesh	1	Nagaland	1
Assam	7	Odisha[13]	10
Bihar	16[14]	Punjab	7
Chhattisgarh[15]	5	Rajasthan	10
Goa	1	Sikkim	1
Gujarat	11	Tamil Nadu	18
Haryana	5	Telangana	7
Himachal Pradesh	3	Tripura	1
Jharkhand[16]	6	Uttarakhand [17]	3
Karnataka	12	Uttar Pradesh[18]	31
Kerala	9	West Bengal	16
Madhya Pradesh[19]	11	Union Territories	
Maharashtra	19	Delhi	3
Manipur	-	Puducherry[20]	1
Meghalaya	1	Jammu and Kashmir[21]	4

The Rajya Sabha is not subject to dissolution, but as nearly as possible, one- third of its members retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law[22]. The term of

8. Jammu and Kashmir Reorganisation Act, 2019, Gazette Notification, Extraordinary, Part-II, Section I, 9.8.2019
9. The number of elective seats in the Rajya Sabha, from time to time, has been: 1952: 204; 1954: 207; 1956: 220; 1960: 224; 1964: 226; 1966: 228; 1972: 231; 1976: 232 and 1987 (onwards): 233.
10. For details regarding evolution, composition, powers and position of the Rajya Sabha, *see, Rajya Sabha at Work,* Rajya Sabha, Secretariat, Third Edition, 2017.
11. Fourth Schedule to the Constitution, as amended by the Constitution (Fifty-sixth Amendment) Act, 1987.
12. The Andhra Pradesh Reorganisation Act, 2014.
13. The Orissa (Alteration of Name) Act, 2011 altered the name of the State as "Odisha".
14. The Bihar Reorganization Act, 2000.
15. The Madhya Pradesh Reorganization Act, 2000.
16. The Bihar Reorganization Act, 2000.
17. The Uttaranchal (Alteration of Name) Act, 2006 altered the name of the State as "Uttarakhand".
18. The Uttar Pradesh Reorganization Act, 2000.
19. Three States, namely, Chhattisgarh, Jharkhand and Uttaranchal were created by the Madhya Pradesh Reorganization Act, 2000, the Bihar Reorganization Act, 2000 and the Uttar Pradesh Reorganization Act, 2000, respectively.
20. The Pondicherry (Alteration of Name) Act, 2006 altered the name of the Union territory as "Puducherry".
21. Jammu and Kashmir Reorganisation Act, 2019.
22. Art. 83(1).

    The procedure regarding periodic retirement of one-third of the members of the Rajya Sabha has been laid down in (i) the Representation of the People Act, 1951 (R.P. Act), s. 154; and (ii) the Council of States (Term of Office of Members) Order, 1952.

office of members begins— (*i*) in case of members elected/nominated biennially, from the date on which their names are notified by the Government of India in the Official Gazette[23]; and (*ii*) in case of member elected/nominated to fill a casual vacancy, from the date of publication in the Official Gazette of the declaration of election of such person, or of the Notification announcing the nomination of such person, as the case may be[24].

The normal term of office of a member of the Rajya Sabha is six years from the date of election or nomination[25]. However, a member elected or nominated to fill a casual vacancy holds office for the remainder of the term which his predecessor would have held[26].

Lok Sabha

The Lok Sabha[27] at present consists of not more than 530 members chosen by direct election from territorial constituencies[28] in the States[29], and not more than twenty members to represent the Union territories[30], chosen in such manner as Parliament by law provides[31]. The limit on the maximum number of members chosen directly from territorial constituencies in States may be exceeded if such an increase is incidental to reorganisation of States by an Act of Parliament[32].

The President is empowered[33], if he is of opinion that the Anglo-Indian community is not adequately represented in the House, to nominate not more than two members of that community to the Lok Sabha[34].

23. The Representation of the People Act, 1951, s. 155(1).
24. *Ibid.,* s. 155(2).
25. *Ibid,* s. 154(1).
26. *Ibid,* s. 154(3).
27. The Lok Sabha was duly constituted for the first time on 17 April 1952. In the first Lok Sabha, there were 499 seats. Out of these, 489 were filled by persons chosen by direct election from territorial constituencies by adult suffrage, 2 persons nominated by the President under article 331 to represent the Anglo-Indian community and 8 persons nominated by the President under special circumstances (one to represent Part B Tribal areas of Assam, six to represent Jammu and Kashmir and one to represent Andaman and Nicobar Islands).
28. In the first and Second Lok Sabha, there were some two-member and three-member constituencies also. While the first Lok Sabha had 314 single-member constituencies, 86 two-member constituencies and one three-member constituency, Second Lok Sabha had 312 single-member constituencies and 91 two-member constituencies. The two-member constituencies were removed by "The Two-Member Constituencies (Abolition) Act, 1961".
29. Under the Constitution (Seventh Amendment) Act, 1956, the maximum number was fixed as 500. This was increased to 525 by the Constitution (Thirty-first Amendment) Act, 1973, and has been further increased to 530 by the Goa, Daman and Diu Reorganisation Act, 1987.
30. Under the Constitution (Seventh Amendment) Act, 1956, the maximum number was fixed as 20. The maximum number which was increased to 25 by the Constitution (Fourteenth Amendment) Act, 1962 was again decreased to 20 by the Constitution (Thirty-first Amendment) Act, 1973.
31. Art. 81(1).
32. As a result of amendment of article 81 of the Constitution by Section 63 of the Goa, Daman and Diu Reorganisation Act, 1987, the number of members of the Lok Sabha from States were increased to 530.

    See also *Mangal Singh* v. *Union of India, (AIR* 1967 *SC* 944) wherein the validity of the provisions of the Punjab Reorganisation Act, 1966, providing that the membership of the Legislative Assembly of Haryana shall be below the minimum prescribed by article 170(1), *i.e.* 60 members, was upheld by the Supreme Court.
33. Art. 331. The reservation of the seats for Anglo-Indian community has not been extended beyond 26th January, 2020 *vide* the Constitution (One Hundred and Fourth Amendment) Act, 2019.
34. Two members of the Anglo-Indian community have been nominated by the President from 1st to 16th Lok Sabhas.

    After coming into effect of The Constitution (One Hundred and Fourth Amendment) Act, 2019, the provision of special representation of the Anglo-Indian community in the House of the People by nomination has not been extended further.

For the purpose of election from territorial constituencies in the States, a number of seats are allotted to each State in the Lok Sabha in such manner that the ratio between that number and the population of the State is, so far as practicable, the same for all States. Each State is thereafter divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it, so far as practicable, is the same throughout the State[35]. The expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published. But, until the relevant figures for the first census taken after the year 2026 have been published, the reference to the last preceding census is to be construed as reference to the 1971 census[36]. However, for the purpose of allocation of seats in the House of the People, each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency as per 2001 census and the number of seats allotted to it, so far as practicable, be the same throughout the State.

The allocation of seats in the Lok Sabha to the States and the division of each State into territorial constituencies are readjusted by such authority and in such manner as Parliament determines by law, but such readjustment does not affect representation in the Lok Sabha until the dissolution of the then existing House. The readjustment of territorial constituencies takes effect from such date as the President specifies by order, and until such readjustment takes effect, any election to the House is held on the basis of the territorial constituencies existing before such readjustment[37].

35. Art. 81(2). This is not, however, applicable to any State as long as the population of that State does not exceed six million.

36. Art. 81(3).

37. Art. 82.

The delimitation of constituencies has been done by the Delimitation Commission. Under the Delimitation Commission Act, 1952 (since repealed), the Commission was required first to publish its proposals in respect of the determination of numbers and then again in respect of the distribution of seats and delimitation of constituencies. After considering any objections and suggestions received in regard to them, the Commission was to determine the matters by one or more "final" orders. Each of the "final" orders was to be published in the Gazette and upon such publication, the order had the "full force of law". Under the Delimitation Commission Act, 1962, (also repealed) the Commission was authorised by order to determine forthwith the number of seats in the Lok Sabha on the basis of the latest census figures and having regard to the constitutional provisions on the subject. The Commission was required to publish only the proposals for the delimitation of constituencies and after considering objections and suggestions received thereon to determine by one or more orders the delimitation of constituencies. Each of such orders had to be published in the Gazette and, upon publication, every such order had the "force of law". During discussion on the Delimitation Commission Bill, 1962, an amendment was moved by a member for omission of the word "full" from the expression "full force of law" which was agreed to by the House.—*LS. Deb.,* 3-12-1962, cc. 4205-08. Under the Delimitation Act, 1972, the Commission is required to readjust allocation of seats in the Lok Sabha on the basis of the latest census figures. In other respects, the provisions made in the Act follow the pattern of the provisions contained in the Delimitation Commission Act, 1962. Delimitation of constituencies was first effected in 1952 and then in 1956. It was again effected in 1961 under Section 7 of the Two-Member Constituencies (Abolition) Act, 1961. The delimitation of constituencies was effected in accordance with the census of 1961 before the 1967 general elections. Again, this was done in accordance with the census of 1971 and the Delimitation Commission completed its work (except in respect of the then Union territory of Arunachal Pradesh) before the 1977 general elections. The Delimitation of Parliamentary and Assembly Constituencies Order, 1976, was made by the Election Commission on 1 December 1976. The Constitution (Eighty-fourth Amendment) Act, 2001 and the Constitution (Eighty-seventh Amendment) Act, 2003 have, *inter alia* amended articles 81, 82, 170, 330 and 332 of the Constitution. Accordingly, a new Delimitation Commission was constituted by the Delimitation Act, 2002 (No. 33 of 2002) and the Delimitation Act, 1972 stands repealed. As on 2020, the Delimitation Commission had issued Notifications

Seats are reserved in the Lok Sabha for the Scheduled Castes and the Scheduled Tribes in almost all the States and some Union territories[38].

To enable greater participation of women as elected public representatives in state and Union legislatures, the Constitution (One Hundred and Sixth Amendment) Act, 2023 was enacted on 28 September, 2023 to amend article 239AA by insertion of clauses and insertion of new article 330A and article 332A. The amendment sought to provide reservation of one-third of the total number of seats for women to be filled by direct election in the Legislative Assembly of the National Capital Territory of Delhi, House of the People and Legislative Assembly of every State respectively. Further, article 334A was also inserted for providing reservation of seats for women to take effect after an exercise of delimitation is undertaken for this purpose. Rotation of seats reserved for women shall take effect after each subsequent exercise of delimitation.

Consequent to the enactment of the said constitutional amendment, Parliament amended the Government of Union Territories Act, 1963 *vide* the Government of Union Territories (Amendment) Bill, 2023 by inserting new sections 3A and 3B for providing similar provisions for reservation of seats for women in the Legislative Assembly of the Union Territory of Puducherry.

The number of seats reserved in any State or Union territory for the Scheduled Castes or the Scheduled Tribes bears, as nearly as may be, the same proportion to the total number of seats allotted to that State or Union territory in the Lok Sabha as the population of the Scheduled Castes or of the Scheduled Tribes in that State or Union territory or part thereof, as the case may be, in respect of which seats are so reserved, bears to the total population of the State or Union territory[39]. But the number of seats reserved in the Lok Sabha for the Scheduled Tribes in the autonomous districts of Assam has to bear to the total number of seats allotted to that State, a proportion not less than what the population of the Scheduled Tribes in the said autonomous districts bears to the total population of the State. The expression "population" used here bears the same connotation as used in article 81(3)[40].

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in respect of 25 States. (On 8 February 2008, Presidential orders were issued to defer delimitation in Arunachal Pradesh, Assam, Manipur and Nagaland. On 6 March 2020, the Law Ministry notified the Delimitation Commission for Jammu and Kashmir, Assam, Arunachal Pradesh, Manipur and Nagaland). Speaker, Lok Sabha, *vide* Bulletin Part II dated 26 May 2020 has nominated 15 MPs from Arunachal Pradesh, Assam, Manipur, Nagaland and Jammu and Kashmir to assist the Commission in redrawing the Lok Sabha and the Assembly constituencies in these States and the Union territory.

38. To facilitate adequate representation to the Scheduled Castes and the Scheduled Tribes, the Delimitation Commission Act, 1952 provided that all parliamentary and assembly constituencies should be either single-member or two-member constituencies, that wherever practicable, seats should be reserved for the Scheduled Castes or the Scheduled Tribes in single-member constituencies and that in every two-member constituency, one seat should be reserved either for the Scheduled Castes or for the Scheduled Tribes and the other seat should be a general seat. The two-member constituencies were, however, considered not viable by the political parties since their contesting candidates had to cover double the area, canvass twice the number of electors and consequently incur twice the expense, as compared to those candidates who stood for election from single-member constituencies. From the administrative point of view also, these large two-member constituencies were found difficult to manage. There was, therefore, demand for doing away with the double-member constituencies and as a result, the Two-member Constituencies (Abolition) Act, 1961 was passed. The task of dividing each one of these constituencies into two compact and convenient single-member constituencies and deciding in which of them the seat should be reserved for the Scheduled Castes or Scheduled Tribes was given to the Election Commission.

39. Art. 330(2).

40. Art. 330 (3).

A member of a Scheduled Caste or Scheduled Tribe does not forego his right to seek election from the general seat, merely because he has the additional concession of contesting from a reserved seat by making the prescribed declaration for that purpose[41].

The total number of seats in the Lok Sabha is 543 and these are filled by persons chosen by direct election[42]. As per Delimitation of Parliamentary and Assembly Constituencies Order, 2008, the allocation of seats to the States and the Union territories and the number of seats, if any, reserved for the Scheduled Castes and the Scheduled Tribes of each State and Union territory are as under:

Name of the State/ Union territory	Total No. of Seats	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes
1	2	3	4
I. States			
1. Andhra Pradesh[43]	25	04	01
2. Arunachal Pradesh	02	—	—
3. Assam	14	01	02
4. Bihar	40	06	—
5. Chhattisgarh	11	01	04
6. Goa	02	—	—
7. Gujarat	26	02	04
8. Haryana	10	02	—
9. Himachal Pradesh	04	01	—
10. Jharkhand	14	01	05
11. Karnataka	28	05	02
12. Kerala	20	02	—
13. Madhya Pradesh	29	04	06
14. Maharashtra	48	05	04
15. Manipur	02	—	01
16. Meghalaya	02	—	02
17. Mizoram	01	—	01
18. Nagaland	01	—	—
19. Odisha[44]	21	03	05
20. Punjab	13	04	—
21. Rajasthan	25	04	03
22. Sikkim	01	—	—
23. Tamil Nadu	39	07	—
24. Telangana[45]	17	03	02

41. *V.V. Giri v. D. Suri Dora and Others*, AIR. 1959 SC 1318.
42. The Representation of the People Act, 1950, s.
43. The Andhra Pradesh Reorganisation Act, 2014 created a new State of Telangana from the existing State of Andhra Pradesh.
44. The Orissa (Alteration of Name) Act, 2011 altered the name of the State as "Odisha".
45. *Supra*, note 43.

25. Tripura	02	—	01
26. Uttarakhand	05	01	—
27. Uttar Pradesh	80	17	—
28. West Bengal	42	10	02
II. Union Territories			
1. Andaman and Nicobar Islands	01	—	—
2. Chandigarh	01	—	—
3. Dadra and Nagar Haveli and Daman and Diu[46]	02	—	01
4. Delhi	07	01	—
5. Jammu and Kashmir[47]	05		
6. Ladakh[48]	01		
7. Lakshadweep	01	—	01
8. Puducherry[49]	01	—	—
Total	543	84	47

The provisions of the Constitution relating to the reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiration of a period of eighty years from the commencement of the Constitution[50]. However, the provisions of the Constitution relating to the representation of the Anglo-Indian community in the Lok Sabha has ceased to have effect on the expiration of a period of seventy years from the commencement of the Constitution. After the coming into effect of the Constitution (One Hundred and Fourth Amendment) Act, 2019, the provision of special representation of the Anglo-Indian community in the House of the People by nomination has not been extended further.

Unless sooner dissolved, the Lok Sabha continues for five years from the date appointed for its first meeting and no longer, as the expiration of the period of five years operate as a dissolution of the House[51]. However, while a Proclamation of Emergency is in operation, this period may be extended by Parliament by law for a period not exceeding one year at a time and not exceeding in any case beyond a period of six months after the Proclamation has ceased to operate. The five-year term of the

46. The Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories) Act, 2019 altered the name of the Union Territory as, "Dadra and Nagar Haveli and Daman and Diu".

47. The Jammu and Kashmir Reorganisation Act, 2019 created a new Union Territory of Jammu and Kashmir.

48. The Jammu and Kashmir Reorganisation Act, 2019 created a new Union Territory of Ladakh.

49. The Pondicherry (Alteration of Name) Act, 2006 altered the name of the Union Territory as Puducherry.

50. Art. 334. Originally, the period was for 'ten years'. It was raised to 'twenty years' by the Constitution (Eighth Amendment) Act, 1959; to 'thirty years', by the Constitution (Twenty-third Amendment) Act, 1970; to 'forty years' by the Constitution (Fifty-fifth Amendment) Act, 1980; to 'fifty years' by the Constitution (Sixty-second Amendment) Act, 1989; to 'sixty years' by the Constitution (Seventy-ninth Amendment) Act, 1999; to 'Seventy Years' by the Constitution (Ninety-Fifth Amendment) Act, 2009 and to "eighty years" in respect of clause (a) of art. 334 by the Constitution (One Hundred and Fourth Amendment) Act, 2019.

51. Art. 83(2). Originally, the life of the Lok Sabha was for five years. It was raised to six years by the Constitution (Forty-second Amendment) Act, 1976. It was again reduced to five years by the Constitution (Forty-fourth Amendment) Act, 1978.

Fifth Lok Sabha was to have normally expired on 18 March 1976. Having regard to the Proclamations of Emergency issued on 3 December 1971 and 25 June 1975, which were in operation, the life of the Fifth Lok Sabha was extended first on 4 February 1976 by a period of one year and again on 5 November 1976 by another period of one year upto 18 March 1978[52].

The dissolution of the Lok Sabha before the completion of its full term is not unconstitutional[53].

The date of constitution and date of dissolution of Lok Sabha from First to Eighteenth Lok Sabhas are as under:

Lok Sabha	Date of Constitution	Date of Dissolution
First Lok Sabha	17.04.1952	04.04.1957
Second Lok Sabha	05.04.1957	31.03.1962
Third Lok Sabha	02.04.1962	03.03.1967
Fourth Lok Sabha	04.03.1967	27.12.1970
Fifth Lok Sabha	15.03.1971	18.01.1977
Sixth Lok Sabha	23.03.1977	22.08.1979
Seventh Lok Sabha	10.01.1980	31.12.1984
Eighth Lok Sabha	31.12.1984	27.11.1989
Ninth Lok Sabha	02.12.1989	13.03.1991
Tenth Lok Sabha	20.06.1991	10.05.1996
Eleventh Lok Sabha	15.05.1996	04.12.1997
Twelfth Lok Sabha	10.03.1998	26.04.1999
Thirteenth Lok Sabha	10.10.1999	06.02.2004
Fourteenth Lok Sabha	17.05.2004	18.05.2009
Fifteenth Lok Sabha	18.05.2009	18.05.2014
Sixteenth Lok Sabha	18.05.2014	25.05.2019
Seventeenth Lok Sabha	25.05.2019	05.06.2024
Eighteenth Lok Sabha	06.06.2024	till date

52. The House of the People (Extension of Duration) Act, 1976 and the House of the People (Extension of Duration) Amendment Act, 1976.

53. The Second Lok Sabha was dissolved by the President on 31 March 1962, when it had not completed the full term of five years as laid down in article 83(2) of the Constitution. A Petition filed by Dr. N.C. Samant Sinha before the Circuit Bench of the Punjab High Court at Delhi under article 226, praying that a rule *nisi* be issued (and in the interval respondents be directed not to proceed with the summoning of the Third Lok Sabha on 16 April 1962) declaring the premature dissolution void and ineffective, was dismissed by the High Court on 4 April 1962.

CHAPTER 3

President in Relation to Parliament

Under the Constitution, the executive power of the Union is vested in the President to be exercised by him either directly or through officers subordinate to him[1]. The executive power of the Union is co-extensive with the legislative power of Parliament, and Parliament consists of the President and the two Houses of Parliament[2]. Thus, on the one hand, President is the head of the Executive, and on the other, he is a constituent part of Parliament. This represents a real fusion of the highest executive and legislative authorities. In terms of the Constitution, as also in actual practice, the relationship between the Executive and the Legislature is one that is most intimate and ideally does not admit of any antagonism or dichotomy[3].

President and Council of Ministers

Prior to the Forty-second Amendment of the Constitution, there was no express obligation on the part of the President to act in accordance with the advice tendered by the Council of Ministers. However, implied in the formal constitutional provision[4], read with conventions, practices and usages that operated in practice, was that the President was a constitutional head and exercised his powers on the advice of the Council of Ministers.

The Forty-second Amendment Act made it obligatory for the President to act in accordance with the advice of the Council of Ministers. This rigidity was, however, partly diluted by the Constitution Forty-fourth Amendment Act, which provided that the President may require the Council of Ministers to reconsider the advice, either generally or otherwise, but he shall act in accordance with the advice tendered after such reconsideration. In actual practice, therefore, it has been the Council of Ministers and not the President which bears the responsibility for all executive action[5].

The Constituent Assembly never envisaged that the powers and functions vested in the President would be exercised by him on his own without the advice of the Ministers. This point was clearly elucidated by several members in the Constituent Assembly. While introducing the Draft Constitution as settled by the Drafting Committee, Dr. B.R. Ambedkar made it clear thus:

> Under the Draft Constitution, the President occupies the same position as the King under the English Constitution. He is the Head of the State but not of the

1. Art. 53(1).
2. Arts. 73(1) and 79.
3. *See* Subhash C. Kashyap: *Parliament of India: Myths and Realities,* National, New Delhi, 1988, pp. 39, 43 and 70.
4. Art. 74, as it stood before amendment, read as under: 'There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions.'
5. When a member raised a point that since the Constitution gave the President the power to make an ordinance whenever he was satisfied that it was necessary for him to exercise that power, the propriety of his action could not be called in question. Speaker Mavalankar observed:

   "The President is a constitutional President who acts on the advice of the Government. And, therefore, when it is said that the President is satisfied, it really means the Government are satisfied and this House is entitled to criticise the Government on that issue"— *H.P. Deb., (II),* 16-2-1954, c. 90.

> Executive. He represents the Nation but does not rule the Nation. The President of the Indian Union will be generally bound by the advice of his Ministers. He can do nothing contrary to their advice; nor can he do anything without their advice[6].

Dr. Alladi K. Ayyar observed:

> One point that has to be remembered in this connection is that any power exercised by the President is not to be exercised by him on his own responsibility. The word 'President' used in the Constitution stands for the fabric responsible to the Legislature[7].

The same view had also been held by the Supreme Court:

> Under article 53(1), "the executive power of the Union is vested in the President, but under article 75[8] there is to be a Council of Ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions. The President has thus been made a formal or constitutional head of the Executive and the real executive powers are vested in the Ministers or the Cabinet[9].

In actual practice also, the President has always acted on the advice of the Council of Ministers. The Forty-second Amendment of the Constitution, thus, simply confirmed the position that existed all along in this regard[10].

President's Right to Information

The President has, however, the right of receiving or calling for information. Under article 78(a) of the Constitution, the Prime Minister has to communicate to the President all decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation. Article 78(b) casts an obligation on the

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6. *C.A. Deb.***,** 4-11-1948, p. 32.

   The Draft Constitution originally contained a clause and a schedule of instructions to the President which *inter alia* provided that he must act on ministerial advice. Ultimately, the instructions as well as the clause were omitted as unnecessary. To a pertinent point asked, "If in any particular case the President does not act upon the advice of his Council of Ministers, will that be tantamount to a violation of the Constitution and he will be liable to impeachment?", Dr. Ambedkar's reply was, "There is not the slightest doubt about it". *See C.A. Deb.,* Vol. X, 1949, pp. 268-71.

7. *C.A. Deb.,* 8-11-1948; Vol. VII, p. 337; *See* also *ibid.,*30-12-1948, p. 1155; 2-8-1949, p. 124.

8. Obviously, to be read along with article 74(1), as it stood prior to its amendment.

9. In the case of *Ram Jawaya v. State of Punjab,* 1955, 2 S.C.R. 225(236).

   In 1960, President Dr. Rajendra Prasad, in his speech at the Indian Law Institute, New Delhi, said:

   "There is no provision in the Constitution which in so many words lays down that the President shall be bound to act in accordance with the advice of his Council of Ministers"— Publications Division, Ministry of Information and Broadcasting, Govt. of India, *Speeches by Dr. Rajendra Prasad,* 1960-61, p. 165.

   At a Press Conference in Delhi in December 1960; Prime Minister Jawaharlal Nehru said:

   The President has always acted as a constitutional head... We have modelled our Constitution on the Parliamentary system and not on what is called the Presidential system although we have copied or rather adopted many provisions of the U.S. Constitution because ours is a federal one. Essentially, our Constitution is based on the U.K. parliamentary model. That is the basic thing. In fact, it is stated that wherever it does not expressly say anything, we should follow the practice of the House of Commons in the U.K.—Publications Division, Ministry of Information and Broadcasting, Govt. of India, *Jawaharlal Nehru's Speeches,* Vol. IV, September 1957- April 1963, pp. 100-101.

10. Despite the express provision contained in article 74(1) that the President, in the exercise of his functions, is bound to act on the advice of the Council of Ministers, there was a constitutional controversy over the signing by the Vice-President, B.D. Jatti, acting as the President, of the proclamations under article 356 dissolving nine State Legislative Assemblies.

    The copies of Proclamations were sent by the Union Cabinet on 29 April 1977 for the signatures of the Vice-President acting as the President. The Proclamations were, however, signed by him on 30 April 1977 after a delay of about 24 hours.

Prime Minister "to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for". Under clause (c) of article 78, the President may require that a matter decided upon by a Minister be placed before the Council of Ministers and it shall be the duty of the Prime Minister to do so.

The question whether the duties entrusted to the Prime Minister in this regard are absolute or subject to any implied limitations assumed significant political importance in March 1987 when a newspaper published the text of a letter alleged to have been written by the President to the Prime Minister[11] and in which the President reportedly challenged the veracity of the Prime Minister's statement in Parliament that he had been keeping the President briefed on important issues of national interest.

Speaking during the discussion on the Motion of Thanks on the Address by the President, the Prime Minister had stated in the Lok Sabha:

> "... our Ministers have been meeting the President continuously. Whenever there is a point at issue, it has been discussed with the President, specially where it is of national interest ... there is no time when issues of national interest are kept away from the President[12]."

Requesting the members to honour the institution and to keep the Office of the President above politics, the Prime Minister made the same assertion in the Rajya Sabha as well[13].

Repeated attempts by members in both the Houses to discuss, in one form or the other, the alleged letter from the President to the Prime Minister or the related issues could not succeed, as the Presiding Officers in both the Houses consistently ruled that the President's name could not be brought in any way on the floor of the House for influencing any debate[14]. It was held that for the exercise of all the executive power in the name of the President and for the discharge of all his functions, it is the Council of Ministers alone that is responsible to Lok Sabha[15]. Further, any talks between the Prime Minister or the Council of Ministers and the President or any letters exchanged between them are entirely between them and not the concern of the House[16]. The Speaker, on 19 March 1987, ruled:

> I am absolutely clear in my mind that any debate on the floor of the House which brings in the name of the President into any controversy or which tends

11. On 13 March 1987, the *Indian Express* published a letter purported to have been written by the President to the Prime Minister. The text of the alleged letter, which was not authenticated either by the President or by the Prime Minister, contained, *inter alia,* the following:

    "The President-Prime Minister relations in our country are governed by certain well-established practices and conventions besides express provisions of the Indian Constitution. I am constrained to say that certain well-established conventions have not been followed. Before your visit abroad and after your return I have not been briefed...In fact, I have not been briefed on foreign policy issues relating to such of our immediate neighbours in South Asia with which there are outstanding problems. ..Even on certain important domestic issues, I have not been kept informed on matters relating to accords finalised in respect of Assam, Punjab and Mizoram. I was not briefed at any stage...It is also distressing that constitutional provisions regarding furnishing of information to the President have not been consistently followed. I have brought it to your notice that reports of some of commissions of enquiry had not been sent to me even long after their receipt by the Government."

12. *L.S. Deb.,* 2-3-1987, c. 396.

13. *R.S. Deb.,* 4-3-1987, c. 296.

14. Rule 352(vi). *See L.S. Deb.,* 2-3-1987, 9-3-1987, 13-3-1987, 18-3-1987, 19-3-1987. Also *see R.S. Deb.,* 20-3-1987, cc. 259-67; 30-4-1987, cc. 211-14.

15. *L.S. Deb.,* 19-3-1987, c. 249.

16. *Ibid.,* c. 251.

to discuss the relationship between the President and his Council of Ministers, must be avoided at all costs in the wider interests of the nation. We are still in the process of developing sound conventions and traditions. Let us not, in the heat of the moment, do something which might hamper this process[17].

The Opposition, aggrieved over the denial of an opportunity to discuss this matter before the House, brought a Resolution for removal of the Speaker. The Resolution which stated "That this House having taken into consideration the Ruling of the Speaker of the House including the one on 19 March 1987 on the question of privilege and adjournment motions feels that by denying to the members right to raise vital constitutional and procedural issues and burning problems, the Speaker has ceased to command the confidence of all sections of the House and, therefore, resolves that he be removed from his Office", was discussed by the House on 15 April 1987[18].

During the discussion[19], members from the treasury and opposition benches tried to interpret the constitutional provisions regarding the power of the President to call for information from their points of view[20].

The protagonists of the President's powers under article 78 give him a role, independent of his Council of Ministers, for calling for information "relating to the administration of the affairs of the Union", etc. On the other hand, it is pointed out that article 78 of the Constitution should not be viewed in isolation from other provisions like article 74 and that it is the prerogative of the Union Council of Ministers to decide what type of information can be furnished to the President. No final opinion on this has emerged in Parliament[21].

In the course of the formulation of a policy, the President, it has been suggested, may give his counsel or require the matter to be reconsidered by the Council of Ministers as a whole but once a policy has been decided by the Council of Ministers and formally submitted to him, he has ultimately to abide by it and act accordingly. In the words of B.N. Rau:

> Acting on ministerial advice does not necessarily mean immediate acceptance of the Ministry's first thoughts. The President can state all his objections to any proposed course of action and ask his Ministers in Council, if necessary, to reconsider the matter. It is only in the last resort that he should accept their final advice[22].

President and Houses of Parliament

The Council of Ministers, under the Constitution, is collectively responsible to the Lok Sabha only. The "collective responsibility" implies that a motion of no-confidence

17. *Ibid.,* cc. 251-52.
18. *L.S. Deb.,* 15-4-1987, cc. 564-89; 632-733.
19. *Ibid.,* c. 692.
20. *Ibid.,* c. 701.
21. Notices under Rule 189 by members have been admitted by the Speaker to discuss "That this House recommends to the Government of India to frame rules and guidelines for the discharge of duties enjoined on the Prime Minister by article 78 of the Constitution and place them before the House for its consideration". However, it has not come up for discussion in the House so far.

    Bn. II, 7-5-1987, para 1654; 29-10-1987, para 1893; 12-2-1988, para 2065; 19-7-1988, para 2362; 25-10-1988, para 2542; 15-2-1989, para 2769; 10-7-1989, para 3027; 20-12-1990, para 951; 15-2-1991, para 1160.
22. B.N. Rau: *India's Constitution in the Making,* Allied Publishers, 1963, p. 410.

can be moved in the Council of Ministers as a whole and not in an individual Minister. Regarding the concept of collective responsibility, Dr. B.R. Ambedkar observed in the Constituent Assembly:

> In my judgement, collective responsibility is enforced by the enforcement of two principles. One principle is that no person shall be nominated to the Cabinet except on the advice of the Prime Minister. Secondly, no person shall be retained as a member of the Cabinet if the Prime Minister says that he shall be dismissed[23].

The President may summon each House of Parliament to meet at such time and place as he thinks fit, but in no case should the period intervening between its last sitting in one Session and the date appointed for its first sitting in the next Session exceed six months[24].

The President may prorogue the Houses or either House of Parliament and dissolve the Lok Sabha[25].

In the case of the State Legislature, it is the Governor who may, from time to time, prorogue the Houses or either House of the Legislature and dissolve the Legislative Assembly[26] Referring to the power of prorogation of the Governor, the Supreme Court observed:

> The article which enables the Governor to prorogue the Legislature does not indicate any restrictions on this power. Whether a Governor will be justified to do this when the Legislature is in Session and in the midst of its legislative work is a question that does not fall for consideration here. When that happens the motives of the Governor may conceivably be questioned on the ground of an alleged want of good faith and abuse of constitutional powers[27].

The proposal to summon, prorogue or dissolve Lok Sabha may be made by the Prime Minister with or without the consultation of the Cabinet[28].

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23. *See* art. 75(3); *C.A. Deb.,* 30-12-1948, p. 1159.

24. Art. 85(1).

    It was suggested in the Constituent Assembly that the power of summoning the respective Houses of Parliament should vest in the Speaker of Lok Sabha or in the Chairman or Deputy Chairman of Rajya Sabha as it could happen that the President might fail to summon Parliament in ordinary times or he may not summon Parliament at all when there was an emergency. Dr. B.R. Ambedkar, the Chairman of the Drafting Committee, observed that if the President failed to perform an obligation imposed on him by law and refused to summon Parliament, that would be violation of the Constitution and the President could be displaced by impeachment. Explaining why the power to summon Parliament was vested in the President, he said:

    Suppose, for instance, the President for good reasons does not summon the Legislature and the Speaker and the Chairman do summon the Legislature. What is going to happen? If the President does not summon the Legislature it means that the Executive Government has no business which it can place before the House for transaction. Because, that is the only ground on which the President, on the advice of the Prime Minister, may not call the Assembly in Session. Now, the Speaker cannot provide business for the Assembly, nor can the Chairman provide it. The business has to be provided by the Executive, that is to say, by the Prime Minister who is going to advise the President to summon the Legislature. Therefore, merely to give power to the Speaker or the Chairman to summon the Legislature without making proper provisions for the placing of business to be transacted by such an Assembly called for in a Session by the Speaker or the Chairman would to my mind be a futile operation and, therefore, no purpose will be served. *See C.A. Deb.,* 18-5-1949, pp. 106-07.

25. Art. 85(2).

26. Art. 174(2).

27. *State of Punjab* v. *Satya Pal Dang and others,* A.I.R. 1969 S.C. 903.

28. A suggestion was made in the Constituent Assembly that to guard against arbitrary advice by the Prime Minister for the dissolution of Lok Sabha it might be enacted that in case the Prime Minister

At the commencement of the first Session after each General Election to Lok Sabha and at the commencement of the first Session of each year, the President addresses both Houses of Parliament assembled together and informs Parliament of the causes of its summons[29]. Besides the opening address, he may address either House of Parliament or both Houses assembled together, and for that purpose require the attendance of members[30]. He is also empowered to send messages to either House, whether with respect to a Bill then pending in Parliament or otherwise[31] and a House to which any message is so sent shall, with all convenient despatch, consider any matter required by the message to be taken into consideration.

The President appoints an acting Chairman of the Rajya Sabha in case: The Office of Chairman is vacant, or

During any period when the Vice-President who is *ex officio* Chairman is acting as, or discharging the functions of the President, and

The Office of the Deputy Chairman is also vacant[32].

Similarly, the President appoints the Speaker *pro tem,* from amongst the members of the Lok Sabha, to preside over the first sitting of the new Lok Sabha[33].

Every member of either House of Parliament, before taking his seat in the House, is required to make and subscribe the oath or affirmation before the President or some person appointed in that behalf by him[34].

In the case of disagreement between the two Houses on a Bill, other than a Money Bill, the President may summon both the Houses to meet in a joint sitting for the purpose of deliberating and voting on the Bill unless the Bill has lapsed by reason of dissolution of the Lok Sabha[35]. The President has in accordance with Art. 118(3) of

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desired the dissolution of the House earlier than the completion of the normal term of five years as provided in the Constitution, he should record the reasons therefor in writing. This suggestion was not accepted by Dr. Ambedkar, the Chairman of the Drafting Committee, for various reasons. He observed:

In the same way, as the King in the United Kingdom does, the President of the Indian Union will test the feelings of the House whether the House agrees that there should be dissolution or whether the House agrees that the affairs should be carried on with some other leader without dissolution. If he finds that the feeling was that there was no other alternative except dissolution, he would as a Constitutional President undoubtedly accept the advice of the Prime Minister to dissolve the House. Therefore, it seems to me that the insistence upon having a document in writing stating the reasons why the Prime Minister wanted a dissolution of the House seems to be useless and not worth the paper on which it is written. There are other ways for the President to test the feeling of the House and to find out whether the Prime Minister was asking for dissolution of the House for *bona fide* reasons or for purely party purposes. I think we could trust the President to make a correct decision between the party leaders and the House as a whole.—*C.A Deb.,* 18-5-1949, pp. 106-07.

29. Art. 87.

30. Art. 86(1).

31. Art. 86(2).

32. *See* art. 91(1).

33. In accordance with the second proviso to article 94, the Speaker of the dissolved Lok Sabha vacates his Office immediately before the first meeting of the next House constituted after the General Elections. There being thus neither Speaker nor Deputy Speaker, the President under Article 95(1) appoints a member as Speaker *pro tem*. It has been an established practice that the senior-most member in the newly-constituted House is appointed as Speaker *pro tem* and he remains in office till the election of new Speaker by the House.

34. Art. 99—For details, *see* Chapter 15—'Oath, Affirmation and Seating of Members in the House'.

35. Art. 108—For details, *see* Chapter 4—'Relations between the Houses' and Chapter 22— 'Legislation.'

the Constitution made rules in consultation with the Chairman of Rajya Sabha and the Speaker of Lok Sabha, as to the procedure with respect to joint sittings of, and communications between, the two Houses[36].

Certain Bills cannot be introduced or proceeded with unless the recommendation of the President has been received. The recommendation of the President is required—

For introduction of Bills and for moving amendments relating to financial matters. However, no recommendation is required for moving of an amendment making provision for the reduction or abolition of any tax[37].

For introduction of a Bill relating to formation of new States or of alteration of areas, boundaries or names of existing States. Where the proposal contained in a Bill affects the area, boundaries or name of any of the States, the Bill has to be referred by the President to the Legislatures of the concerned States for expressing their views thereon within such period as may be specified in the reference or within such further period as the President may allow and the Bill can be introduced only after the period so specified or allowed has expired[38].

For introduction of a Bill or moving of an amendment affecting taxation in which States are interested[39].

For consideration of a Bill which, if enacted, would involve expenditure from the Consolidated Fund of India[40].

No Act of Parliament, and no provision in any such Act, would be invalid by reason only that requisite recommendation or previous sanction was not given by the President[41]. Such requirements are regarded as matters of procedure only.

After a Bill has been passed by the Houses of Parliament, it is presented to the President who may either assent to the Bill or withhold his assent[42]. No provision has been made in the Constitution as to the period within which the President must assent to a Bill after it is presented to him for assent. The President may, as soon as possible after the presentation to him of a Bill for assent, return the Bill, if it is not a Money Bill, to the Houses with a message requesting the House to reconsider the Bill or any specified provisions thereof and, in particular, to consider the desirability of introducing any such amendments as the President may recommend in his message[43].

36. These Rules are called 'The Houses of Parliament (Joint Sittings and Communications) Rules'.
37. Art. 117(1) read with Art. 110.
38. Art. 3, Proviso.
39. Art. 274(1).
40. Art. 117(3).
41. Art. 255.
42. The Salary, Allowances and Pension of Members of Parliament (Amendment) Bill, 1991, passed by the Houses was submitted to the President on 18 March 1991. On 9 March 1992, the Secretary, Ministry of Law, informed Rajya Sabha that the President, on 6 March 1992, had withheld assent to the above Bill. Also *see*, Chapter 22 on 'Legislation' under 'Assent to Bills'.
43. Art. 111 states that if the President so desires that the bill be returned, he shall do it "as soon as possible" after the Bill is presented to him. In the corresponding Article 91 of the Draft Constitution, the period was 'six weeks', but on an amendment moved by Dr. Ambedkar it was changed to 'as soon as possible'.

When a Bill is so returned, the Houses are obliged to reconsider the Bill accordingly. If the Bill is passed again by the Houses, with or without amendment, the President cannot withhold his assent therefrom[44].

The President causes to be laid before both the Houses of Parliament in respect of every financial year, a statement of the estimated receipts and expenditure of the Government of India, also referred to as the annual financial statement, *i.e.,* Budget for the year. The estimates show separately the sums required to meet the expenditure charged upon the Consolidated Fund of India and the sums required to meet other expenditure proposed to be made from the Consolidated Fund of India[45]. So, much of the estimates as relate to expenditure other than expenditure charged on the Consolidated Fund of India are submitted in the form of demands for grants to Lok Sabha and no demand for a grant can be made except on the recommendation of the President[46].

The President also causes to be laid before both Houses of Parliament, whenever necessary, statements showing supplementary, additional or excess grants[47].

A contingency fund in the nature of an imprest, known as the Contingency Fund of India, has been placed at the disposal of the President to enable advances to be made by him out of such Fund for the purpose of meeting unforeseen expenditure pending authorization of such expenditure by Parliament by law[48].

The Indian Post Office (Amendment) Bill, 1986 was presented to the President on 19 December 1986 for his assent by the Rajya Sabha Secretariat. The President after a lapse of over 3 years, returned the Bill along with a message to reconsider the Bill, specifically clause 16 thereof, to the Rajya Sabha on 7 January 1990. The Bill was not reconsidered by the Rajya Sabha in terms of Presidential message for more than 12 years. On 13 March 2002, Rajya Sabha adopted a motion recommending to Lok Sabha that Lok Sabha do agree to leave being granted by Rajya Sabha to withdraw the Bill. On 16 March 2002, the Lok Sabha concurred in the motion. The Bill was ultimately withdrawn in Rajya Sabha on 21 March 2002.

The Parliamentary (Prevention of Disqualification) Amendment Bill, 2006, as passed by House in the Seventh Session of Fourteenth Lok Sabha was returned by the then President Dr. A.P.J. Abdul Kalam on 30 May 2006 for reconsideration of Houses with a message containing his observations. The Bill was reconsidered and passed again by Rajya Sabha on 27 July 2006. The Bill, as passed again by Rajya Sabha, was laid on the Table of Lok Sabha on 28 July 2006 and passed again by Lok Sabha on 31 July 2006.

Thereafter the President gave his assent to the Bill.

44. Art. 111.

The assent to the Patiala and East Punjab States Union Appropriation Bill, 1954, which was passed by both the Houses of Parliament, was withheld by the President, as by the time the Bill was presented to the President, he had already revoked the Proclamation under which he assumed functions of the Patiala and East Punjab States Union. The information in regard to the withholding of the assent by the President was conveyed to the House by the Speaker. *H.P. Deb.,* 5-4-1954, c. 4035.

45. Art. 112.

The emoluments and allowances of the President and other expenditure relating to his Office is one of the items of expenditure charged upon the Consolidated Fund of India. Though these can be discussed by the House but are not subject to vote.

46. Art. 113.

47. Art. 115.

48. Art. 267(1).

Rules have been made by the Government of India regulating all matters connected with or ancillary to the custody of, or the payment of money into, and the withdrawal of moneys from the Contingency Fund of India.

The President may nominate two members to Lok Sabha to represent the Anglo-Indian community[49]. He also nominates to the Rajya Sabha twelve persons having special knowledge and practical experience in respect of such matters as literature, science, art and social service[50].

The President decides the question as to whether a member of Parliament has become subject to any of the disqualifications for membership as also the question whether a person found guilty of a corrupt practice at an election to a House of Parliament under any law made by Parliament, except the question of disqualification on ground of defection[51], is to be disqualified for being chosen as and for being a member of Parliament[52]. The President's decision on any question regarding disqualification of a member is final but before giving any decision on any such question, the President is required to consult the Election Commission which is empowered to hold an inquiry in this behalf[53]. The power to disqualify a member on ground of defection vests in the Speaker[54]. In cases of members being convicted under sub-sections 1, 2 and 3 of Section 8 of the Representation of People Act, 1951 by any Court of Law, the member stands disqualified from the membership of the Parliament from the date of conviction[55].

The President causes the following reports to be laid before both Houses of Parliament:

Reports of the Comptroller and Auditor-General of India relating to the accounts of Union[56],

Recommendations made by the Finance Commission together with an explanatory memorandum as to the action taken thereon[57],

Reports of the Union Public Service Commission together with a memorandum explaining as respects the cases, if any, where the advice of the Commission was not accepted, and the reasons for such non-acceptance[58],

Reports of the National Commission for Scheduled Castes[59], the National Commission for Scheduled Tribes[60], the National Commission for Women[61] and the National Commission for Backward Classes[62],

49. Art. 331. For details, *see* Chapter 2 –'Composition of Parliament'.

    After the coming into effect of the Constitution (One Hundred and Fourth Amendment) Act, 2019, the provision of special representation of the Anglo-Indian community in the House of the People by nomination has not been extended further.

50. Art. 80. *See* also Chapter 2 –'Composition of Parliament'.
51. Tenth Schedule to the Constitution.
52. Art. 102.
53. Art. 103. Earlier, before giving any decision on any such question, the President was required to obtain the opinion of the Election Commission and to act according to such opinion. For details, *see* Chapter 5–'Election of President, Vice President and Members of Parliament'.
54. The Constitution (Fifty-second Amendment) Act, 1985.
55. Supreme Court of India judgement dated 10 July, 2013 in CWP No. 490 of 2005 and CWP No. 231 of 2005.
56. Art. 151(1).
57. Art. 281.
58. Art. 323(1).
59. Art. 338.
60. Art. 338 (A) (6).
61. National Commission for Women Act, 1990 (Act No. 20 of 1990 of Govt. of India).
62. Art. 338(B) and 350B (2).

Reports of the Backward Classes Commission together with a memorandum explaining the action taken thereon[63],

Reports of the Commissioner for Linguistic Minorities[64],

Reports of the Official Language Commission and of the Committee of Parliament to examine the recommendations of the Official Language Commission, which are presented to the President, have also in the past been laid before both the Houses of Parliament[65].

Other Functions of the President

The President appoints the Council of Ministers with the Prime Minister at the head to aid and advise him, who is the leader of the majority party in the Lok Sabha and, on his advice, appoints other Ministers. The Ministers hold post during the pleasure of the President[66]. Technically, the ultimate choice in the matter of appointment of Ministers rests with the Prime Minister but if the Prime Minister does happen to appoint a Minister who is not worthy of the post, it would be possible for Lok Sabha to adopt a motion of no-confidence in the Council of Ministers and thereby get rid of the Minister concerned or of the Prime Minister, if he is not prepared to have the Minister dismissed on the call of Lok Sabha. The President is bound to take due note of a motion of no-confidence in the Council of Ministers adopted by Lok Sabha and dismiss the Council of Ministers, if the Prime Minister does not tender his resignation on the adoption of the said motion[67].

The President appoints the Judges of the Supreme Court and the High Courts of various States[68]. After his appointment, a Judge of the Supreme Court or the High Court cannot be removed from his office except by an order of the President passed after an address by each House of Parliament, supported by a majority of the total membership of the House and by a majority of not less than two-thirds of the members of that House present and voting, has been presented to the President in the same Session for such removal on the ground of proved misbehaviour or incapacity[69].

When the President resigns his Office, the resignation is addressed to the Vice-President, who is required to communicate it forthwith to the Speaker of Lok Sabha[70].

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63. Art. 340(3).
64. Art. 350B(2).
65. Art. 344. *L.S. Deb.,* 12-8-1957, cc. 7980-81; 22-4-1959, cc. 12804-05.
66. Art. 75.
67. *See C.A. Deb.,* 30-12-1948, pp. 1159-60.
68. Arts. 124 and 217 respectively.
69. Arts. 124(4) and 218.

    Parliament has been vested under cl. (5) of Article 124 with the power to regulate by law the procedure for presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a Judge. Parliament has accordingly passed the Judges (Inquiry) Act, 1968. For details *re:* procedure under the law, *see* Chapter 43 –'Parliament and Judiciary'.
70. Art. 56. In the Draft Constitution, as placed before the Constituent Assembly of India, the provision was that the resignation should be addressed by the President to the Chairman of Rajya Sabha and the Speaker of Lok Sabha. While adopting this article, an amendment, providing that the resignation should be addressed to the Vice-President so that one person only was to receive it and be responsible to set the machinery in motion to fill the vacancy, was adopted. It was also felt desirable that the Speaker should immediately know of the resignation. Hence, it was provided that the Vice-President should forthwith communicate the resignation to the Speaker— *see C.A. Deb.,* 13-12-1948, pp. 1020-22.

Legislative Powers of the President

If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require. An Ordinance so promulgated has the same force and effect as an Act of Parliament, but every Ordinance has to be laid before both Houses of Parliament. The Ordinance ceases to operate at the expiration of six weeks from the reassembly of Parliament, or if resolutions disapproving it are passed by both the Houses before the expiration of six weeks then upon passing of the second of those resolutions. It can also be withdrawn at any time by the President[71].

For three years from the commencement of the Constitution[72], the President was vested with the power to make by order necessary adaptations and modifications of any law in force in the territory of India immediately before the commencement of the Constitution for the purpose of bringing the provisions of such a law into accord with the provisions of the Constitution whether by way of repeal or amendment and to provide that the law would, as from such date as was specified in the order, have effect subject to the adaptations and modifications so made and any such adaptation or modification could not be questioned in any court of law.

For the purpose of bringing the provisions of any law in force in India or any part thereof immediately before the commencement of the Constitution (Seventh Amendment) Act, 1956, into accord with the provisions of the Constitution as amended by that Act, the President could, by an order made before 1 November 1957, make such adaptations and modifications of the law, whether by way of repeal or amendment, as was necessary or expedient, provided that the law would, as from such date as was specified in the order, have effect, subject to adaptations and modifications so made, and any such adaptations or modifications could not be questioned in any court of law[73].

The President has the power to direct, by public notification, that from such date as may be specified in the notification, any Union or State law shall not apply to any major port or aerodrome or shall apply thereto subject to such exceptions or modifications as may be specified in the notification[74].

The President may make regulations for the peace, progress and good Government of the Union territory of —

the Andaman and Nicobar Islands;

Lakshadweep;

Dadra & Nagar Haveli and Daman & Diu[75]**;** and

Puducherry[76].

71. Art. 123. For further details, *see* Chapter 23 —'Ordinances and Proclamations by President'.
72. *See* art. 372(2). According to the Constitution as originally framed, the period was "two years". This period was increased to "three years" by the Constitution (First Amendment) Act, 1951.
73. *Vide* Art. 372 A. For orders issued under this provision, *see* the Adaptation of Laws Orders of 1956 and 1957.
74. *See* Art. 364.
75. The Dadra & Nagar Haveli and Daman & Diu (Merger of Union Territories) Act, 2019.
76. The Pondicherry (Alteration of Name) Act, 2006 altered the name of the Union territory as Puducherry.

When a body is created to function as a Legislature for the Union territory of Puducherry, the President shall not make any regulation with effect from the date appointed for the first meeting of the Legislature. But whenever such a body functioning as a Legislature is dissolved or the functioning of that body as a Legislature remains suspended under the provisions of the Government of Union Territories Act, 1963 enacted in pursuance of clause (1) of Article 239A, the President may, during the period of such dissolution or suspension, make regulations for the peace, progress and good Government of that Union territory.[77]

Any regulation made may repeal or amend any Act made by Parliament or any other law which is for the time being applicable to the Union territory and, when promulgated by the President, shall have the same force and effect as an Act of Parliament which applies to that territory[78].

Powers during Emergency

If the President is satisfied that a grave emergency exists on account of either war or external aggression or armed rebellion[79] or failure of constitutional machinery in a State[80] or due to threat to the financial stability or credit of India[81], he may, by proclamation, make a declaration to that effect[82]. In the case of a proclamation relating to the failure of constitutional machinery in a State, the President also assumes to himself the functions of the Government of the State and the powers vested in or exercisable by the Governor[83]. Special powers were conferred on the President by the Constitution (Fifty-ninth Amendment) Act, 1988 to issue a proclamation of Emergency in respect of the whole or any part of Punjab if the integrity of India was threatened by internal disturbance in the whole or any part of Punjab. The Act, which came into effect on 30 March, 1988, was enacted to be in force for two years. It was subsequently repealed by the Constitution (Sixty-third Amendment) Act, 1989, which came into effect on 6 January, 1990.

Limitations on the Powers of the President

The Constitution has also placed the following limitations on the powers of the President by granting certain overriding functions to Parliament:

Parliament can confer by law functions on authorities other than the President[84].

The President cannot return a Money Bill for reconsideration of the Houses[85].

77. Arts. 239A and 240(1).
78. Art. 240(2).
79. Art. 352, substituted by Constitution (Forty-fourth Amendment) Act, 1978.
80. Art. 356.
81. Art. 360.
82. Art. 352.
83. Art. 356(1)(a). For details in regard to Proclamations, *see* Chapter 23—'Ordinances and Proclamations by President'.
84. Art. 53(3)(b).
85. Proviso to Art. 111.

The President cannot withhold his assent to a Constitution Amendment Bill or to a Bill earlier returned by him to the Houses with a message requesting them to reconsider the Bill, if the Bill is passed again by the Houses with or without amendment and presented to him for assent[86].

Parliament can by a law determine the qualifications and manner of selection of members for appointment to the Finance Commission, which, under the Constitution, is constituted by the President[87].

Subject to the provisions of any law made by Parliament, the President may by order declare any State not to be a "foreign State" for such purposes as may be specified in the order[88].

Impeachment of the President

The President may be removed from Office by impeachment for violation of the Constitution[89].

When a President is to be impeached for violation of the Constitution, the charge has to be preferred by either House of Parliament[90].

No such charge can be preferred unless—

(a) the proposal to prefer such charge is contained in a resolution, which has been moved after at least fourteen days' notice signed by not less than one-fourth of the total number of members of the House, has been given in writing, and

(b) such resolution has been passed by a majority of not less than two-thirds of the total membership of the House[91].

When a charge has been so preferred by either House of Parliament, the other House shall investigate the charge or cause the charge to be investigated and the President has the right to appear and to be represented at such investigation[92]. The conduct of the President may be brought under review by any court, tribunal or body appointed or designated by either House of Parliament for the investigation of such charge[93].

If, as a result of the investigation, a resolution is passed by a majority of not less than two-thirds of the total membership of the House by which the charge was investigated or caused to be investigated, declaring that the charge preferred against the President has been sustained, such resolution shall have the effect of removing the President from his Office as from the date on which the resolution is so passed[94].

86. Art. 368(2) and proviso to Art. 111.
87. Art. 280(1) and (2).
88. Art. 367(3).
89. Art. 56(1) (b).
90. Art. 61(1).
91. Art. 61(2). No notice of such a resolution has been tabled so far.
92. Art. 61(3).
93. Art. 361, First Proviso.
94. Art. 61(4).

Succession to Presidency

The Constitution provides for succession to Presidency, and election to fill a vacancy caused by expiration of the term of Office of the President has to be completed before the expiration of the term[95]. Where a vacancy in the Office of President occurs by reason of his death, resignation or removal, or otherwise, the Vice-President acts as President until a new President is elected, in no case later than six months from the date of occurrence of the vacancy[96]. The Constitution also provides that when the President is unable to discharge his function owing to absence, illness, or any other cause, the Vice-President shall discharge his functions until the date on which the President resumes his duties[97].

However, the Constitution does not provide for cases where a vacancy takes place in the Offices of the President and the Vice-President simultaneously, or where the Vice-President while acting as, or discharging the functions of the President, is unable to do so. To cover such cases, Parliament made a law providing therein that, in such cases the Chief Justice of India or, in his absence, the senior-most Judge of the Supreme Court shall discharge the functions of the President[98].

When the Vice-President, V.V. Giri, who was acting as President in the vacancy caused by the death of the President, resigned from the Office of the Vice-President with effect from the forenoon of 20 July, 1969, the Chief Justice of India discharged the functions of the President from the forenoon of the said date[99].

95. Art. 62(1). *See* also in *re.* Presidential Election 1974, A.I.R. 1974, S.C. 1682. Election to fill vacancy caused on expiration of the term of Office of President must be completed before expiry of the term in spite of dissolution of the Legislative Assembly of any State.

96. Art. 65(1) read with Art. 62(2).

97. Art. 65(2).

98. The President (Discharge of Functions) Act, 1969. This Act was passed by virtue of Article 70 which empowers Parliament to make such provisions as it thinks fit for the discharge of the functions of the President in any contingency not provided for in the Constitution.

99. Gaz. Ex. Pt. II. 20-7-1969.

The recommendation of the President was sought for consideration of certain Bills by the House in due course. The communication received by the Secretary, Lok Sabha conveyed that the recommendation had been given in the case of the first such Bill by "the Chief Justice of India discharging the functions of the President", in the case of the second Bill by 'the Chief Justice of India (M. Hidayatullah) discharging the functions of the President', and in the subsequent cases by 'Shri M. Hidayatullah, discharging the functions of the President'. *See Bn. II,* 13-8-1969, para 1295; 18-8-1969, para 1301; 21-8-1969, para 1305.

CHAPTER 4

Relations Between the Houses

There are several occasions when the two Houses of Parliament have to communicate with each other. The usual mode of communication is by means of a written message sent from one House to the other[1]. The other modes of communication are: meetings of Joint Committees of the Houses and joint sittings of the Houses.

Communication between the Houses

Communication by means of a written message is resorted to not only for transmitting Bills from one House to the other but also for the transmission of motions[2]

1. *See* The Houses of Parliament (Joint Sittings and Communications) Rules—Rules 9 and 10.

2. Messages were sent to Rajya Sabha for concurrence and communicating the names of members of Rajya Sabha after adoption of motions by Lok Sabha for appointment of following Joint Committees:

   (i) Joint Committee to enquire into issues arising from the report of the Swedish National Audit Bureau on the Bofors Contract— motion adopted in Lok Sabha on 6 August, 1987;

   (ii) Joint Committee to go into the irregularities and fraudulent malpractices relating to securities, shares, bonds and other financial instruments — motion adopted in Lok Sabha on 6 August, 1992;

   (iii) Joint Committee on Stock Market Scam and matters relating thereto — motion adopted in Lok Sabha on 26 April 2001;

   (iv) Joint Committee on Pesticide Residues in and Safety Standards for Soft Drinks, Fruit Juice and Other Beverages — motion adopted in Lok Sabha on 22 August, 2003;

   (v) Joint Committee to examine the Constitutional and Legal position relating to Office of Profit — motion adopted in Lok Sabha on 17 August, 2006;

   (vi) Joint Committee to examine prescriptions and irregularities in the allocation and pricing of Telecom licences and spectrum — motion adopted in Lok Sabha on 1 March, 2011;

   (vii) Constitution of a Committee of both the Houses to be called the Committee for Welfare of Other Backward Classes (OBCs) — motion adopted in Lok Sabha on 21 December, 2011;

   (viii) Joint Committee on the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Second Bill, 2015 — motion adopted in Lok Sabha on 12 May, 2015;

   (ix) Joint Committee on the Insolvency and Bankruptcy Code, 2015 — motion adopted in Lok Sabha on 23 December, 2015;

   (x) Joint Committee on the Citizenship (Amendment) Bill, 2016 — motion adopted in Lok Sabha on 11 August, 2016;

   (xi) Joint Committee on the Personal Data Protection Bill, 2019 — motion adopted in Lok Sabha on 11 December, 2019;

   (xii) Joint Committee on the Biological Diversity (Amendment) Bill, 2021— motion adopted in Lok Sabha on 20 December, 2021;

   (xiii) Joint Committee on the Multi-State Co-operative Societies (Amendment) Bill, 2022— motion adopted in Lok Sabha on 21 December, 2022;

   (xiv) Joint Committee on the *Jan Vishwas* (Amendment of Provisions) Bill, 2022 — motion adopted in Lok Sabha on 22 December, 2022; and

   (xv) Joint Committee on the Forest (Conservation) Amendment Bill, 2023— motion adopted in Lok Sabha on 29 March, 2023.

   Message from Rajya Sabha for concurrence and communicating the names of members of Lok Sabha for constitution of a Joint Committee of both the Houses to enquire into the allegations of payment of bribes in the acquisition of VVIP Helicopters by the Ministry of Defence from M/s Augusta Westland and the role of alleged middlemen in the transaction was received in Lok Sabha on 28 February,s 2013. The message was reported in the House on 4 March, 2013. The Motion concurring in the motion adopted by Rajya Sabha and indicating the names of members of Lok Sabha who would serve on the Committee was, however, not moved in Lok Sabha by the Minister concurred during the Budget Session 2013.

and resolutions, passed by one House, which have to be sent to the other House for information or concurrence. However, the principal object of a message is to transmit Bills from one House to the other since it is mostly in connection with Bills that the need for communication between two Houses arises[3].

A message sent by either House is conveyed by the Secretary-General of one House to the Secretary-General of the other. The Secretary-General of the House to which the message is sent, reports the message to the House, when it is in Session, at the first convenient opportunity and, in urgent cases, immediately. If the House is not in Session, members are informed of the message through a paragraph in the Bulletin of that House.

Bill originating in and passed by Lok Sabha—If a Bill, other than a Money Bill, originates in Lok Sabha, and is passed by it, Rajya Sabha is informed of it through a message along with a copy of the Bill, as passed; and the copy of the Bill also carries an endorsement signed by the Secretary-General that the Bill has been passed by Lok Sabha. Rajya Sabha may pass the Bill in the form received and communicate about it to Lok Sabha or may pass it with amendment(s) and return it to Lok Sabha with a message to that effect requesting that concurrence of Lok Sabha in the said amendment(s) be communicated to Rajya Sabha. If the amendments proposed are not agreed to by Lok Sabha, or, if Lok Sabha proposes alternative amendments, the Bill, or the Bill as further amended, is returned to Rajya Sabha with a message. The Bill also carries an endorsement signed by the Secretary-General in such a case.

If a Bill, other than a Money Bill, as passed by Lok Sabha, is returned by Rajya Sabha with amendments and Lok Sabha accepts the amendments made by Rajya Sabha, the Bill is deemed to have been finally passed by both the Houses and message is sent to Rajya Sabha. If Lok Sabha disagrees with the amendment(s) made in the Bill by Rajya Sabha or proposes further amendment or an alternative amendment, the Bill, or the Bill as further amended, is returned to Rajya Sabha with a message.

Bills originating in and passed by Rajya Sabha—If a Bill originating in and passed by Rajya Sabha is passed by Lok Sabha without any amendment, a message is sent to Rajya Sabha and further action regarding obtaining of President's assent on the Bill is taken by the Lok Sabha Secretariat.

If, however, Lok Sabha passes the Bill with amendment or amendments, the Bill is returned to Rajya Sabha along with a message for concurrence by that House in the amendment or amendments. The Bill so returned carries an endorsement signed by the Secretary-General.

If Rajya Sabha disagrees with all the amendments made by Lok Sabha or any of them or agrees to any of the amendments made by Lok Sabha with further amendments, or proposes further amendments in place of the amendments made by Lok Sabha, the Bill, as further amended, will again be returned to Lok Sabha with a message[4].

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3. Since the inception of a bicameral Legislature at the Centre in 1921 under the Montague-Chelmsford Reforms, Bills passed by the Assembly were transmitted to the Council of State with a message. Messages between one Chamber and the other were conveyed by the Secretary of one Chamber to the Secretary of the other. *See* The Indian Legislative Rules, Rule 41.

4. There has been no such instance so far.

At this stage, Lok Sabha may either agree to the Bill as originally passed by Rajya Sabha or as further amended by that House or it may insist on an amendment or amendments to which Rajya Sabha has disagreed. In the latter case, the Bill will again be returned to Rajya Sabha with a message.

If there is no agreement in terms of Article 108(1)[5] over the amendments between the two Houses in case of a Bill originating in either House, a joint sitting of the two Houses may be convened by the President.

Money Bills—In the case of a Money Bill, while transmitting a copy of the Bill, as passed by Lok Sabha, in addition to the usual message and endorsement of the Secretary-General, a certificate signed by the Speaker, certifying that the Bill is a Money Bill, is also superscribed at the end of the Bill[6].

Any amendment(s) recommended by Rajya Sabha may or may not be accepted by Lok Sabha. In either case, a message is sent to Rajya Sabha to that effect[7].

Joint Committee of the Houses[8]

Messages are also sent by one House to the other in the following cases:

(i) After a motion has been adopted by Lok Sabha, referring a Bill (other than a Money Bill) to a Joint Committee, a message is sent to Rajya Sabha asking it to concur with the said motion and to communicate the names of members of Rajya Sabha to serve on the Committee. Rajya Sabha, after agreeing to the motion, sends a message to that effect to Lok Sabha mentioning also the names of members appointed by Rajya Sabha on the Joint Committee.

The process is the same whenever any other Joint Parliamentary Committee is appointed.

(ii) Where it has not been possible for the Joint Committee to present its report in the specified time, a message is sent to Rajya Sabha communicating that the time for the presentation of the Report has been extended by a motion adopted by Lok Sabha.

(iii) Where vacancies have occurred in the Joint Committee either by death or retirement or resignation of certain members of Rajya Sabha, a motion is adopted by Lok Sabha, requesting Rajya Sabha to appoint new members in their place and the motion is communicated by means of a message. However,

5. For details, *see* Chapter 22— 'Legislation', under Money Bills.

6. In case of urgency, when a message regarding a Money Bill passed by Lok Sabha could not be transmitted to Rajya Sabha immediately as Speaker was out of Delhi, the Secretary-General, Rajya Sabha, was advised informally that the Bill had been passed by Lok Sabha and that message signed by Secretary-General together with the Money Bill certified by the Speaker would be transmitted to Rajya Sabha Secretariat later. Copy of the Bill, as passed by Lok Sabha, was meanwhile supplied to Rajya Sabha Secretariat on the same day.

7. Amendments recommended by Rajya Sabha in the Finance (No. 2) Bill, 1977, Finance Bill, 1978, the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Bill, 2016 and the Finance Bill, 2017 were considered and rejected by Lok Sabha.

Amendment(s) recommended by Rajya Sabha in the Appropriation Bill, 1985; the Appropriation (No. 2) Bill, 1985 and the Finance Bill, 2023 were considered and accepted by Lok Sabha.

8. For details regarding the formation, etc. of Joint Committees, *see* Chapter 30 — 'Parliamentary Committees'.

if vacancies are thus caused in the ranks of members of the appointing House, in this case Lok Sabha, on the adoption of the motion appointing new members to fill in the vacancies, Rajya Sabha is informed of this fact through a letter and not by means of a message.

(iv) Where a Bill is referred to a Joint Committee by Rajya Sabha and Lok Sabha is asked to concur with the motion for reference, a message is sent to Rajya Sabha after Lok Sabha agrees to the motion mentioning the names of members of Lok Sabha appointed to the Committee. Lok Sabha, while agreeing to their main motion, may vary or modify the terms of the motion and make a recommendation to Rajya Sabha to that effect.

(v) Parliament has the inherent power to recommend modifications to the statutory rules and orders laid on the Table, even if the statute under which they were framed does not provide for modification. When an amendment to any rules is passed by Lok Sabha, it is transmitted to Rajya Sabha for its concurrence along with a message. If Rajya Sabha agrees to the amendment made by Lok Sabha or proposes further or alternative amendments, it sends a message to that effect. In the case of final disagreement between the two Houses, further proceedings regarding the amendment are dropped[9].

(vi) Messages are also exchanged between the two Houses if either House adopts a resolution to amend a "President's Act" or when a Bill passed by one House is sought to be withdrawn while pending in the other on a motion to that effect adopted by it.

Joint Sitting of the Houses

When a Bill other than a Money Bill or a Constitution Amendment Bill, passed by one House is rejected by the other House or the Houses have finally disagreed as to the amendments made in the Bill or more than six months[10] lapse from the date of the receipt of the Bill by the other House without the Bill being passed by it, the President may, unless the Bill has lapsed by reason of dissolution of Lok Sabha, notify to the Houses by message, if they are sitting, or by public notification, if they are not sitting, his intention to summon them to meet in a joint sitting[11].

This provision is only an enabling one, empowering the President to take a step for resolving a deadlock between the two Houses. It is not obligatory upon him to summon the Houses to meet in a joint sitting. Moreover, this provision does not disable the receiving House from passing the Bill after the lapse of six months, provided the Bill has not lapsed by reason of dissolution or the President has not already notified his intention to convene a joint sitting[12].

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9. Rule 238, *see* also Chapter 24 — 'Subordinate Legislation'.

10. For reckoning any such period of six months, no account shall be taken of any period during which the House is prorogued or adjourned for more than four consecutive days [(Article 108(2)].

11. Art. 108(1). A similar provision also existed in the Government of India Act. *See* S. 67(3) as set out in the Ninth Schedule to the Government of India Act, 1935 and Rules 38 and 39 of the Indian Legislative Rules framed there under.

12. For instance, the Special Marriage (Amendment) Bill, 1968, as passed by Rajya Sabha on 25 July, 1968, was passed by Lok Sabha with amendments on 20 May, 1970 and amendments made by Lok Sabha were agreed to by Rajya Sabha on 29 July, 1970; the Dock Workers (Regulation of

When the President has notified his intention of summoning the Houses to meet in a joint sitting, neither House shall proceed further with the Bill and the President may thereafter issue an order summoning the Houses to meet in a joint sitting for the purpose of deliberating and voting on the Bill on a date which is suggested by the Prime Minister or the Prime Minister in consultation with the Cabinet, and agreed to by the Speaker, and if he does so, the Houses shall meet accordingly[13]. The Secretary-General, Lok Sabha, issues summons to each member of Lok Sabha and Rajya Sabha, specifying the time and place fixed by the President for the joint sitting[14]. Once the President has notified his intention to summon the Houses for a joint sitting, dissolution of Lok Sabha shall not stand in the way of proceeding with the Bill at a joint sitting[15].

Procedure at Joint Sitting—At a joint sitting, the Speaker presides[16] and the Secretary-General, Lok Sabha acts as Secretary-General of the joint sitting[17]. The Rules of Procedure of Lok Sabha apply with such modification and variations as the Speaker may consider necessary or appropriate[18]. The hour upon which a joint sitting shall adjourn and the day and hour or the part of the same day to which it shall be adjourned is determined by the Speaker[19].

During the absence of the Speaker from any joint sitting, the Deputy Speaker of Lok Sabha or if he is also absent, the Deputy Chairman of Rajya Sabha or if he too is absent, such other person as may be determined by the members present at the sitting, presides[20]. The quorum to constitute a joint sitting is one-tenth of the total number of members of the two Houses[21].

If at a joint sitting of the House, the Bill referred to it, with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Houses present and voting, it is deemed, for the purposes of the

Employment) Amendment Bill, 1967, as passed by Rajya Sabha on 5 December, 1967, was passed by Lok Sabha with amendments on 10 August, 1970 and amendments made by Lok Sabha were agreed to by Rajya Sabha on 18 August, 1970; the All India Services Regulations (Indemnity) Bill, 1972, as passed by Rajya Sabha on 21 November, 1972, was passed by Lok Sabha with amendments on 26 March, 1975 and amendments made by Lok Sabha were agreed to by Rajya Sabha on 30 April, 1975; the Sales Promotion Employees (Conditions of Service) Amendment Bill, 1980, passed by Rajya Sabha on 11 December 1980, was passed by Lok Sabha with amendments on 16 October 1982 and amendments made by Lok Sabha were agreed to by Rajya Sabha on 2 November 1982; the Legal Services Authorities (Amendment) Bill, 1992, as passed by Rajya Sabha on 3 March, 1992, was passed by Lok Sabha with amendments on 4 August, 1994 and amendments made by Lok Sabha were agreed to by Rajya Sabha on 11 August, 1994; the Prevention of Money-laundering Bill, 1999, as passed by Lok Sabha on 2 December, 1999, was passed by Rajya Sabha with amendments on 25 July, 2002 and amendments made by Rajya Sabha were agreed to by Lok Sabha on 28 November, 2002; the Wakf (Amendment) Bill, 2010, as passed by Lok Sabha on 7 May, 2010, was passed by Rajya Sabha with amendments on 19 August, 2013 and amendments made by Rajya Sabha were agreed to by Lok Sabha on 5 September, 2013.

13. Art. 108(3).
14. The Houses of Parliament (Joint Sittings and Communications) Rules, Rule 3.
15. Art. 108(5).
16. *See* Art. 118(4).
17. The Houses of Parliament (Joint Sittings and Communications) Rules, Rule 2.
18. *Ibid.*, Rule 7.
19. *Ibid.*, Rule 4.
20. *Ibid.,* Rule 5. During the Joint sitting of the House of Parliament on 26 March 2002, the Deputy Speaker presided over the sitting due to a vacancy in the Office of Speaker, G.M.C. Balayogi.
21. *Ibid.,* Rule 6.

Constitution, to have been passed by both Houses. At a joint sitting no amendment can be proposed to the Bill, other than such amendments, if any, as become necessary by the delay in the passage of the Bill and such other amendments as relate to matters with respect to which the Houses have not agreed. The decision of the person presiding as to the admissibility of amendments is final[22].

At a joint sitting, the Speaker, or the person acting as such, shall not vote in the first instance, but shall have and exercise a casting vote in the case of equality of votes[23].

So far, joint sittings of the Houses under article 108 have taken place on three occasions:

The first occasion arose following a disagreement between the two Houses over certain amendments to the Dowry Prohibition Bill, 1959. The President, by a message addressed to the Speaker through the Minister of Parliamentary Affairs, on 18 April 1961, notified his intention to summon the two Houses to meet in a joint sitting for the purpose of deliberating and voting on the Bill. The message was read out to Lok Sabha by the Speaker on 19 April 1961 and on the same day, the Chairman, Rajya Sabha, conveyed the message to that House[24]. The Speaker, having agreed to the suggestion that the joint sitting might be held on 6 May 1961, an Order summoning the two Houses to meet in a joint sitting on that day was made by the President on 22 April 1961. Summons were issued by the Secretary to each member of Lok Sabha and Rajya Sabha on 27 April 1961, specifying the time and place for the joint sitting. The joint sitting was accordingly held in the Central Hall of Parliament House on 6 May 1961, followed by another sitting on 9 May 1961 when the Bill, as amended, was finally passed[25].

The second occasion arose following rejection by Rajya Sabha of the Banking Service Commission (Repeal) Bill, 1977 seeking to replace the Banking Service Commission (Repeal) Ordinance, 1977 promulgated on 19 September 1977. The Bill passed by Lok Sabha and transmitted to Rajya Sabha on 5 December 1977, was rejected by Rajya Sabha on 8 December 1977, the motion for consideration of the Bill having been negatived. On 9 December 1977, Rajya Sabha sent a message to Lok Sabha to that effect. The joint sitting of the Houses was held on 16 May 1978 in the Central Hall of Parliament House for the purpose of deliberating and voting on the Bill and the Bill was finally passed[26].

The third joint sitting was held on 26 March 2002 when the motion to consider the Prevention of Terrorism Bill, 2002, seeking to replace the Prevention of Terrorism Ordinance (POTO) as passed by the Lok Sabha was rejected by the Rajya Sabha. This sitting was held for the purpose of deliberating and voting on the Prevention of Terrorism Bill, 2002 and the Bill was finally passed[27].

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22. *See* Art. 108(4).
23. Art. 100(1).
24. *L.S. Deb.,* 19-4-1961, c. 12428; *R.S. Deb.,* 19.4.1961, c. 49.
25. *Joint Sitting of Houses of Parliament Deb.,* 6.5.1961 & 9.5.1961, Vol. 1, No. 1; The Bill was published as Act No. 28 of 1961 in Gaz. Ex. (11-i) 22.5.1961.
26. *Joint Sitting of Houses of Parliament Deb.,* 16.5.1978, cc. 147-50; Gaz. Ex. (pt. 1 - Sec. 1) 11.5.1978.
27. *Joint Sitting of Houses of Parliament Deb.,* 26.3.2002, Vol. 1, No. 1; Gaz. Ex. (pt. 1 - Sec. 1) 23.3.2002.

CHAPTER 5

Election of President, Vice-President and Members of Parliament

Election of the President and the Vice-President

The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of all elections to Parliament and to the Legislature of every State and of elections to the Offices of the President and the Vice-President are vested in an independent agency called the Election Commission of India. The Commission consists of the Chief Election Commissioner and such number of other Election Commissioners, if any, as may be fixed by the President from time to time**.** The appointment of the Chief Election Commissioner and other Election Commissioners, subject to the provisions of any law made by Parliament in that behalf, is made by the President[1].

The President is elected by the members of an electoral college consisting of the elected members of both Houses of Parliament and the elected members of the Legislative Assemblies of the States, by secret ballot, in accordance with the system of proportional representation by means of single transferable vote[2].

The Constitution prescribes that as far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President. For the purpose of securing such uniformity among the States *inter se* as well as parity between the States as a whole and the Union, the number of votes which each elected

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1. Art. 324 (1) (2). Presently, the Election Commission is a multi-member body with the Chief Election Commissioner and two other Election Commissioners.

2. Arts. 54 and 55 (3); *see* also the Presidential and Vice-Presidential Elections Act, 1952 and the Presidential and Vice-Presidential Elections Rules, 1974. For these Rules, *see* Ministry of Law Notification No. S.O. 305(E) of 21-5-1974, Gaz. Ex. (II-3-ii) pp. 1063-78.

   The question of election of the President was debated at length in the Constituent Assembly. The system of direct election in the case of presidential election was, *inter alia,* not adopted because it was felt that in a country, which was almost a sub-continent, it would be well-nigh impossible to provide an electoral machinery for the purpose of smooth and successful election. For details, *see C.A. Deb.,* Vol. VII, pp. 987-99.

   The suggestion that the electoral college should consist of members of Parliament only was also turned down so that "the President might not represent the same group or party as in the Centre"—

   C.A. Deb., Vol. IV, p. 721. Both Pt. Jawaharlal Nehru and Dr. B.R. Ambedkar observed in the Constituent Assembly that election by the electoral college was tantamount to a direct election on adult franchise—*C.A. Deb.,* Vol. VII, p. 998.

   It has been held that the word "States" used in article 54 cannot include Union territories. A Legislature contemplated for Union territories under article 239A is not a Legislative Assembly—*Shiv Kirpal Singh* v. *V.V. Giri,* A.I.R. 1970, S.C. 2097.

   The word 'State' used in articles 54 and 55 includes the National Capital Territory of Delhi and Union Territory of Puducherry–Constitution (Seventieth Amendment) Act, 1992.

member of Parliament and of the Legislative Assembly of each State is entitled to cast at such election is determined in the following manner[3]:–

(a) every elected member of the Legislative Assembly of a State has as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of the elected members of the Assembly;

(b) if, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in (a) above is further increased by one;

(c) each elected member of either House of Parliament has such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislative Assemblies of the States under (a) and (b) above by the total number of the elected members of both Houses of Parliament, fractions exceeding one-half being counted as one and other fractions being disregarded.

The Vice-President, who is the *ex officio* Chairman of the Rajya Sabha, is elected by members of an electoral college consisting of members of both Houses of Parliament, by secret ballot, in accordance with the system of proportional representation by means of single transferable vote[4].

A person eligible for election as President should be an Indian citizen, not less than 35 years in age, and should be qualified for election as a member of the Lok Sabha. Such a person should not hold an office of profit[5] under the Government of India or a State Government or under any local or other authority subject to the control of any of the said Governments. A member of Parliament or of the State Legislature can seek election to the Office of President but if he is elected President, he is deemed to have vacated his seat in Parliament or the State Legislature on the date on which he enters upon his Office as President. There is also no bar to a person holding the Office of Presiding Officer of the Lok Sabha or of a State Legislature seeking election to the Office of President[6].

3. Art. 55 (1) and (2).

4. Arts. 64 and 66(1) read with the Presidential and Vice-Presidential Elections Act, 1952, s. 2(d).

The mode of election of the Vice-President differs from that of the President insofar as the elected members of the Legislative Assemblies of States do not form part of the electoral college for the election of the former.

5. Art. 58. The Offices of the President, Vice-President, Governor of a State or the Minister of the Union or of a State are not treated as Offices of Profit for this purpose *vide* article 58(2), *Explanation.*

Certain offices of profit, under the Government, have been declared as not to disqualify the holders thereof for being chosen as President or Vice-President, *vide* the Parliament (Prevention of Disqualification) Act, 1959, s.3.

Charan Lal Sahu v. Fakhruddin Ali Ahmed, A.I.R., 1975, S.C. 1288.

A person eligible for election as President under article 58 but not complying with requirements of law made under article 71 which regulates the mode and manner in which nomination should be filed, would not be a "candidate" for election.

6. In 1962 and 1967, respectively, Dr. S. Radhakrishnan and Dr. Zakir Husain, who contested election to the Office of President of India, did not resign from the Office of Vice-President.

In 1969, however, the Vice-President (Dr. V.V. Giri) and the Speaker of Lok Sabha (Dr. N. Sanjiva Reddy) resigned their respective offices before filing their nomination papers for election to the Office of President. Dr. N. Sanjiva Reddy did not resign his seat in Lok Sabha. In 1977, Dr. N. Sanjiva Reddy, before filing nomination papers for Presidential election, resigned from the Office of Speaker. In 1987,

The conditions of eligibility for election as Vice-President are the same as for President with one exception that the candidate for Vice-Presidency should be a person qualified to be elected as a member of the Rajya Sabha[7]. A Presidential candidate, on the other hand, should be qualified to be elected as a member of the Lok Sabha[8].

Elections to the Office of the President and the Vice-President are regulated by the Presidential and Vice-Presidential Elections Act, 1952, and the Rules made thereunder[9].

1992, 1997 and 2007, R. Venkataraman, Dr. Shanker Dayal Sharma, K.R. Narayanan and Bhairon Singh Shekhawat, respectively, who contested election to the Office of President, did not resign from the Office of Vice-President.

7. Art. 66 (3)(c).

8. Art. 58(1)(c).

9. The Constitution of India came into force from 26 January 1950 and the first General Elections were held in 1952. As during the intervening period, the Office of the President of India could not remain vacant, a transitional provision was made in the Constitution—article 380(1), since repealed by the Constitution (Seventh Amendment) Act, 1956—under which the members of the Constituent Assembly elected the President. Accordingly, Dr. Rajendra Prasad, who was the President of the Constituent Assembly, was elected as the President unopposed.

   The first election to the Office of the President under article 54 was held in 1952 when Dr. Rajendra Prasad was elected as the first President of the Republic of India on 6 May 1952 and he assumed Office on 13 May 1952.

   The second election was held in May 1957 and Dr. Rajendra Prasad was re-elected to the Office for a second term on 10 May 1957. The President took the oath of Office on 13 May 1957.

   The third election was held on 7 May 1962 and Dr. S. Radhakrishnan was elected to the Office of the President on 11 May 1962. The President took the oath of Office on 13 May 1962.

   At the fourth election held on 6 May 1967, Dr. Zakir Husain was elected to the Office of the President. He took the oath of Office on 13 May 1967.

   Due to the demise of Dr. Zakir Husain, the fifth election to the Office of President was held in August, 1969 and Dr. V.V. Giri was elected to the Office on 20 August 1969. He took the oath of Office on 24 August 1969.

   The sixth election was held on 17 August 1974 and Fakhruddin Ali Ahmed was elected to the Office of President on 20 August 1974. He took the oath of Office on 24 August 1974.

   President Ahmed died on 11 February 1977 and pending the seventh election, which was due within six months, the Vice-President, B.D. Jatti was sworn in as the Acting President.

   At the seventh election held in July 1977, N. Sanjiva Reddy was the only validly nominated candidate and he was, therefore, declared elected as President on 21 July 1977. He took the oath of Office on 25 July 1977.

   At the eighth election held on 12 July 1982, Giani Zail Singh was elected to the Office of President on 15 July 1982. He took the oath of Office on 25 July 1982.

   The ninth election was held on 13 July 1987, R. Venkataraman was elected to the Office of President on 16 July 1987. He took the oath of Office on 25 July 1987.

   The tenth election was held on 13 July 1992, Dr. Shanker Dayal Sharma was elected to Office on 16 July 1992. He took the oath of Office on 25 July 1992.

   At the eleventh election held on 14 July 1997, K.R. Narayanan was elected to the Office of President on 17 July 1997. He took the oath of Office on 25 July 1997.

   At the twelfth election held on 15 July 2002, Dr. A.P.J. Abdul Kalam was elected to Office of President on 18 July 2002. He took the oath of Office on 25 July 2002.

   At the thirteenth election held on 19 July 2007, Pratibha Devisingh Patil was elected to Office of President on 21 July 2007. She took the oath of Office on 25 July 2007.

   At the fourteenth election held on 19 July 2012, Pranab Mukherjee was elected to office of President on 22 July 2012. He took the oath of Office on 25 July 2012.

For the purpose of elections to the Offices of the President and the Vice-President, it has been the established practice that the Secretary-General[10] of the Lok Sabha or the Rajya Sabha is appointed as Returning Officer along with one or more Assistant Returning Officers[11].

At the fifteenth election held on 17 July 2017, Ram Nath Kovind was elected to office of President on 20 July 2017. He took the oath of office on 25 July 2017.

At the sixteenth election held on 18 July 2022, Droupadi Murmu was elected to office of president on 21 July 2022. She took the oath of office on 25 July 2022.

At the first election to the Office of the Vice-President in April 1952, Dr. S. Radhakrishnan was the only validly nominated candidate and he was, therefore, declared elected unopposed as the Vice-President on 25 April 1952. He was again declared elected on 23 April 1957, for a second term; there was no other contestant. Election to the Office of the Vice-President was contested for the first time in 1962. At this election, held on 7 May 1962, Dr. Zakir Husain was elected as the Vice-President.

There were two contestants for the Office of Vice-President in 1967 and Dr. V.V. Giri was elected. On the resignation of Vice-President Dr. V.V. Giri, election to the Office of Vice-President was held in 1969 and G.S. Pathak was elected as the Vice-President on 30 August, 1969. In the next election to the Office of Vice-President, of the two contestants, B.D. Jatti was elected as Vice-President on 27 August 1974.

In the election held in August 1979, M. Hidayatullah was the only candidate and he was, therefore, declared elected unopposed on 9 August 1979.

In the next election to the Office of Vice-President for which there were two contestants, R. Venkataraman was elected as Vice-President on 22 August 1984.

See also Subhash C. Kashyap: *Vice-Presidential Election in India,* 1984, Lok Sabha Secretariat, New Delhi, 1986.

Due to the resignation of R. Venkataraman from the Office of Vice-President in May 1987, election was held in August 1987. Dr. Shanker Dayal Sharma, being the only validly nominated candidate, was declared elected unopposed as the Vice-President on 21 August 1987.

In the election held in August, 1992, for which there were two contestants, K.R. Narayanan was elected as Vice-President on 19 August, 1992.

In the election held on 16 August 1997, for which there were two contestants, Krishan Kant was elected as Vice-President on the same day. The term of Office of the Vice-President of India, Krishan Kant was to expire on 20 August 2002. However, he expired on 27 July 2002 and election was held to fill the vacancy for which Bhairon Singh Shekhawat and Sushil Kumar Shinde were two contestants. Bhairon Singh Shekhawat was elected as Vice President on 12 August 2002. The next election for the Office of Vice-President was held on 10 August 2007 for which Hamid Ansari, Dr. Najma Heptullah and Rashid Masood were the three contestants. Hamid Ansari was elected as Vice-President and assumed Office on 11 August 2007.

In the election held in August 2012, there were two contestants, Mohammad Hamid Ansari and Jaswant Singh. Mohammad Hamid Ansari was elected as Vice-President on 7 August 2012. In the election held in August 2017, there were two contestants, Gopalakrishna and M. Venkaiah Naidu. M. Venkaiah Naidu was elected as Vice-President on 5 August 2017.

In the election held on 6 August 2022, there were two contestants, Jagdeep Dhankar and Margaret Alva. Jagdeep Dhankar was elected as Vice-President on the same day.

10. Till 12 November 1973, the Secretary-General of the Lok Sabha was designated as Secretary, Lok Sabha and Secretary-General of the Rajya Sabha as Secretary, Rajya Sabha.

11. The Presidential and Vice-Presidential Elections Act, 1952, s. 3(1).

For the first, third, fifth and seventh Presidential elections, the Secretary of the Lok Sabha; for the ninth, eleventh, thirteenth and fifteenth elections, Secretary-General of the Lok Sabha; for the second and fourth elections, the Secretary of the Rajya Sabha; and for the sixth, eighth, tenth, twelfth, fourteenth and sixteenth elections, the Secretary-General of the Rajya Sabha was appointed as the Returning Officer.

For the first, second and fourth Vice-Presidential elections, the Secretary of the Lok Sabha; for the sixth, eighth, tenth, twelfth, fourteenth and sixteenth elections, the Secretary-General of the Lok Sabha; for the third and fifth Vice-Presidential elections, the Secretary of the Rajya Sabha; and for the seventh, ninth, thirteenth and fifteenth elections, the Secretary-General of Rajya Sabha was appointed as the Returning Officer. For the eleventh Vice-Presidential election, the Secretary, Ministry of Parliamentary Affairs, was appointed as the Returning Officer.

The various stages of the elections are detailed in the official gazette by a notification by the Election Commission. These are: the last date for making nominations, which is the fourteenth day after the date of publication of the notification; the date for the scrutiny of nominations which is a date immediately following the last date for making nominations; the last date for the withdrawal of candidatures, which is the second day after the date for the scrutiny of nominations; and the date of poll, if necessary, which is a date not earlier than the fifteenth day after the last date for the withdrawal of candidatures. If on any of the dates either for making nominations or for the scrutiny of nominations or for withdrawal of candidatures, it is public holiday, the next succeeding day which is not a public holiday is taken as the appropriate date for the purpose[12].

The notification in the case of an election to fill a vacancy caused by the expiration of the term of Office of President or Vice-President is issued, on or as soon as conveniently may be, after the sixtieth day before the expiration of the term of Office of the outgoing President or Vice-President and the dates are so appointed that the election is completed at such time as would enable the President or the Vice-President thereby elected to enter upon his Office on the day following the expiration of the term of Office of the outgoing President or the Vice-President[13].

12. The Presidential and Vice-Presidential Elections Act, 1952, s. 4(1), as amended. *See* also *Gaz. Ex.* (I-1), [11-300] 6-4-1962.

13. The result of the first Presidential election held in 1952 was declared on 6 May 1952 and the President assumed Office on 13 May 1952. The result of the Presidential election held in 1957, was announced on 10 May 1957, two days before the date on which the term of Office of the President was to expire. The President, in this case, the same person elected for a second term, assumed office on 13 May 1957. The result of the Presidential election, 1962 was announced on 11 May 1962, one day before the date on which the term of office of the outgoing President was to expire. The new President assumed office on 13 May 1962. The result of the fourth Presidential election was announced on 9 May 1967 and the new President assumed office on 13 May 1967. The result of the fifth Presidential election was declared on 20 August 1969 and the new President took the oath of Office on 24 August 1969. The result of the sixth Presidential election was announced on 20 August 1974 and the new President assumed Office on 24 August 1974. The result of the seventh Presidential election was declared on 21 July 1977 and the new President assumed Office on 25 July 1977. The result of the eighth Presidential election was declared on 15 July 1982 and the new President assumed Office on 25 July 1982. The result of the ninth Presidential election was declared on 16 July 1987 and the new President assumed Office on 25 July 1987. The result of the tenth Presidential election was declared on 16 July 1992 and the new President assumed Office on 25 July 1992. The result of the eleventh Presidential election was declared on 17 July 1997 and the new President assumed Office on 25 July 1997. The result of the twelfth Presidential election was declared on 18 July 2002 and the new President assumed Office on 25 July 2002. The result of the thirteenth Presidential election was declared on 21 July 2007 and the new President assumed Office on 25 July 2007. The result of the fourteenth Presidential election was declared on 21 July 2012 and the new President assumed office on 25 July 2012. The result of the fifteenth Presidential Election was declared on 20 July, 2017 and the new President assumed office on 25 July, 2017. The result of the sixteenth Presidential Election was declared on 21 July, 2022 and the new President assumed office on 25 July, 2022.

The result of the Vice-Presidential election held in 1952 was declared on 25 April 1952 and the Vice-President assumed Office on 13 May 1952; that of 1957, election was declared on 23 April 1957, and the Vice-President, in this case, the same person, assumed Office on 13 May 1957; and that of the 1962, election was declared on 7 May 1962, and the new Vice- President assumed Office on 13 May 1962. The result of the fourth Vice-Presidential election was declared on 6 May 1967, and the new Vice-President assumed Office on 13 May 1967. The result of the fifth Vice-Presidential election was declared on 30 August 1969 and the new Vice-President took oath of Office on 31 August 1969; and that of 1974 *i.e.* sixth Vice-Presidential election was announced on 27 August 1974 and the new Vice-President assumed office on 31 August 1974. The result of the seventh Vice-Presidential election was declared on 9 August 1979 and the new Vice-President assumed Office on 31 August 1979; and that of the 1984 *i.e.* eighth Election was declared on 22 August 1984 and the Vice-President assumed Office on 31 August, 1984. The result of the ninth Vice-Presidential election was declared on 21 August 1987 and the new Vice-President assumed office on 3 September 1987. The result of the tenth Vice-Presidential election was declared on 19 August 1992 and the

In the case of an election to fill a vacancy occurring by reason of the President's death, resignation or removal or otherwise, this notification is required to be issued, as soon as may be, after the occurrence of the vacancy[14].

Till 1974, only one elector as proposer and only one elector as seconder were needed for filing a nomination paper and no amount was required to be deposited as security along with the nomination paper. In 1997, the Presidential and Vice-Presidential Elections Act, 1952, was amended to provide:

(a) that the nomination paper should be subscribed—

(i) in the case of Presidential election, by at least fifty electors as proposers and at least fifty electors as seconders[15],

(ii) in the case of Vice-Presidential election, by at least twenty electors as proposers and at least twenty electors as seconders[16].

(b) that a candidate shall not be deemed to be duly nominated for election unless he deposits or causes to be deposited a sum of fifteen thousand rupees. However, a candidate nominated by more than one nomination paper has to make only one deposit[17].

It has also been provided that no elector shall subscribe whether as proposer or seconder more than one nomination paper at the same election, and if he does so, his signature shall be inoperative on any paper other than the first delivered. Further, not more than four nomination papers on behalf of a candidate can be filed or accepted by the Returning Officer[18].

Disputes regarding Presidential Election

Under article 71, doubts and disputes arising out of, or in connection with, the election of President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final.

The Constitution (Thirty-ninth Amendment) Act, 1975, however, had amended article 71 empowering Parliament to constitute an authority or body for inquiring into and deciding doubts and disputes relating to the Presidential and Vice-Presidential

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new Vice-President assumed Office on 21 August 1992. The result of the eleventh Vice-Presidential election held on 16 August 1997 was declared on the same day. The new Vice-President assumed office on 21 August 1997. The result of the twelfth Vice-Presidential election held on 12 August 2002 was declared on the same day. The new Vice-President assumed Office on 19 August 2002. The result of the thirteenth Vice-Presidential election held on 10 August 2007 was declared on the same day. The new Vice-President assumed Office on 11 August 2007 as the previous incumbent had resigned from Office on 21 July 2007. The result of the fourteenth Vice-Presidential election held on 7 August 2012 was declared on the same day. The new Vice-President assumed Office on 11 August 2012. The result of the fifteenth Vice-Presidential election held on 5 August 2017 was declared on the same day. The new Vice-President assumed Office on 11 August 2017. The result of the sixteenth Vice-Presidential election held on 6 August 2022 was declared on the same day. The new Vice-President assumed Office on 11 August, 2022.

14. The Presidential and Vice-Presidential Elections Act, 1952, s. 4 (2) and (3); *see* also the Presidential and Vice-Presidential Election Rules, 1974.

15. The number was increased from 10 (as in 1974) to 50 *vide* the Presidential and Vice-Presidential Elections (Amendment) Act, 1997.

16. The number was increased from 5 (as in 1974) to 20 *vide ibid.*

17. The amount was raised from rupees two thousand five hundred (as in 1974) *vide ibid.*

18. *Ibid.,* sub-sections (5) and (6) of s. 5 (B).

elections and further provided that the decision of such authority or body should not be called in question by any Court. In pursuance of this Constitutional Amendment, an ordinance was promulgated on 3 February, 1977, providing for the setting up of an authority to decide disputes relating to the Presidential and Vice-Presidential elections. This authority was to consist of nine members—three to be nominated by the Speaker of the Lok Sabha—one of whom was to be the Chief Justice or retired Chief Justice of the Supreme Court and another a person having knowledge of election law, three to be elected by the Lok Sabha and the remaining three to be elected by the Rajya Sabha. After the General Elections of March 1977, however, this Ordinance was allowed to lapse, as Government felt that it was not only appropriate, but also desirable, to restore the position obtaining prior to the Constitution (Thirty-ninth Amendment) Act, 1975. For this purpose, the Presidential and Vice-Presidential Elections (Amendment) Act, 1977 was passed by the Parliament specifying that the Supreme Court shall be the authority for the trial of disputes relating to Presidential and Vice-Presidential elections[19].

A petition calling in question a Presidential election may be presented to the Supreme Court by any candidate at such election, or by twenty or more electors joined together as petitioners. Any such petition may be presented at any time after the date of publication of the declaration containing the name of the returned candidate at the election but not later than thirty days from the date of such publication[20].

The grounds for declaring the election of a returned candidate to be void are:

(a) the offence of bribery or undue influence[21] at the election committed by the returned candidate or by any person with the consent of the returned candidate;

(b) the result of the election having been materially affected—

(i) by the improper reception or refusal of a vote; or

(ii) by any non-compliance with the provisions of the Constitution, or of the Presidential and Vice-Presidential Elections Act, 1952, or of any rules or orders made under the Act; or

(iii) by reason of the fact that the nomination of any candidate (other than the successful candidate), who has not withdrawn his candidature, has been wrongly accepted; or

(c) the nomination of any candidate having been wrongly rejected or the nomination of the successful candidate having been wrongly accepted[22].

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19. The word "election" includes the whole process of election from the preparations preceding the holding of election to announcement of result after the election — *Peter Samuel Wallace* v. *Union of India,* A.I.R. 1975 Delhi 112.

20. The Presidential and Vice-Presidential Election Act, 1952 (as amended in 1977), s. 14A.

21. The election of President R. Venkataraman to the Office of the President was challenged by the defeated candidate, Mithilesh Kumar, on the ground that Cong. (I) Party issued a whip to its members to vote for President R. Venkataraman, to influence the voters.

Rejecting the petition, the Supreme Court observed that the petitioner had failed to prove whether there was any allegation that the first respondent (R. Venkataraman) had himself committed any undue influence or any other person with the consent of the first respondent had committed such an act or any allegation which required to be tried—*Mithilesh Kumar* v. *R. Venkataraman & Others,* A.I.R. 1987 S.C. 2371.

22. The Presidential and Vice-Presidential Elections Act, 1952 (as amended in 1977), s. 18.

The election of a person as President cannot be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him[23].

If any person who has lodged an election petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the Supreme Court is of the opinion that in fact the petitioner or such other candidate received a majority of the valid votes, the Supreme Court shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate to have been duly elected. But, the petitioner or such other candidate should not be declared to be duly elected, if it is proved that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election[24].

A letter addressed by the Prime Minister to all the electors to vote for a candidate belonging to her own party for the Office of the President was held not to constitute undue influence, so also a letter signed by the Chief Whip and addressed to all members of his own party in Parliament to come to Delhi and contact him for the Presidential and Vice-Presidential elections. Further, it was held that there was nothing improper in the members of the party being told in the course of canvassing that it would be better if they only marked their first preference and no other preference in a system where voting is by single transferable vote, because such a request or advice did not interfere with the free exercise of electoral right because the electors would still be free to do what they desire in spite of the advice[25].

Nevertheless, the Prime Minister refused to issue a letter to the voters on the occasion of the election in 1969, when Dr. N. Sanjiva Reddy and Dr. V.V. Giri were the candidates.

Term of Office

The President or the Vice-President holds Office for a term of five years from the date on which he enters upon the Office[26]. The President may resign before the expiration of his term of Office, by writing under his hand addressed to the Vice-President. Any such resignation is forthwith to be communicated by him to the Speaker. The President may also be removed from Office before the expiry of his term by impeachment[27].

23. Art. 71. The Legislative Assembly of Gujarat was dissolved by the Governor on 15 March 1974. A question, therefore, arose whether in the absence of the said Assembly an election to the Office of the President could be validly held or not. In a Presidential reference, the Supreme Court was of the view that the election to the Office of the President must be held before the expiration of the term of the President notwithstanding the fact that at the time of such election the Legislative Assembly of a State was dissolved (A.I.R. 1974 S.C. 1682).

24. The Presidential and Vice-Presidential Elections Act, 1952 (as amended in 1977), s. 19.

25. *Baburao Patel* v. *Dr. Zakir Husain,* A.I.R. 1968 S.C. 904.

26. Arts. 56 and 67—notwithstanding the expiration of his term, the President or the Vice-President continues to hold his Office until his successor enters upon his Office.

27. Art. 56, proviso—for procedure regarding impeachment of the President, *see* Chapter 3—President in Relation to Parliament.

The Vice-President may resign by writing under his hand addressed to the President, and can be removed from the Office by a resolution of the Rajya Sabha passed by a majority of all the then members of that House and agreed to by the Lok Sabha[28].

On the demise of the President Dr. Zakir Husain, the Vice-President Dr. V.V. Giri was acting as the President. V.V. Giri resigned from the Office of Vice-President and the resignation was addressed to the President. As advised by the Attorney-General, Giri did not state the Office that he was then holding under his signature and the resignation was deposited by him in the President's Secretariat. Copies of the letter of resignation were sent to the Prime Minister and the Chief Justice for information. The letter was also notified in the Gazette the same day[29].

It was held that resignation in the case of the Vice-President was a process of demitting Office, that the Office of President continued to exist even when a person elected to that Office was not there, that the Constitution did not require the resignation to be accepted in order to make it effective, and that the law envisaged the possibility of the Vice-President resigning even when there was no President[30].

Eligibility for Re-Election

The Constitution prescribes no legal limit to the number of terms, consecutive or otherwise, for which a person can be elected as President[31].

Oath of Office

Before the President enters upon the Office, an oath of Office is administered to him in the Central Hall of the Parliament House or Rashtrapati Bhawan by the Chief Justice of India or in his absence, by the senior-most Judge of the Supreme Court available[32]. He makes and subscribes the oath or affirmation to "faithfully" execute the Office of the President and to "preserve, protect and defend the Constitution" to the best of his ability[33]. The Vice-President makes and subscribes before the President, or some person appointed in that behalf by him, an oath or affirmation to "bear true faith and allegiance to the Constitution" and "faithfully" discharge the duty[34].

For becoming eligible to contest the election to the Office of President, a candidate does not have to take any oath or affirmation similar to the one taken by a candidate standing for election to Parliament[35].

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28. Art. 67, proviso (a) and (b).
29. *Gaz. Ex.* (II-3) 20-7-1969.
30. Statement laid on the Table of the House on 1 August, 1969, on a matter raised by a member under Rule 377 on 31 July, 1969.
31. Art. 46 of the Draft Constitution sought to restrict re-election only for one more term. The provision was deleted without comment by the Constituent Assembly on 13 December, 1948.

    In 1957, a private member's Bill seeking to amend the Constitution with a view to restricting the holding of Office of the President to two terms only was debated in the Lok Sabha. The Bill was withdrawn after the Law Minister expressed the view in favour of establishing a convention in such a matter—*L.S. Deb.,* 6-9-1957, cc. 12429-64.
32. Dr. Fakhruddin Ali Ahmed and Giani Zail Singh were administered oath of office of the President of India in the Durbar Hall of the Rashtrapati Bhawan on 24 August 1974, and 25 July 1982, respectively. The winner of the Presidential election in 2007, Pratibha Devisingh Patil was administered oath of office of the President of India in the Central Hall of Parliament on 25 July 2007.
33. *See* Art. 60.
34. Art. 69.
35. *Baburao Patel v. Dr. Zakir Husain,* A.I.R. 1968 S.C. 904.

Election of Members to Lok Sabha

A general election is held for the purpose of constituting a new Lok Sabha on the expiration of the duration of the existing House or on its dissolution[36].

Elections to the Lok Sabha are held on the basis of adult suffrage, that is to say, every person who is a citizen of India and who is not less than 18 years of age on such date as may be fixed in that behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under the Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, is entitled to be registered as a voter at any such election[37]. A person ordinarily resident in a constituency must be registered in the electoral rolls for that constituency before voting.

Parliament, from time to time, by law makes provision with respect to all matters relating to, or in connection with, elections to the Lok Sabha, including the preparation of electoral rolls, the delimitation of constituencies and all other matters necessary for securing the due constitution of the Lok Sabha[38].

A new Delimitation Commission was constituted under the Delimitation Act, 2002 (No. 33 of 2002) and the Delimitation Act, 1972 was repealed. The General Elections to the Fifteenth Lok Sabha were conducted as per the new parliamentary constituencies carved out in the States and Union Territories in terms of the notifications issued by the Delimitation Commission based on the census figures for the year 2001.

On 6 March 2020, the Government of India constituted the Delimitation Commission for the purpose of delimitation of Assembly and Parliamentary

36. R.P. Act, 1951, s. 14.

37. Art. 326. *See* also R.P. Act, 1950, s. 16.

The Constitution (Sixty-second Amendment) Bill, 1988, providing for lowering the voting age from 21 to 18 years was passed by the Lok Sabha on 15 December 1988 and the Rajya Sabha on 20 December 1988. Having been ratified by States, the Bill was submitted for President's assent on 27 March 1989. It was assented to by the President on 28 March, 1989 and became the Constitution (Sixty-first Amendment) Act, 1988.

38. Art. 327.

The following Acts have been enacted under this article:

The Representation of the People Act, 1950.

The Representation of the People Act, 1951.

The Delimitation Commission Act, 1952.

The Representation of the People (Miscellaneous Provisions) Act, 1956.

The Parliament (Prevention of Disqualification) Act, 1959.

The Delimitation Act, 1972, since replaced by the Delimitation Act, 2002.

The following Rules have also been framed under the powers conferred by the relevant Act:

(i) Registration of Electors Rules, 1960 (framed in pursuance of section 28 of The Representation of the People Act, 1950).

(ii) Conduct of Elections Rules, 1961 (framed in pursuance of section 169 of The Representation of the People Act, 1951).

The Election Laws (Extension to Sikkim) Act, 1976. The following Rules have also been framed under the powers conferred by the relevant Act—

(a) Application of Registration of Electors Rules, 1960 to the State of Sikkim.

(b) Conduct of Parliamentary Elections (Sikkim) Rules, 1977.

(c) Conduct of Assembly Elections (Sikkim) Rules, 1979.

constituencies in the Union territory of Jammu and Kashmir and the States of Assam, Arunachal Pradesh, Manipur and Nagaland[39].

Before each general election to the Lok Sabha, the President may appoint after consultation with the Election Commission, such Regional Commissioners as he may consider necessary to assist the Election Commission in the performance of the functions conferred upon it[40].

In each State, there is a Chief Electoral Officer, who, subject to the superintendence, direction and control of the Election Commission, supervises the preparation, revision and correction of all electoral rolls in the State[41].

The electoral roll for each parliamentary constituency in the State of Jammu and Kashmir[42] or in a Union territory not having a Legislative Assembly, each Assembly constituency and each Council constituency is prepared and revised by an Electoral Registration Officer[43].

The electoral roll for every parliamentary constituency, other than a parliamentary constituency in the State of Jammu and Kashmir[44] or in a Union territory not having a Legislative Assembly, consists of the electoral rolls of so much of the Assembly constituencies as are comprised within that parliamentary constituency[45]. For every Assembly constituency, an electoral roll is also prepared in accordance with the provisions of The Representation of the People Act, 1950, under the superintendence, directions, and control of the Election Commission[46].

A person is qualified to be chosen to fill a seat in the Lok Sabha if he:

(a) is a citizen of India, and makes and subscribes before some person, authorised in that behalf by the Election Commission, an oath or affirmation according to the form set out for the purpose in the Third Schedule to the Constitution;

(b) is not less than twenty-five years of age; and

(c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament[47].

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39. The Delimitation Commission chaired by Justice (Retd.) Ranjana Prakash Desai shall delimit the constituencies,— (i) of the Union territory of Jammu and Kashmir in accordance with the provisions of part V of the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019) and the provisions of the Delimitation Act, 2002 (33 of 2002); (ii) of the States of Assam, Arunachal Pradesh, Manipur and Nagaland in accordance with the provisions of the Delimitation Act, 2002 (33 of 2002). The conduct of delimitation exercise in the four North-Eastern States had been deferred under an order issued under the provisions of section 10A of the Delimitation Act, 2002 (33 of 2002).

    [The Gazette of India, Part II, Section 3, Sub-section (ii) dated 6 March, 2020].

40. Art. 324(4).

41. R.P. Act, 1950, s. 13A.

42. The Jammu and Kashmir Reorganisation Act, 2019 provides for the reorganisation of the State of Jammu and Kashmir into the Union Territories of Jammu and Kashmir (with legislature) and Ladakh (without legislature).

43. R.P. Act, 1950, s. 13B.

44. The Jammu and Kashmir Reorganisation Act, 2019 . *Op. Cit*.

45. R.P. Act, 1950, s. 13D.

46. *Ibid.*, s. 15.

47. Art. 84 as amended by the Constitution (Sixteenth Amendment) Act, 1963. For the form of oath, see the Third Schedule, as amended.

In the case of a seat reserved for the Scheduled Castes in any State, a candidate for election to the Lok Sabha should belong to any of the Scheduled Castes, whether of that State or of any other State and should be an elector for any parliamentary constituency[48]. In the case of a seat reserved for Scheduled Tribes in any State (other than those in the autonomous districts of Assam), the candidate should belong to any of the Scheduled Tribes, whether of that State or any other State (excluding the tribal areas of Assam) and should be an elector for any parliamentary constituency[49].

In the case of seat reserved for the Scheduled Tribes in the autonomous districts of Assam, the candidate should belong to any of those Scheduled Tribes and should be an elector for the parliamentary constituency in which such seat is reserved or for any other parliamentary constituency comprising any such autonomous district[50].

In the case of seat reserved for the Scheduled Tribes in the Union territory of Lakshadweep, the candidate should belong to any of those Scheduled Tribes and should be an elector for the parliamentary constituency of that Union territory[51].

In the case of seat allotted to the State of Sikkim, the candidate should be an elector for the parliamentary constituency for Sikkim[52].

In the case of any other seat, the candidate should be an elector for any parliamentary constituency[53].

Disqualifications for Membership

A person is disqualified for being chosen as, and for being, a member of either House of Parliament[54]:

(a) if he holds any office of profit under the Government of India or the Government of any State other than an office declared by Parliament by law not to disqualify its holder[55];

(b) if he is of unsound mind and stands so declared by a competent Court;

(c) if he is an undischarged insolvent;

(d) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State;

(e) if he is so disqualified by or under any law made by Parliament; and

(f) a person shall be disqualified for being a member of either House of Parliament if he is so disqualified under the Tenth Schedule to the Constitution[56].

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48. R.P. Act, 1951, s. 4.
49. *Ibid.*
50. *Ibid.*
51. *Ibid.*
52. *Ibid.,* as amended by the Election Laws (Extension to Sikkim) Act, 1976.
53. R.P. Act, 1951, s. 4.
54. Art. 102.
55. A person is not deemed to hold an office of profit under the Government of India or the Government of any State by reason only that he is a Minister either for the Union or such State—art. 102(2).

    K. Mohanarangam was declared by the President of India as having incurred disqualification for being a member of the Council of States under article 102(l)(a) by virtue of his holding the office of the Special Representative of the Government of Tamil Nadu at New Delhi—*Notfn. S.O. No.* 654(E) dt. 8-9-1982 of Ministry of Law, Justice and Company Affairs (Legislative Department) and *R.S. Bn. Pt. II*, 29-9-1982, para 27400.

    Also *see* Chapter 6 – Office of Profit, *supra.*
56. Ins. by s. 3 of the Constitution (Fifty-second Amendment) Act, 1985 (*w.e.f.* 1.3.1985).

Besides the above constitutional requirements, the election law lays down certain further disqualifications[57]. Broadly, these are as under:

(i) A person found guilty of a corrupt practice by an order under the relevant provisions of the election law, is disqualified by the President if he so decides for a period as determined by him but not exceeding six years from the date on which the order takes effect[58].

(ii) A person who has failed to lodge an account of election expenses within the time and in the manner required and has no good reason or justification for such failure, is disqualified for a period of three years, under an order of the Election Commission.

(iii) A person convicted for any offence mentioned in Section 8(1) of the Representation of People's Act shall be disqualified for a period of six years from the date of conviction when sentenced to only fine, and in case when sentenced to an imprisonment, from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.

A person convicted for contravention of any law providing for the prevention of hoarding or profiteering or of adulteration of food or drugs or any provision of the Dowry Prohibition Act, 1961, and sentenced to imprisonment for not less than six months is disqualified from the date of such conviction and will be continued to be so disqualified for six years since his release[59].

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57. R.P. Act, 1951, Part II, Chapter III, as amended by the Election Laws (Amendment) Act, 1975.

58. Amar Nath Chawla's election to the Lok Sabha was set aside by the Supreme Court on ground of corrupt practices as defined in section 123(6) of the R.P. Act, 1951—*Kanwar Lal Gupta v. Amar Nath Chawla & Others,* Civil Appeal No. 1549 of 1972 and *L.S. Bn. Part II,* 16.10.1974, para 1981.

59. Shri Lalu Prasad Yadav and Shri Jagdish Sharma, Members of 15th Lok Sabha were convicted by the Special CBI Court, Ranchi in its order dated 30.09.2013 and were sentenced to imprisonment for a period of five years and four years respectively. Notifications regarding their disqualifications were issued by the Lok Sabha Secretariat on 21.10.2013.

Shri Mohammed Faizal P.P., Member of 17th Lok Sabha, was convicted by the Court of District and Sessions Judge, Kavaratti, in its order dated 11.01.2023 and was sentenced to imprisonment for ten years and a fine of Rs. 1,00,000/-. Notification regarding disqualification of the member was issued by the Lok Sabha Secretariat on 13.01.2023. Meanwhile, High Court of Kerala, vide its Order dated 25.01.2023 had suspended the conviction and sentencing of Shri Mohammed Faizal P.P. ordered by the Court of District and Sessions Judge, Kavaratti, judgement dated 11.01.2023. Therefore, his disqualification had ceased to operate subject to further judicial pronouncements. Notification in this regard was issued by the Lok Sabha Secretariat on 29.03.2023. On the matter being transferred by the Supreme Court of India to Kerala High Court for reconsideration of its order dated 25.01.2023, Kerala High Court vide its another order dated 03.10.2023 rejected the prayer of Shri Mohammed Faizal P.P. for suspension of order of his conviction. Consequent upon this order, Shri Mohammed Faizal P.P. was disqualified from the membership of Lok Sabha from the date of his conviction i.e. 11.01.2023. Notification in this regard was issued by Lok Sabha Secretariat on 04.10.2023. Further, Supreme Court of India vide its order dated 09.10.2023 stayed the order of the High Court of Kerala dated 03.10.2023 and suspended the conviction of Shri Mohammed Faizal P.P. ordered by the Court of District and Sessions Judge, Kavaratti. Therefore, his disqualification had ceased to operate subject to further judicial pronouncements. Notification in this regard was issued on 02.11.2023.

Shri Rahul Gandhi, Member of 17th Lok Sabha, was convicted by the Court of Chief Judicial Magistrate, Surat, in it order dated 23.03.2023 and was sentenced to imprisonment for two years. Notification regarding disqualification of the member was issued by the Lok Sabha Secretariat on 24.03.2023. However, Supreme Court of India vide its order dated 04.08.2023, stayed the conviction of Shri Rahul Gandhi. Therefore, his disqualification had ceased to operate subject to further judicial pronouncements. Notification in this regard was issued by the Lok Sabha Secretariat on 07.08.2023.

Shri Afzal Ansari, Member of 18th Lok Sabha, was convicted and sentenced to imprisonment for four years and fine of Rs. 1,00,000/- by the Additional Sessions Judge, MP/MLA Court, Ghazipur, Uttar Pradesh, *vide* its Order dated 29.04.2023. Notification regarding his disqualification was issued by the Lok Sabha Secretariat on 01.05.2023. However, Supreme Court of India, *vide* its order dated 14.12.2023, suspended the conviction subject to certain conditions. Notification in this regard was

A person convicted for any offence and sentenced to imprisonment for not less than two years is disqualified from the date of such conviction and will continue to be disqualified for a further period of six years since his release.

(iv) A person dismissed from an office under the Government of India or under the Government of any State for corruption or for disloyalty is disqualified for a period of five years from the date of such dismissal.

(v) A person who has in the course of his trade or business entered into a contract with the Union Government for the supply of goods to, or for the execution of any works undertaken by that Government, is disqualified so long as that contract subsists.

(vi) A person who is a managing agent, manager or secretary of any company or corporation (other than a co-operative society) in the capital of which the Union Government has not less than twenty-five per cent share is disqualified so long as he is holding that office.

If any question arises whether a member of either House of Parliament has become subject to any of the disqualifications specified in the Constitution, as also the question whether a person found guilty of a corrupt practice at an election to a House of Parliament under any law made by Parliament is to be disqualified for being chosen as, and for being, a member of either House of Parliament, including the question as to the period of disqualification or as to removal or the reduction of the period of such disqualification, the question is referred for the decision of the President whose decision is final in the matter. However, before giving the decision on such a question, the President is required to obtain the opinion of the Election Commission which may, for this purpose, make such enquiry as it thinks fit[60].

If a question whether a member has, or has not, become subject to a disqualification properly arises under article 103 and on the representation of any person the question is referred by the President to the Election Commission for its opinion, the fact that the person who raised the question and made the representation to the President does not wish to proceed with the matter and asks for permission to withdraw the petition, is not a sufficient ground for the Election Commission to desist from giving its opinion on the reference[61]. However, Supreme Court *vide* their decision dated 10.07.2013 have *inter alia* observed that in case when a person who was a member of either House of Parliament or House of the State Legislature becomes disqualified by or under any law made by Parliament under Articles 102(1)(e) of the Constitution, his seat automatically falls vacant by virtue of Articles 101(3)(a) of the Constitution. Hence, the seat of a member who becomes subject to any of the disqualifications mentioned in Article 102(1) of the Constitution will fall vacant on the date on which the member incurs the disqualification and cannot await the decision of the President or the Governor, as the case may be, under Articles 103 of the Constitution[62].

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issued on 11.01.2024 declaring that the disqualification had ceased to operate *w.e.f.* this pronouncement. Thereafter, High Court of Judicature at Allahabad vide its order dated 29.07.2024, set aside the impugned judgement and order dated 29.04.2023 passed by the ASJ/SJ MP/MLA Court, Ghazipur, in the above case and acquitted Shri Afzal Ansari of all the charges leveled against him. Hence, the conditions imposed by the Supreme Court ceased to exist *w.e.f.* pronouncement of this order.

60. Art. 103, as amended by the Constitution (Forty-second Amendment) Act, 1976.

61. *Maharaja Anand Chand, in re.* K.V.K. Sundaram, 5 *E.L.R.* 197.

62. *Lily Thomas* v. *Union of India & Ors.*, Writ Petition (Civil) No. 490 of 2005.

Disqualification for Membership on Ground of Defection[63]

The Constitution (Fifty-second Amendment) Act, 1985, which came into force with effect from 1 March 1985, amended articles 101, 102, 190 and 191 of the Constitution regarding vacation of seats and disqualification for membership of Parliament and the State Legislatures and added a new Schedule (Tenth Schedule) to the Constitution setting out certain provisions as to disqualification on ground of defection. The Tenth Schedule provides *inter alia* that a member is disqualified for being a member of the House:

(i) if he voluntarily gives up his membership of such political party[64]; or

(ii) if he votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention[65]; or

(iii) if an elected member of a House who has been elected as such otherwise than as a candidate set up by any political party, joins any political party after such election[66]; or

(iv) if a nominated member of a House joins any political party after the expiry of six months from the date on which he takes his seat after complying with the requirements of article 99 or, as the case may be, article 188.[67]

The Tenth Schedule, as enacted, contained a provision relating to split in political parties and provided that where a member of a House makes a claim that he and any other members of his legislature party constitute the group representing a faction which has arisen as a result of a split in his original political party and such group consists of not less than one-third of the members of such legislature party, he does not incur disqualification[68]. This provision was, however, subsequently omitted through a Constitution Amendment Act[69]. A member of a House is also not disqualified where his original political party merges with another political party and he claims that he and any other members of his original political party, have become members of such other political party or, as the case may be, of a new political party formed by such merger to which not less than two-thirds of the members of the legislature party concerned have agreed[70].

A person who has been elected to the office of the Speaker or the Deputy Speaker of the House of the People or the Deputy Chairman of the Council of States or the Chairman or the Deputy Chairman of the Legislative Council of a State or the Speaker or the Deputy Speaker of the Legislative Assembly of a State is not disqualified, if he, by reason of his election to such office, voluntarily gives up the membership

63. Also *see* Chapter 43.

64. Tenth Schedule, para 2(1)(a).

65. *Ibid.,* para 2(l)(b).

66. *Ibid.,* para 2(2).

67. *Ibid.,* para 2(3).

68. Tenth Schedule, para 3.

69. The words and figures "Paragraph 3 or, as the case may be", omitted by the Constitution (Ninety-First Amendment) Act, 2003, s. 5 (*w.e.f.* 1.1.2004).

70. Tenth Schedule, para 4.

of the political party to which he belonged immediately before such election and does not, so long as he continues to hold such office thereafter, rejoin such political party or become a member of another political party, or if he, having given up by reason of his election to such office his membership of the political party to which he belonged immediately before such election, rejoins such political party after he ceases to hold such office[71].

> If any question arises as to whether a member of a House has become subject to disqualification, the question shall be referred to the Chairman or, as the case may be, the Speaker of such House and his decision shall be final. Where the question is as to whether the Chairman or the Speaker has become subject to disqualification, the question shall be referred for the decision of such member of the House as the House may elect in this behalf and his decision shall be final[72]. Courts are barred from exercising jurisdiction in respect of a House under the Tenth Schedule[73].

The Members of Lok Sabha (Disqualification on Ground of Defection) Rules, 1985[74], framed by the Speaker under para 8(1) of the Tenth Schedule provide that, in order to determine any question of disqualification, the leader of each legislature party—other than a legislature party consisting of only one member—is required to furnish within the prescribed period a statement containing the names of members of such legislature party together with other required particulars. Every member of a House is also required to furnish to the Speaker the required particulars in the prescribed form[75]. A summary of the information furnished by the members is required to be published in the Lok Sabha Bulletin-Part II and if any discrepancy therein is pointed out to the satisfaction of the Speaker, necessary corrigendum is to be issued in the Bulletin[76].

No reference of any question as to whether a member has become subject to disqualification under the Tenth Schedule can be made except by a petition in relation to such member. Every such petition is required to be verified in the manner laid down in the Code of Civil Procedure, 1908 for the verification of pleadings[77].

A petition in relation to a member is required to be made in writing to the Speaker by another member whereas in relation to the Speaker, it is to be addressed to the Secretary-General[78]. However, Supreme Court *vide* their decision dated 17 January 2013 have *inter alia* observed that, "not only a Member of the House, but any person interested, would also be entitled to bring to the notice of the Speaker the fact that a Member of the House had incurred disqualification under the Tenth Schedule to the Constitution of India[79].

A petition along with annexures thereto alleging incurring of disqualification by any member is to be forwarded to the member in relation to whom the petition is made and where such member belongs to any legislature party and such petition is not

71. *Ibid.,* para 5.
72. *Ibid.,* para 6(1).
73. *Ibid.,* para 7.
74. Came into force *w.e.f.* 18-3-1986.
75. Members of Lok Sabha (Disqualification on Ground of Defection) Rules, 1985, rule 4(1) and (2).
76. *Ibid.,* rule 4(3).
77. Petition submitted by a member against two other members was dismissed by Speaker Shivraj Patil on 2 December 1992 on the ground of non-signing and verification of documents in annexure to the petition in exercise of his power under rule 7(2) of the Anti-Defection Rules.
78. Members of Lok Sabha (Disqualification on Ground of Defection) Rules, 1985, rule 6.
79. *Speaker, Orissa Legislative Assembly* vs. *Utkal Keshari Parida*, Civil Appeal No. 469 of 2013.

made by the leader thereof, also to such leader, for his comments. After considering the comments received, the Speaker may either decide the question by himself[80], or

80. Decisions under the Tenth Schedule:–

(A) *Petitions Allowed*

(i) On 24 November 1988, Speaker (Dr. Bal Ram Jakhar) referred a petition for disqualification submitted by a member (Ram Pyare Panika) against Lalduhoma, M.P. to the Committee of Privileges. The Committee submitted its Report to the Speaker. After hearing Lalduhoma, the Speaker declared him disqualified from the membership of the Lok Sabha. *L.S. Deb.,* 24-11-1988.

(ii) On 11 January 1991, the Speaker (Rabi Ray) gave his decision under the Tenth Schedule to the Constitution in respect of claim for split in Janata Dal and petitions for disqualification against some members of Janata Dal. Eight members of Janata Dal, *viz.* Basavraj Patil, Hemendra Singh Banera, Vidya Charan Shukla, Sarwar Hussain, Bhagey Gobardhan, Devananda Amat, Dr. Bengali Singh and Dr. Shakeelur Rehman were declared disqualified from the membership of the Lok Sabha and Janata Dal (S), a faction formed as a result of split in Janata Dal, was recognised. *L.S., Bn. Pt. (II)*, 14-1-1991, para 1050.

(iii) On 1 June 1993, Speaker (Shivraj V. Patil) gave his decision under the Tenth Schedule to the Constitution in respect of claim for split in Janata Dal and petition for disqualification against some members of Janata Dal. Four members of Janata Dal, *viz.* Ram Sunder Dass, Govinda Chandra Munda, Gulam Mohammed Khan and Rambadan were disqualified from the membership of the Lok Sabha and consequently, a separate group, *viz.* Janata Dal (A) came into being. *L.S., Bn. Pt. (II),* 1-6-1993, para 2125.

The disqualified members, however, obtained a stay on the Speaker's order from the High Court of Delhi and consequently continued to be the members of the Tenth Lok Sabha.

The matters arising out of the document handed over by Ajit Singh and others to the Speaker on 7 August 1992 and petitions for disqualification against all the twenty members were heard together by the Speaker, for a decision under the Tenth Schedule and the case came to be popularly known as the 'Janata Dal Case'. Parties to the case were allowed to plead their cases themselves as well as through their counsels. Broadly, the Code of Civil Procedure was followed in conducting the proceedings. Proceedings were allowed to be watched and reported by the Press and the Media. Hearings by the Speaker in the case commenced on 19 August 1992, and in all, twenty-one hearings were held.

At the outset, issues arising in the case were framed. Documentary and oral evidence was adduced and produced by the parties. Counsels for parties advanced detailed arguments. The entire proceedings of the case were recorded verbatim and also tape-recorded. Leaders of political parties in the Lok Sabha were allowed to put forth their views on legal points. *L.S. Bn. Pt. (II),* 1-6-1993, para, 2125.

The disqualified members, however, obtained a stay on the Speaker's order from the High Court of Delhi and consequently continued to be the members of the Tenth Lok Sabha.

(iv) On 9 March 2007, Speaker (Somnath Chatterjee) referred three petitions for disqualification submitted by a member (Rajesh Verma) against Mohammad Shahid Akhlaque, Ramakant Yadav and Bhalchandra Yadav) to the Committee of Privileges.

The Committee submitted their Report to the Speaker on 12 November 2007. After hearing the petitioner (Rajesh Verma) and the three respondents (Mohammad Shahid Akhalque, Ramakant Yadav and Bhalchandra Yadav) from 10 to 13 December 2007 the Speaker, declared them disqualified from the membership of Lok Sabha *vide* his three separate decisions dated 27 January 2008. *L.S., Bn. (II)* dated 28-01-2008, paras, 4424-26.

(v) On 9 March 2008, Speaker (Somnath Chatterjee) referred petition for disqualification submitted by a member (Avtar Singh Bhadana) against another member (Kuldeep Bishnoi) to the Committee of Privileges. After the Committee submitted their Report to the Speaker on 20 August 2008, he held a personal hearing in the matter on 2 September 2008, which was attended by Avtar Singh Bhadana while Kuldeep Bishnoi was not present. The Speaker, thereafter, gave his decision disqualifying respondent Bishnoi, from the membership of Lok Sabha *vide* order dated 10 September 2008. *L.S., Bn. (II)* dated 12-09-2008, para 6010.

(vi) On 9 and 20 July 2008 the Speaker (Somnath Chatterjee) held a personal hearing with regard to the petition submitted by a member (Prof. Ram Gopal Yadav) against another member (Jai Prakash). While the petitioner attended the hearing, the respondent was not present. The Speaker, thereafter, gave his decision disqualifying respondent (Jai Prakash) from membership of Lok Sabha *vide* his order dated 11 September 2008. *L.S., Bn. (II)* dated 12-09-2008 para 6011.

(vii) The Speaker (Somnath Chatterjee) held personal hearing in the matter on 12 September 2008 with regard to the petition submitted by a member (Prof. Ram Gopal Yadav) against another member (Prof. S.P. Bhagel). While the petitioner (Prof. Ram Gopal Yadav) attended the hearing, the respondent (Prof. S.P. Bhagel) was not present. The Speaker, thereafter gave his decision disqualifying respondent (Prof. S.P. Bhagel) from the membership of the House *vide* his order dated 12 September 2008. *L.S., Bn. (II)* dated 15-09-2008, para 6014.

(viii) On 16 and 26 September 2008, Speaker (Somnath Chatterjee) held personal hearing with regard to the petition submitted by a member (Prabhunath Singh) against another member (Ramswaroop Prasad). After hearing the petitioner and the respondent, the Speaker gave his decision disqualifying the respondent (Ramswaroop Prasad) from the membership of the House *vide* his order dated 3 October 2008. *L.S., Bn. (II)* dated 07-10-2008, para 6046.

(ix) On 25 September 2008, Speaker (Somnath Chatterjee) held a personal hearing with regard to the petition submitted by a member (Santosh Gangwar) against another member (Dr. H.T. Sangliana). After hearing the petitioner and the respondent, the Speaker gave his decision disqualifying the respondent (Dr. H.T. Sangliana) from the membership of the House *vide* his order dated 3 October 2008. *L.S., Bn. (II)* dated 07-10-2008, para 6047.

(x) The Speaker (Somnath Chatterjee) held personal hearings on 24 September, 18 October and 20 November 2008 with regard to the petition submitted by a member (Santosh Gangwar) against another member (Chandra Bhan Singh). The Speaker, thereafter, gave his decision disqualifying the respondent (Chandra Bhan Singh) from the membership of Lok Sabha *vide* order dated 5 December 2008. *L.S., Bn. (II)* dated 8-12-2008, para 6285.

(xi) The Speaker (Somnath Chatterjee) held personal hearings on 26 September, 17 October and 31 October 2008 with regard to the petition submitted by a member (Bhartruhari Mahtab) against another member (Harihar Swain). The Speaker, thereafter, gave his decision disqualifying the respondent (Harihar Swain) from the membership of Lok Sabha *vide* order dated 10 December 2008. *L.S., Bn. (II)* dated 10-12-2008, para 6307.

(xii) The Speaker (Somnath Chatterjee) held personal hearings on 19 September, 23 October and 2 December 2008 with regard to the petition submitted by a member (K. Yerrannaidu) against another member (Dr. M. Jagannath). The Speaker, thereafter, gave his decision disqualifying the respondent (Dr. M. Jagannath) from the membership of Lok Sabha *vide* order dated 15 December 2008. *L.S., Bn. (II)* dated 16-12-2008, para 6342.

(xiii) On 12 and 26 September 2008, the Speaker (Somnath Chatterjee) gave personal hearings to both the parties with regard to the petition submitted by a member (Prabhunath Singh) against another member (Dr. P.P. Koya). The Speaker, thereafter, referred the petition on 1 October 2008 to the Committee of Privileges, Lok Sabha for holding a preliminary enquiry and to submit its Report to him. The Committee of Privileges, Lok Sabha submitted its Report on 15 December 2008. The Speaker, thereafter, held two more hearings on 22 December 2008 and 6 January 2009 in the matter. The Speaker then gave his decision disqualifying the respondent (Dr. P.P. Koya) from the membership of Lok Sabha *vide* order dated 9 January 2009. *L.S., Bn. (II)* dated 12-1-2009, para 6427.

(xiv) On 17 April and 24 April 2009, the Speaker (Somnath Chatterjee) gave personal hearings to both the parties with regard to the petition submitted by a member (Basudeb Acharia) against another member (Abu Ayes Mondal). The Speaker thereafter gave his decision disqualifying the respondent (Abu Ayes Mondal) from the membership of Lok Sabha *vide* order dated 27 April 2009. *L.S., Bn. (II)* dated 28-4-2009, para 6681.

(B) *Petitions Dismissed*

(i) On 9 September 1987, the Speaker (Dr. Bal Ram Jakhar) gave his decision dismissing a petition filed by K.P. Unnikrishnan, member, against Sudarshan Das and Sahab Rao Patil Dongaonkar, members. *L.S., Bn.* (II), 10-9-1987, para 1857.

(ii) On 3 January 1996, the Speaker (Shivraj V. Patil) gave his decision dismissing a petition filed by Ajit Singh, Member and Leader of Janata Dal (A) in Lok Sabha against seven members, *viz.,* Ram Lakhan Singh Yadav, Ram Sharan Yadav, Abhay Pratap Singh, Roshan Lal, Ghulam Mohammad Khan, Anadi Charan Das, Govinda Chandra Munda. *L.S., Bn. (II)*, 22-1-1996, para 4497.

(iii) On 6 January 2002, Speaker (G.M.C. Balayogi) gave his decision dismissing a petition filed by Dr. Raghuvansh Prasad Singh, Member and Leader of RJD in Lok Sabha against two members *viz.,* Mohammad Anwarul Haque and Sukdeo Paswan, members of the party. *L.S., Bn. (II)*, 28-2-2002, para 2697.

(iv) On 23 October 2008, Speaker (Somnath Chatterjee) gave his decision dismissing a petition filed by B. Vinod Kumar, Member and Chief Whip of Telangana Rashtra Samiti in Lok Sabha against A. Narendra, Member of Telangana Rashtra Samiti. *L.S., Bn. (II),* 27-10-2008, para 6171.

refer it to the Committee of Privileges for making a preliminary inquiry and submitting a report to him[81]. After receipt of such report, the Speaker determines the question. The procedure to be followed by the Speaker for determining any question and the procedure to be followed by the Committee of Privileges for the purpose of making a preliminary inquiry is to be, as far as may be, the same as the procedure adopted by the Committee for determining a question of breach of privilege of the House by a member. Neither the Speaker nor the Committee of Privileges may come to any finding that a member has become subject to disqualification under the Tenth Schedule without affording a reasonable opportunity to such member to represent his case and to be heard in person[82]. During the Fourteenth Lok Sabha, when four cases under Rule 7(4) of the Members of Lok Sabha (Disqualification on Ground of Defection) Rules, 1985 were referred to the Committee of Privileges by the Speaker, Lok Sabha, the Committee took a view that in such matters, the Committee are required only to give their findings on the facts of the case and that the Committee's remit did not extend to deciding questions of law and arrive at conclusions on the merits of the case which was within the exclusive jurisdiction of the Speaker under the Tenth Schedule[83].

(v) On 10 December 2008, Speaker (Somnath Chatterjee) gave his decision dismissing a petition filed by Santosh Gangwar, Member and Chief Whip of Bharatiya Janata Party in Lok Sabha against Somabhai Gandalal Koli Patel, Member of Bharatiya Janata Party. *L.S., Bn. (II),* 11-12-2008, para 6315.

(vi) On 26 December 2008, Speaker (Somnath Chatterjee) gave his decision dismissing a petition filed by Prof. Ram Gopal Yadav, Member and Leader of Samajwadi Party in Lok Sabha against Afzal Ansari, Member of Samajwadi Party. *L.S., Bn. (II),* 29-12-2008, para 6408.

(vii) On 21 January 2009, Speaker (Somnath Chatterjee) gave his decision dismissing a petition filed by Rajeev Ranjan Singh 'Lalan', Member and Chief Whip of Janata Dal (U) in Lok Sabha against Kunwar Sarv Raj Singh, Member of Janata Dal (U). *L.S., Bn. (II)*, 22-1-2009, para 6448. [During the course of examining the petition, Speaker (Somnath Chatterjee) had referred the petition for preliminary inquiry and report thereon on 1 October 2008. The Committee of Privileges submitted its Report to the Speaker on 5 January 2009].

(viii) On 12 February 2009, Speaker (Somnath Chatterjee) gave his decision dismissing a petition filed by Anant Gangaram Geete, Member and Leader of Shiv Sena in Lok Sabha against Adv. Renge Patil Tukaram Ganpatrao, MP of Shiv Sena. *L.S., Bn. Pt.* (II), 13-2-2009, para 6576. [During the course of examining the petition, Speaker (Somnath Chatterjee) had referred the petition for preliminary inquiry and report thereon on 19 November 2008. The Committee of Privileges submitted its Report to the Speaker on 12 February 2009].

(ix) On 5 March 2009, Speaker (Somnath Chatterjee) gave his decision dismissing a petition filed by Prof. Ram Gopal Yadav, Member and Leader of Samajwadi Party in Lok Sabha against Rajnarayan Budholiya, Member of Samajwadi Party. *L.S., Bn. (II),* 6-3-2009, para 6643.

81. Instances where petitions under Tenth Schedule to the Constitution were referred to the Committee of Privileges:

(i) 8 LS; on 16 November 1987 (Hardwari Lal case); 12 January 1988 (Lalduhoma case);

(ii) 9 LS; on 10 January 1991 (P. Muttiah case); (iii) 13 LS; on 12 May 2003 (Prof. R.R. Pramanik case); (iv) 14 LS; on 9 August 2007 (cases – Mohd. Shahid Akhlaque, Ramakant Yadav and Bhal Chandra Yadav); on 25 January 2008 (Beni Prasad Verma Case; on 9 March 2008 (Kuldeep Bishnoi Case); on 1 October 2008 (cases– Dr. P.P. Koya, Haribhai Rathod, Adv. Renge Patil Tukaram Ganpatrao, L. Ganesan, Gingee N. Ramachandran, Dr. C. Krishnan and S. Ravichandaran); on 19 November 2008 (Rajnarayan Budholiya Case); (v) 15LS: On 17 November 2011 (cases — Rajiv Ranjan Singh, Mangani Lal Mandal and Sushil Kumar Singh); (vi) 16LS: on 01.10.2014 (S. P. Y. Reddy case); on 23.06.2017 (Kothapalli Geetha case) and on 02.11.2017 (Ponguleti Srinivasa Reddy case); (vii) 17 LS; on 11.1.2022 (Sisir Kumar Adhikari case); on 27.1.2022 (K. Raghu Rama Krishna Raju case).

82. *Ibid.,* rule 7.

83. Three separate petitions were given by Rajesh Verma, MP against Mohd. Shahid Ashiaque, Bhal Chandra Yadav and Ramakant Yadav and one petition was given by Avtar Singh Bhadana, MP against Kuldeep Bishnoi.

The Chairman or the Speaker of a House has also been empowered by the Tenth Schedule to deal with any wilful contravention by any person of the Rules in the same manner as a breach of privilege of the House[84].

Supreme Court of India in its judgement dated 11 May, 2023 in Subhash Desai vs. Principal Secretary, Governor of Maharashtra & Ors. has *inter alia* laid down the following guidelines for adjudicating petitions for disqualification under the Tenth Schedule:–

"...This Court cannot ordinarily adjudicate petitions for disqualification under the Tenth Schedule in the first instance. There are no extraordinary circumstances in the instant case that warrant the exercise of jurisdiction by this Court to adjudicate disqualification petitions. The Speaker must decide disqualification petitions within a reasonable period;

A Member has the right to participate in the proceedings of the House regardless of the pendency of any petitions for their disqualification. The validity of the proceedings of the House in the interregnum is not "subject to" the outcome of the disqualification petitions;

The Political Party and not the Legislature Party appoints the Whip and the Leader of the Party in the House. Further, the direction to vote in a particular manner or to abstain from voting is issued by the Political Party and not the Legislature Party... The Speaker shall recognize the Whip and the Leader who are duly authorised by the Political Party with reference to the provisions of the party constitution, after conducting an enquiry in this regard and in keeping with the principles discussed in this judgement;

The Speaker and the Election Commission of India (ECI) are empowered to concurrently adjudicate on the petitions before them under the Tenth Schedule and under Paragraph 15 of the Symbols Order respectively;

The effect of the deletion of Paragraph 3 of the Tenth Schedule is that the defence of 'split' is no longer available to members facing disqualification proceedings. The Speaker would prima facie determine who the Political Party is for the purpose of adjudicating disqualification petitions under Paragraph 2(1) of the Tenth Schedule, where two or more factions claim to be that Political Party."

During the Fifteenth Lok Sabha, there have been instances when the petitioners withdrew their petitions. There is an instance when the petitioner after having given his petition and before the personal hearings were to be held in the matter, requested the Speaker for permission to withdraw the petition. The Speaker acceded to his request and the petition was treated as withdrawn.[85] In yet another instance, three petitions were allowed to be withdrawn after the matters were referred to the Committee of Privileges for examination and report[86].

Tenth Schedule to the Constitution — An Appraisal

In the more than three decade-long operation of the Anti-Defection Law, various deficiencies and inconsistencies in the law came up for judicial scrutiny. Various

84. Tenth Schedule, para 8(3).

85. Petition filed by Anant G. Geete against Anand Prakash Paranjpe.

86. Petitions filed by Prof. Ranjan Prasad Yadav against Rajiv Ranjan Singh; Mangani Lal Mandal and Sushil Kumar Singh.

provisions of the Tenth Schedule were challenged in different High Courts as being illegal and unconstitutional. Petitions were also filed in High Courts, from time to time against decisions taken by the Presiding Officers of different Legislatures under the Tenth Schedule to the Constitution. All such petitions were transferred by the Supreme Court to itself on the request of the Government of India, as important questions of law and interpretation of the Constitution were involved.

The Supreme Court, while admitting one of such transfer petitions, in their judgement delivered on 11 November 1991, (in their majority opinion), upheld the legality and constitutionality of all other provisions of the Tenth Schedule except paragraph 7 thereof. The apex Court held that paragraph 7 is *ultra vires* the Constitution and also held that in view of that provision which brings about a change in the operation and effect of articles 136, 226 and 227 of the Constitution, the relevant Bill should have been ratified by State Legislatures. However, applying the doctrine of severability, the law was declared valid without paragraph 7. The detailed judgement was given by the Court on 18 February 1992[87]. On 22.09.2023, the Supreme Court refused to admit a public interest litigation seeking to question the constitutional validity of Paragraphs 4 and 6 of the Tenth Schedule to the Constitution stating that the challenge has been repelled in the judgement of Constitution Bench of the Supreme court in Kihoto Hollohan *vs.* Zachilhu & Ors.[88]

Following the Judgement of the Supreme Court, the Presiding Officers at various fora, discussed the implications arising from such decision by the apex court. There was a general consensus among them that the Anti-Defection Law needs to be amended and the judgement given by the Supreme Court should be respected until the law is amended.

The trend of coalition Governments at the Centre and in many States has brought to the fore the lacunae in the Anti-Defection Law. On various fora, the finer points of the Law, particularly those relating to splits and mergers in political parties, came up for in-depth deliberations. In the Eleventh Lok Sabha, the Committee of Privileges, following a study on parliamentary privileges, rights and obligations of members by its Study Group, presented a Report on 'Ethics, Standards in Public Life, Privileges, Facilities to Members and other Related Matters to the Speaker on 27 November 1997. Among other things, the Anti-Defection Law was also dwelt upon in this Report. The Committee took a considered view that the lacunae in the Law had been largely responsible for varied interpretations of various provisions of the Law at the hands of Presiding Officers, which had led to criticism and a demand for review of the Anti- Defection Law itself. It was felt that the most contentious provisions in the Law are those relating to splits[89] and mergers. One of the main areas of criticism has been that while individual defections are punished, collective defections are condoned in the name of splits. Some other issues, *viz.* (a) time from which a split becomes operative; (b) effecting a split for facilitating mergers; and (c) absence of provision of certain eventualities such as expulsions of members from political parties, etc. were also taken note of. The

87. *Kihota Hollohon vs. Zachilhu & Others,* A.I.R. 1993, S.C. 412.

88. Lok Prahari through its General Secretary S.N. Shukla, I.A.S. (Retd.) *vs.* Union of India & Ors. [Writ Petiton (Civil) No. 1096/2020].

89. Since omitted from the Tenth Schedule by the Constitution (Ninety-First) Amendment Act, 2003.

Committee of Privileges recommended in their Report that the Anti-Defection Law as it stands at present may be discussed threadbare by the Presiding Officers of the Legislative Bodies in India and that the Government should take concrete measures for suitably amending the Law. While the provision relating to splits has since been omitted from the Tenth Schedule, other areas of concern are yet to be addressed.

By and large, the dominant view at present is that the Anti-Defection Law needs to be amended so as to leave no scope for any ambiguity.

The Supreme Court in their judgement delivered on 17 January 2013 in the Speaker, *Orissa Legislative Assembly vs. Utkal Keshari Parida* (Civil) Appeal No. 469 of 2013[90] case dealt with in detail the question of maintainability of a disqualification petition filed by a person other than a member. The Court was of the view that provisions of the rules barring a nonmember from filing a disqualification petition was neither contemplated nor provided for in the Tenth Schedule. In the Court's view the statement of objects and reasons of the Bill, which finally became the Constitution (52nd Amendment) Bill, 1985 whereby the Tenth Schedule was added to the Constitution with effect from 1 March 1985, *inter alia,* indicated that the evil of political defection had become a matter of national concern and it was not checked, it would very well undermine the very foundation of our democracy and the principles which sustain the same. In such event, if the provisions of the Tenth Schedule are interpreted to exclude the right of any person interested to bring to the notice of the Speaker of the House the fact that any or some of its members had incurred disqualification from the membership of the House or any of the eventualities indicated in paragraphs 2 and 4 therein, it would render the inclusion of the Tenth Schedule to the Constitution otiose and defeat the objects and intent of the Fifty-second Amendment of the Constitution. The Court concluded that not only a member of the House, but any person interested, would also be entitled to bring to the notice of the Speaker the fact that a member of the House had incurred disqualification under the Tenth Schedule to the Constitution of India.

Mode of Election

When a general election falls due, the President, by one or more notifications in the Gazette, on such dates as may be recommended by the Election Commission, calls upon all parliamentary constituencies to elect members to the Lok Sabha in accordance with the provisions of the Representation of the People Act, 1951 and of rules and orders made thereunder. When a general election is held otherwise than on the dissolution of the existing Lok Sabha, no such notification is issued at any time earlier than six months prior to the date on which the duration of the Lok Sabha would expire under article 83(2)[91].

As soon as the notification is issued, the Election Commission appoints the dates for filing nominations, for scrutiny, withdrawal of candidatures and the date or dates on which a poll, if necessary, shall be taken. The date by which a particular election shall be completed is also decided. This is followed by a public notice of the intended election by the Returning Officers for the respective constituencies[92].

90. Speaker, Orissa Legislative Assembly. Utkal Keshari Parida (CIVIL), appeal No. 469 of 2013 dated 17.1.2013.

91. R.P. Act, 1951, s. 14.

92. *Ibid.,* ss. 30 and 31.

In a constituency where there is a reserved seat, a candidate is not deemed qualified to fill that seat unless he declares in his nomination paper the particular caste or tribe of which he is a member and the area in relation to which that caste or tribe is a Scheduled Caste/Scheduled Tribe of the State[93].

A candidate for election has to make and subscribe an oath or affirmation bearing true faith and allegiance to the Constitution as by law established and undertaking to uphold the sovereignty and integrity of the country.

It is necessary for a candidate to make and subscribe the oath or affirmation after he has been nominated but before the date fixed for scrutiny of nomination papers. The candidate who has failed to do so along with the nomination paper or till the date of the scrutiny becomes disqualified to be chosen[94].

Once such an oath or affirmation is made before a competent authority in respect of one constituency, the candidate becomes bound by that oath or affirmation even if he gets elected from a different constituency. It is not necessary that he must make and subscribe the oath or affirmation repeatedly on his being nominated from more than one constituency[95].

A mere misprint in the form of the oath or a mere inaccuracy in rendering an expression (in this case "Legislative Assembly") in a regional language (in this case Gujarati) would not be fatal to the election of a candidate, if otherwise valid[96].

A candidate for election is required to deposit a sum of ten thousand rupees to make his nomination valid; the candidate belonging to Scheduled Caste/Scheduled Tribe is required to deposit five thousand rupees only[97].

The Returning Officer examines the nomination papers and decides on their validity or otherwise. He may reject any nomination paper which, in his opinion, does not meet the requirements of the Representation of the People Act, 1951, or the rules framed thereunder. He does not reject a nomination if any defect is of an insubstantial character. As soon as the period within which candidatures may be withdrawn expires, the Returning Officer prepares and publishes a list of validly nominated candidates[98]. A candidate for an election is entitled to appoint an election agent to perform such functions as are authorised by or under the Representation of the People Act, 1951[99].

In the event of death of a contesting candidate set up by a recognised political party before the commencement of the poll, the Returning Officer announces an adjournment of the poll to a date to be notified later and reports the fact to the Election Commission and also to the appropriate authority. The Election Commission shall, on the receipt of a report from the Returning Officer, call upon the recognised political party, whose candidate has died, to nominate another candidate for the said poll within

93. *Ibid.,* s. 33.
94. *Pashupati Nath Singh vs. Harihar Prasad Singh,* A.I.R. 1968, S.C. 1064.
95. *Khaje Khanava Khadarkhan Hussain Khan vs. Siddavanahalli Nijalingappa* A.I.R. 1969 S.C. 1034.
96. *Virji Ram Sutaria vs. Nathalal Premji Bhanvadia,* A.I.R. 1970, S.C. 765.
97. R.P. Act, 1951, s. 34.
98. *Ibid.,* ss. 36 and 38.
99. *Ibid.,* ss. 40 and 42.

seven days of issue of such notice to such recognised political party. Where a list of contesting candidates had been published before the adjournment of the poll, the Returning Officer shall again prepare and publish a fresh list of contesting candidates so as to include the name of the candidate who has been validly nominated by the party[100].

The total time allotted on any one day for polling at an election in a parliamentary constituency is not less than eight hours. Sufficient number of polling stations are set up in each constituency and the voters are required to go in person to their respective polling stations to cast their votes. No proxy is allowed. Special voters, service voters, voters on election duty and electors subject to preventive detention are the only persons entitled to vote by post[101].

After counting of votes has been completed, the Returning Officer declares the result of the election and reports the same to the appropriate authorities, the Election Commission and the Lok Sabha Secretariat. The date on which the Returning Officer declares a candidate elected is deemed to be the date of election of that candidate. The Returning Officer issues a certificate of election to the elected candidate and obtains an acknowledgement of its receipt duly signed by him. This is sent later to the Secretary-General, Lok Sabha. The newly elected member is required to show his election certificate to the Officer of the House before making and subscribing oath or affirmation[102].

Election of Members to Rajya Sabha

The qualifications for membership of the two Houses of Parliament are similar[103] except that in the case of a seat in the Rajya Sabha:

(a) a person qualified to be chosen to fill a seat must not be less than thirty years of age; and

(b) a person qualified to be chosen as a representative of any State (other than the State of Jammu and Kashmir) or Union territory must be an elector for a parliamentary constituency in that State or territory.

The representatives of each State and of the Union territories in the Rajya Sabha are elected by the elected members of the Legislative Assembly of the State and by members of the electoral college for that territory, as the case may be, in accordance with the system of proportional representation by means of single transferable vote[104].

The electoral college for the Union territory of Delhi consists of the elected members of the Legislative Assembly constituted for that territory under the Government of National Capital Territory of Delhi Act, 1991[105].

The electoral college for the Union territory of Pondicherry (now Puducherry) consists of the elected members of the Legislative[106] Assembly constituted for that territory under the Government of Union Territories Act, 1963[107].

100. *Ibid.,* s. 52.

101. *Ibid.,* ss. 25, 56, 59 and Conduct of Elections Rules, 1961, rules 16 and 13. For the Definition of 'special voters', 'service voters', 'voters on election duty', *see* rule 17.

102. R.P. Act, 1951, ss. 66, 67, 67A; and Conduct of Elections Rules, *op. cit.* rule 66. For details regarding oath or affirmation, *see* Chapter 15—Oath, Affirmation, and Seating of Members in the House.

103. These qualifications have been detailed in this Chapter in connection with election of members of the Lok Sabha.

104. Art. 80 (4)(5) read with R.P. Act, 1950, ss. 27A and 27H.

105. R.P. Act, 1950 s. 27A(3) as amended by the Government of National Capital Territory of Delhi Act, 1991, s. 55 (1 of 1991).

106. Union territories of Mizoram and Arunachal Pradesh deleted by the State of Mizoram Act, 1986, and the State of Arunachal Pradesh Act, 1986, respectively.

107. R.P. Act, 1950 s. 27A(4), as amended by the Government of Union Territories (Amendment) Act, 1975.

The Union territories of Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu and Chandigarh do not have any representatives in the Rajya Sabha.

If a person, who is a member of an electoral college, becomes subject to any disqualification for membership of Parliament under the provisions of any law relating to corrupt and illegal practices and other offences in connection with elections to Parliament, he ceases thereupon to be member of the electoral college[108].

No election by the members of an electoral college under the Representation of the People Act, 1950, can be called in question on the ground merely of the existence of any vacancy in the membership of such college[109].

For the purpose of filling the seats of members of the Rajya Sabha retiring on the expiration of their term of office, the President, by one or more notifications published in the Gazette on such date or dates as may be recommended by the Election Commission, calls upon the elected members of the Legislative Assembly or, as the case may be, the members of the electoral college of the State concerned to elect members of the Rajya Sabha in accordance with the provisions of the Representation of the People Act, 1951 and of the rules and orders made thereunder. No such notification is issued more than three months prior to the date on which the term of office of the retiring members is due to expire[110].

Broadly, the administrative machinery and procedure for the conduct of elections to the Rajya Sabha and the Lok Sabha are the same. However, in the case of an election to fill a seat or seats in the Rajya Sabha, the Returning Officer[111] fixes, with the previous approval of the Election Commission, the place at which the poll is to be taken for such election and notifies the place so fixed in such manner as the Election Commission may direct. The Returning Officer also presides over such election at the place so fixed and appoints such polling officer or officers to assist him as he thinks necessary but he cannot appoint any person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election[112].

Disputes Regarding Elections

An election can be called in question by an election petition presented on one or more of the grounds specified in the election law[113] by any candidate at such election or any elector, within forty-five days from the date of the election of the returned candidate:

A returned candidate cannot get rid of an election petition against him by resigning his seat in the Legislature, whatever the reason for his resignation may be[114].

108. *Ibid.,* s. 27G.

109. *Ibid.,* s. 27J.

110. R.P. Act, 1951, s. 12. For the purpose of filling for the first time the Rajya Sabha seat allotted to the State of Sikkim by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 12A contains similar procedure as contained in s. 12.

111. Generally the Secretaries/Officials of the State Legislatures are appointed as returning officer/ assistant returning officer for election to the Rajya Sabha. *See, Pashupati Nath Sukul vs. Nem Chandra Jain & others,* 74 E.L.R. 83.

112. R.P. Act, 1951, s. 29.

113. *Ibid.,* ss. 100 and 101.

114. *D. Sanjeevayya vs. Election Tribunal, Andhra Pradesh,* A.I.R. 1967, S.C. 1211.

An election petition may be withdrawn only by leave of the High Court. There is nothing which fetters the judicial discretion of the Court to disallow such an application if the circumstances so warrant. In this connection, the Punjab and Haryana High Court has observed:

> It is neither proper nor feasible to make an attempt to lay down categories of cases in which leave should be refused or given by the Court. Each case has to be dealt with according to its own peculiar circumstances. However, one general rule of guidance in all such cases where judicial discretion is to be exercised, is to see whether the application for withdrawal is made *bona fide* or whether it is merely a garb for escaping the consequences which would otherwise result[115].

An election was challenged on the ground of certain corrupt practices and the gravamen of the charge was that some discretionary funds were placed at the disposal of the returned candidate who was a Minister in Haryana till the result of the election, and he used this position to favour some villages with a view to securing support for his candidature. While it was held that there was no evidence to prove that the returned candidate had bargained directly or indirectly for votes, the Supreme Court made the following observations:

> Election is something which must be conducted fairly. To arrange to spend money on the eve of elections in different constituencies, although for general public good, is, when all is said and done, an evil practice, even if it may not be corrupt practice. The dividing line between an evil practice and a corrupt practice is a very thin one. It should be understood that energy to do public good should be used not on the eve of elections but much earlier and that even slight evidence might change this evil practice into corrupt practice. Payments from discretionary grants on the eve of elections should be avoided[116].

Vacation of Seats

A member of either House of Parliament may cease to be a member of that House and his seat may become vacant—

(1) If he incurs any of the following disqualifications[117]:

holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder[118]; or is declared by a competent court to be of unsound mind; or becomes an undischarged insolvent; or voluntarily acquires the citizenship of a foreign State or is under any acknowledgement of allegiance or adherence to a foreign State; or violates any of the provisions of paragraph 2 of the Tenth Schedule to the Constitution; or

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115. *Jugal Kishore vs. Dr. Baldev Prakash,* A.I.R. 1968 Punjab and Haryana 152. The Constitution (Forty-second Amendment) Act, 1976 has, however, provided for the setting up of separate election tribunals for hearing election petitions (Art. 323B).

116. *Ghasi Ram v. Dal Singh,* A.I.R. 1968 S.C. 1191.

    Pursuant to these observations of the Supreme Court, the Union Government have decided that there should be no spending from discretionary funds three months before the elections by the Ministers—S.Q. No. 845, *L.S. Deb.,* 19-12-1968.

117. *See* Arts. 101 and 102

118. Art. 102 (l)(a). This was amended by the Constitution (Forty-second Amendment) Act, 1976. The amended provision has not, however, come into force.

(2) If he is chosen a member of the other House of Parliament when he is already a member of one House. In that case, his seat in the first House becomes vacant with effect from the date on which he is chosen a member of the other House[119]; or

(3) If he is chosen as a member of a State Legislature, his seat in Parliament becomes vacant unless he has resigned his seat in the State Legislature within a period of 14 days from the publication of the declaration in the State Gazette[120]; or

(4) If his election is declared void by the High Court[121]; or

The order of the High Court takes effect as soon as it is pronounced by the Court[122]. Where the operation of an order is stayed by the High Court or, as the case may be, the Supreme Court, the order is deemed never to have taken effect[123]. Where

119. *See.* R.P. Act, 1951, s. 69.

Four members of the First Lok Sabha ceased to be members of that House on their election to the Rajya Sabha in 1956. Fifteen members of the Rajya Sabha ceased to be members of that House on their election to the Second Lok Sabha in 1957. In 1962, fifteen members of the Rajya Sabha ceased to be members of that House on their election to the Third Lok Sabha, and thirteen members of the Second Lok Sabha ceased to be members of that House on their election to the Rajya Sabha. Eleven members of the Rajya Sabha ceased to be members of that House on their election to the Sixth Lok Sabha in March 1977. Ten members of the Rajya Sabha ceased to be members of that House on their election to the Seventh Lok Sabha in January 1980. Nine members of the Rajya Sabha ceased to be members of that House on their election to the Eighth Lok Sabha in December 1984. Twelve members of the Rajya Sabha ceased to be members of that House on their election to the Ninth Lok Sabha in November, 1989. Two members of the Rajya Sabha ceased to be members of that House on their election to the Tenth Lok Sabha in June 1991. Again, four members of the Rajya Sabha ceased to be members of that House on their election to the Eleventh Lok Sabha in May 1996. Four Members of Fourteenth Lok Sabha ceased to be members of that House on their election to the Rajya Sabha in June 2004, November 2008 and March 2009 respectively. Three members of the Fifteenth Lok Sabha ceased to be members of that House on their election to the Rajya Sabha during January-February 2014. One member of Sixteenth Lok Sabha ceased to be member of that House on her/his election to the Rajya Sabha in June 2018. One member of Seventeenth Lok Sabha ceased to be a member of that House on her/his election to Rajya Sabha in February, 2024.

120. The letter of resignation of a seat in the State Legislature must be addressed to the Presiding Officer of that House and not to any other authority.

During the Third General Elections held in 1962, 12 sitting members of the Lok Sabha were elected to State Legislatures. Eleven of them resigned their seats in the Lok Sabha before the expiry of the period of 14 days. The declaration regarding election of one member to the Andhra Pradesh Legislative Assembly was published in the State Gazette on 3 March 1962. Since he had not resigned his seat, he ceased to be a member of the Lok Sabha with effect from 18 March 1962. In 1967, the Lok Sabha seat of a member was declared vacant *w.e.f.* 25 February 1967 as he had not resigned his seat in the Assam Legislative Assembly of which he was a member at the time of his election. Similarly, the Lok Sabha seat of a member was declared vacant *w.e.f.* 13 May 1967 as declaration about his election to the Madras Legislative Council was published in the State Gazette on 28 April 1967 and he had not resigned his Lok Sabha seat. The declaration regarding election of a member to the Haryana Legislative Assembly was notified in the State Gazette on 25 November 1986.

On 1 December 1986 the member wrote to Speaker that his seat in the Lok Sabha be declared vacant on the expiry of 14 days in terms of rule 2 of the Prohibition of Simultaneous Membership Rules, 1950. Accordingly, his seat was declared vacant *w.e.f.* 10 December 1986. No notification was issued. Election Commission was informed through a letter. Circular and para in Bulletin was issued. *See* also Prohibition of Simultaneous Membership Rules, 1950, rule 2.

During the Eleventh General Elections held in March 1998. One sitting member of the Lok Sabha was elected to Punjab Legislative Assembly. He did not take oath as member of Lok Sabha and retained the Assembly seat. Thereafter, his seat in Lok Sabha was declared vacant w.e.f. 24 March 1998 under Rule 2 of the Prohibition of Simultaneous Membership Rules, 1950. The declaration regarding election of one member to the Chhattisgarh Legislative Assembly was published in the State Gazette on 11 December 2008. Since he had not resigned his seat, he ceased to be a member of the Fourteenth Lok Sabha with effect from 26 December 2009.

121. R.P. Act, 1951, s. 100(1).

122. *Ibid.,* s. 107(1).

123. *Ibid.,* s. 116B(3).

the operation of the order is stayed until the disposal of the appeal and appeal is dismissed by the Supreme Court, the appellant ceases to be a member of the House not from the date of original order but from the date of the decision of the Supreme Court.

In one case, the election of a member had been declared void by the High Court and, on an application for stay order, the Supreme Court allowed the member to attend the House only for the days necessary to keep his seat alive; pending the disposal of his appeal by the said Court, he continued to be a member of the House subject to restrictions expressly mentioned in the order of the Supreme Court[124].

124. Election of Dr. Y.S. Parmar to the Second Lok Sabha was declared void by the Election Tribunal and the order of the Tribunal was upheld by the Judicial Commissioner, Himachal Pradesh. Dr. Parmar then moved the Supreme Court for special leave to appeal and also filed an application for stay order. The Supreme Court on the application for stay *inter alia* passed the order that pending the hearing and final disposal of the appeal by them, Dr. Parmar shall not sit as a member in the Lok Sabha excepting for the days necessary to keep his seat alive and that he would not draw any remuneration as a member thereof. The interpretation given by the Ministry of Law to the above order was that Dr. Parmar continued to be a member subject to the restrictions expressly mentioned in the order as to attendance and remuneration; that he would not attend the House on any day except at intervals of 60 days; that he could exercise all the functions of a member on the days on which he attended and that he was entitled to all facilities and concessions due to a member except salary and allowances. On 17 October 1958, the Supreme Court, however, dismissed the appeal of Dr. Parmar and he ceased to be a member of the House with effect from that date.

The Election of Sitaram J. Gavali to the Eighth Lok Sabha from Dadra & Nagar Haveli was declared void by Bombay High Court on 2 April 1985. On an application by Gavali, High Court stayed operation of its order for thirty days on an undertaking by Gavali that he shall not participate in the proceedings of the House or vote in the Lok Sabha and that he shall attend the Lok Sabha only to record his presence. On his appeal in Supreme Court, the Supreme Court *vide* its order dt. 26 April 1985, continued operation of stay granted by High Court with the same restrictions till further orders. Accordingly, the summons for 3rd to 8th Sessions of Eighth Lok Sabha were not issued to Gavali; he was, however, informed through letters at both addresses about the commencement and duration of sessions. The Apex Court in its final judgement on 25 March 1987 allowed appeal filed by Gavali and set aside the judgement of Bombay High Court. Gavali continued to be a member of the Eighth Lok Sabha without any break. Necessary information was published in *Bn.* (II), etc. Copies of judgement were placed in the Parliament Library.

The Election of Moreshwar Save to the Tenth Lok Sabha from the Aurangabad constituency of Maharashtra was declared void by the High Court of Bombay on 16 April 1992. The Court had granted the stay of eight weeks, subject to paying cost within 2 days of the order. On his appeal, the Supreme Court, *vide* its order dated 11 July 1992, allowed Save to attend the sessions of the Lok Sabha and to sign the attendance register of Members, but he was not entitled to receive any emoluments during the pendency of that appeal nor permitted to exercise any right of voting. Accordingly, summons for the Fourth to Fifteenth Sessions of the Tenth Lok Sabha were not issued to Save. He was, however, informed through letters at his permanent and Delhi addresses about the commencement and duration of sessions. Subsequently, the Supreme Court *vide* its final judgement of 11 December 1995 allowed the appeal filed by Save setting aside the Bombay High Court's judgement dated 16 April 1992. Save continued to be a member of the Tenth Lok Sabha without any break. Necessary information in this regard was published in the *L.S. Bn.* (II), etc. Copies of the judgement were placed in the Parliament Library.

Yashwantrao Patil was elected to the Tenth Lok Sabha from the Ahmednagar parliamentary constituency of Maharashtra during the General Elections held during May-June 1991. In an election petition, the High Court of Judicature at Bombay, Aurangabad Bench, in its order dated 30 March 1993, declared the election of Patil to the Lok Sabha void on the ground of corrupt practices u/s 123(4) of the RP Act, 1951, and pronounced Balasaheb Vikhe Patil as duly elected. The High Court, further u/s 99 of RP Act, named another member, Sharad Pawar for commission of corrupt practice. The Court, however, granted a stay on the operation of its order for six weeks. Subsequently, the Supreme Court, in its order dated 10 May 1993, admitting an appeal by Pawar, imposed restriction on member's right to vote and participate in proceedings of the House and to draw emoluments. Further proceedings under section 8A of RP Act were stayed. Again, the Supreme Court in its order dated 14 May 1993 admitting another appeal by Yashwantrao Patil, continued the operation of the stay granted by the High Court and imposed restrictions on the member's right to participate in proceedings of the Lok Sabha, vote and draw emoluments until further orders. Both the members were, however, permitted by the Court to sign attendance register to avoid disqualification. Pawar, consequent upon his election to the Maharashtra Legislative Council, resigned from the membership of the House *w.e.f.* 3 September 1993. The Supreme Court in its final judgement pronounced on 19 November 1993 upheld the order of the High Court setting aside the election of Yashwantrao Patil but overruled the declaration made by the

(5) if he has been: (i) convicted or found guilty of an offence punishable with imprisonment under section 153A or section 171E or section 171F or section 505(2) and (3) of the Indian Penal Code; (ii) found guilty of an electoral offence mentioned in section 125 or section 135 or section 136 of the Representation of the People Act, 1951; (iii) has incurred any other disqualification mentioned in Part II, Chapter III of the said Act; or

(6) if he remains absent from all the meetings of the House for a period of 60 days or more without the permission of the House[125]; or

(7) if he is expelled consequent upon the adoption of a motion of expulsion[126] by the House; or

(8) if he is elected as President of India and enters upon his Office as President[127]; or

(9) if he is elected as Vice-President of India and enters upon his Office as Vice-President[128]; or

(10) if he is appointed as Governor of a State and enters upon his Office as Governor[129]; or

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Court that Balasaheb Vikhe Patil was duly elected to the Lok Sabha. The Supreme Court also set aside the High Court's order naming Sharad Pawar for commission of corrupt practice. Yashwantrao Patil, accordingly, ceased to be a member of the House *w.e.f.* the date of judgement of the Supreme Court, *i.e.* 19 November 1993. Necessary information was published in *Bn.* (II) dated 2 December 1993 and circular in this regard was issued to all Officers/Branches. Copies of the judgement were also placed in the Parliament Library. Earlier, on the pronouncement of the order by the Bombay High Court, on 30 March and the Interim Order by the Supreme Court on appeal, similar action was taken.

Subsequently, on 21 January 1994, a letter was received from the Secretary, Election Commission requesting to place Yashwantrao Patil's case before the President of India as required under section 8A of RP Act, 1951. After examination of the matter, advice was also sought from the Ministry of Law (Leg. Deptt.), who confirmed that the case is required to be placed before the President of India by the Secretary-General, Lok Sabha u/s 8A of RP Act, 1951. A note, along with the copies of the judgements of the Bombay High Court and the Supreme Court in the case, was sent by the Secretary-General to the Secretary to the President on 9 March 1994. The Election Commission was also apprised of the position in writing on 15 March 1994. The Election Commission, *vide* its letter dated 7 July 1994, intimated that the President of India in pursuance of the Section 8A(1) read with section 8A(3) of RP Act and acting according to opinion of the Election Commission, has ordered on 8 June 1994, that Yashwantrao Patil should be disqualified for a period of four years commencing on and from 19 November 1993. It was further stated that disqualification of Patil would subsist upto and including 18 November 1997. (Copy of Presidential Order was enclosed). No further action was taken thereafter.

125. Art. 101(4). This provision is only directory and not mandatory. In computing the period of 60 days, no account is taken of any period during which the House is prorogued or is adjourned for more than four consecutive days. Sixty days mean single unbroken period of 60 days. If a member is absent for 59 days but attends thereafter he may again be absent for 59 days without the permission of the House. The continuous period of 60 days need not necessarily be in the same session. A motion for the vacation of a seat under article 101(4) is moved by the Leader of the House or by such other member to whom he may delegate his functions in this behalf. On 19 April 1950, the seats of three members were declared vacant upon a motion made by the Minister of Parliamentary Affairs. *See P. Deb.,* (II), 19-4-1950, p. 3023.

    On 5 December 1956, the seat of a member of the First Lok Sabha was declared vacant upon a motion made by the Chairman of the Committee on Absence of Members from the sittings of the House. *See L.S. Deb.*, 5-12-1956, c. 1922. There are instances where members, on their appointment as Ministers in the States, have signed the Attendance Register of Lok Sabha. *See L.S. Deb.,* 17-4-1999; also *see* Chapter 31—General Rules of Procedure.

126. *See* Chapter 12—'Conduct of Members', for *Mudgal Case* and others.

127. Consequent upon assuming office of the President of India, Pranab Mukherjee, the member representing the Jangipur Parliamentary Constituency of West Bengal ceased to be a member of Lok Sabha *w.e.f.* 25 July 2012 in terms of clause (1) of Art. 59 of the Constitution of India 9 Notfn. No. 21/2/2012 dated 30.7.2012 Gaz. 11-3(ii) dated 30.7.2012.

128. Art. 66(2).

129. Art. 158(1).

    The Lok Sabha seats of the following members were declared vacant on their entering upon the Office of Governor without resigning their seats:

(11) if he resigns his seat and his resignation is accepted by the Chairman or the Speaker, as the case may be[130]; or

(12) if he has been disqualified for being a member of the House.

The resignation of the member is to be in writing under his hand and addressed to the Speaker or the Chairman, as the case may be. Once a member tenders an unqualified resignation and if from information received or otherwise and after making such inquiry as he thinks fit, the Chairman or the Speaker, as the case may be, is satisfied that such resignation is not voluntary or genuine, he does not accept such resignation[131].

If a member hands over the letter of resignation to the Speaker personally and informs him that the resignation is voluntary and genuine and the Speaker has no information or knowledge to the contrary, the Speaker may accept the resignation immediately[132]. If the Speaker receives the letter of resignation either by post or through someone else, the Speaker may make such inquiry as he thinks fit to satisfy himself that the resignation is voluntary and genuine. If the Speaker, after making a summary enquiry, either himself/or through such other agency, as he may deem fit, is satisfied that the resignation is not voluntary or genuine, he does not accept the resignation[133].

A letter of resignation becomes effective only after it is accepted by the Speaker[134]. A member may withdraw his letter of resignation at any time before it is accepted by the Speaker[135]. As soon as may be, after the Speaker has accepted the resignation of a

Dr. P. Subbarayan, Governor of Maharashtra *w.e.f.* 16-4-1962—Notfn. No. 21/5/62/T-dt. 1-5-1962, Gaz. (I-1), dt.12-5-1962.

M.A. Ayyangar, Governor of Bihar *w.e.f.* 12-5-1962—Notfn. No. 21/5/62/T-dt. 17-5-1962, Gaz. (I-1), dt. 26-5-1962.

K.C. Reddy, Governor of Madhya Pradesh *w.e.f.* 1l-2-1965—Notfn. No. 21/5/62/T-dt. 22-2-1965 Gaz. (I-1), dt. 27-2-1965.

R.D. Bhandare, Governor of Bihar *w.e.f.* 4-2-1973—S.O. 106(E), Gaz. Ex. [II-3(ii)], dt. 22-2-1973.

130. Art. 101(3b). The Constitution, as originally framed, did not contain any provision for acceptance of the resignation by the Presiding Officer and that implied that the resignation became effective as soon as it was received by the Presiding Officer or the Secretariat. The element of acceptance of resignation was introduced by the Constitution (Thirty-third Amendment) Act, 1974 to put a check on forced resignation.

131. Art. 101(3)(b). Proviso.

132. Rule 240(1A).

133. Rule 240(1B).

134. Dir. 47B(1).

135. Rule 240(1C). On 15 February 1999 an elected member from the Bhopal constituency of Madhya Pradesh sent in a letter of resignation from the membership of the Twelfth Lok Sabha to the Speaker. The member was then requested to confirm whether his resignation was voluntary and genuine. Meanwhile, the member not only participated in voting held on 26 February but also started signing Members' Attendance Register from 8 March onwards. When the member was reminded and asked to meet the Speaker in his Chamber, he met the Speaker in his Chamber and promised to send a letter in writing. Thereafter, before the Speaker accepted his resignation, the member stated *vide* his letter of 19 March 1999 that the issues that motivated him to tender his resignation had since been sorted out by the concerned Ministry and requested the Speaker not to pursue the matter any further. Then Speaker, accepting his request, treated the resignation tendered by the member as withdrawn.

On 31 August 2012, S.P.R. Reddy, an elected member from the Nandyal Parliamentary Constituency of Andhra Pradesh sent in a letter of resignation from the membership of the Fifteenth Lok Sabha to the Speaker, giving a reason for his resignation. The member was requested to meet the Speaker. The member met the Speaker and submitted a letter withdrawing his resignation on 5 September 2012. The Speaker accepting his request treated the resignation tendered by the member as withdrawn.

On 14 November 2012, Dr. Kavuru Sambasiva Rao, on elected member from the Eluru Parliamentary Constituency of Andhra Pradesh sent in a letter of resignation from the membership of Fifteenth Lok Sabha to the Speaker Dr. Rao requested the Speaker that the resignation may be accepted with effect from 1 January 2013.

member, the Speaker informs the House that the member has resigned his seat in the House and he has accepted the resignation. When the House is not in Session, the Speaker has to inform the House immediately after the House reassembles[136].

The resignation takes effect from the date from which it is accepted by the Speaker and it is not open to a member to withdraw the resignation after it is accepted by the Speaker[137]. If the member has specified a future date for the resignation to take effect, the resignation takes effect from the date so specified if the Speaker has accepted the resignation by that date[138]. The resignation cannot be accepted from a date earlier than the one on which it is received by the Speaker or in the Lok Sabha Secretariat[139].

As soon as may be after the Speaker has accepted the resignation of a member, the Secretary-General causes the information to be published in the Lok Sabha Bulletin and the Gazette of India Extraordinary and forwards a copy of the notification to the Election Commission for taking steps to fill the vacancy thus caused. Where the resignation is to take effect from a future date, the information is published in the Bulletin and the Gazette not earlier than the date from which it is to take effect[140]. Reasons given by a member for resignation are not conveyed to the House.

A member who resigns the seat cannot make a statement on the floor of the House in explanation of the resignation[141].

If the letter of resignation is received after the last session of the Lok Sabha but before its dissolution, members are informed about the resignation and its acceptance through the Bulletin.

Since the member was entitled to withdraw his resignation before 1 January 2013, it was decided to keep the resignation pending till 31 December 2012. Dr. Rao met the Budget Session to reconsider his decision regarding resigning his seat in the Lok Sabha. The Speaker acceded to the request. Dr. Rao again met the Speaker on 20 February 2013 (one day before the commencement of the Budget Session) and personally handed over a letter withdrawing his resignation from the membership of Lok Sabha. The Speaker accepted his request and treated resignation by the member as withdrawn.

136. Rule 240(2).

137. Dir. 47B(2).

138. Dir. 47B(3).

139. Dir. 47B(4).

Prior to coming into force of the Constitution (Thirty-third Amendment) Act, 1974 the practice was that the resignation took effect from the date specified therein and if no date was so specified, then it took effect from the date of letter. If the letter bore no date, then the resignation used to take effect from the date on which it was received by the Speaker or the Lok Sabha Secretariat.

140. Rule 240(3).

141. *L.S. Deb.,* 1-12-1966, *cc.* 6612-13, 6614-15, 6617-34; 2-12-1966, *cc.* 6972-75.

CHAPTER 6

Office of Profit

The concept of disqualification of a holder of an Office of Profit under the Government for being chosen as, and for being, a Member of Legislature originated from the need of a democratic Government to limit the control or influence of the Executive over the Legislature[1]. The provision is designated to protect the democratic fabric of the country. Further, holding of certain offices was considered incompatible with membership of legislatures due to physical impossibility of a person attending at two places, or heavy duties being attached to those offices. Exception was, however, made in the case of Ministers and other members of Government – with a view to having an effective coordination between the Executive and the Legislature.

Constitution of India *vide* articles 102(1) and 191(1) provides for disqualification of a person for being chosen as and for being a member of either House of Parliament and State Legislature if he holds an Office of Profit under the Union or the State unless the Parliament or the State Legislature declares by law that such office does not disqualify its holder.

Unless otherwise declared by Parliament by law, a person is disqualified for being chosen as, and for being, a member of either House of Parliament if he holds any Office of Profit under the Government of India or the Government of any State[2]. If any question arises as to whether a member of Parliament has become subject to any of the disqualifications laid down in the Constitution, including the one whether he is holding an Office of Profit or not, the question is referred for the decision of the President and his decision is final. However, before giving any decision on any such question, the President is required to obtain the opinion of the Election Commission and shall act according to such opinions[3]. It is important to note that in this matter the President does not act on the advice of his Council of Ministers.

The underlying object of this constitutional provision is to secure the independence of the members of Parliament or a State Legislature and to ensure that Parliament or the State Legislature does not consist of persons who have received favours or benefits from the Executive Government and who consequently, being under an obligation to

1. Third Report of the Joint Committee on Offices of Profit (Second Lok Sabha).
2. Art. 102(l)(a). The corresponding provision for State Legislatures is Art. 191(l)(a). The Constitution (Forty-second Amendment) Act, 1976, amended article 102(l)(a) of the Constitution, relating to 'Office of Profit'. According to the amended article, a person shall be disqualified for being chosen as, and for being, a member of either House of Parliament, if he holds any Office of Profit under the Government of India or the Government of any State as is declared by Parliament by law to disqualify its holder. However, Article l02(l)(a), as it stood prior to the enactment of the Constitution (Forty-second Amendment) Act, 1976 was restored by the Constitution (Forty-fourth Amendment) Act, 1978.
3. Art. 103 as substituted by the Constitution (Forty-second Amendment) Act, 1976, and the Constitution (Forty-fourth Amendment) Act, 1978.

the Executive, might be amenable to its influence. Obviously, the provision has been made in order to eliminate or reduce the risk of conflict between duty and self-interest among the legislators[4].

If the Executive Government were to have untramelled powers of offering to a member any appointment, position or office which carries emoluments of one kind or the other with it, there would be a risk that an individual member might feel himself beholden to the Executive Government and thus lose his independence of thought and action and cease to be a true representative of his constituents[5].

Any restrictions which Parliament may deem necessary to impose upon its members have to be contained in legislation that is in a form easily interpreted by, and readily available to, those who may be directly affected.

Although certain enactments had been passed by Parliament, keeping in view the provisions of Article 102 (1)(a), it was widely felt that none of the acts met comprehensively the needs of the situation[6]. In this background and following the presentation from members of Parliament, Speaker G.V. Mavalankar, in consultation with the Chairman of the Rajya Sabha appointed, on 21 August 1954, a Committee on Office of Profit under the Chairmanship of Pt. Thakur Das Bhargava to:

> study various matters connected with disqualification of members and to make recommendations in order to enable the Government to consider the lines along which a comprehensive legislation should be brought before the House; and
>
> collect facts, data and make suggestions as to how the matter should be dealt with[7].

The Committee (hereinafter referred to as the Bhargava Committee), in their Report, had observed that ordinarily members of Parliament should be encouraged to go on such Committees which are of an advisory character and represent the local or popular point of view in a manner which will effectively influence the officials' point of view. Members of Parliament by virtue of their membership are in a position to say and represent certain matters with some authority and confidence, and their views are likely to go a long way in influencing the view-point of officials. It is at the same time felt that consistent with the above view, members of Parliament should not be permitted to go on Committees, Commissions, etc. which jeopardise their independence or which will place them in a position of power or influence or in a position where they receive some patronage from Government or are themselves in a position to distribute patronage[8].

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4. *Deorao Laxman Anande v. Keshav Laxman Borker,* A.I.R. 1958 Bombay 314; *see* also *Hansa Jivaraja Mehta v. Indubhai B. Amin,* 1 E.L.R. 171.
5. *In the matter* of Vindhya Pradesh Legislative Assembly Members, 4 E.L.R. 422(43 1).
6. These enactments were: the Parliament (Prevention of Disqualification) Act, 1950; the Parliament (Prevention of Disqualification) Act, 1951; and the Prevention of Disqualification (Parliament and Part C States Legislatures) Act, 1953.
7. Report of the Committee on Offices of Profit (Bhargava Committee), Part I, p. 2.
8. *Ibid.,* Part 1, p. 33. Also *see,* Lok Sabha Secretariat: *Office of Profit under the Government: A Disqualification for Membership of Parliament,* 1997.

The Committee recommended, *inter alia,* the introduction of a comprehensive Bill having schedules enumerating the different offices which should not incur disqualification, offices to which exemption was to be granted, and offices which would disqualify[9]. The Bhargava Committee felt that since a schedule of that nature could never be exhaustive or complete and frequent scrutiny would have to be made in cases of new bodies as well as the existing ones, a standing Parliamentary Committee should be appointed to undertake the work of such continuous scrutiny[10].

In pursuance of the recommendations of the Bhargava Committee, the Government introduced in the Lok Sabha the Parliament (Prevention of Disqualification) Bill on 5 December 1957. It was referred to a Joint Committee of the Houses and its Report was presented to the Lok Sabha on 10 September 1958.

The Bill, as introduced, did not contain any Schedules as recommended by the Bhargava Committee. The Joint Committee felt that the enactment should contain a Schedule enumerating the Government Committee whose membership would disqualify. The Joint Committee, accordingly, proposed a Schedule to the Bill, Part I of which enumerated the Committees, membership of which would entail disqualification and Part II, the Committees in which the office of Chairman, Secretary, or member of the Standing or Executive Committee would entail disqualification. The Joint Committee reiterated the recommendation of the Bhargava Committee for the appointment of a standing Parliamentary Committee to undertake the work of continuous scrutiny of the Schedule and of examining new offices[11].

The Bill, as further amended and passed by Parliament, received the assent of the President on 4 April 1959[12].

Keeping in view the cardinal principle that the disqualifications for membership should be on as wide a basis as possible, the three chief principles which operate as the main considerations affecting the law on the subject are:

incompatibility of certain non-ministerial offices with membership of the House (which must be taken to cover the question of a member's relations with, and duties to, his constituents);

the need to limit the control or influence of the Executive Government over the House by means of an undue proportion of office holders being members of the House; and

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9. *Ibid.,* p. 39.
10. *Ibid.,* p. 38.
11. Report of the Joint Committee on the Parliament (Prevention of Disqualification) Bill, 1957, p. vii.
12. The Parliament (Prevention of Disqualification) Act, 1959, repealed the earlier enactments on the subject. Besides the Parliament (Prevention of Disqualification) Act, 1959 that takes various offices outside the purview of articles 102(1)(a) and 191(1)(a), specific provisions exist by way of declaratory clauses made in particular enactments to the effect that offices created thereunder are deemed not to be an Office of Profit within the meaning of these articles. Some of these enactments include the Coffee Act, 1942, the Rubber Act, 1947, the Press Council Act, 1978, and the Wakf Act, 1995. [P.D.T. Achary: The Law on Offices of Profit, *The Parliamentarian,* 2007, (Issue Three, India), p. 39].

the essential condition of a certain number of Ministers being members of the House for the purpose of ensuring control of the Executive by Parliament[13].

For the duration of each Lok Sabha, a Joint Committee on Offices of Profit is set up to examine the composition and character of all 'Committees' subsequent to the ones examined by the Joint Committee to which the Parliament (Prevention of Disqualification) Bill, 1957, has been referred, membership of which may disqualify a person for being chosen as and for being a member of Parliament, and make necessary recommendation in that regard[14].

Before the constitution of this Committee, it was left to the Government to make necessary proposals in this connection in the shape of a Bill which was brought before Parliament. The main criterion taken into consideration by the Government to examine whether an office was an Office of Profit or not was the emoluments that a member was likely to receive if he held such an office. It was not a satisfactory position, insofar as other aspects of the matter such as position, power or patronage enjoyed by the holder of that office were also relevant factors to be taken into account even though there might not be any monetary advantage to the holder. Further, any Act on the subject could never be comprehensive inasmuch as, though it would crystalise the position on a particular date, cases might arise thereafter needing scrutiny. The Bhargava Committee had proposed that this matter should be taken out of the sphere of the Executive and vested in a Parliamentary Committee which could take an overall view, both politically and legally. Accordingly, the position was being kept under constant review by the Joint Committee on Offices of Profit which made recommendations in the matter from time to time[15].

Some of the important recommendations made by the Committee were:

In order to obviate the danger of members of Parliament incurring disqualification, Government should issue instructions[16] to all the Public Undertakings, whether fully or partially owned by them, to provide in their rules that M.Ps. serving on them shall not be entitled to any sum of money other than 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959[17].

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13. Report from the Select Committee on Offices or Places of Profit under the Crown, H.C. 1941, p. 13.
14. The Joint Committee on Offices of Profit (JCOP) was constituted for the first time during the Second Lok Sabha in August 1959. Thereafter, it was constituted in June 1962 (3rd L.S.), June 1967 (4th L.S.), July 1971 (5th L.S.), December 1980 (7th L.S.), May 1985 (8th L.S.), May 1990 (9th L.S.), September 1991 (10th L.S.), August 1996 (11th L.S.), July 1998 (12th L.S.), December 1999 (13th L.S.), August 2004 (14th L.S.), December, 2009 (15th L.S), December 2014 (16th L.S.) and September 2019 (17th L.S.). (No such Committee was constituted during the Sixth Lok Sabha).
15. For detailed working of the (JCOP) *see* Chapter 30—Parliamentary Committees. The Joint Committee presented five Reports each during the terms of the 2nd and the 3rd Lok Sabha, seven Reports during the 4th Lok Sabha, nineteen Reports during the 5th Lok Sabha, twelve Reports during the 7th Lok Sabha, nine Reports during the 8th Lok Sabha, thirteen Reports during the 10th Lok Sabha, three Reports during the 11th Lok Sabha, one Report during the 12th Lok Sabha, eight Reports during 13th Lok Sabha, eleven reports each during the 14th and 15th Lok Sabha and twenty eight reports during the 16th Lok Sabha.
16. The Government of India issued such instructions *vide* Ministry of Finance (Deptt. of Expenditure) O.M. No. F. 6 (26)-E 1V/39, 5-9-1960.
17. 1 R (JCOP—2LS), p. viii, paras 17-18.

The Parliament (Prevention of Disqualification) Act, 1959 should also enumerate in its Schedule the bodies whose membership would disqualify a person for being chosen as, or for being, a member of either House of Parliament[18].

The existing Parts I and II of the Schedule to the Parliament (Prevention of Disqualification) Act, 1959 may be combined into one part so that the Chairmen and Secretaries of all the bodies enumerated therein are excluded from exemption from disqualification. A new part may be added in the Schedule to the Act wherein those bodies may be specified whose Secretaries alone are not exempted from disqualification[19].

On 21 December 1973, the Government introduced in the Lok Sabha the Parliament (Prevention of Disqualification) Amendment Bill, 1973[20]. The Bill sought to implement the recommendations of the Joint Committee made during the Second, Third and Fourth Lok Sabha. Before introduction in the House, the Bill was considered by the Joint Committee and revised in the light of its observations. The Bill was passed by the Lok Sabha on 17 December 1974[21], and transmitted to the Rajya Sabha on 18 December 1974. It was pending in the Rajya Sabha till 18 January 1977, when on dissolution of the Lok Sabha, Bill lapsed as per the provision of article 107(5) of the Constitution.

Again on 19 May 1983, the Ministry of Law, Justice and Company Affairs forwarded a draft Parliament (Prevention of Disqualification) Amendment Bill, 1983 seeking to implement the recommendations of the Joint Committee on Offices of Profit contained in their (forty) Reports presented upto 11 August 1982. The Joint Committee considered the draft Bill and adopted their Tenth Report thereon on 27 April 1984 which was presented to the Lok Sabha and laid in the Rajya Sabha on 7 May 1984. The Bill *inter alia* sought to amend section 3 of the principal Act by substituting two schedules instead of one and incorporating various bodies recommended for disqualification. The draft Bill has not, however, been introduced in the Parliament so far.

To give effect to the recommendations of the Committee made in their Second Report (Tenth Lok Sabha), the Parliament (Prevention of Disqualification) Act, 1959 was amended in 1993.

Further amendments in the Act were also carried out in 1999[22], 2000[23] and 2006[24]. The Parliament (Prevention of Disqualification) Amendment Bill, 2013 providing for protection to the Offices of National Commission for the Scheduled Castes and National Commission for Scheduled Tribes separately, which hitherto protected under one Commission *i.e.* National Commission for the Scheduled Castes and Scheduled

18. 3 R (JCOP – 2LS), p. 2, para 10.
19. 1 R (JCOP – 3LS), p. 4, para 18.
20. *L.S. Deb.,* 21-12-1973, c. 241.
21. *L.S. Deb.,* 17-12-1974, c. 418.
22. Section 5 of The Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Amendment Act, 1998.
23. Section 5 of The Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Amendment Act, 2000.
24. The Parliament (Prevention of Disqualification) Amendment Act, 2006.

Tribes was passed by Rajya Sabha and Lok Sabha on 22 August 2013 and 06 September 2013, respectively.

In the usual sense of the word, an 'office' means "a right to exercise a public or private employment and to take fees and emoluments thereunto belonging"[25].

The expression "Office of Profit" only means an office which yields income or profit. The word "office" has been a subject matter of judicial consideration as back as in 1922. The expressions[26] "office" or 'employment', defined by Justice Rowlatt as one subsisting permanent, substantial position – which had an existence independent from the person who filled it, which went on, and was filled in succession by the successive holders.

"Profit" normally connotes any advantage, benefit or useful consequences. Generally, it is interpreted to mean monetary gain but in some cases benefits other than monetary gain may also come within its meaning. "Office of Profit" is one to which some power of patronage is attached or in which the holder is entitled to exercise the executive functions, or which carries dignity, prestige or honour to the incumbent thereof.

The expression "Office of Profit" has not been defined in the Constitution or in the Representation of the People Act, 1951, or in the Parliament (Prevention of Disqualification) Act, 1959, evidently because it is not easy to frame an all embracing definition, covering all the different kinds of posts which exist under Government and those which might hereafter be created. Broadly speaking, it signifies that Government must not be in a position to seduce a member by placing him in a position where he can exercise authority, where he thinks he is somebody important, even if he gets no pecuniary remuneration[27]. However, courts and other authorities have enunciated certain broad criteria in this connection in their judgments from time to time, and these are set out as follows:

> Three things have to be proved before a person can be held to incur disqualification—that he holds an office; that it is an Office of Profit; and that it is an office under the Government of India or the Government of a State[28].
>
> In order to bring a case for disqualification, the 'element of profit' is not enough by itself. It must first be proved that what was held was an 'office'.
>
> Further, the essential requirement is that the candidate himself must hold the 'office'. The 'office' cannot be held in *benami*[29].
>
> An "Office of Profit" means an employment with fees and emoluments attached to it[30]. Hence, where pay or salary is attached to an office, it immediately and indisputably makes the office an "office of profit"[31].

25. Stroud's *Judicial Dictionary* (1953 Edition).
26. Great Western Railways Co. v. Bater (1922) Tax Cases 231.
27. *See H.P. Deb.,* 24-12-1953, *c*. 3114.
28. *Deorao Laxman Anande v. Keshav Laxman Borker, op. cit., see* also *Bhaironlal vs. Doongarsidas,* A.I.R. 1959 Rajasthan 250; and *S. Umrao Singh v. Darbara Singh,* A.I.R. 1968 Punjab and Haryana 450.
29. *Yugal Kishore Sinha v. Nagendra Prasad Yadav, A.I.R.* 1964 Patna 543.
30. *Bejaysingh v. Narbada Charan Lal,* 2 E.L.R. 426; *see* also *Ravanna v. Kaggudappa,* A.I.R. 1954 S.C. 653 (657).
31. Bhargava Committee Report, Part I, p. 11.

> In order that an office may be "an Office of Profit" it is not necessary that there must be some sort of regularity of income; neither is it necessary that there should be actual making of profit by the incumbent; it is enough if the holder of the office may reasonably be expected to make a profit out of it[32].

The Rajasthan High Court held:

> In order that an office may be an Office of Profit, it is not necessary that there must be a fixed pay attached to the office. If the holder of the office can charge any fee or remuneration for exercising the functions of his office, he holds an office of profit[33].
>
> The word "profit" in the present context does not necessarily mean any remuneration in cash, but it certainly means some kind of advantage or gain which is tangible or which can be perceived. Hence, the mere influence which one gains by virtue of his position as member of a Committee which has no remuneration attached to it, is not profit within the meaning of article 102 or 191, and the member of such a Committee would suffer no disqualification by being a member thereof[34].
>
> To constitute an "Office of Profit" for the purpose of incurring disqualification, prestige and like advantages alone attached to the office will not suffice. Pecuniary advantage is an essential element, and once there is or there can be pecuniary gain, its quantum is immaterial[35].
>
> The expression "Office of Profit" has been held to mean an office capable of yielding a profit or from which a man might reasonably be expected to make a profit. The actual making of profit is not necessary. Profit means gain or any material benefit, and the amount of such profit is immaterial[36].
>
> The essential characteristics of an "Office of Profit" are—it involves an appointment by the State in one form or the other; it carries emoluments payable mostly periodically; it is for a limited period; it is terminable; it is not assignable; it is not heritable; and the holder of the office must be *sui juris*[37].

The emoluments may be in the nature of pay, salary, honorarium, fees, daily allowance, travelling allowance, reimbursement of expenses or compensatory allowance.

> As already stated, where pay or salary is attached to an office, it immediately and indisputably makes the office an "office of profit"[38].
>
> If consideration is paid in the shape of 'sitting fee' or 'attendance fee', not being daily allowance, it becomes a 'profit' inasmuch as it does not even purport to cover any actual expenses. Such consideration or remuneration is deemed to

32. *Thakur Daoosing v. Ramkrishna Rathor,* 4 E.L.R. 34.
33. *Hotilal v. Rai Bahadur,* 15 E.L.R. 55; Equivalent citations: A.I.R 1959 Raj 227.
34. *Chander Nath v. Kunwar Jaswant Singh,* 3 E.L.R. 1947.
35. *Shivaram Keoranthi v. Venkataramana Gowda,* 3 E.L.R. 187, *see* also *Upendra Lal v. Smt. Narainee Devi,* A.I.R. 1968 Madhya Pradesh 89.
36. *Deorao Laxman Anande* v. *Keshav Laxman Borker*, op.cit.
37. Election Tribunal Ajmer, in *Gulam Chand Chordia vs. Thakur Narain Singh,* 6 E.L.R. 397.
38. Bhargava Committee Report, Part I, p. 11.

constitute 'profit' even though, on detailed accounting, it may be found that no financial advantage has, in fact, been gained by the member in question[39].

Travelling allowances do not act as a disqualification if one draws not more than what is required to cover the actual out-of-pocket expenses. House rent allowance and conveyance allowance are not profits as the allowances are utilised for the purposes of paying the house rent and meeting conveyance charges; they do not give a pecuniary benefit to the person to whom they are paid. If the quantum of daily allowances is such as not to be a source of income, no disqualification shall be incurred[40].

The payment of a 'sitting fee' of Rs. 25 in addition to travelling allowance/ daily allowance has been deemed to constitute 'profit'[41]. Even when the amount payable by way of sitting fee/daily allowance is well below the 'compensatory allowance'[42], in coming to a conclusion whether an office ought to be exempted from disqualification, the Joint Committee on Offices of Profit have taken into account, besides 'compensatory allowance', other criteria such as whether the office involves exercise of executive and financial powers and thereby enables the holder to wield influence and patronage[43]. Where the holder of an office is not in a position to wield this influence and patronage and is also not entitled to any remuneration other than the 'compensatory allowance', he does not incur disqualification by receiving the allowance.

The Joint Committee on Offices of Profit have been following the undernoted criteria for deciding the question as to which of the offices should disqualify and which should not disqualify a person for being chosen as and for being a member of Parliament:

(i) Whether the holder draws any remuneration like sitting fee, honorarium, salary, etc., *i.e.* any remuneration other than the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959;

[The principle thus is that if a member draws not more than what is required to cover the actual out-of-pocket expenses and does not give him pecuniary benefit, it will not act as a disqualification];

(ii) Whether the body in which an office is held exercises executive, legislative or judicial powers or confers powers of disbursement of funds, allotment of lands, issue of licences, etc. or gives powers of appointment, grant of scholarships, etc.; and

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39. Chief Election Commissioner, *in the matter of* Vindhya Pradesh Legislative Assembly Members, 4 E.L.R. 422.

40. Bhargava Committee Report, Part 1, pp. 11-12.

41. 5R (JCOP—4LS), para 16.

42. Compensatory allowance means any sum of money payable to the holder of an office by way of daily allowance (such allowance not exceeding the amount of daily allowance to which a member of Parliament is entitled under the Salaries and Allowances of Members of Parliament Act, 1954), any conveyance allowance, house rent allowance or travelling allowance for the purpose of enabling him to recoup any expenditure incurred by him in performing the functions of that office—-*see* Parliament (Prevention of Disqualification) Act, 1959, s. 2(a).

43. 1R (JCOP—5LS), para 26.

(iii) Whether the body in which an office is held wields influence or power by way of patronage.

If reply to any of the above criteria is in the affirmative, then the offices in question will entail disqualification[44].

A person appointed to an office to which some remuneration is attached incurs disqualification whether he accepts payment or not[45].

The word "office" does not necessarily imply that it must have an existence apart from the person who may hold it. There could be cases where in order to make use of the special knowledge, talent, skill or experience of certain persons, posts are created which exist only for so long as these persons hold them. It will be difficult to hold that such persons are not holders of offices. Hence, the mere fact that a post which a person holds will cease to exist as soon as he gives it up or that another person cannot be appointed to that post is not a ground for holding that the person does not hold an " office"[46].

In this connection, the Supreme Court observed:

> The word "office" has various meanings depending upon its context. The words "its holder" occurring in article 102(1)(a) or 191(l)(a) indicate that there must be an office which exists independently of the holder of the office. Further, the very fact that the Legislature of a State has been authorised by article 191 to declare an Office of Profit not to disqualify its holder, contemplates existence of an office apart from its holder. In other words, the Legislature of a State is empowered to declare that an Office of Profit of a particular description or name would not disqualify its holder and not that a particular holder of an Office of Profit would not be disqualified[47].

The Allahabad High Court has held that the engagement of a person by the All India Radio as a Part-Time Correspondent did not amount to his appointment to an office, where the duties of Part-Time Correspondent were assigned to him in his individual capacity for the time being and after the termination of his employment no one was employed as Part-Time Correspondent[48].

A person incurs disqualification only if he holds an Office of Profit under the Government of India or the Government of a State[49]. No such disqualification is incurred if the office is held under any local or other authority subject to the control of the said Government. Holding office under statutory corporations need not necessarily mean holding office under the Government even though the initial capital of the corporations is contributed by the Government, the members of the corporation are appointed by the Government and the Government have very large powers of control and supervision over the activities of the corporation[50].

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44. 10 R (JCOP—7LS), paras 10.5 and 10.6.
45. Bhargava Committee Report, Pt. I. p. 13.
46. *Deorao Laxman Anande* v. *Keshav Laxman Borker,* op. cit.
47. *Smt. Kanta Kathuria* v. *Manak Chand Surana,* A.I.R. 1970, S.C. 694.
48. *Brahma Dutt* v. *Paripurna Nand Painuli* A.I.R. 1972, Allahabad 340.
49. Art. 102(1) (a).
50. Madras High Court in *Narayanaswamy Naidu* v. *Krishna Murthy,* 14 E.L.R. 21.

However, the Supreme Court in *A.K. Bhattacharya's case*[51] seems to lay emphasis on the measure and nature of control of the Government on the local body in determining whether an office therein is an Office of Profit or not:

The principle behind the provision in article 102(1)(a) is that there should not be any conflict between the duties and the interest of an elected member. In order to judge whether employees of any local authority or other authority under the control of Government become holders of Office of Profit under the Government for the purpose of article 102(1)(a), the measure and nature of control exercised by the Government over the employee must be judged in the light of the facts and circumstances in each case so as to avoid any possible conflict between his personal interests and duties of the Government.

The object of enacting provisions like article 302(1)(a) is that a person who is elected to Parliament or a Legislature should be free to carry on his duties fearlessly without being subjected to any kind of governmental pressure. The measure of control by the Government over a local authority should be judged in order to eliminate the possibility of conflict between duty and interest and to maintain the purity of the elected bodies.

It has also been held by the Supreme Court that all the determinative factors need not be conjointly present. The critical circumstances, not the total factors, prove decisive. A practical view, not pedantic basket of tests, should guide in arriving at a sensible conclusion[52].

The Supreme Court, in several decisions[53], has laid down the tests for finding out whether an office in question is an office under a Government and whether it is an Office of Profit. Those tests are:

(i) Whether the Government makes the appointment;

(ii) Whether the Government has the right to remove or dismiss the holder;

(iii) Whether the Government pays the remuneration;

(iv) What are the functions of the holder—Does he perform them for the Government; and

(v) Does the Government exercise any control over the performance of those functions[54].

A distinction is ought to be made between the holder of an Office of Profit under the Government and holder of a post or service under the Government.

To determine whether an office is under the Government, it is not necessary to see whether the Government have some disciplinary or supervisory powers over the incumbent of the office[55].

51. *Ashok Kumar Bhattacharya* vs. *Ajoy Biswas,* A.I.R. 1985, S.C. 211.
52. *Madhukar G.E. Pankakar* vs. *Jaswant Chobbidas Rajan,* A.I.R. 1976, S.C. 2283.
53. *Maulana Abdul Shakoor* vs. *Rikhab Chand & Anr./SCR* (1958); *M. Ramappa* v. *Sangappa & Ors.* SCR (1959); *Guru Govinda Basu* vs. *Shankari Prasad Ghosal & Ors./SCR* (1964).
54. *Shivamurthy Swami* vs. *Sanganna,* (1971) S.C.C. 870.
55. Chief Election Commissioner, *in the matter* of Vindhya Pradesh Legislative Assembly Members, 4 E.L.R. 422.

For the purpose of determining whether an Office of Profit is under the Government, primarily it has to be seen whether Government have the power to appoint a person to that office and remove him from that office. In this connection, the Supreme Court, in one of the cases, observed:

> The power of the Government to appoint a person to an Office of Profit or to continue him in that office or revoke his appointment at their discretion, and payment from out of Government revenues, are important factors in determining whether that person is holding an Office of Profit under the Government, though payment from a source other than Government revenues is not always a decisive factor[56].

Elaborating the case law on this point, the Supreme Court, in another case, observed:

> For holding an Office of Profit under the Government, one need not be in the service of Government and there need be no relationship of master and servant between them.
>
> The decisive test for determining whether a person holds any Office of Profit under the Government is the test of appointment. It is not correct to say that the several factors which enter into the determination of this question (that is, the appointing authority, the authority vested with power to terminate the appointment, which determines the remuneration, the source from which the remuneration is paid, and the authority vested with power to control the manner in which the duties of the office are discharged and to give directions in that behalf) must all co-exist and each must show subordination to Government and that if one of the elements is absent, the test of a person holding an office under the Government, Union or State, is not satisfied. The circumstance that the source from which the remuneration is paid is not from public revenue is a neutral factor—not decisive of the question. Whether tests will be held on one factor or the other will depend on the facts of each case. However, where the several elements, the power to appoint, the power to dismiss, the power to control and give direction as to the manner in which the duties of the office are to be performed, and the power to determine a question of remuneration are all present in a given case, then it must be held that the officer in question holds the office under the authority so empowered[57].

The Office of Profit for the purpose of disqualification must be under the Government with the result that should the office be under some personality jurisdically distinct from the Government, such an office would not attract disqualification[58].

On a reference made by the President of India, the Chief Election Commissioner opined that even if the office of the Mayor of Pondicherry was capable of being regarded as an Office of Profit by virtue of the allowances attached to it, it could not be regarded as an office under the Government. Therefore, a member of the Legislative

56. *Maulana Abdul Shakoor* vs. *Rikhab Chand,* A.I.R. 1958 S.C. 52. *See* also *Hansa Jivaraja Mehta* vs. *Indubhai B. Amin,* 1 E.L.R. 171; and *Krishnappa* v. *Narayan Singh,* 7 E.L.R. 294.

57. *Guru Gobinda Basu* v. *Sankari Prasad Ghosal,* A.I.R. 1964 S.C. 254.

58. *Gopala Kurup* v. *Samuel Arulappan Paul,* 1961 K.I.J. 288.

Assembly of Pondicherry was not disqualified for being a member by reason of his holding the office of the Mayor of Pondicherry[59].

The appointment made by an authority other than in his capacity in which he exercises the executive power of the State, cannot be deemed to be an appointment made by Government[60]. Thus, the office of Vice-Chancellor does not entail any disqualification. The Vice-Chancellor is appointed by the Governor in his capacity as the Chancellor of the University, distinct from his office as head of the Executive, and the appointment is deemed not to have been made by, nor is the office of the Vice-Chancellor said to be, under the State Government[61].

Members of Parliament and State Legislatures have been held not to be holding Office of Profit as they are neither appointed by the Government nor are they removable by the Government although they draw their salaries and allowances from Government revenues[62].

For almost similar reasons, the Allahabad High Court has held that the Chairman of the Legislative Council, Uttar Pradesh, does not hold any Office of Profit under the State Government[63].

Further, the Joint Committee on Offices of Profit, at their sitting held on 15 July 1988, decided that all the Ministries of Government of India and the State Governments might be asked to obtain prior approval of the Speaker, Lok Sabha or the Chairman, Rajya Sabha, as the case may be, before nominating any member of Parliament to any Government Committee/Body unless the Act under which such Committee/Body has been set up provides for appointment of member or where members of Parliament are saved from incurring disqualification by the provisions in the relevant Act itself as is the case with the Rubber Board, Coffee Board, Tea Board, etc.

Thus, requests are received from the Central/State Governments seeking the Speaker's approval to the nomination of members of Parliament on various Committees/ Bodies constituted by them. These requests are placed before the Committee with a view to examining whether the Office of Member/Director/Chairman of the Government Body in question constitutes an Office of Profit under the Government which would disqualify the member from being a member of Parliament. Requests from members seeking clarification about the Office of Profit under Government are also examined by the Committee and members are apprised of the decision of the Committee.

An assessor is not disqualified because he does not hold an Office of Profit under the Government but merely gives assistance to the State in the administration of justice[64].

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59. E.L.R. Vol. XXVI, p. 297.
60. *Joti Prasad Upadhyaya* v. *Kalka Prasad Bhatnagar,* A.I.R. 1962, Allahabad 128.
61. *Ibid.*
62. *Bholanath* vs. *Krishna Chandra Gupta,* 6 E.L.R. 104; *Ramnarain Ramgopal Chamediya* vs. *Shri Ramchandra Jagoba Kadu,* A.I.R. 1958, Bombay 325.
63. *D.S. Awasthi* vs. *Virendra Swaroop,* A.I.R. 1976, Allahabad 26.
64. *Isher Singh* vs. *Manjit Inder Singh,* 7 E.L.R. 90; *Faquir Chand* v. *Pritam Singh* 7 E.L.R. 119; *Kishanlal Lamror* vs. *Madan Singh,* 10 E.L.R. 49.

A person serving as a teacher in a grant-in-aid school does not hold an office of profit under the Government merely because the school receives grants from the Government for payment of a portion of the dearness allowance and the pay of teachers. The most important test for determining whether an office is held under the Government is whether the power of appointment and dismissal vests in the Government[65].

If a particular post is created by the Government and then a grant of land is made to the person holding that post to remunerate him for his service *in lieu of* cash payment, then it may be held that he is holding an office under the Government because in such a case it is the office which is created first and then it is determined by the Government how to remunerate the office holder for his services. If, however, a grant of land is made by the Government to a certain person out of regard for his meritorious service or some other personal consideration for the grantee and if in such a case some service is also required from him, then it cannot be said that he is holding any particular office under the Government. In the second case, he is primarily a grantee and the service, if any, required from him is subsidiary and it is only a term attached to that grant[66].

An ex-Ruler of an Indian State who received a sum of money annually as privy purse from the Union Government did not hold an Office of Profit under the Government within the meaning of article 102 or 191[67].

A person is disqualified for being chosen as a member of Legislature if he holds an Office of Profit under the Government at the time of filing his nomination paper[68]. The disqualification is not removed on his submitting an unqualified resignation of his office or by ceasing to work but only when the resignation has been accepted by the proper authority prior to the filing of the nomination paper[69]. The disqualification is not removed if the resignation has been accepted by an authority not competent to accept it. In such a case, the acceptance of the resignation is invalid and the person submitting his resignation will be disqualified since he must be considered to have continued to hold office[70].

As opposed to offices to which certain duties are attached more or less of a permanent character, there are offices which are of a transient, occasional or contractual nature, *e.g.*, lawyers engaged by the Government; technical advisers to the Government for specific projects; authors commissioned by the Government to write articles, guide books, etc.; persons engaged in giving broadcasts from All India Radio; Medical practitioner working as a Panel Doctors appointed under Employees State Insurance (ESI) and the like.

The work of writing of a book by a member of Parliament is not an office and payment of remuneration by the Government does not make it an Office of Profit under

65. *Krishnappa* vs. *Narayan Singh,* 7 E.L.R. 294.
66. *Bhaironlal* vs. *Doongarsidas,* A.I.R. 1959, Rajasthan, 250.
67. *Daulatram* vs. *Maharaja Anand Chand,* 6 E.L.R. 87.
68. Election Tribunal, Behrampur, in *Ram Murty* vs. *Sumbha Sardar,* 2 E.L.R. 330.
69. *Ibid.*
70. Election Tribunal, Rajnandgaon, in *Thakur Daoosing* vs. *Ramkrishna Rathor,* 4 E.L.R. 34.

the Government[71]. A lawyer who is an approved Railway pleader, that is, a pleader who is engaged by the Government for conducting Railway cases, who does not receive any retaining fee but only a fee for the cases conducted, does not hold an Office of Profit under the Government[72]. Similarly, an advocate appointed as the Special Government pleader to assist the Government pleader, in a particular case, does not hold an Office of Profit[73].

A person who undertakes to execute some work under the Public Works Department and enters into a contract deed with the Government to that effect does not hold office under the Government[74].

Article 102 or article 191 recognises the power of Parliament or the Legislature of a State to declare by law that the holder of an office would not be disqualified for being chosen as a member. There is nothing in the words of either article to indicate that this declaration cannot be made with retrospective effect. The word "declared" in these articles does not imply any limitation on the powers of Parliament or the State Legislature; declaration can be made effective as from an earlier date. In relation to the power to validate election retrospectively by law, the Supreme Court observed—

> It is true that it (the power) gives an advantage to those who stand when the disqualification was not so removed as against those who may have kept themselves back because the disability was not removed. That might raise questions of the propriety of such retrospective legislation but not of the capacity to make such laws[75].

According to the scheme for the conduct of elections, the Supreme Court has held that the candidate should not be not-qualified or disqualified when the scrutiny of nominations is taken up by the returning officer for the purpose of finalising the list of nominated candidates. This, in the opinion of the Court, is the proper construction to put on the words "the date fixed for the scrutiny of nominations". A broad and liberal interpretation must be given to S.3 6(2) (a) in order to give full effect to the parliamentary intent. Accordingly, the Court held that as the resignation of appellant must be treated as having taken effect before the scrutiny of the nominations was commenced, the appellant cannot be regarded as holding an Office of Profit at the relevant time[76].

The object of enacting article 191(l)(a) is plain. A person who is elected to a Legislature should be free to carry on his duties fearlessly without being subjected to any kind of Government pressure. If such a person was holding the office which brings him remuneration and the Government has a voice in his continuance in that office, there was every likelihood of such person succumbing to the wishes of the Government. For holding the Office of Profit under the Government, a person need not be in the services of the Government and there need not be any relationship of master and servant between them[77].

71. Joint Committee on Offices of Profit, First Report, 1963, p. 3. For details *re.* the formation and functions of the Joint Committee on Offices of Profit, *see* Chapter 30—'Parliamentary Committees.'
72. Election Tribunal, Allahabad, in *Govinda Malviya* vs. *Murli Manohar,* 8 E.L.R. 89.
73. *Kanta Kathuria* vs. *Manak Chand Surana* A.I.R 1970 S.C. 694.
74. *Jaineswar Bora* vs. *Returning Officer,* A.I.R. 1975 Gauhati 61.
75. *Kanta Kathuria* vs. *Manak Chand Surana,* A.I.R. 1970 S.C. 694 (at p. 698).
76. *Ram Swarup* vs. *Hari Ram and Others,* (1983) 3 S.C.C. 373.
77. *Biharilal Dobray* vs. *Roshan Lal Dobray,* (1984) 1 S.C.C. 551.

The dissolution of the existing Lok Sabha is not a condition precedent for holding a General Election to it. It is no doubt true that article 102 (1) (a) says that if a person holds any Office of Profit under the Government of India or the Government of any State other than an office declared by Parliament by law not to disqualify its holder, he is disqualified for being chosen as and for being a member of either House of Parliament. In any event, the membership of Parliament is not an office under the Government. So, the fact that the Lok Sabha had not been dissolved on the date on which the election was held would not amount to a disqualification in case of a member of the Lok Sabha for being a candidate at the next general election[78].

In another case, the Supreme Court was of the opinion that the State Government did not exercise any control over officers like Accountant-in-charge and that he continued to be an employee of the municipality though his appointment was subject to confirmation by the Government[79].

The holder of the office of the Chief Parliamentary Secretary was not disqualified for being chosen as a member of the Assembly under "the Act of 1971". That being the legal position, it could not be said that the respondent was not qualified to be elected as a member of "the Assembly". As such, the respondent was entitled to hold the office of Chief Parliamentary Secretary to the Government of Himachal Pradesh even after dissolution of the Legislative Assembly[80].

In yet another case[81], the Supreme Court held that an Office of Profit is an office which is capable of yielding a profit or pecuniary gain. Holding an office under the Central or State Government, to which some pay, salary, emoluments, remuneration or non-compensatory allowance is attached, is "holding an Office of Profit". Nomenclature is not important. If the "pecuniary gain" is "receivable" in connection with the office then it becomes an Office of Profit. The court further held the fact that whether the petitioner is affluent or was not interested in the benefits/facilities given by the State Government or did not, in fact, receive such benefits till date, are not relevant to the issue.

The Joint Committee to examine the Constitutional and Legal Position relating to Office of Profit

On 31 July 2006, during the reconsideration of the Parliament (Prevention of Disqualification Amendment) Bill by the Lok Sabha, an assurance was given on the floor of the House that the various points raised in the message of the Hon'ble President would be examined by the Joint Committee of both the Houses of Parliament. Accordingly, the Minister of Law and Justice moved a motion in the Lok Sabha on 17 August 2006 for constitution of Joint Committee to examine the constitutional and legal position relating to Office of Profit and the motion was adopted by the House on the same day. The motion regarding the appointment of the Committee was concurred in Rajya Sabha on 18 August 2006. Thus, a Committee of 15 members of Parliament (10 from Lok Sabha and 5 from Rajya Sabha) was constituted to examine

78. *Bhagawati Prasad Dixit 'Ghorewala'* vs. *Rajeev Gandhi,* A.I.R 1986 S.C. 1534.
79. *Ashok Kumar Bhattacharya* vs. *Ajoy Biswas,* A.I.R. 1985, S.C. 211.
80. *Leela Devi* vs. *Rangila Ram Rao,* A.I.R. 1985 H.P. 21 (at page 25).
81. *Jaya Bachchan* vs. *Union of India,* A.I.R. 2006 S.C. 2119.

the Constitutional and Legal Position Relating to Office of Profit with the following terms of reference:—

(i) to examine, in the context of settled interpretation of the expression "Office of Profit" in article 102 of the Constitution and the underlying constitutional principles therein, and to suggest a comprehensive definition of "Office of Profit."

(ii) to recommend, in relation to "Office of Profit," the evolution of generic and comprehensive criteria which are just, fair and reasonable and can be applied to all States and Union Territories;

(iii) to examine the feasibility of adoption of system of law relating to prevention of disqualification of members of Parliament as existing in the United Kingdom and considered by the Constitution (Forty-second Amendment) Act, 1976; and

(iv) To examine any other matter incidental to the above.

After deliberating upon the above terms of reference, the Committee made *inter alia* certain observations and recommended[82] the amendment of article 102(1)(a).

82. Observations/Recommendations of the Committee:—

(i) A precise definition of Office of Profit is very necessary, primarily because without knowing what constitutes an Office of Profit and what does not, the exercise of giving exemptions from holding any Office of Profit seems to be a vacuous one.

(ii) The Committee have strongly felt that while defining an Office of Profit it is also essential to identify the generic criteria of the offices/posts which would not constitute Offices of Profit or in other words which would not be deemed as Offices of Profit. And this aspect has to be the part of the definition itself. Accordingly, the Committee have identified the following three categories of offices which should not be deemed to be Offices of Profit:—

1. Minister for the Union or for States.

2. Office in Parliament or State Legislatures.

3. Advisory Offices in Union or States.

(iii) The Committee have recommended that article 102(1)(a) should be amended on the following lines:—

Article 102(1)

"A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament"

(a) If he holds any Office of Profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder.

I. Provided that the holder of such office should not draw any salary/ remuneration except for compensatory allowance;

II. Provided further that a person shall not be deemed to hold an Office of Profit under the Government of India or the Government of any State by reasons only that—

(i) he is a Minister for the Union or for such a State;

(ii) he is holding an office in Parliament or such a State Legislature;

(iii) he is holding an advisory office for the Union or for such a State.

Explanation:— For the purposes of this clause—

(a) "*Office of Profit*" means any office—

(i) Under the control of the Government of India, or the Government of a State, as the case may be, whether or not the salary or remuneration for such office is paid out of the public revenue of the Government of India or of the Government of State; or

(ii) Under a body, which is wholly or partially owned by the Government of India or the Government of any State and the salary or remuneration is paid by such body; and

The Committee opined that article 191(1)(a) may also be amended on the similar lines in order to maintain uniformity. The Committee submitted its Report to the Parliament on 22 December 2008.

The recommendation of the Joint Committee to Examine the Constitutional and Legal Position Relating to Office of Profit was forwarded to the Government of India for necessary action.

Comprehensive Review of Parliament (Prevention of Disqualification) Act, 1959 by Joint Committee on Offices of Profit (16th Lok Sabha)

The Joint Committee on Offices of Profit during its term in 16th Lok Sabha examined the Parliament (Prevention of Disqualification) Act, 1959 and presented the 28th Report *viz.,* 'A Comprehensive review of Parliament (Prevention of Disqualificatin) Act, 1959— Way Forward' to the Lok Sabha and Rajya Sabha on 9th August 2018. The Committee after suggesting changes in the Act, recommended to the Ministry of Law and Justice to initiate action on priority basis to incorporate the definition of expression 'Office of Profit' as per the recommendations of the *'Joint Parliamentary Committee to examine the Constitutional and Legal Position relating to Office of Profit'*. A recommendation was made to the Ministry of Law and Justice to bring in a new legislation as the language and format of the Parliament (Prevention of Disqualification) Act, 1959 needs to be simplified and amended comprehensively.

(A) the holder of which is capable of exercising executive powers delegated by the Government including disbursement of funds, allotment of lands, issuing of licenses and permits or making of public appointments or granting of such other favours of substantial nature; or legislative, judicial or quasi- judicial functions; and/or

(B) the holder under (i) or (ii) is entitled to draw salary or remuneration irrespective of whether he actually receives it.

(b) "offices in Parliament and State Legislature" means the offices which are directly connected with the discharge of legislative functions in Parliament or in a State Legislature *e.g.* office of Leader of Opposition in Parliament, office of Leader and Deputy Leader of Party and recognized Parties/Groups in Parliament, the Chief Whips, Deputy Chief Whips or Whips in Parliament/ State Legislature, etc. "salary" means salary or pay scale attached to the office whether or not the holder of such an office draws such salary.

(c) "remuneration" means any pecuniary gain commensurate with the status and responsibilities attached to the office, but shall not include the expenditure incurred on staff and infrastructure for running office.

(d) "compensatory allowance" means any sum of money payable to the holder of an office by way of daily allowance (such allowance not exceeding the amount of daily allowance to which a member of Parliament is entitled) under the [Salaries and Allowances and Pensions of Members of Parliament Act, 1954 (30 of 1954)] any conveyance allowance, house rent allowance or travelling allowance for the purpose of enabling him to recoup any expenditure incurred by him in performing the functions of that office.

(e) "advisory office" means any office (by whatever name called) which is associated with purely giving counsel or recommendation on any particular subject/policy, in respect of any matter of public importance/interest and no salary or remuneration except for compensatory allowance is attached with it.

(*See* Report of the *Joint Committee to examine the Constitutional and Legal Position relating to Office of Profit* (14th LS), Lok Sabha Secretariat, December 2008)

CHAPTER 7

Presiding Officers of Lok Sabha

Office of the Speaker

The institution of Speaker, or President[1] dates back to 1921 when the Central Legislative Assembly was constituted for the first time under the Montague-Chelmsford Reforms. Previously, it was the Governor-General of India who used to preside over the sittings of the Legislative Council[2].

Under the statutory provisions, the Speaker of the Legislative Assembly was to be elected by the House except for the first four years when he was to be appointed by the Governor-General[3]. While the appointed Speaker could be removed from office by order of the Governor-General, the elected Speaker could be removed only by a vote of the Assembly with the concurrence of the Governor-General. It was also provided that an elected Speaker would cease to hold office if he ceased to be a member of the Assembly. The Speaker could resign in writing, addressed to the Governor-General[4].

Sir Frederick Whyte, a member of the House of Commons, known for his ability, special qualifications and a deep knowledge of parliamentary procedure, was nominated and appointed by the Governor-General as the first Speaker of the Central Legislative Assembly for a period of four years[5].

The rule regarding the election of the Speaker was made for the first time in 1925 by the Governor-General[6].This rule filled a lacuna in the original procedure and laid down the method of nomination and election of the Speaker and prescribed the stages of the election[7].

> All elections to the Office of the Speaker of the Legislative Assembly from 1925 to the time when the Assembly ceased to exist on the coming into force on 15 August 1947, of the Indian Independence Act, 1947, were held in accordance with the procedure prescribed in the aforesaid rule. The election was held by ballot on a day fixed by the Governor-General[8]. The outgoing Speaker would announce the names of the candidates together with the names of the proposers and seconders. Voting used to take place in the House itself

1. For the sake of convenience and to avoid any confusion, the term "Speaker" has been used interchangeably in the text for the "President" of the Legislative Assembly, as he was called till 1947.
2. The Indian Councils Act, 1861, authorized the Governor-General, in the case of his anticipated absence from headquarters, to appoint someone as Presiding Officer of the Council—*see* 24 & 25 Vict. C. 67 s.7.
3. This was in pursuance of the recommendation of the Joint Select Committee of the British Parliament on the Government of India Bill, 1919.
4. *See* s. 63 C as set out in the Ninth Schedule to the Government of India Act, 1935.
5. He took oath of his office on 3 February 1921, and his tenure lasted till 1925—M.N. Kaul, "Growth of the Position and Powers of the Speaker", *Hindustan Times,* 24 January1954.
6. *See* Indian Legislative Rules, rule 5A.
7. *See* Frederick Whyte: *Manual of Business and Procedure, op.cit. p*. 11.
8. Indian Legislative Rules, rule 5A(1) and (3).

with the ballot box placed at the Table. One by one the members would be called by the Presiding Officer and ballot papers handed over to them by the Secretary of the Assembly. After all the members had recorded their votes one by one, in secrecy, in a room behind the Speaker's Chair and placed them in the ballot box, the ballot papers were scrutinised and counted by the Presiding Officer and the result announced immediately. On receipt of a message from the Governor-General approving the election, the message would be read out by the Presiding Officer whereafter the Speaker-elect would take the Chair.

Vithalbhai J. Patel was the first non-official member to be elected as the Speaker of the Legislative Assembly on 24 August 1925[9]. He was put up for Speakership by the Swarajist Party. The election was a keenly contested one and T. Rangachariar lost by a narrow margin of two votes to Patel who secured 58 votes[10]. The outgoing Speaker, Sir Frederic Whyte presided over the sitting of the House when the election of Patel took place. The election was approved by the Governor-General, the same day, *i.e.* 24 August 1925, and Patel took the charge immediately. Vithalbhai Patel was re-elected Speaker of the Assembly on 20 January 1927. During his first term of office, he had established a good reputation as a Presiding Officer and his position had become so unchallenged that in spite of many of his rulings which, though remarkable, were not to the liking of the Government of the day, he was unanimously re-elected both by the official as well as non-official members of the Assembly[11].

Speaker Patel resigned his office[12] on 28 April 1930. He was succeeded by Sir Muhammad Yakub on 9 July 1930[13] but he stayed only for one session, the seventh and the last session of the Third Legislative Assembly. On 17 January 1931, the Assembly elected Sir Ibrahim Rahimtoola as its Speaker[14]. Sir Ibrahim resigned on 7 March 1933, on grounds of health. He was succeeded by Shanmukham Chetty who was elected unanimously on 14 March 1933[15]. Sir Abdur Rahim, who was elected Speaker on 24 January 1935[16], occupied the high office for a longer period *i.e.* for ten years. The life of the Assembly was extended from time to time, first on the ground of contemplated constitutional changes and later for the reason that as the Second World War was going on it would not be proper to disturb the country's political situation by holding elections[17].

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9. The Central Legislative Assembly consisted of 145 members out of whom 104 were elected and the rest nominated. Amongst the nominated members, 26 were official and the rest non-official.
10. *L.A. Deb*., 24-8-1925, pp. 22-23.
11. *L.A. Deb*., 20-1-1927, p. 10.
12. He resigned in support of Mahatma Gandhi's call for Civil Disobedience Movement of 1930. While sending his letter of resignation to Lord Irwin, he had remarked, "Apart from these considerations, in the grave situation that has arisen in the country, I feel that I would be guilty of deserting India's cause at this critical juncture, if I were to continue to hold the office of the President of the Assembly."—Vithalbhai Patel, published by Publication Division, p.146.
13. Sir Muhammad Yakub secured 78 votes and his opponent Dr. Nand Lal got 22—*see L.A. Deb.,* 9-7-1930, p. 29.
14. Sir Ibrahim Rahimtoola secured 76 votes as against 36 secured by Dr. Hari Singh Gour—*see L.A. Deb.,* 17-1-1931, p. 36.
15. *See L.A. Deb.,* 14-3-1933, p. 2044.
16. Sir Abdur Rahim got 70 votes as against 62 secured by T.A.K. Sherwani—*see L.A. Deb.,* 24-1-1935, p. 106.
17. The tenure of the Fifth Legislative Assembly lasted from 21-1-1935 to 8-2-1945.

Soon after the cessation of war, elections were held in the country and the Sixth Legislative Assembly came into being on 21 January 1946. G.V. Mavalankar was put up as a candidate for Speakership by the Congress Party and was elected on 24 January 1946[18]. The election, having been approved by the Governor-General, Mavalankar took office the same day.

Independence and after: Under the Indian Independence Act,1947[19], the Central Legislative Assembly and the Council of States ceased to exist after 14 August 1947, and the Constituent Assembly of India, which had been functioning since 9 December 1946, for the purpose of framing the Constitution, was empowered to function as the Legislature for the country. It was provided that—

the powers of the Federal Legislature or Indian Legislature under the Government of India Act, 1935, as in force in relation to each Dominion, shall, in the first instance, be exercisable by the Constituent Assembly of the Dominion[20].

It was, however, felt that it would be desirable to maintain the distinction between the Constitution-making function of the Constituent Assembly and its ordinary function as a Legislature. In this connection, the President of the Constituent Assembly (Dr. Rajendra Prasad) made the following observations on 20 August 1947[21]:

> I think the question about the status and functioning of the Assembly is an important one and we have to take into consideration the rules which we have framed for the conduct of our business here as also the adaptations of the Government of India Act which have been made and the Independence Act. Taking all these things into consideration, we have to find out whether we can function either compartmentally in two compartments or we should function as one body. These are questions which require consideration and I think the suggestion which has been made by the Leader of the House that a small sub-committee should be appointed for the purpose of going into them and for making suggestions in regard to the rules which would guide us, is a suggestion which should be acceptable to the House and I would like to know if the House would like to have that done.

The House having agreed, a Committee under the Chairmanship of G.V. Mavalankar was appointed on 20 August 1947, with the following terms of reference[22]:–

(i) What are the precise functions of the Constituent Assembly under the Indian Independence Act?

(ii) Is It possible to distinguish between the business of the Constituent Assembly as a Constitution-making body and its other business and can the Constituent Assembly set apart certain days or periods solely for the former?

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18. Mavalankar secured 66 votes as against 63 won by his opponent, Sir Cowasjee Jehangir. *See L.A. Deb.,* 24-1-1946, p. 162. *See* also Kaul: "Growth of Position and Powers of Speaker", *op. cit.* and Subhash C. Kashyap: *Dada Saheb Mavalankar—Father of Lok Sabha,* National, New Delhi, 1989, pp. 9-10.
19. *See* 10 and 11 Geo. 6, C. 30, s. 8.
20. *Ibid.,* s. 8, Proviso (e).
21. *C.A. Deb.,* (V), 20-8-1947, p. 33.
22. *Ibid.*

(iii) Should the members representing the Indian States in the Constituent Assembly be given the right to take part in proceedings which do not relate to Constitution-making or to the subjects in respect of which they have acceded?

(iv) What new Rules or Standing Orders, if any, and what amendments, if any, in the existing Rules or Standing Orders should be made by the Constituent Assembly or its President?

On 29 August 1947, after considering the Mavalankar Committee Report, the Constituent Assembly resolved[23] that the business of the Assembly as a Constitution-making body should be clearly distinguished from its function as the Dominion Legislature and that a provision should be made for the election of a Speaker to preside over the Assembly while functioning in the latter capacity.

In accordance with the aforesaid Resolution, the Indian Legislative Rules in force immediately before the establishment of the Dominion of India were modified and adapted by the Speaker (President) of the Constituent Assembly.

The Constituent Assembly (Legislative) as a distinct body met for its first sitting in the Assembly Chamber on 17 November 1947, with the President of the Constituent Assembly (Dr. Rajendra Prasad) in the Chair. Welcoming the members to the First Session of the Constituent Assembly (Legislative), Dr. Prasad observed[24]:

> As you are aware, under the Independence of India Act the Legislative Assembly as well as the Council of States ceased to exist after the 14th August last, and the functions of both Houses were to be carried on thereafter by the Constituent Assembly. This is the first occasion when the Constituent Assembly has met for that purpose. It was felt that it would be desirable to maintain the distinction between the Constitution-making function of the Constituent Assembly and its ordinary function as a Legislature. For that purpose it was thought desirable to have someone to preside over the deliberations of the Assembly when it did its work as a Legislature because of certain anomalies which had arisen on account of my being the President of the Constituent Assembly and also a Member of the Government. You have, therefore, now to proceed to elect a Speaker, who will be independent of the Government and carry on the functions of the Speaker and preside over your deliberations.

Only one nomination, that of G.V. Mavalankar, had been received for the Office of the Speaker. He was, therefore, declared as duly elected. Dr. Rajendra Prasad vacated the Chair which was then occupied by Speaker Mavalankar[25].

By virtue of article 379[26], the Speaker of the Constituent Assembly (Legislative) continued as the Speaker of the Provisional Parliament on the commencement of the Constitution. The Constitution came into force on 26 January 1950 but as time was required for holding general elections in the country, a provision was made in the Constitution that the Provisional Parliament and its Speaker should continue till the date when the President summoned the new Parliament elected under the provisions of the Constitution. Accordingly, G.V. Mavalankar continued to be the Speaker till

23. *C.A. Deb.,* (V), 29-8-1947, p. 331.
24. *C.A. (Leg.) Deb.,* 17-11-1947, p. 1.
25. Kashyap: *Dada Saheb Mavalankar, op. cit.,* pp. 11-12.
26. Art. 379, since repealed by the Constitution (Seventh Amendment) Act, 1956.

17 April 1952, when Lok Sabha and Rajya Sabha duly constituted after the first general elections held earlier in that year, were summoned to meet. On that day, the Provisional Parliament ceased to function and consequently the Speaker of the Provisional Parliament also ceased to hold Office of the Speaker from that date. Since the House was to meet and elect its Speaker after some time, the President, on the same day, *i.e.* 17 April 1952, made an order under article 95(1) appointing the outgoing Speaker G.V. Mavalankar, who had been elected as a member of First Lok Sabha, to perform the duties of the Speaker until the first sitting of the House.

This was in conformity with the principle of the provisions of article 94, under which, whenever Lok Sabha is dissolved, the Speaker does not vacate his office until immediately before the first sitting of Lok Sabha after the dissolution. The President's Order was thus in the nature of a link for the continuance of the Speaker between the fading away of the Provisional Parliament and the constitution of the First Lok Sabha[27].

On 11 May 1952, the President issued an order under article 99 appointing G.V. Mavalankar and M. Ananthasayanam Ayyangar to be the persons before either of whom members of the First Lok Sabha could make and subscribe the oath or affirmation in accordance with the provisions of the Constitution. Thus, Mavalankar, who was also performing the duties of the Speaker, presided at the sittings of Lok Sabha held on 13 and 15 May 1952, till members had made, and subscribed the oath or affirmation. After the oath-taking by members was completed on 15 May 1952, Mavalankar vacated the Chair. At this stage, the Secretary read out an order of the President appointing B. Das, the senior-most member of Lok Sabha, as Speaker *pro tem.* B. Das then occupied the Chair till the election of the Speaker.

Constitutional Provisions and Rules regarding Election of the Speaker: The election of the Speaker and Deputy Speaker of Lok Sabha is now governed by provisions of article 93[28].

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27. *See* S.L. Shakdher: *Appointment of Speaker of Lok Sabha,* JPI, Vol. II, No. l, April 1956 and Kashyap: *Dada Saheb Mavalankar, op. cit.,* pp. 12-13.

28. The following elections have been held under this article :—

    The Speaker and the Deputy Speaker of the First Lok Sabha were chosen on 15 and 30 May 1952, respectively, when G.V. Mavalankar was chosen as Speaker and Ananthasayanam Ayyangar as Deputy Speaker.

    On the occurrence of the vacancy in the Office of Speaker, consequent on the death of Speaker Mavalankar on 27 February 1956, Ananthasayanam Ayyangar was chosen on 8 March 1956 as Speaker.

    On the previous day, Ayyangar resigned from the Office of Deputy Speaker. The vacancy thus caused was filled by choosing Sardar Hukam Singh as Deputy Speaker on 20 March 1956.

    For the Second Lok Sabha, Ananthasayanam Ayyangar and Sardar Hukam Singh were chosen as Speaker and Deputy Speaker, respectively—the former on 11 May 1957 and the latter on 17 May1957.

    Sardar Hukam Singh and S.V. Krishnamoorthy were chosen Speaker and Deputy Speaker of the Third Lok Sabha on 17 and 23 April 1962, respectively.

    Dr. N. Sanjiva Reddy and R.K. Khadilkar were chosen as Speaker and Deputy Speaker of the Fourth Lok Sabha on 17 and 28 March 1967, respectively.

    In the vacancy caused by the resignation of Speaker, Dr. N. Sanjiva Reddy on 19 July 1969, Dr. G.S. Dhillon was chosen as Speaker on 8 August 1969.

    G.G. Swell was chosen as Deputy Speaker on 9 December 1969, in the vacancy caused by the resignation of R.K. Khadilkar on 1 November 1969.

In 1952, while adapting the Constituent Assembly (Legislative) Rules for the Lok Sabha, radical changes were introduced in the procedure regarding election of the Speaker. The following were the main changes—

(i) The notice of the motion regarding election of the Speaker was to be accompanied by a statement by the member whose name was proposed in the notice that he was willing to serve as Speaker, if elected. Previously, it was sufficient for the proposer to state in the nomination paper that he had ascertained that the member nominated was willing to serve as Speaker.

(ii) The election of the Speaker by ballot was eliminated and the election was to be held by open voting in the House.

(iii) Even though there was only one candidate for office, the motion regarding his election was formally to be put to the House and carried.

Only a few minor changes have since been made in the Rule and the procedure for election of the Speaker broadly continues to be the same[29].

Dr. G.S. Dhillon was chosen as Speaker and G.G. Swell as Deputy Speaker of the Fifth Lok Sabha on 22 and 27 March 1971, respectively.

On the occurrence of vacancy in the Office of Speaker, consequent on the resignation by Speaker Dhillon on 1 December 1975, B.R. Bhagat was chosen, on 5 January 1976, as Speaker.

Dr. N. Sanjiva Reddy and Godey Murahari were chosen as Speaker and Deputy Speaker of the Sixth Lok Sabha on 26 March and 1 April 1977, respectively.

In the vacancy caused by the resignation of Speaker Dr. N. Sanjiva Reddy on 13 July 1977, K.S. Hegde was chosen as Speaker on 21 July 1977.

Dr. Bal Ram Jakhar and G. Lakshmanan were chosen as Speaker and Deputy Speaker of the Seventh Lok Sabha on 22 January 1980 and 1 February 1980, respectively.

Dr. Bal Ram Jakhar and M. Thambi Durai were chosen as Speaker and Deputy Speaker of the Eighth Lok Sabha on 16 and 22 January 1985, respectively.

Rabi Ray and Shivraj V. Patil were chosen as Speaker and Deputy Speaker of the Ninth Lok Sabha on 19 December 1989 and 19 March 1990, respectively.

Shivraj V. Patil and S. Mallikarjunaiah were chosen as Speaker and Deputy Speaker of the Tenth Lok Sabha on 10 July and 13August 1991, respectively.

Purno Agitok Sangma and Suraj Bhan were chosen as Speaker and Deputy Speaker of the Eleventh Lok Sabha on 23 May and 12 July 1996, respectively.

Ganti Mohana Chandra Balayogi and P.M. Sayeed were chosen as Speaker and Deputy Speaker of the Twelfth Lok Sabha on 24 March and 17 December 1998, respectively.

Ganti Mohana Chandra Balayogi and P.M. Sayeed were chosen as Speaker and Deputy Speaker of the Thirteenth Lok Sabha on 22 and 27 October 1999, respectively.

On the occurrence of the vacancy in the Office of Speaker, consequent on the death of Speaker Balayogi on 3 March 2002, Manohar Joshi was chosen on 10 May 2002 as Speaker.

Somnath Chatterjee and Charnjit Singh Atwal were chosen as Speaker and Deputy Speaker of the Fourteenth Lok Sabha on 4 and 9 June 2004, respectively.

Meira Kumar and Kariya Munda were chosen as Speaker and Deputy Speaker of the Fifteenth Lok Sabha on 3 and 8 June 2009 respectively.

Sumitra Mahajan and Dr. M. Thambi Durai were chosen as Speaker and Deputy Speaker of the Sixteenth Lok Sabha on 6 June 2014 and 13 August 2014 respectively.

Om Birla was chosen as Speaker of the Seventeenth Lok Sabha on 19 June 2019. No member was chosen as Deputy Speaker during the Seventeenth Lok Sabha.

Om Birla was chosen as Speaker of the Eighteenth Lok Sabha on 26 June 2024.

29. *See* Rule 7.

Mode of Election

The date for the election of the Speaker has to be fixed by the President[30]. The date convenient for the purpose is suggested by the Prime Minister in a communication to the Secretary-General. However, lately in practice the Ministry of Parliamentary Affairs while communicating the dates for holding the first Session of a new Lok Sabha, after the General Election, states therein the date decided by the Government for the election of Speaker and no separate communication is received in this regard from the Prime Minister. Secretary-General then submits a note embodying the suggestion of the Prime Minister/Ministry of Parliamentary Affairs to the President for his order. After the President has approved the proposal, members of Lok Sabha are informed through the Bulletin.

Simultaneously, entry regarding "Election of Speaker" is made in an advance List of Business issued for the day on which election of the Speaker is fixed; the date is normally so chosen that members have a few days' time to give notices of motions[31].

30. *See* Rule7(1).

31. In the past, the gap between the date of election and date of issue of paragraph in the Bulletin was as follows :—

Date of issue of para in the Bulletin	Date of election
10-5-1952	15-5-1952
3-3-1956	8-3-1956
7-5-1957	11-5-1957
9-4-1962	17-4-1962
29-7-1969	8-8-1969
15-3-1971	22-3-1971
20-12-1975	5-1-1976
24-3-1977	26-3-1977
16-7-1977	21-7-1977
16-1-1980	22-1-1980
5-1-1985	16-1-1985
8-12-1989	19-12-1989
2-7-1991	10-7-1991
18-5-1996	23-5-1996
21-3-1998	24-3-1998
18-10-1999	22-10-1999
1-6-2004	4-6-2004
28-5-2009	3-6-2009
2-6-2014	6-6-2014
14-6-2019	19-6-2019
13-6-2024	26-6-2024

At any time before noon on the day preceding the date so fixed, any member may give notice in writing, addressed to the Secretary-General, of a motion that another member be chosen as the Speaker of the House, and the notice has to be seconded by a third member and accompanied by a statement by the member, whose name is proposed in the notice, that he is willing to serve as Speaker, if elected. If the day preceding the date fixed for holding the election happens to be a Sunday or public holiday, notice of motions for election of Speaker can be tabled till 15.15 hours on the preceding working day. A member cannot, however, propose his own name or second a motion proposing his own name, or propose or second more than one motion[32]. Notice of motion for election of the candidate selected by the ruling party or the coalition is normally given by the Prime Minister or the Minister of Parliamentary Affairs.

All the notices of motions which are in order are entered in the order in which they are received in point of time in the Revised List of Business which is issued on the day preceding the day fixed for election of the Speaker.

Where notice of two identical motions is given by the same member, only one motion which is received first in point of time is included in the List of Business.

A member in whose name a motion stands on the List of Business may, when called, move the motion or withdraw the motion, and while doing so he has to confine himself to a mere statement to that effect[33]. The motion, if moved, is then seconded by the member whose name stands on the List of Business as seconder and he has also to confine himself to a mere statement to that effect.

The motions which have been moved and duly seconded are put to the vote of the House one by one in the order in which they have been moved, and decided, if necessary, by division. If any motion is carried, the person presiding, without putting later motions, declares that the member proposed in the motion which has been carried, has been chosen as the Speaker of the House[34].

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32. Rule 7(2).

33. *See* Rule 7(3).

34. All the motions regarding election of G.V. Mavalankar (15 May 1952) were moved and placed before the House by the Speaker pro tem. After the first motion was carried, the rest were not proceeded with. Two motions regarding election of Dr. Bal Ram Jakhar (16 January 1985) were moved and placed before the House. After the first motion was carried, the second one was not proceeded with. Out of four motions regarding election of Rabi Ray (19 December 1989), three motions were moved and placed before the House. One motion, third in the list, could not be moved since the mover was not present in the House. After the first motion was carried, the rest were not proceeded with. Out of eleven motions regarding election of Shivraj V. Patil (10 July 1991), only one motion was moved and the same was adopted by the House. All the thirteen motions regarding election of Purno Agitok Sangma (23 May 1996) were moved and placed before the House. After the first motion was carried, the rest were not proceeded with. All the fourteen motions regarding election of G.M.C. Balayogi (22 October 1999) were moved and placed before the House. After the first motion was carried, the rest were not proceeded with. All the eighteen motions regarding election of Somnath Chatterjee (4 June 2004) were moved and placed before the House. After the first motion was carried, the rest were not proceeded with. Out of fifteen motions regarding election of Meira Kumar (3 June 2009), only eleven motions were moved and placed before the House. After the first motion was carried, the rest were not proceeded with. Out of sixteen motions regarding election of Sumitra Mahajan (6 June 2014), only thirteen motions were moved and placed before the House. After the first motion was carried, the rest were not proceeded with. Thirteen motions regarding election of Om Birla (19 June 2019) were moved. After the first motion was carried, the rest were not proceeded with. Sixteen Motions regarding election of Om Birla (26 June 2024) were moved. After the first motion was carried, the rest were not proceeded with.

Even though there is only one candidate for the office, the motion regarding his election must formally be put to the House and carried.

Immediately after the result of election is declared, the Prime Minister, the Leader of the House (if the Prime Minister is not the Leader of the House) and the Leader of Opposition go to the seat of the Speaker-elect, bow to him and conduct him to the Chair.

Felicitations are offered by the Prime Minister and other members on behalf of different sections of the House and the Speaker makes a brief reply. Thereafter, the House proceeds with its regular business, if any, on the List of Business[35].

The election of the Speaker is notified in the Gazette by the Secretariat[36].

Speaker's Seat

In India, the Presiding Officers follow more or less the traditions and conventions established by the Speakers of the British House of Commons. Even during the tenure of Sir Frederick Whyte who was only a nominated Presiding Officer, the British model of Speakership was generally followed. The Presiding Officer kept himself completely aloof from party politics.

Speaker Patel dissociated himself from the Swarajist Party of which he was an active member prior to his election and during his entire term of office he kept himself aloof from party interest. In the election of 1926, he did not stand on the Congress ticket but stood as an independent candidate from his old constituency and was returned unopposed[37].

The Presiding Officers who succeeded Speaker Patel in the Central Legislative Assembly—Muhammad Yakub, Ibrahim Rahimtoola, Sir Shanmukham Chetty and Sir Abdur Rahim—held more or less similar views on the need for impartiality and non- party character on the part of the Presiding Officer[38].

With the advent of popular Governments in the provinces, in 1937, the question of a Presiding Officer severing his connections with his party became slightly more

35. The House was adjourned without transacting any further business after the election of G.V. Mavalankar *(P. Deb.,* 15-5-1952, c. 44), M.A. Ayyangar *(L.S. Deb.,* 11-5-1957, c. 38), Sardar Hukam Singh *(L.S. Deb.,* 17-4-1962, c. 40), Dr. N. Sanjiva Reddy *(L.S. Deb.,* 17-3-1967, c. 78, and 26-3-1977, c. 26), Dr. G. S. Dhillon *(L.S. Deb.,* 22-3-1971, c. 30), B.R. Bhagat *(L.S. Deb.,* 5-1-1976, c. 72), Dr. Bal Ram Jakhar *(L.S. Deb.,* 22-1-1980, c. 826 and 16-1-1985, c. 28), Rabi Ray *(L.S. Deb.,* 19-12-1989 c. 24), Shivraj V. Patil *(L.S. Deb.,* 10-7-1991, c. 6.39), Purno Agitok Sangma *(L.S. Deb.,* 23-5-1996, c. 28) G.M.C. Balayogi (*L.S. Deb.,* 24-3-1998, cc. 7-8 and 22-10-1999, cc. 3-4), Somnath Chatterjee (*L.S. Deb.,* 4-6-2004, cc. 3-4), Meira Kumar (*L.S. Deb.*, 3-6-2009. c. 5), Sumitra Mahajan (*L.S. Deb.,* 6-6-2014) and Om Birla (*L.S. Deb.,* 19-6-2019 and 26-6-2024) respectively.

    The business of the House was, however, taken up after the election of M.A. Ayyangar on 8-3-1956 *(L.S. Deb.,* 8-3-1956 c. 1968), Dr. G.S. Dhillon on 8-8-1969 *(L.S. Deb.,* 8-8-1969, c. 230) K.S. Hegde on 21-7-1977 *(L.S. Deb.,* 21-7-1977 c. 183) and Manohar Joshi (*L.S. Deb.,* 10-5-2002, cc. 272-74). In these cases, vacancies were caused mid-term on account of death/resignation of the Speaker.

36. For instance, *see* LSS Notfn. Nos. 496-1/57, 11-5-1957, Gaz. (1-2), 18-5-1957; 38/1/85/T, 16-1-1985, Gaz. (1-3); 38/1/89/T, 19-12-1989; 38/1/91/T; 38/1/96/T, 23-5-1996; 38/1/98/T, 24-3-1998; 38/1/99/T, 22-10-1999; 38/1/02/T, 10-5-2002; 38/1/04/T, 4-6-2004; 38/1/2009/T, 3-6-2009; 38/1/2014/T, 6-6-2014 and 38/1/2019/T, 19-6-2019 and 38/1/2024/T, 26-6-2024.

37. G.I. Patel: *Vithalbhai Patel — Life and Times,* Bombay, 1950, p. 739.

38. *L.A. Deb.,* 9-7-1930, p. 32; 17-1-1931, p. 43; 14-3-1933, p. 2059; 24-1-1935, p. 110.

open, but on the whole there was agreement that impartiality demanded sincere attempts to break previous political connections.

The question as to how far the Speaker should be connected with their political parties and how far they should take part in politics has been engaging the attention of the Conference of Presiding Officers of Legislative Bodies in India. The 1951 Conference was of the opinion that a convention should be established that the seat from which the Speaker stands for re-election should not be contested and that the Speaker should not take part in party politics.

The position regarding participation in politics by Speakers was explained to the House by Speaker Mavalankar on 15 May 1952, at the time of his election as Speaker of Lok Sabha, in the following words:

> ...It is obviously not possible, in the present conditions of our political and parliamentary life, to remain as insular as the English Speaker, so far as political life goes. But, the Indian Speaker acting as such will be absolutely a non-party man meaning thereby that he keeps aloof from party deliberations and controversies. He does not cease to be a politician merely by the fact of his being Speaker. We have yet to evolve political parties and healthy conventions about Speakership, the principle of which is that once a Speaker, he is not opposed by any party in the matter of his election, whether in the constituency or in the House, so long as he wishes to continue as a Speaker. To expect the Speaker to be out of political together without the corresponding convention is perhaps entertaining contradictory expectations.
>
> ...Though a Congressman, it would be my duty and effort to deal with all members and sections of the House with justice and equity, and it would be my duty to be impartial and remain above all considerations of party or of political career[39].

The Conference of Presiding Officers held at Gwalior in 1953 adopted a resolution to the effect that a convention should be established that the seat from which the Speaker stands for re-election should not be contested in the election, and steps for making a beginning in that direction may be pressed upon the Government by the Chairman of the Conference[40]. In pursuance of the said resolution, Chairman of the Conference (G.V. Mavalankar) took up the matter with the then Congress President (Jawaharlal Nehru). The Working Committee of the Congress considered the matter and sent a communication to Mavalankar which was disclosed by him at the Conference of Presiding Officers held at Srinagar in 1954 in the following words:

> Obviously they (the Congress Working Committee) accept the desirability of laying the wider convention that the Speaker's seat should not be contested but that will require the concurrence of other political parties which they felt was not possible to obtain. But the important point is that they have accepted that it is a right convention and further they have also accepted the position as set out, in my letter, that so far as possible they should not set aside a Speaker while considering his nomination for general election and then his election to the Speakership. So far as possible the practice should be to give him the party ticket so that his future candidature at the general election is assured. I think, so far as it goes, the decision is a good advance in the

39. *P.Deb.,* (II), 15-5-1952, cc. 43-44, *see* Kashyap, *Dada Saheb Mavalankar, op. cit.,* pp.19-21.
40. *G.V. Mavalankar: Speeches and Writings,* Lok Sabha Secretariat, New Delhi, 1957, p. 39.

> desired direction. All conventions grow bit by bit and have to be built up step by step. In my view, we have laid the first brick very firmly and we have now to strive further.
>
> I may mention here the necessary counterpart of this convention: it is that the Speaker has to abstain from active participation in all controversial topics of politics. The essence of the matter is that a Speaker has to place himself in the position of a judge. He has not to become a partisan so as to avoid unconscious bias for or against a particular view and thus inspire confidence in all sections of the House about his integrity and impartiality. If we are able to build up this convention on our own, then only we shall be able to justify, in course of time, the other one about the Speaker's seat being uncontested[41].

Speaker Ayyangar accepted the view held by his predecessor in this matter. While assuming the Office as Speaker on 8 March 1956, he said:

> I assure every section of this House, and every group and even every individual who does not belong to any particular group that I will never let down their privileges. A member's privileges as a member shall be constantly before me. I shall try to stick to traditions, follow the older ones and whenever new ones have to be established, you may take it from me that I will try to do that...I do not make any difference between party and party[42].

At the time of his election as Speaker for the second time, Ayyangar, while referring to a suggestion made that he should cease to be a member of the Congress Party, said:

> It may be that I am not resigning my membership from the party, but I shall so conduct myself in this Office as to infuse confidence in the minds of all to raise the standards, conventions and traditions of this House[43].

Speaker Ayyangar continued to be a member of the Congress Party but he resigned his membership from the Congress Parliamentary Party.

The present position is that the Speaker, like any other member, represents his constituency from which he is elected to Lok Sabha[44] and his seat is contested. Speaker Ayyangar who stood as a Congress candidate was opposed by three independent

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41. *Ibid.,* p. 39.
42. *L.S. Deb.,* 8-3-1956, cc. 1967-68.
43. *Ibid.,*11-5-1957, c. 38.
44. On 19 November 1959, before the Andhra Pradesh and Madras (Alteration of Boundaries) Bill, 1959, was taken up for consideration, Speaker Ayyangar, who was in the Chair, observed as follows:

    "Before we take up the next item of business, I would like to make a brief statement. This boundary matter relates to my constituency and, therefore, I do not propose sitting here. Howsoever just I may try to be, I do not want to create an impression that I am deciding one way or the other. I shall, therefore, ask the Deputy Speaker, Sardar Hukam Singh, to take the Chair and get through this Bill."

    The Speaker then vacated the Chair and did not preside over the sittings of the House while that Bill was under discussion by the House–*see L.S. Deb.,* 19-11-1959, c. 688; 20-11-1959, c. 914; 23-11-1959, c.1155.

    On 16 May 2006 when the Parliament (Prevention of Disqualification) Amendment Bill, 2006 and on 31 July 2006 when the Parliament (Prevention of Disqualification) Amendment Bill, 2006, as passed again by Rajya Sabha, respectively, were taken up for consideration and passing, Speaker Somnath Chatterjee chose to abstain from presiding over the proceedings of the House, lest he should be seen as an interested party, in the passing of the Bill.

candidates, but no political party had put up its candidate against him. Speaker Dhillon's seat was also contested—he stood as a Congress candidate and was opposed by five candidates, of whom three were independent candidates and two party nominees.

Speaker Bhagat's seat was also contested—he stood as a Congress candidate and was opposed by nine candidates of whom eight were independent candidates and one party nominee[45].

Speaker K.S. Hegde's seat was contested in 1980 and he lost to a Congress (I) candidate.

Speaker Bal Ram Jakhar's seat was contested in 1984 and 1989. He was re-elected in 1985, but he lost the election in 1989 to a Janata Dal candidate, for which there were nineteen contestants.

Speaker Rabi Ray's seat was also contested in 1991 and he was re-elected. Rabi Ray contested as a JD candidate and was opposed by seven candidates.

Speaker Shivraj V.Patil's seat was also contested in 1996 and he was re-elected as a Congress candidate from amongst 24 contestants.

Speaker Purno Agitok Sangma's seat was also contested in 1998 and he was re-elected as a Congress (INC) candidate from amongst 4 contestants.

Speaker G.M.C. Balayogi's seat was also contested in 1999 and he was re-elected as a Telegu Desam Party (TDP) candidate from amongst five contestants.

Speaker Manohar Joshi's seat was also contested in 2004 and he lost the election where the total number of contestants were seven.

Speaker Somnath Chatterjee did not contest election for the Fifteenth Lok Sabha.

Speaker Meira Kumar's seat was contested in 2014 and she lost to a Bhartiya Janata Party (BJP) candidate, for which there were 11 contestants.

Speaker Sumitra Mahajan did not contest election for the Seventeenth Lok Sabha.

Speaker Om Birla's seat was contested in 2024 and he was re-elected as a Bharatiya Janata Party (BJP) candidate from among 15 contestants.

> At the Conference of Presiding Officers in 1967, the Chairman of the Conference appointed a Committee of Presiding Officers to examine, *inter alia,* as to what conventions, etc., should be adopted or evolved to enable Parliament/Legislatures to function effectively[46].

The Committee felt that impartiality of the Speaker being an indispensable condition of the successful working of the parliamentary democracy, it is essential that the Speaker should sever all connections with the party to which he may have

45. B. R. Bhagat lost election to a Janata Party candidate.

46. Known as Page Committee, after the name of its Chairman, V.S. Page, Chairman of Maharashtra Legislative Council (hereafter referred to as such). Recommendations contained in the Report of the Page Committee were adopted at the Conference of Presiding Officers held at Trivandrum (now known as Thiruvananthapuram) in October 1968.

belonged. In order to achieve this in principle, the Committee considered it desirable that a convention should be established to the effect that the seat from which the Speaker stands for election or re-election to the House should not be contested in the elections, and in this connection the Committee recommended the following guidelines:

> Before each general election or mid-term election, as the case may be, the majority party which formed the Government before the elections should seek consensus among all the parties likely to contest at the elections whether they are agreed that the existing Speaker should be the Speaker in the new House;
>
> If the Speaker has functioned impartially and efficiently during his tenure of office, he should be continued as a matter of course;
>
> The consensus should be based on majority decision at a meeting of the representatives of various parties and not necessarily on unanimity. Once the decision has been arrived at to continue the existing Speaker, all parties should be debarred from putting up any candidates in opposition to him and should agree to support him against any independent candidate who may stand against him;
>
> When the existing Speaker is elected as a member of the House, he must not contest or otherwise become the Chief Minister or a Minister. He shall be eligible for election as Speaker uncontested;
>
> Where no consensus is reached before the election to the House, all parties are free to put up candidates for the Speaker's seat. The existing Speaker is in that case free to contest on a party ticket if he so likes;
>
> After the elections to the House are over, the majority party should consult all the parties in the House as to their choice of the Speaker of the House. While making the selection it should be borne in mind that in circumstances prevailing in India today, it is essential that a person to be chosen as Speaker should be sufficiently high up in the political hierarchy and enjoy nearly as much prestige as the Leader of the House. If a consensus is arrived at and the Speaker is elected uncontested, the Speaker should resign from the party;
>
> In case consensus is not reached and the election of the Speaker is contested, the Speaker should, after election, resign from the Legislature Party;
>
> The Speaker should after assumption of office sever all connections from controversial party politics. Further, he should not be a member of any Committee appointed by the Government. However, if any such Committee is concerned with social or constructive work, he might accept its Chairmanship;
>
> In the case of Presidential Proclamation under article 356 of the Constitution in respect of any State, the second proviso to article 179 of the Constitution regarding the Speaker should not be suspended. Further, in such cases the provisions of the Constitution relating to the powers which the Speaker exercised before the Proclamation should not be suspended.

While the Speaker stands on party ticket for his election to the House, he may or may not continue to be the member of his party after his election as Speaker. Even when he does not sever connections with his party, he has refrained from attending any party meeting. However, a convention has, more or less, developed at the Union for the Speaker to dissociate himself from his party. Dr. N. Sanjiva Reddy resigned from the Congress Party on being elected as Speaker of Fourth Lok Sabha. Dr. G.S. Dhillon, on being chosen as Speaker in the vacancy caused by the resignation of Speaker Sanjiva Reddy and also on his re-election as Speaker of the Fifth Lok Sabha, resigned from the Congress Party in Parliament but continued to be a member of the Congress Party[47].

B.R. Bhagat, K.S. Hegde, Dr. Bal Ram Jakhar, Rabi Ray, Shivraj V. Patil, Purno Agitok Sangma, G.M.C Balayogi, Manohar Joshi, Somnath Chatterjee, Meira Kumar, Sumitra Mahajan and Om Birla on being chosen as Speakers, did not formally resign from the party on whose ticket they were elected to Lok Sabha. However, they affirmed that they belonged to the whole House and not to a particular party. They also refrained from attending any party meetings while holding the office.

The Tenth Schedule to the Constitution added by the Constitution (Fifty-second Amendment) Act, 1985, stipulates that a member of a House belonging to any political party shall be disqualified for being a member of the House if he voluntarily gives up his membership of such political party[48]. Special provision has, however, been made therein to enable a person who has been elected to the office of the Speaker or the Deputy Speaker of the Lok Sabha or of the Legislative Assembly of a State or to the office of the Deputy Chairman of the Rajya Sabha or the Chairman or the Deputy Chairman of Legislative Council of a State, to sever his connections with the political party to which he belonged and to rejoin it when he ceases to hold that office without incurring disqualification[49].

Term of Office as Speaker

The Speaker holds office from the date of his election till immediately before the first meeting of Lok Sabha after the dissolution of the one to which he was elected. He is eligible for re-election. The Speaker vacates his office, if he ceases to be a member of Lok Sabha. Like any other member, he also ceases to be a member of Lok Sabha as soon as any of the contingencies provided in articles 101 and 102 arise. On the

47. *L.S. Deb.,* 17-3-1967, c. 76; 8-8-1969, cc. 228-29.

48. Paragraph 2 of the Tenth Schedule to the Constitution.

49. The Tenth Schedule to the Constitution of India provides:

> 5. Notwithstanding anything contained in this Schedule, a person who has been elected to the Office of the Speaker or the Deputy Speaker of the House of the People or the Deputy Chairman of the Council of States or the Chairman or the Deputy Chairman of the Legislative Council of a State or the Speaker or the Deputy Speaker of the Legislative Assembly of a State, shall not be disqualified under this Schedule,—
>
> If he, by reason of his election to such Office, voluntarily gives up the membership of the political party to which he belonged immediately before such election and does not, so long as he continues to hold such office thereafter, rejoin that political party or become a member of another political party; or
>
> If he, having given up by reason of his election to such office his membership of the political party to which he belonged immediately before such election, rejoins such political party after he ceases to hold such office.

dissolution of Lok Sabha, although both the Speaker and the Deputy Speaker cease to be members of the House, only the Deputy Speaker vacates his office[50].

As and when the Office of the Speaker falls vacant, a notification to that effect is published in the Gazette.

The Speaker has to discharge the functions of his office throughout his term and cannot delegate his functions to the Deputy Speaker during his absence from the station or during his illness.

The Speaker may, at any time, resign his office by writing under his hand to the Deputy Speaker[51], even though the Office of the Deputy Speaker might be vacant. Similarly the letter of resignation by the Deputy Speaker has to be addressed to the Speaker even though that office might be vacant[52].

Where the Speaker wishes to resign his office, the formalities with which he has to comply are as follows:

(i) The letter of resignation should be in writing—that is to say, it may be written in hand or type written and should bear his signature at the end; and

(ii) the letter should be addressed to the Deputy Speaker—this means that it should be addressed to him by designation and not by name.

The letter must bear a date and if the text of the letter is silent as to the date from which resignation is to become effective, the resignation becomes effective from the date of the letter. If the letter does not bear any date, it becomes effective from the date on which it is received by the Deputy Speaker or, by the Secretary-General.

The House is informed of the resignation of the Speaker by the Deputy Speaker and if the Office of the Deputy Speaker is vacant, by the Secretary-General who receives the letter of resignation in that case.

The resignation is notified in the Gazette and the Bulletin[53].

Right of Speaker to Resign on Dissolution of the House[54]

Although on the dissolution of the Lok Sabha/Vidhan Sabha, both the Speaker and the Deputy Speaker cease to be members of the House like other members, in

50. *See* Art. 94.

51. Art. 94(b).

In the old Legislative Assembly, the letter of resignation was required to be addressed to the Governor-General, who was also vested with the authority to approve the election of the Speaker and the Deputy Speaker-s. 63C as set out in the Ninth Schedule to the Government of India Act, 1935.

52. M.A. Ayyangar resigned from the Office of the Deputy Speaker of Lok Sabha on the afternoon of 7 March 1956. The letter of resignation was addressed to the Speaker and sent to the Secretariat even though the Office of the Speaker was then vacant. The Secretary informed Lok Sabha on 8 March 1956 of the resignation of the Deputy Speaker—*see* L.S.S. Notfn. No. 496-T/56. *Gaz.* Ex. (1-1), 7-3-1956 and *L.S. Deb.*, 8-3-1956, c. 809.

53. *See,* for instance, L.S.S. Notfn. No. 496-T/56, in *Gaz. Ex.* (1-1), 7-3-1956, and *Bn. (II)*, 7-3-1956, para 2938.

N. Sanjiva Reddy resigned the Office of the Speaker (4th Lok Sabha) on 19 July 1969 at 17.00 hours. The letter of resignation was addressed to the Deputy Speaker. The Deputy Speaker recorded the time of receipt thereon. It was published in *Bn. (II)* of that date. No announcement was made in the House.

See also *L.S. Deb.,* 5-1-1976, c. 1. The Deputy Speaker informed Lok Sabha that Dr. G.S. Dhillon had resigned the Office of the Speaker on 1 December 1975 at 17.00 hours.

54. *See* Subhash C. Kashyap: "Speaker's Right to Resign", JPI, Vol. XXXIV, No. 3, September 1988.

effect only the Deputy Speaker vacates his office. Under the second proviso to article 94 (which corresponds to article 179) it is enjoined that whenever the Lok Sabha is dissolved, the Speaker *shall not vacate his office* until immediately before the first meeting of the Lok Sabha after dissolution. A view may be taken that the Speaker cannot resign after dissolution of the House and that the restriction placed on him in this behalf is deliberate since even after the dissolution of the House, the Speaker has to perform certain functions such as managing the affairs of the Secretariat, forwarding Bills passed by the Houses to the President, etc.

Besides, article 95 contemplates that when the Office of the Speaker is vacant, the duties of his Office shall be performed by the Deputy Speaker or if the Office of the Deputy Speaker is also vacant, his duties may be performed by such other member of the House as the President may appoint for the purpose.

The question as to whether a Speaker can resign his office when the House is dissolved and there is no one to perform the functions of his office, was considered in depth on a reference to that effect made by a member of the Eighth Lok Sabha. The facts of the case are as follows:

> The Andhra Pradesh Legislative Assembly was dissolved on 22 November 1984. The Speaker (N.R. Venkataratnam) continued in office in accordance with the second proviso to article 179. However, before the new Assembly could be constituted, he sought election to Lok Sabha and was declared duly elected. He resigned from the Office of the Speaker on 10 January 1985. Subsequently, he wrote to the Secretary-General, Lok Sabha that by virtue of the second proviso to article 179 he would still continue as Speaker of the Andhra Pradesh Legislative Assembly, though without any remuneration. According to him, the resignation remained in effective in view of the second proviso to article 179.

The question that arose for consideration as a result of the above reference was whether Venkataratnam's resignation from the Speakership of the Andhra Pradesh Legislative Assembly was called for and whether it remained ineffective in view of the second proviso to article 179.

One legal opinion in the matter was that having chosen to be elected the Speaker of a representative body, Venkataratnam had to hold on until immediately before the first meeting of the Assembly after the dissolution and that the Speaker of an Assembly could not exercise the right of resignation after the dissolution of the Assembly as there were certain functions which had to be exercised by the Speaker even after the Assembly was dissolved. Also any interpretation to the effect that the Speaker could resign after the Assembly had been dissolved would render the proviso ineffective.

The matter was examined in depth by the Secretary-General, Lok Sabha, who felt that the following points merited further consideration:

(i) Article 179 is exactly similar to article 94, the latter applying to the Speaker, Lok Sabha. There is a somewhat similar provision in respect of the Vice- President in article 67 which provides for the term of the Vice-

President being five years but says that (a) he may resign, (b) he may be removed from office, and (c) he shall continue even after the expiration of the term until a successor is elected. The question arises whether (c) would prevent a Vice- President from resigning his office at will. If this interpretation were to be accepted then perhaps (c) will over-ride not only proviso (a) regarding resignation but also proviso (b) regarding removal from office because as contra-distinguished from Lok Sabha, the Rajya Sabha is a continuing House. Also a situation arose when Vice- President, V.V. Giri who was acting as the President, consequent on the demise of the erstwhile President Dr. Zakir Husain on 3 May 1969, decided to contest the Presidential election and though not required under the law to do so, decided to resign his office before filing his nomination papers. Even though there was no President in office to whom he could address his letter of resignation and even though there was no successor to enter upon his office, Giri did resign and his resignation became immediately effective. Even though it was not a case of expiration of a term the precedent seems relevant and seems to point out that a more viable interpretation would be that (c) is only an enabling provision which enables the Vice-President and enjoins upon him to continue to hold office even after the expiration of the term until his successor enters upon his office. It cannot be interpreted to mean that a Vice-President can be compelled to stay in office against his wish and cannot resign at will.

(ii) Article 179 *inter alia* provides that (a) Speaker shall *vacate* his office if he ceases to be a member of the Assembly, (b) he may *resign* at any time, and (c) he may be *removed* from his office... etc. There are two provisos to the article. The first proviso specifically refers to *removal* from office which is mentioned in clause (c). The second proviso specifically refers to *vacation* of the seat which is mentioned in clause (b). There is no proviso referring to resignation which is mentioned in clause (b). It would thus seem that the second proviso is only an enabling provision which has to be read with clause (a). Since clause (a) categorically states that the Speaker shall vacate his office if he ceases to be a member, it was necessary to add the proviso to say that he shall not vacate office even after ceasing to be a member in the case of dissolution of the Assembly. The second proviso does not stand in the way of a Speaker resigning "at any time" under clause (b) and it could not be the intention of the article to compel a high functionary like the Speaker to continue in office against his will.

(iii) The interpretation that the Speaker may resign at will at any time despite the second proviso does not render the second proviso ineffective because as stated above the proviso was necessary for enabling a Speaker to continue in office after he ceases to be a member on the dissolution of the House.

(iv) It is very significant that clause (a) uses the word "vacate" and the second proviso also uses the word "vacate" and does not use the word "resign". If the intention of the Constitution-makers was to preclude resignation also, they would have certainly said in the second proviso that the Speaker shall

not vacate or resign. In fact, they did not even use the common connotation term "shall continue" which is used for the Vice-President in article 67.

(v) As for performing of the duties of the Speaker in case he resigns after the dissolution of the Assembly, the matter has been considered at the All India Presiding Officers and Secretaries Conferences more than once. For example, when at the Conference in 1976, the following question was raised "how the duties attached to the Office of the Speaker shall be carried on in case the Speaker resigns or dies or is otherwise incapacitated during the period of dissolution of the Assembly?", it was fully accepted that the Speaker could so resign after the dissolution of the Assembly. Also, other eventualities like death and incapacity were envisaged. In either of these cases, there was a problem of someone discharging the duties of the Speaker. Even if by so interpreting the second proviso to article 179, the resignation of the Speaker was barred, the problem remained in case of death or incapacity which could not be prevented by any interpretation of the proviso. At the Presiding Officers Conference, it was felt by the Chair that the Constitution was silent on the point as to who will discharge the duties of the Speaker in such an eventuality. However, he felt that the Governor or the President could do the needful and the administration of the Secretariat could be carried on through the Chief Minister or the Prime Minister, as the case may be. It is understood that an eventuality of there being no Speaker after the dissolution of an Assembly had actually arisen in Himachal Pradesh where the Speaker was removed from his office by the Legislative Assembly on 14 December 1984, and the Assembly was dissolved on 23 January 1985 without another Speaker being elected.

(vi) So far as the question of addressing the resignation letter to the Deputy Speaker is concerned, our consistent approach has been that a letter has to be and can be addressed to the Office of the Deputy Speaker even if the office happens to be vacant. In fact, even in V.V. Giri's case under article 67, the fact that the office of the President to whom the letter of resignation was to be addressed happened to be vacant at that time, did not prevent Giri from resigning. The then Attorney-General was also consulted and it was found that while there was no provision in the Constitution to govern such a situation, article 67 also did not provide for the resignation becoming effective only after acceptance and as such it became effective on resignation. Article 67 in the case of Vice-President and so also articles 94 and 179 in the case of Speaker, Lok Sabha and State Legislatures, respectively specifically contemplate a *right to resign* and the resignation becomes effective as soon as the resignation is tendered[55].

55. Under the Constitution, the resignation of constitutional functionaries like the Vice-President and the Speaker does not depend upon the acceptance by any authority before being effective. In *Union of India* v. *Gopal Chandra Misra* (A.I.R. 1978 SC 694), the Supreme Court observed that in the case of a Government servant, resignation becomes effective only when it is accepted by the competent authority, but not so in the case of a High Court Judge when he resigns under proviso (a) to Art. 217 (1) of the Constitution. In his case, resignation becomes effective and the tenure stands terminated on the date from which he, of his own volition, chooses to quit office. The position would appear to be the same in the case of the aforesaid constitutional functionaries.

In the light of above, Secretary-General, Lok Sabha, sought the considered opinion of the Attorney-General on the following points:

(a) whether the second proviso to article 179 prevented N.R. Venkataratnam from resigning from his Office of the Speaker, Andhra Pradesh Legislative Assembly;

(b) whether despite his resignation he continued to be Speaker of the Andhra Pradesh Legislative Assembly, *i.e.* whether his resignation has not become effective immediately after it was made.

Endorsing the views of the Secretary-General, Lok Sabha, in the matter, the learned Attorney-General, observed *inter alia:*

> The circumstance that there is no Deputy Speaker because of the dissolution of the Assembly should not deprive the Speaker of his right to resign. This is on the principle of the maxim of law *'impolenlia excusat legem'* or *'lex non cogit ad imossibilia', i.e.,* when there is a necessary or invincible disability to perform the mandatory part of the law that impotentia excuses. The law does not compel one to do that which one cannot possibly perform.
>
> This view is re-inforced if one refers to article 180. Article 180 provides that while the Office of the Speaker is vacant, the duties of Office shall be performed by the Deputy Speaker or if the Office of the Deputy Speaker is also vacant, by such member of the Assembly as the Governor may appoint for the purpose. Therefore, a situation is contemplated by the Constitution where both the Office of the Speaker and of the Deputy Speaker are vacant. Therefore, merely because the Assembly is dissolved, and there is no Deputy Speaker, it cannot disable the Speaker from tendering his resignation. It is true that when both the Offices of the Speaker and Deputy Speaker are vacant, the Governor may appoint such member of the Assembly as the Speaker and when there is a dissolution of the Assembly, there will be no member of the Assembly to be appointed as Speaker by the Governor. But this should not militate against the right of the Speaker to resign...
>
> As to the specific points on which opinion was sought, the Attorney-General opined: "(i) the second proviso to article 179 does not prevent N.R. Venkataratnam from resigning his office; and (ii) his resignation became effective when he tendered the resignation".

Removal of Speaker or Deputy Speaker

The Speaker or the Deputy Speaker is removable from his office by a resolution of Lok Sabha passed by a majority of all the then members of the House. The term 'all the then members' in article 94(c) means the actual membership of the House, no account being taken of the seats which are vacant[56]. At least fourteen days' notice has to be

56. According to Speaker Mavalankar, the expression "all the then members of the House" means that "there has to be a majority of live membership" and not latent membership, or in other words, a majority of 'members chosen and living' as the expression is used by the American writers. This is made amply clear by pre fixing the words "the then" to the word "members".

According to Justice M.C. Setalvad, former Attorney-General of India, "It is a majority of 'all the then members' of the House. In other words, though the total membership may consist, say of 200 members, half a dozen seats thereof may, for one reason or other, be vacant or unfilled. If so, 'all the then members' would be 200 minus these six so that the majority will have to be a majority out of the remaining 194 members".

given of the intention to move such a resolution. In computing the period of fourteen days, both the terminal days are excluded[57].

A member wishing to give notice of a resolution for the removal of the Speaker or the Deputy Speaker, is required to do so in writing to the Secretary-General[58]. The notice may be given by two or more members jointly. On receipt of notice, a motion for leave to move the resolution is entered in the List of Business in the name of the members concerned on a day fixed by the Speaker provided that the day so fixed has to be any day after fourteen days from the date of the receipt of notice of the resolution[59].

A resolution for removal of the Speaker or the Deputy Speaker received without due notice is not proceeded with[60].

> On 6 March 1968, a member of the Opposition in the Punjab Legislative Assembly was named by the Speaker and thereafter ordered to be removed from the House. Subsequently, the Speaker agreed to drop the matter on an assurance of good conduct given by the Deputy Leader of the Opposition. This led to pandemonium and the Speaker adjourned the House for half an hour.
>
> When the House re-assembled, two identical motions, expressing lack of confidence in the Speaker for his failure (i) to maintain the dignity and decorum of the House, and (ii) to have his orders duly implemented in the House, were tabled. The motions were admitted and the Speaker observed that he would fix a date for discussion.
>
> When the House met on 7 March, the Speaker, in a ruling on points of order raised, observed that the no-confidence motions against him, admitted on the previous day, were "violative of article 179(c) of the Constitution and should be deemed to have not been moved at all". This led to a continuous pandemonium and eventually the Speaker adjourned the House for two months, which created a serious crisis as the Budget for 1968-69 had yet to be passed by the Assembly.
>
> Referring to these incidents, Speaker Reddy observed:
>
> The Speaker's action in revising his ruling regarding the removal of a member led to subsequent developments. However, the Speaker was within his rights to change his order in the changed circumstances.

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57. Maxwell, 10th ed. p. 351.
58. Rule 200(1).
59. Rule 200(2).

    A notice of a resolution signed by 21 members for the removal of Speaker Mavalankar was received on 3 December 1951. The resolution was included as the first item in the List of Business for 18 December 1954, which was circulated to members on 14 December 1954.

    A notice of a resolution signed by 23 members for the removal of Speaker Sardar Hukam Singh was received on 8 November 1966. Motion for leave to move the resolution was included in the List of Business for 24 November 1966. The item was included after the items *re.* papers to be laid, in accordance with Direction 2.
60. A notice of motion of no-confidence in the Deputy Speaker of the Provisional Parliament, which was received on 11 October 1951, was not proceeded with on the ground that the notice was short of the prescribed period of fourteen days, as the Session was scheduled to adjourn *sine die* on 16 October 1951.

> We have to remember that the Office of the Speaker is an august one. He is one who should be shown all respect by every section of the House. In fact, he cannot discharge his onerous responsibilities effectively if he is denied such respect. It follows that motions, or resolutions for the removal of the Speaker should not be brought forward in a light-hearted manner. There are constitutional provisions, rules and conventions in this regard which should be followed scrupulously[61].

At the sitting of Lok Sabha, while any resolution for the removal of the Speaker or the Deputy Speaker from his office is under consideration, the Speaker or the Deputy Speaker, as the case may be, cannot preside even though he is present in the House[62]. Subject to the aforesaid provisions, a member of the Panel of Chairpersons can preside in the absence of the Speaker or the Deputy Speaker, as the case may be.

The Speaker has the right to speak and otherwise to take part in the proceedings of Lok Sabha while any resolution for his removal from office is under consideration in the House and is entitled to vote only in the first instance on such resolution or any other matter during such proceedings but not in the case of an equality of votes[63].

The member in whose name the motion for leave to move the resolution stands in the List of Business, except when he wishes to withdraw it, moves the motion when called upon to do so, but no speech is permitted at this stage[64].

The Chair thereupon places the motion before the House and requests those members who are in favour of leave being granted to rise in their places and a count is taken without recording any names. If not less than fifty members rise accordingly, the Speaker or the Deputy Speaker or the person presiding, as the case may be, declares that the leave is granted and that the resolution will be taken up on such day, not being more than ten days from the date on which leave is asked for, as he may appoint. If less than fifty members rise, the Chair informs the member that he has not the leave

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61. In his address at the Emergent Conference of Presiding Officers on 6 April 1968.

62. Art. 96(1) and Rule 201(1).

    It has been held that consideration by the House of a motion for leave to move the resolution does not amount to consideration of the resolution for removal, and it would not be unconstitutional if the Speaker or the Deputy Speaker, as the case may be, does not vacate the Chair while a motion for leave to move the resolution for his removal is under consideration in the House. [*A.J. Faridi v. R.V. Dhulekar* (Chairman of U.P. Legislative Council) A.I.R. 1963, Allahabad 75]. However, as a matter of propriety, Rule 201(1) provides that the Speaker or the Deputy Speaker, as the case may be, shall vacate the Chair even when a motion for leave to move the resolution is taken up.

    When a resolution for the removal of the Speaker was moved in Lok Sabha on 18 December 1954, the Deputy Speaker presided over the sitting of Lok Sabha. The Speaker did not attend the sitting of the House on that day.

    On 24 November 1966, when the motion for leave to move the resolution for removal of the Speaker was taken up, the Deputy Speaker presided from the commencement of the sitting. The Speaker took the Chair soon after the leave to move the resolution was not granted by the House- *L.S. Deb.,* 24-11-1966, cc. 536-39.

    On 15 April 1987, when the motion for leave to move the resolution for removal of the Speaker was taken up, the Deputy Speaker presided. The Speaker did not attend the sitting of the House for the whole day.

63. Art. 96(2). This is different from the normal provision. Under article 100(1), the Chairman or the Speaker or any other person acting as such cannot vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

64. Rule 201(2). The Resolution for removal of the Speaker of Lok Sabha was moved on 18 December 1954, by a member who was the first signatory of the notice. No speech was made by him at that time.

of the House[65]. On the appointed day the resolution is included in the List of Business to be taken up after the question and before any other business for the day is entered upon[66].

Except with the permission of the Speaker or the person presiding, a speech on the resolution is not permitted to exceed fifteen minutes in duration. The mover of the resolution when moving the same may, however, speak for a longer time with the permission of the Chair[67].

A resolution for removal of the Speaker or the Deputy Speaker must be specific with respect to charges and the members should refer to specific points while speaking on such a resolution.

The Deputy Speaker made the following observations when a point of order was raised regarding the admissibility of the resolution for the removal of Speaker Mavalankar[68]:

> Unless there are specific charges which could be met, and of which due notice has been given, this Resolution is clearly out of order. But as the hon. Leader of the House said, with respect to such a serious matter, I do not want to disallow this motion on a technicality...
>
> Though *prima facie* this Resolution has not been worded properly, yet since this happens to be a Resolution for the removal of the Speaker, I would say that I am going to admit it now; of course subject to hon. members supporting it, I am going to allow it. I do not want to stand on technicalities because it is one of first impression, and a matter of this kind ought to be thrashed out in the House. To obviate the difficulty and to focus attention on particular points, whoever speaks first on behalf of the signatories to this Resolution may start by saying—one, two, three—these are the things relating to questions and again, one, two, three—these relate to adjournment motions. So far as 'etc.' is concerned, 'etc.' is not a legal language. Therefore, I am not going to allow any discussion further or allow 'etc.' to be clothed with flesh and blood here on the floor of the House. Therefore, I will allow discussion only on these points. Condoning the fact that regularity has not been adopted in this matter of giving the details and making it more specific, I would ask that whichever hon. member might begin must set out the three or four questions which he intends placing before the House for the purpose of focusing attention with respect to the questions, and also the three or four adjournment motions, which he wants to place before the House

65. Rule 201(3).

66. Rule 202.

    On 18 December 1954, when leave to move the resolution for removal of the Speaker of the Lok Sabha was granted by the House, more than 50 members having risen in their places, the Deputy Speaker who was in the Chair fixed the time for discussion on the same day at 15.30 hours, and two hours (15.30 to 17.30 hours) were allotted for the discussion on the resolution. The resolution was discussed and negatived by the House—*L.S. Deb.,* 18-12-1954, cc. 3398-456.

    The same procedure was followed on 15 April 1987, on a similar resolution for the removal of the Speaker of Lok Sabha. The resolution was discussed and negatived by the House— *L.S. Deb.,* 15-4-1987, c.564.

67. Rule 203. The time fixed for speeches in the case of resolution regarding removal of Speaker Mavalankar was 15 minutes, except the first Speaker in support of the resolution who was given 20 to 25 minutes.

68. *L.S. Deb.,* 18-12-1954, cc. 3300-01.

in respect of adjournment motions. No other subject which the hon. Speaker had dealt with during the course of his regime would be allowed to be referred to merely because the word 'etc.', is there. Therefore, the discussion will be specific. I admit this Resolution subject to all these observations.

Again, in a similar situation, the Deputy Speaker made the following observations regarding the admissibility of the resolution for removal of Speaker Jakhar[69]:

> ...Further, the notice suffers from many infirmities which I should like to place before the House. As members are aware, article 94 of the Constitution confers upon the House the power to remove the Speaker by a resolution passed by "a majority of all the then members of the House." Rules 200 to 203 framed under this article lay down the procedure to be followed in this respect. But that is not all. Such a resolution is governed not only by the aforesaid article of the Constitution and the rules mentioned above, but also by article 96 of the Constitution and the general rule applicable to other resolution, *viz.* Rule 173 of the Rules of Procedure.
>
> Article 96(2) provides, *inter alia,* that the Speaker shall have the right to speak in, and otherwise to take part in the proceedings of the House when any resolution for his removal from office is under consideration in the House.
>
> Rule 173 of the Rules of Procedure, *inter alia,* provides that in order that a resolution may be admissible, it shall satisfy the following conditions, namely:—
>
> (i) It shall be clearly and precisely expressed.
>
> (ii) It shall raise substantially one definite issue.
>
> In the light of the foregoing, the resolution should have been specific with respect to the charges. The notice under consideration refers to 'rulings given by the Speaker of the House, including the one on 19 March 1987, on the question of privilege and adjournment motions.... It also speaks of denial by the Speaker to the members their right to raise "vital constitutional issues and procedural issues and burning problems". It is, therefore, not at all specific with respect to the charges.
>
> Viewed in the light of the constitutional provisions as well as the requirements of the Rules of Procedure, as mentioned above, I am of the view that it is not a matter of mere technicality but one of substance. As the Speaker has the right to participate in and to vote on such a resolution, it is only fit and proper that he must know precisely what the charges against him are so that he could reply to them.
>
> Principles of natural justice also demand the same. Inasmuch as the charges are not specific, are not "clearly and precisely expressed" and do not raise "one definite issue", of which due notice has been given, the resolution would be *prima facie* out of order.
>
> ...However, notwithstanding all this, I would not like to stand between the members who have given the notice and the rest of the House. Since this happens to be a resolution given under article 94 of the Constitution and concerns the removal of the Speaker himself.
>
> I would leave it to the House to decide for itself whether leave should be granted to the member...

69. *L.S. Deb.,* 15-4-1987, cc. 562-64.

Speaker *Pro tem*

When the offices of both the Speaker and the Deputy Speaker fall vacant, the duties of the Office of the Speaker are performed by such member of Lok Sabha as the President may appoint for the purpose[70]. The person so appointed is known as the Speaker *pro tem* and this nomenclature distinguishes him from the Speaker elected by the House. After his appointment, the Speaker *pro tem* continues in office till the Speaker is chosen.

After the General Elections, the Speaker *pro tem* is appointed to administer oath/ affirmation to the newly elected members of Lok Sabha and conduct the election of the Speaker. He vacates Office soon after the Speaker is chosen by the House. The Speaker *pro tem* takes oath as a member of Lok Sabha before the President in Rashtrapati Bhavan at the earliest available opportunity and in any case before he actually takes the Chair to conduct the proceedings of the House. He signs the Roll of Members immediately on taking the Chair in the House which signifies his taking seat in the House.

The name of a member to be appointed as Speaker *pro tem* is suggested by the Prime Minister, who, in his discretion may place the matter before the Cabinet. Normally the seniormost member of the Lok Sabha is chosen for appointment, as the Speaker *pro tem*[71], and orders of the President for such appointment, as per practice so far followed after each General Election, are taken by the Ministry of Parliamentary Affairs and forwarded to Lok Sabha Secretariat for notification[72].

70. Art. 95(1).

71. B. Das was appointed as Speaker *pro tem* in 1952. Seth Govind Das was appointed as Speaker *pro tem* in 1957, 1962, 1967 and 1971. Jagjivan Ram was appointed as Speaker *pro tem* in 1980 and 1985. Prof. N.G. Ranga was appointed as Speaker *pro tem* in 1989. Indrajit Gupta was appointed as Speaker *pro tem* in 1991, 1996, 1998 and 1999. On the constitution of 14th Lok Sabha (2004), Somnath Chatterjee, the senior-most member was appointed by the Hon'ble President as Speaker *pro tem* to perform the duties of the office of Speaker from the commencement of sitting of 14th Lok Sabha on 2 June, 2004 until the commencement of sitting on 4 June 2004. As Somnath Chatterjee became a candidate for the post of Speaker, Lok Sabha, Hon'ble President, by his another order, appointed Balasaheb Vikhe Patil as Speaker *pro tem* to perform the duties of the office of the Speaker from the commencement of the sitting of Lok Sabha on 4 June 2004 till the election of Speaker. Manikrao Hodlya Gavit and Kamal Nath were appointed as Speaker *pro tem* in 2009 and 2014, respectively. They were members of Lok Sabha for maximum terms at the time of their appointments. There was a departure in 1956 when Sardar Hukam Singh who was not the senior-most member of the House but was being proposed for office of the Deputy Speaker later, was appointed as Speaker *pro tem.* In 1977, D.N. Tiwari was appointed as Speaker *pro tem.* He too was not the senior-most member of the House. Dr. Virendra Kumar and Bhartruhari Mahtab were appointed as Speaker *pro tem* in 2019 and 2024 respectively and they were not the senior-most members of the respective Lok Sabha.

72. In 1952, 1957, 1962, 1967 and 1971, orders of the President for appointment of the Speaker *pro tem* were obtained by the Ministry of Parliamentary Affairs and published in the *Gazette* by them. In 1977, 1980, 1985, 1989, 1991, 1996, 1998, 1999, 2004, 2009, 2014 and 2019 orders were obtained by the Ministry of Parliamentary Affairs but were forwarded to the Lok Sabha Secretariat for publication. These were published in *Gaz. Ex.* (1-1) 38/I(2)-I, 24-3-1977; *Gaz. Ex.* (1-1) 38/l(2)/80/T; 16-1-1980.

Gaz. Ex. (1-1) 38/l(2)/85/T, 7-1-1985; *Gaz. Ex.*(1-1) 38/l(2)/89/T, 12-12-1989; *Gaz. Ex.*(1-1) 38/l(2)/91/T, 5-7-1991; *Gaz. Ex.* (1-1) 38/l(2)/96/T, 23-5-1996; *Gaz. Ex.* (1-1) 38/l(2)/98/T, 28-3-1998.

Gaz. Ex. (1-1) 38/1(2)/99/T, 16-10-1999; *Gaz. Ex.* (1-1) 38/1(2)/2004/T, 31-5-2004; *Gaz. Ex.* (1-1) 38/1(2)/2009/T, 29-5-2009; *Gaz. Ex.* (1-1) 38/1(2)/2014/T, 30-5-2014; and *Gaz. Ex.* (1-1) 38/1(2)/2019/T, 11-6-2019 and Gaz. Ex (1-1) 38/1(2)/2024/T, 20-6-2024.

On receipt of the order duly signed by the President, a notification is issued in the Gazette. A paragraph is also issued simultaneously in the Bulletin for the information of members[73].

> On 7 March 1956, M. Ananthasayanam Ayyangar, the then Deputy Speaker and the only candidate proposed to the vacancy in the Office of the Speaker, caused by the demise of G.V. Mavalankar, resigned his office of Deputy Speaker in view of his impending election as Speaker on the next day. At 17.30 hours, after receipt of resignation, the Secretary submitted a note to the President informing him that both the offices of Speaker and Deputy Speaker were vacant and that the Prime Minister had suggested that Sardar Hukam Singh, a member of Lok Sabha be appointed to perform the duties of the Speaker until the election of the Speaker by Lok Sabha on 8 March 1956, the date previously appointed by the President for the purpose. The President approved the order.
>
> The order was immediately published in the Gazette[74] and also in the Bulletin[75].
>
> The Office of the Speaker having become vacant immediately before the first sitting of the Second Lok Sabha in accordance with the second proviso to article 94, the President appointed Seth Govind Das, the senior most member as Speaker *pro tem* for 10 and 11 May 1957, till the election of Speaker.

The Speaker *pro tem* has all the powers of the Speaker under the Constitution, Rules of Procedure or otherwise[76]. He, however, functions only till the House elects the Speaker[77].

Oath by Speaker

The Speaker on assuming his office is not required to make and subscribe any oath or affirmation. The only oath or affirmation he makes and subscribes is as a member of Lok Sabha which he does before his election as Speaker. Likewise, Deputy Speaker is also not required to make and subscribe any oath on assuming his office.

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73. If orders regarding appointment of the Speaker *pro tem* are obtained by the Ministry of Parliamentary Affairs direct without communicating the proposal of the Prime Minister or the Cabinet to the Lok Sabha Secretariat, the notification in the *Gazette* is issued by the Ministry of Parliamentary Affairs themselves and a copy of the order of the President forwarded to the Secretariat—For instance *see* DPA/Notfn. No. S.34/52, 17-4-1952, *Gaz. Ex.*(1-1) 17-4-1952 and No. S.34/52, 15-5-1952, *Gaz., Ex.* (1-1), 15-5-1952.

74. L.S.S. Notfn. No. 496-T/56, 7-3-1956; *Gaz. Ex.* (1-1), 7-3-1956.

75. Bn. (II), 7-3-1956, para 2938.

76. S.L. Shakdher: "Appointment of Speaker of Lok Sabha", J.P.I. Vol. II, No. l, April 1956.

77. As the Office of both Chairman and Deputy Chairman of the Karnataka Legislative Council were vacant, the Governor of Karnataka, under article 184(1), appointed another member of the Council to perform the duties of the Office of the Chairman with effect from the 1 July 1984, until the election of the Chairman. The Council met twice thereafter on 29 November 1984 and on 18 March 1985 but no date was fixed for the election of the Chairman. As a protest the Opposition members gave notice of a resolution for removal of the Chairman *pro tem.* In the meanwhile, Notification dated 19 March 1985 was issued by the Governor fixing 8 April 1985 as the date for election of the Chairman. However, the Chairman *pro tem* resigned from his Office with effect from 26 March 1985 and the notice of the resolution for his removal became ineffective.

    There has been no instance in Lok Sabha when the Speaker *pro tem* functioned as a regular Speaker for any length of time. There has also been no instance in Lok Sabha when a notice of resolution for removal of the Speaker *pro tem* was tabled by any member.

Dress of the Speaker

From 1921 to 1946, the Speakers of the Central Legislative Assembly used to wear robes and wigs normally while presiding over the meetings of the Assembly. There were, however, occasions when the Presiding Officers did not put on the ceremonial dress.

In 1937, a notification was issued from the office of Secretary to the Governor-General prescribing the dress to be worn by the Presiding Officers of the Council of State and of the Central Legislative Assembly and by the Presiding Officers of Legislative Councils and Legislative Assemblies in Governor's provinces. The Conference of Presiding Officers held in July 1939, considered the questions as to what should be the dress of the Presiding Officer (i) while in the House, and (ii) while attending State functions, *vis-a-vis* the above notification. The consensus was that the sartorial notification was not binding on them.

When G.V. Mavalankar assumed the Office of the Speaker of the Central Legislative Assembly in 1946, the use of any robe or wig by the Speaker was discarded for the first time. As Speaker of the First Lok Sabha also, he did not wear any formal dress. That practice continues.

Office of the Deputy Speaker

The Office of the Deputy Speaker in India (known as Deputy President till 1947) is as old as the Central Legislature itself. A Deputy Speaker, as in the case of Speaker, ceased to hold Office if he ceased to be member of the Assembly. He could resign his office by writing under his hand addressed to the Governor-General and could be removed by a vote of the Assembly with the concurrence of the Governor-General[78].

Section 22 of the Government of India Act, 1935, *inter alia,* laid down provisions with regard to the election, duties, vacation of Office and salary of the 'Deputy Speaker', but these provisions never came into force due to the non-implementation of the federal part of the Act. Although this section of the Act of 1935 was brought in to operation after Independence by the India (Provisional Constitution) Order, 1947, provisions relating to the Deputy Speaker contained therein were omitted.

Election of Deputy Speaker

The rule regarding the election of Deputy Speaker was for the first time made in 1920 by the Governor-General, and all elections to this office during the period 1921-47 were held by a ballot in accordance with the procedure prescribed in the aforesaid rule[79].

> In the event of a contest, the candidate who received the majority of votes was declared by the Speaker as duly elected but if the Governor-General withheld his approval to any election, a fresh election, was to be held in accordance with the prescribed procedure. A member whose election had not been approved by the Governor-General could not be proposed as a candidate

78. *See.* s. 63(3), as set out in the Ninth Schedule to the Government of India Act, 1935. For powers and function of the Deputy Speaker, *see* Chapter 8-'Parliamentary Functionaries'.

79. *See* Legislative Assembly Rules, S.O. 5(1), *Gaz.(1)* 18-12-1920, p. 2279.

during the continuance of that particular Assembly[80]. An announcement regarding Governor-General's message approving the election of a particular candidate as the Deputy Speaker was made by the Speaker.

Sachidanand Sinha was the first Deputy Speaker of the Central Legislative Assembly, elected on 3 February 1921. The announcement regarding the approval of his election by the Governor-General was made in the House on 22 February 1921; Sinha resigned following appointment as member of the Executive Council of the Governor of Bihar and Orissa. While his resignation was announced on 1 September 1921, his successor, Sir Jamsetjee Jajeebhoy, was elected on 21 September 1921[81]. He was followed in Office by Diwan Bahadur T. Rangachariar (4-2-1924), Sir Muhammad Yaqub (31-1-1927), Dr. H.S. Gour (11-7-1930), Shanmukham Chetty (19-1-1931), Abdul Matin Chaudhuri (21-3-1933), Akhil Chandra Dutta[82] (5-2-1935), and Sir Mohammad Yamin Khan (5-2-1946), who remained in office till the midnight of 15 August 1947.

In 1947, while adapting the Standing Orders of the Legislative Assembly for the Constituent Assembly (Legislative), the relevant rule was omitted, and the Constituent Assembly (Legislative) Rules, 1947 did not provide for the Office of the Deputy Speaker. But in 1948, during the Second Session of the Constituent Assembly (Legislative) which commenced on 28 January 1948, need was felt for having a Deputy Speaker to preside over the sittings of the Assembly in the absence of the Speaker. Necessary amendments were accordingly made in the Constituent Assembly (Legislative) Rules and the Office of the Deputy Speaker was revived.

Like the Speaker, the Deputy Speaker of the Constituent Assembly (Legislative) continued under article 379 as the Deputy Speaker of Provisional Parliament on the enforcement of the Constitution.

Constitutional Provisions and Rules regarding Election of Deputy Speaker: The election of Deputy Speaker is now governed by provisions of article 93. In 1952, while adapting the Constituent Assembly (Legislative) Rules for Lok Sabha, radical changes were introduced in the procedure regarding election of the Deputy Speaker. As in the case of the Speaker, the election of the Deputy Speaker by ballot was eliminated and the election was to be by open voting in the House. Even when there was only one candidate for the Office, the motion regarding his election was formally to be put to the House and carried.

The changes made in the rule thereafter have only been of a minor nature and the procedure for election of the Deputy Speaker broadly continues to be the same[83].

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80. *See* S.O. 5.

81. Sir Jajeebhoy was elected by a casting vote because of a tie between him and his rival, Dr. H.S. Gour.

82. Since the life of the Assembly was extended from time to time upto 1945, Dutta remained in Office for about a decade.

83. From First to Sixteenth terms of Lok Sabha, the House has chosen 14 members to the Office of Deputy Speaker, out of which 4 have been from the ruling party and the rest have been from other parties, mainly opposition parties. No member was chosen to the office of Deputy Speaker during the Seventeenth Lok Sabha.

Election of Deputy Speaker under new Rule: The procedure for choosing the Deputy Speaker is the same as for the Speaker, except that the date for the election of Deputy Speaker is fixed by the Speaker[84]. Members are informed of the date of election through the Bulletin.

The first election to the office of Deputy Speaker under the Constitution and the present Rule was held on 30 May 1952.

The form of motion for choosing the Deputy Speaker is the same as for choosing the Speaker.

As specific rules have been made for dealing with motions for choosing the Speaker and the Deputy Speaker, such motions are treated as distinct from other general motions and as such no speech can be made by a member at the time of moving his motion[85].

The election of the Deputy Speaker is notified in the Gazette by the Secretariat.

Term of Office as Deputy Speaker

The Deputy Speaker holds office from the date of his election till the dissolution of Lok Sabha. He is eligible for re-election.

The Deputy Speaker must vacate his office if he ceases to be a member of Lok Sabha.

He may even cease to be a member of Lok Sabha as soon as any of the contingencies provided in articles 101 and 102 arises.

As and when the Office of the Deputy Speaker falls vacant, a notification to that effect is published in the Gazette.

The procedure regarding resignation from the Office of Deputy Speaker is the same as for the Speaker. He may, at any time, resign his office by writing under his hand to the Speaker. The letter of resignation has to be addressed to the Speaker even though the Office of the Speaker might be vacant[86].

The letter should not only be sent/put in the course of transmission, but should be actually received by the Speaker. The letter of resignation can be withdrawn before the same is actually received by the Speaker[87]. The House is informed of the resignation of

84. Rule 8(1).

85. When the motion for choosing the Deputy Speaker had been moved on 23 April 1962, a member submitted that though the rules did not so permit, he may be allowed to avail himself of the right of members to speak on any motion. The Speaker observed that specific rules having been laid down for choosing the Speaker and the Deputy Speaker, such motions were treated as distinct from the motions in general. The member was, therefore, not allowed to speak on the motion for choosing the Deputy Speaker.

86. M.A. Ayyangar resigned from the Office of the Deputy Speaker of Lok Sabha on the afternoon of 7 March 1956. The letter of resignation was addressed to the Speaker, Lok Sabha, and sent to the Secretariat even though the Office of Speaker was then vacant. Secretary informed Lok Sabha on 8 March 1956, of the resignation by the Deputy Speaker—*see* LSS Notfn. No. 496-T(I)/56, 7-3-1956; *Gaz. Ex.*(1-1) 7-3-1956; and *L.S. Deb.,* (I) 8-3-1956. c. 409.

87. On 27 June 1983, a letter was received from G. Lakshmanan, Deputy Speaker, Lok Sabha, addressed to Speaker, Lok Sabha, intimating that his letter dated 25 June 1983 sent by him from Madras by registered post resigning from Office of Deputy Speaker, Lok Sabha, might be treated as cancelled

the Deputy Speaker by the Speaker and if the Office of the Speaker is vacant, then by the Secretary-General who receives the letter of resignation in that case.

The resignation is notified in the Gazette.

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and no action be taken thereon. Subsequently, letter dated 25 June 1983 from G. Lakshmanan offering his resignation from Office of Deputy Speaker, Lok Sabha, was received in New Delhi by registered post at 1.30 p.m. on 29 June 1983.

On 7 July 1983, the matter was referred for legal opinion. It was as follows:

> "the correct interpretation to be placed on the expression 'addressed to the Hon'ble Speaker' would appear to be that the letter of resignation should not only be sent/put in the course of transmission, but should also be actually received by the Hon'ble Speaker. As a necessary corollary to this, it would follow that the juristic act of resignation was not complete prior to the receipt of the letter dated 25 June 1983, by the Hon'ble Speaker, *i.e.* prior to 1.30 p.m. on 29 June 1983. In other words, the resignation of his Office by the Deputy Speaker was still inchoate and had not become irrevocable.
>
> As the letter of resignation was not a complete juristic act or the resignation was inchoate in the sense that the same had not resulted in terminating the office of the Deputy Speaker on 27 June 1983, the Deputy Speaker was within his rights to withdraw the same as has actually been done by the letter dated 27 June 1983. The Constitution does not contain any bar to such withdrawal... It is, thus, evident that the Deputy Speaker was within his rights to withdraw the resignation prior to 1.30 p.m. on 29 June 1983.
>
> In fine, it would appear to be correct to say that G. Lakshmanan, Deputy Speaker, continues to hold the office of Deputy Speaker."

After considering the matter in the light of the legal opinion, the Speaker held that G. Lakshmanan continued to hold the Office of the Deputy Speaker. Consequent on the issue being raised in Lok Sabha on 25 July 1983, the matter was referred for obtaining the opinion of the Attorney-General. The Attorney-General concurred with the earlier legal opinion and the matter was treated as closed. *L.S. Deb.,* 26-7-1983, c. 7.

CHAPTER 8

Parliamentary Functionaries

I. Speaker

The all important conventional and ceremonial head of the Lok Sabha is the Speaker[1]. Within the walls of the House, his authority is supreme. This authority is based on the Speaker's absolute and unvarying impartiality—the main feature of his Office, the law of its life. This obligation of impartiality appears in the constitutional provision which ordains that the Speaker is entitled to vote only in the case of equality of votes[2]. Moreover, his impartiality within the House is secured by the fact that he remains above all considerations of party or political career, and to that effect, he may also resign from the party to which he belonged[3].

Though his powers and duties have been laid down in the rules and, to some extent, in the Constitution, the rules which he has to administer are of an elastic character and in some matters he has to exercise his discretion. His duties are very arduous, and in their discharge he must be actuated by a sense of justice and fairness, uninfluenced by passion or prejudice. He has to impress the House generally with confidence in the soundness and impartiality of his judgments, with the conviction that he considers himself the conscience and guardian of the House.

As the principal spokesman of the House, he represents its collective voice and is its sole representative to the outside world.

Communications from the President to the House are made through the Speaker[4]. When a message from the President, whether with respect to a Bill pending in Parliament or otherwise[5], is received by the Speaker, he reads it to the House and gives necessary directions in regard to the procedure that is to be followed for the consideration of matters referred to in the message, and in giving those directions he can suspend or vary the rules to such extent as may be necessary[6]. Similarly, communications to the President are made through the Speaker in the form of a formal address after a motion has been made and carried by the House[7]. In the same way, the Speaker is the representative of the House in its relations with the Rajya Sabha.

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1. The term "Speaker" appears to be somewhat paradoxical, since he is the only member of the House who does not take part in its debates except in the discharge of his duties as the Presiding Officer. But the original function of the Presiding Officers of the British House of Commons was "to sum up the case of both sides at the end of the debate, and to 'speak' the views of the House in the contentions with the Crown". Michael MacDonagh: *The Book of Parliament,* London, 1897, p. 115; *see* also Philip Laundy: *The Office of the Speaker in the Parliaments of the Commonwealth,* London, 1984, pp. 11-57.
2. Art. 100(1).
3. The first Speaker to resign from the political party to which he belonged was N. Sanjiva Reddy during the years 1967-1969.
4. Rule 246.
5. Art. 86(2).
6. Rule 23.
7. Rule 247. A common example of this is the Motion of Thanks adopted by the House on the Address by the President to the two Houses of Parliament assembled together, which is conveyed to the President by the Speaker.

As the representative of the House to the outside world, the Speaker communicates the decisions of the House to the authorities concerned, requiring them to comply with the terms of such decisions. Similarly, he communicates to the House letters and documents addressed to him, as Speaker, such as those relating to the rights and privileges of the House and its members, and messages received by him from foreign countries and Legislatures. He also issues warrants to execute the orders of the House, where necessary.

Powers and Functions

The House commences its sitting when the Speaker, or any other member competent to preside over the sitting under the Constitution or the Rules, is in the Chair[8]. Utmost respect and attention is paid to him by all members of the House. Whenever the Speaker rises to speak, he is heard in silence and any member who is then speaking or offering to speak is required to resume his seat. No one is expected to leave the Chamber when the Speaker is addressing the House. His rulings cannot be questioned except on a substantive motion, and they constitute precedents which are collected for future guidance.

The Office of the Speaker is provided for in the Constitution[9], and his salary and allowances are charged on the Consolidated Fund of India[10]. The Constitution also confers on him a special position insofar as relations between the two Houses in certain matters are concerned. It is the Speaker who determines what matters are 'money' matters as these fall within the exclusive jurisdiction of the Lok Sabha. If the Speaker certifies a Bill as a Money Bill, his decision is final[11]. Every Money Bill is so certified by him, when it is transmitted to Rajya Sabha as also when it is presented to the President for his assent[12].

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8. Rule 11.
9. Arts. 93-96. For details regarding the Office of the Speaker, *see* Chapter **7** –Presiding Officers of Lok Sabha.
10. Art. 112(3) (b); *see* also Chapter 13 'Salaries, Allowances, other Entitlements, Amenities and Facilities'.
11. Art. 110 (3).

    In K.S. Puttaswamy vs. Union of India and Others (a five Judges Bench), 2019 [SCC], WP (CIVIL) No. 494 of 2012, three Judges CJI Dipak Mishra, Justice A.K. Sikri and Justice A.M. Khanwilkar observed:-

    "Judicial review means the Supremacy of law. It is the power of the court to review the actions of the Legislature, the Executive and the Judiciary itself and to scrutinize the validity of any law or action. It has emerged as one of the most effective instruments of protecting and preserving the cherished freedoms in a constitutional democracy and upholding principles such as separation of powers and rule of law. The Judiciary, through judicial review, prevents the decisions of other branches from impinging on the constitutional values. The fundamental nature of the Constitution is that of a limiting document, it curtails the powers of majoritarianism from hijacking the State. The power of review is the shield which is placed in the hands of the most judiciaries of constitutional democracies to enable the protection of the supreme document."

    Justice Ashok Bhushan concurring with the majority opinion observed that:-

    "When a Bill does not fulfil the essential constitutional condition under Article 110(1), the said requirement cannot be said to be evaporated only on certification by Speaker. Accepting the submission that certification immunes the challenge on the ground of not fulfilling the constitutional condition, Court will be permitting constitutional provisions to be ignored and bye-passed. We, thus, are of the view that decision of Speaker certifying the Bill as Money Bill is not only a matter of procedure and in event, any illegality has occurred in the decision and the decision is clearly in breach of the constitutional provisions, the decision is subject to Judicial Review."

12. *Ibid.*

Whenever a joint sitting is called, in the event of a disagreement between the two Houses on a legislative measure, the Speaker presides over such a joint sitting and all the Rules of Procedure operate in regard to the joint sitting under his directions and orders[13]. Under the Constitution, the Speaker, as already stated, exercises only a casting vote in the case of equality of votes[14]. However, if at any sitting of the House a resolution for the removal of the Speaker from his Office is under consideration, he is not to preside at that sitting but can vote only in the first instance on such resolution or any other matter during such proceedings but not in the case of an equality of votes[15]. The Constitution also prescribes certain of his duties: he is empowered to adjourn the House or to suspend its sitting in the event of the absence of a quorum[16], and he is authorised, in his discretion, to permit any member who is unable to express himself in Hindi or in English to address the House in his mother tongue[17].

The Speaker does not take any part in the deliberations of the House except in the discharge of his duties as the Presiding Officer. However, on a point being raised or on a request made by a member, he may address the House at any time on a matter under consideration with a view to aiding members in their deliberations[18]. Such instances are rare[19] but whenever he does address the House those expressions are not to be taken in the nature of a ruling.

It is customary for the Speaker to make appropriate references in the House on solemn occasions, and other important occasions and anniversaries like the anniversary of the Universal Declaration of Human Rights by the United Nations, May Day, anniversary of the dropping of the atom bombs on Hiroshima and Nagasaki, and also to pay homage to the memory of the martyrs of Jallianwala Bagh[20] and to those who died in the attack by terrorists on Parliament House on 13 December 2001.

Similarly, the Speaker may place before the House motions or resolutions to mark events of great national or international importance[21], to express the sentiments of the

13. Art. 118(4) and rule 7 of the Houses of Parliament (Joint Sittings and Communications) Rules.
14. Art. 100(1).
15. Art. 96(2).
16. Art. 100(4).
17. Art. 120(1).
18. Rule 360.
19. For instance, Speaker Mavalankar elucidated a procedure which he desired the House to follow in regard to the debate on the report of the States Reorganisation Commission. *See L.S. Deb.,* 9-12-1955, cc. 1919-25; 14-12-1955, cc. 2555-2692. Speaker Sangma addressed the House on 26 August 1997 on the occasion of Golden Jubilee of India's Independence. During the 14th Lok Sabha, Speaker Somnath Chatterjee introduced a practice of making weekly statements in House recapitulating the main items of Business transacted by the House during the previous week.
20. *L.S. Deb.,* 10-12-1958, cc. 4091-93; 10-12-1968, c. 1; 13-4-1969, c. 10995; 1-5-1970, cc. 1-4; 203-05; 6-8-1987, c. 1.
21. Resolution on the occasion of the Centenary Year of Mahatma Gandhi—*L.S. Deb.,* 24-12-1969, c. 102; Resolution *re.* 40th Anniversary of the United Nations-*L.S. Deb.,* 29-8-1985, cc. 31-35; Resolution *re.* the 50th Anniversary of the Quit India Movement and Paying Homage to Martyrs of the Freedom Movement—*L.S. Deb.,* 8-8-1992, cc. 1-2**;** Resolution commemorating the Golden Jubilee of India's Independence—*L.S. Deb.,* 1-9-1997; Resolution affirming commitment to the principles and ideals of the Constitution on the Constitution Day, *L.S. Deb.,* 27.11.2015; Resolution *re*. 75th anniversary of the Quit India Movement and the commitment to build a nation of dreams of Mahatma Gandhi and all freedom fighters – *L.S. Deb.,* 9.8.2017 and Resolution congratulating all scientists, engineers and people of country on the success of Chandrayan-3 mission and other achievements of our nation in the space sector—*L.S. Deb.*, 21.09.2023.

House on some occurrence of national or international importance[22] or a tragedy[23] or some occasion to express happiness of the nation[24]. Such motions or resolutions are unanimously adopted without discussion as these are brought before the House after consulting leaders of parties and groups and arriving at a consensus.

Since 1969, it is the practice that the Speaker makes references to the presence of the foreign distinguished visitors, including Parliamentary Delegations, in the Special Box in the House when members cheer the visitors by thumping the desks[25].

Having regard to the state of business of the House, the Speaker fixes the hour of commencement or termination of sitting and determines the days on which the House will sit[26]. He also determines the time when a sitting of the House is adjourned *sine die* or to a particular day, or to an hour or part of the same day, and can call a sitting of the House before the date or hour to which it has been adjourned or at any time after the House has been adjourned *sine die,* but before its prorogation[27]. In consultation

22. Motion *re.* Six-Nation Summit on Nuclear Disarmament—*L.S. Deb.,* 30-1-1985, cc. 287-88; Resolution condemning the killing of Benjamin Moloise by the racist regime in South Africa—*L.S. Deb.,* 18-11-1985, cc. 350-51. Resolution making an appeal to the leaders of the United States and the Soviet Union on the eve of their meeting in Geneva—*L.*S. *Deb.,* 18-11-1985, cc. 351-52; Resolution condemning bombing raids by U.S.A. on Libya—*L.S. Deb.,* 16-4-1986, cc. 400-402; Resolution welcoming conclusion of Treaty on Strategic Arms Reduction (START) between United States of America and Soviet Union, signed in Moscow—*L.S. Deb.,* 2-8-1991, c. 266; Resolution welcoming assumption of office by new Government elected on the basis of first ever multi-racial elections in South Africa with Dr. Nelson Mandela as the first democratic President—*L.S. Deb.,* 10-5-1994, cc. 669-70; Resolution condemning the cowardly terrorist attack on Parliament House on 13 December, 2001 – *L.S. Deb.,* 14.12.2001; and Resolution expressing concern over prolonged turbulence and violence in Kashmir Valley – *L.S. Deb.,* 12.8.2016.

23. Resolution expressing sorrow at the loss of life and property due to cyclone in some States— *L.S. Deb.,* 21-11-1977, c. 1; Resolution conveying sympathies to the people of Columbia for fury of nature—*L.S. Deb.,* 18-11-1985, c. 352; Resolution conveying grief and sorrow at the loss of life and property due to cyclonic storm in Tamil Nadu—*L.S. Deb.,* 18-11-1985, c. 352; Resolution expressing shock and profound sorrow on the killing of 141 innocent persons, including 132 innocent children, by terrorists in a school in Peshawar, Pakistan on 16 December, 2014 – *L.S. Deb.,* 17.12.2014 and Resolution regarding drug abuse in the country–*L.S. Deb.* 21.12.2022.

24. Resolution expressing relief and happiness on the providential escape of Prime Minister Morarji Desai in an air crash—*L.S. Deb.,* 14-11-1977, c. 2; resolution welcoming release of South African freedom fighter Nelson Mandela—*L.S. Deb.,* 14-3-1990, cc. 569-75. Resolution welcoming conclusion of Treaty on Strategic Arms Reduction (START) between United States of America and Soviet Union, signed in Moscow—*L.S. Deb.,* 2-8-1991, cc. 266-67; welcoming assumption of office by new government elected on basis of first-ever multi-racial elections in South Africa with Dr. Nelson Mandela as the first democratic President—*L.S. Deb.,* 10-5-1994, cc. 669-70; resolution adopted on International Women's Day—*L.S. Deb.,* 8.3.1996, cc. 197-205.

25. *L.S. Deb.,* 20-2-1969, c. 1; 7-1-1991, cc. 1-2; 20-12-2004, c-1; 28-2-2005, c-1; 29-11-2007, c-1.

26. Rules 12 and 13.

27. Rule 15 (1). (i) The 8th Session of the 8th Lok Sabha commenced on Monday, 23 February 1987 and was adjourned *sine die* on 12 May 1987. The Lok Sabha was not, however, prorogued. The Speaker, exercising his powers under proviso to Rule 15, reconvened the sittings of the Lok Sabha from 27 July 1987 which continued till 28 August 1987; (ii) Similarly, the 14th Session of the 8th Lok Sabha commenced on Tuesday, 18 July 1989 and was adjourned *sine die* on 18 August 1989. The Lok Sabha was not, however, prorogued. The Speaker, exercising his powers under proviso to Rule 15, reconvened the sittings of the Lok Sabha from 11 October which continued till 13 October 1989; (iii) Likewise, the 3rd Session of the 9th Lok Sabha commenced on Tuesday, 7 August 1990 and was adjourned *sine die* on 7 September 1990. The Lok Sabha was not, however, prorogued. The Speaker, exercising his powers under proviso to Rule 15, reconvened the sittings of the Lok Sabha from 1 October, which continued till 5 October 1990; (iv) Similarly, the First Session of the 11th Lok Sabha commenced on Wednesday, 22 May 1996 and was adjourned *sine die* on 28 May 1996. The Lok Sabha was not, however, prorogued. The Speaker, exercising his power under Proviso to Rule 15, reconvened the sittings of the Lok Sabha from 10 June 1996, which continued till 12 June 1996;

with the Leader of the House, he determines the order of the Government Business which can be varied only if he is satisfied that sufficient grounds exist for doing so[28]. He has also the power to recognise parties and groups in the House[29].

The Speaker regulates the debates and proceedings of the House. Even at the secret sittings which can be held at the request of the Leader of the House, it is the Speaker who determines the manner of reporting the proceedings and the procedure to be adopted on such occasion[30]. He is charged with the maintenance of order in the House and enforces the observance of Rules by the members. To this end, he is equipped with all the necessary powers[31]. He determines when a member should be called upon to speak[32] and how long he be allowed to speak. He can also impose time-limit on speeches, whenever necessary[33]. He proposes questions for the consideration of the House and puts them for its decision[34]. He rules on points of order raised by members and his decision is final[35].

Various powers are conferred on the Speaker in relation to questions to Ministers. Though the guiding principles regarding admissibility of questions are laid down in the Rules, their interpretation is vested in the Speaker[36]. He may also vary the Question Hour, normally the first hour of every sitting[37], waive the rules relating to notice of questions[38] and permit a question to be asked at short notice if it relates to matter of public importance and is, in his opinion, of an urgent character[39], decide that a written answer to any question would be more appropriate than oral answer, and if he thinks fit, call upon the member to state in brief his reasons for desiring an oral answer[40], permit a question not reached for oral answer to be answered at the end of the Question Hour if the Minister represents to the Speaker that the question is one of special public interest[41], direct that a question be answered, at the request of a member,

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(v) Likewise, the 14th Session of 13th Lok Sabha commenced on 2 December 2003 and was adjourned *sine die* on 23 December 2003. The Lok Sabha was not, however, prorogued. The Speaker, exercising his power under Proviso to Rule 15 reconvened the sitting of the Lok Sabha from 29 January 2004, which continued till 5 February 2004; (vi) Similarly, the 7th Session of 14th Lok Sabha commenced on 16 February 2006 and was adjourned *sine die* on 22 March 2006. The Lok Sabha was not, however, prorogued. The Speaker, exercising his power under Proviso to Rule 15 reconvened the sittings of Lok Sabha from 10 May 2006 which continued till 23 May 2006; and (vii) Likewise, the 15th Session of 15th Lok Sabha commenced on 5 December 2013 and was adjourned *sine die* on 18 December 2013. The Lok Sabha was not, however, prorogued. The Speaker, exercising her power under Proviso to Rule 15 reconvened the sittings of Lok Sabha from 5 February 2014 which continued till 21 February 2014.

28. Rule 25.
29. Dir. 120.
30. Rules 248-50.
31. Rule 378. *See* also this Chapter under the sub-heading *Disciplinary Powers of the Speaker*, *infra.*
32. Rule 350.
33. Rules 21, 63, 178, 192, 196, 198(5), 203, 218(5) and 363(1).
34. Rule 365.
35. Rule 376(3).
36. Rule 43(1).
37. Rule 32.
38. Rule 33.
39. Rule 54(1).
40. Rule 44.
41. Rule 46, Proviso.

notwithstanding the absence of the member in whose name the question stands[42], and when all questions for oral answers have been called, time permitting, call again any question which has not been asked by reason of the absence of the member in whose name it stands. Provision has been made in the Rules for half-an-hour discussion on matters arising from the answers to questions provided they are of sufficient public importance, but the decision as to whether a matter conforms to the requirements of the relevant Rules rests with the Speaker[43].

The Speaker also decides on the admissibility of resolutions and motions. He has a general discretion in regard to the admissibility of resolutions and motions similar to the one relating to the admissibility of questions[44]. He decides whether a motion expressing want of confidence in the Council of Ministers is in order[45], and whether a 'cut' motion, that is a motion for reduction of a demand for grant, is or is not admissible under the Rules[46]. If the Speaker is of the opinion that a motion for adjournment of a debate or the recirculation or recommittal of a Bill is of a dilatory nature in abuse of the Rules of the House, he can forthwith put the question thereon or decline to propose the question[47]. The Speaker is empowered to select amendments in relation to Bills and motions[48], and can refuse to propose an amendment which, in his opinion, is frivolous[49]. In addition, his consent is required to a motion to adjourn the business of the House for the purpose of discussing a definite matter of urgent public importance[50], to a motion for discussing a matter of general public interest, and to any motion for[51] adjourning the debate on a Bill[52].

The consent of the Speaker is also necessary for the presentation of petitions to the House[53], for calling the attention of a Minister to any matter of urgent public importance[54], and for any member to point out a mistake or inaccuracy in a statement made by a Minister or any other member[55]. Further, the consent of the Speaker is required by a Minister wishing to make a personal statement in explanation of his resignation[56], and his permission is likewise necessary if a member wants to make a personal explanation[57].

In pursuance of the provision of the Constitution or the Rules of Procedure or Directions by the Speaker or an Act of Parliament and the Rules and Regulations made

42. Rule 48(3).
43. Rule 55(3).
44. Rules 174 and 187.
45. Rule 198(2).
46. Rule 211.
47. Rule 341.
48. Rules 83 and 346.
49. Rule 347.
50. Rule 56.
51. Rule 184.
52. Rule 109.
53. Rule 160.
54. Rule 197.
55. Dir. 115.
56. Rule 199(1).
57. Rule 357.

thereunder, papers are laid on the Table of the House with the permission of the Speaker. The Speaker can, however, withhold the laying of a paper on the Table of the House, if he is of opinion that the paper relates to an order which is not made in accordance with the provisions of the Constitution or the law. The Speaker may permit a discussion on a point of order questioning the laying of paper in the above circumstances[58].

In consultation with the Leader of the House, he allots the days and fixes the duration for which the Budget, the Appropriation Bill and the Finance Bill are to be discussed by the House[59]. His views on the proposals of the Government for commencement and prorogation of a session, dissolution of the Lok Sabha and for fixation of dates for the presentation of the General and Railway Budgets are communicated to the President when he signs the necessary orders under the Constitution or the Rules.

The Speaker determines whether there is a *prima facie* case for a matter relating to a breach of privilege or contempt of the House. Without his consent, no question involving a breach of privilege either of a member or of the House or a Committee thereof can be raised in the House[60], but the Speaker can *suo moto,* refer any such question to the Committee of Privileges for examination, investigation and report[61].

The Speaker is in supreme control of all parliamentary committees, whether set up by him or by the House. He appoints their Chairmen[62], and issues such directions to them as he may consider necessary pertaining to the organisation of work and the procedure to be followed by them[63]. He guides them by holding periodic consultations with them, and if any doubt arises on any point of procedure or otherwise, the matter is referred to the Speaker whose decision is final. Even otherwise, the Speaker keeps in close touch with the proceedings of all committees. Certain powers relating to committees are reserved for the Speaker—a committee cannot hold a meeting outside the Parliament House/Parliament House Annexe without his previous permission[64], nor can it call officials of State Governments to give evidence before it without his

58. *L.S. Deb.,* 2-4-1974, cc. 216-53; 3-4-1974, cc. 207-35.

    On 29 March 1974, the President issued an order authorising expenditure from the Consolidated Fund of the Union territory of Pondicherry, which had come under President's Rule on 28 March 1974. The Presidential order was to be laid on the Table of the House on 2 April 1974. On that day, some members contended that as the Legislative Assembly of the Union territory of Pondicherry had been dissolved, the power to withdraw moneys from the Consolidated Fund of the Union territory of Pondicherry could only be exercised by Parliament. They urged the Speaker that the order, which was illegal and unconstitutional, should not be allowed to be laid on the Table of the House. On 3 April 1974, the Minister of Law, while replying to the points raised by members stated that following the dissolution of Pondicherry Legislature on 28 March 1974, the budget and financial statement of Pondicherry was forwarded to the Union Government on 29 March 1974, which was the last working day of the Lok Sabha before the end of the financial year 1973-74. So, if the Vote on Account had to be passed by the House, it had to be passed on the 29th, which was not practicable at all. The Minister submitted that what Government had done was not only correct under the circumstances, but was also legal and constitutional. After listening to both the sides, the Speaker, however, observed that he was not going to allow the Presidential order to be laid on the Table of the House "at present".

59. Rules 207(1) and 219(2). Normally time for those discussions is decided by the House on the recommendations of the Business Advisory Committee.

60. Rule 222. In addition to the Speaker's consent, a member seeking to raise a matter of privilege also requires the leave of the House. *See* Rule 225.

61. Rule 227.

62. Rule 258.

63. Rule 283.

64. Rule 267.

previous approval[65], appeals from members of a committee against the decisions of the Chairman in the matter of expunctions, disorderly behaviour, etc., are decided by the Speaker[66], and where a question arises whether the production of a document or the evidence of a person is relevant to its deliberations, the question is referred to the Speaker and his decision is final[67]. Similarly, if the Government claims that a particular paper, record or document is secret and the contents thereof should not be divulged in the public interest but the Committee insist on its production before them, the matter is placed before the Speaker for guidance and his directions are carried out. Moreover, there are certain committees, *viz.,* the Business Advisory Committee, the General Purposes Committee, and the Rules Committee, which work directly under the Speaker's chairmanship.

The Speaker also determines the question as to whether a member of the House has become subject to disqualification on ground of defection in terms of the Tenth Schedule to the Constitution.

Rulings of the Speaker

It is the right of the Speaker to interpret the Constitution and Rules, so far as matters in or relating to the House are concerned, and no one, including the Government, can enter into any argument or controversy with the Speaker over such interpretation[68]. The Speaker's rulings constitute precedents by which subsequent Speakers, members and officers are guided. Such precedents are collected, and in course of time, formulated as rules of procedure or followed as conventions. The Speaker's rulings, as already stated, cannot be questioned except on a substantive motion[69]. A member who protests against the ruling of the Speaker commits contempt of the House and the Speaker[70]. The Speaker's decision is equally binding whether given in the House or on a departmental file[71]. The Speaker is not bound to give reasons for the decisions[72] so taken. Members cannot criticise directly or indirectly, inside or outside the House, any ruling given, opinion expressed or statement made, by the Speaker. If a member desires to make a submission to the Speaker on the floor of the House regarding a ruling, the Speaker may permit the member to do so after satisfying himself that it does not unduly interfere with the proceedings of the House. The member making

65. Dir. 60(1).

66. Dir. 64(2).

67. Rule 270, first proviso.

68. S.L. Shakdher: "Officers of Parliament" in the *Indian Parliament,* (Ed.) A.B. Lal, Allahabad, 1956, p. 32. The Speaker, however, invariably declines whether a measure is *ultra vires* of the Constitution or whether the House is competent under the Constitution to enact it. *See H.P. Deb. (II),* 9-5-1953, cc. 6289-90; *L.S. Deb.,* 10-4-1956, cc. 4868-69.

69. *See L.A. Deb.,* 13-3-1924, pp. 1925-26; *H.P. Deb. (II),* 18-6-1952, cc. 2032-33; 24-8-1953, c. 1366; *L.S. Deb.,* 13-9-1954, c. 1656; 7-9-1956, cc. 6096-97.

70. *See L.S. Deb.,* 28-4-1958, cc. 11944-45.

71. *Ibid.,* 21-4-1960, cc. 13089-91.

72. *Ibid.,* 5-8-1959, c. 661; 7-8-1959, c. 1195; 1-12-1960, c. 3339.

A proposal to have a specific rule to the effect that the Speaker shall not be bound to give reasons for his decision on a motion or on any matter was discussed by the Rules Committee on 26 April 1966. The Committee felt that such a rule was not necessary as the Speaker had the inherent power not to give reasons for his decisions on notices or other matters. This was a well- established practice of the House which was understood by everybody and there was no need to make a rule in the matter—*See* Min. R.C. (3LS), 26-4-1966, para 6.

such a submission cannot criticise the decision but can seek elucidation on any point, or request the Chair to consider the ruling in the light of the facts submitted by him[73].

Observations made by the Speaker in the House cannot be interpreted in private correspondence. He does not enter into public or press controversies regarding observations made by him from the Chair.

It is not customary for the Speaker to enter into correspondence with private individuals regarding the scope and functions of parliamentary committees and other matters of procedure or with regard to the proceedings of the House. Where, however, a communication is received from a member of the Rajya Sabha about anything said in the House against him, the Speaker may, in his discretion, forward it to the Minister or the member concerned for such action as he may deem necessary[74]. The Speaker is also not bound to lay on the Table any communication or representation received by him[75].

Disciplinary Powers of the Speaker

Maintenance of order in the House is a fundamental duty of the Speaker. He derives his disciplinary powers from the Rules, and his decisions in matters of discipline are not to be challenged except on a substantive motion[76]. The Speaker may check irrelevance or repetition in the speech of a member and intervene when a member makes an unwarranted or defamatory remark, by asking him to withdraw that remark or to make amends. The Speaker may also, in his discretion, order the expunction of any defamatory or indecent words used in the debate[77] or of anything said by a member who has not been called upon to speak[78]. He may direct any member guilty of disorderly conduct to withdraw from the House, and name a member for suspension if the member disregards the authority of the Chair and persists in obstructing the proceedings of the House. Further, in the event of grave disorder occasioned by a member coming into the well of the House or abusing the Rules of the House persistently and wilfully obstructing its business by shouting slogans or otherwise, such member shall, on being named by the Speaker, stand automatically suspended from the service of the House for five consecutive sittings or the remainder of the session, whichever is less[79]. He may also adjourn or suspend the business of the House in case of grave disorder[80].

Miscellaneous Functions of the Speaker

The Speaker is the *ex-officio* President of the Indian Parliamentary Group[81], which, in India, functions as the National Group of the Inter-Parliamentary Union and the main Branch of the Commonwealth Parliamentary Association. The Speaker

73. *See L.A. Deb.,* 12-9-1938, p. 2035.
74. *L.S. Deb.,* 31-8-1996, cc. 6100-02; 29-11-1961, cc. 1862-64.
75. *Ibid.,* 17-3-1960, c. 6433.
76. Rules 352 and 378.
77. Rules 353, 356 and 380. *See* also Chapter 38 'Expunction of words from Proceedings of the House or its Committees'.
78. *See L.S. Deb.,* 1-12-1960, c. 3340; 7-12-1960, cc. 4244-45; 8-12-1960, c. 4579; 7-8-1961, cc. 176 and 194-96.
79. Rule 374A.
80. Rules 373-75.
81. *See* also Chapter 47 Inter-Parliamentary Relations and Exchanges.

nominates, in consultation with the Chairman of the Rajya Sabha, personnel for various parliamentary delegations to foreign countries. He occasionally leads these delegations himself. The Speaker is also the Chairperson of the Conference of Presiding Officers of Legislative Bodies in India.

The Speaker makes obituary references in the House, delivers valedictory addresses on the expiry of the term of the House and also makes formal references to important national and international events[82].

The Speaker is empowered under the Rules to correct patent errors in a Bill after it has been passed by the House and to make such other changes in the Bill consequential on the amendments accepted by the House[83]. When a Bill is passed by Parliament and is in possession of the House, the Speaker is required to authenticate the Bill with his signature before presenting it to the President for assent[84].

All matters not specifically provided for in the Rules and all questions relating to the detailed working of the Rules are regulated in such manner as the Speaker, from time to time, directs[85]. As already stated, these directions are compiled and published for guidance. However, the Speaker has only those powers which are given to him by the House or the Rules. He cannot start a new procedure of his own[86].

The Speaker is the head of the Secretariat which functions under his ultimate control and direction[87]. The Speaker's authority over the secretarial staff of the House, its precincts and its security arrangements is supreme. All strangers, visitors and press correspondents are subject to his discipline and orders, and breach of order may be punished by means of exclusion from the precincts of the Parliament House or stoppage of admission tickets to the galleries for definite or indefinite period, or in more serious cases, dealt with as a contempt or breach of privilege. The Speaker is responsible for the protection of the rights of the members, and for ensuring that all reasonable amenities are provided for them. Should a member be arrested on a criminal charge, or sentenced to imprisonment, or detained under an executive order, the fact must immediately be reported to the Speaker by the magistrate or the executive authority[88]; such intimation is also essential in the event of the release of the member[89]. No member can be arrested, nor can a legal process, civil or criminal, be served on him, within the precincts of the House without obtaining the Speaker's permission[90]. Such permission is necessary whether the House is in session or not. No alteration or addition can be made in the

82. *See L.S. Deb.,* 28-3-1957, cc. 7213-94; 10-5-1957, cc. 1-27; 10-12-1958, c. 4091; 13-4-1961, c. 10995; *J.S.H. Parl. Deb.,* 6-5-1961, cc. 1-3; 9-5-1961, c. 151; *L.S. Deb.,* 30-3-1962, cc. 278-90; 25-11-1963, cc. 1267-68; 29-5-1964, cc. 175-76; 14-2-1966, c. 40; 5-5-1969, cc. 1-20; 26-3-1977, cc. 15-26; 23-6-1980, cc. 1-15; 26-6-1980, cc. 1-16; 4-12-1981, cc. 389-92; 18-2-1983, cc. 18-28; 23-3-1984, cc. 302-3; 17-1-1985, cc. 10-52; 27-7-1987, cc. 1-7; 6-8-1987, c. 1; 22-2-1988, cc. 20-32; 12-3-1990, cc. 1-25; 20-11-1991, cc. 1-5; 24-11-1992, cc. 1-16; 2-12-1993, cc. 1-20; 9-8-1994, cc. 1-20; 26-2-1996, c. 22; 26-8-1996, c. 2. For instances *see* also the heading References on solemn occasions under Chapter 18 'Arrangement of Business and List of Business'.

83. Rule 95.

84. Rules 128(1) and 154.

85. Rule 389.

86. *L.S. Deb.,* 22-11-1965, cc. 3109-11.

87. *See* Art. 98.

88. Rule 229.

89. Rule 230.

90. Rule 232 and Dir. 124.

Parliament House and no new structure can be erected in the Parliament Estate without the Speaker's permission.

The importance of the prestige and authority of the Speaker has been recognised from the outset of the country's independence. Speaking on 8 March 1948, on the occasion of the unveiling of the portrait of Speaker Patel, Prime Minister Jawaharlal Nehru observed:

> The Speaker represents the House. He represents the dignity of the House, the freedom of the House and because the House represents the nation, in a peculiar way, the Speaker becomes the symbol of the nation's freedom and liberty. Therefore, it is right that that should be an honoured position, a free position and should be occupied always by men of outstanding ability and impartiality[91].

The Speaker's supreme authority inside the House is based on his capacity to inspire members with a confidence about his sincere efforts to give rulings to the best of his ability and judgment, uninfluenced by passion or prejudice, unswayed by their impact on his personal position. All the powers vested in him are intended to enable him to ensure the smooth functioning of the House. In no case would it be justified for the Speaker to use his powers arbitrarily or in such manner as to prevent the House from functioning.

In order to set at rest any doubts that might have arisen as a result of the attitudes adopted in 1967-68 by the Speakers of the West Bengal and Punjab Legislative Assemblies, the Page Committee, while commenting on the duties and responsibilities of the Speaker and his relations with the House, made the following observations:

> The fundamental principle is that the House, subject to the provisions of the Constitution, is sovereign in the matter of its own rules of procedure and conduct of business… Hence, whatever powers have been conferred by the rules on the Speaker are intended to serve one purpose, *i.e.,* the House should be enabled to function at all times in the interest of the country and the powers conferred on the Speaker should be used by him in the interest of the House.
>
> The principal duty of the Speaker is to regulate the proceedings of the House and to enable it to deliberate on and decide the various matters coming before it. Thus, in considering the various notices or points raised before him, the Speaker should always bear this in mind and where in doubt, he should act in favour of giving an opportunity to the House to express itself. The Speaker should not so conceive his duties or interpret his powers as to act independently of the House, or to override its authority, or to nullify its decisions. The Speaker is a part of the House, drawing his powers from the House for the better functioning of the House, and in the ultimate analysis, a servant of the House, not its master[92].

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91. *C.A. (Leg.) Deb.,* Vol. III, 8-3-1948, p. 1743.

92. Report of the Page Committee, para 35.

    In a few simple and well-chosen words, Speaker Lenthall, in his reply to King Charles I, expressed unequivocally and for all time where the Speaker's first duty lay: "May it please Your Majesty, I have neither eyes to see, nor tongue to speak in this place, but as the House is pleased to direct me, whose servant I am here; and I humbly beg Your Majesty's pardon that I cannot give any other answer than this to what Your Majesty is pleased to demand of me." (Philip Laundy: *The Office of Speaker,* London, 1964, p. 211).

Further, the Speaker should not normally on his own raise a matter and then give his decision thereon. He should give his ruling when a point of order is raised and after he has heard the members, if necessary. And on a point of order he should not give a ruling which has the effect of reversing a decision already taken by the House on any matter[93].

While the Speaker has considerable discretion in regard to adjourning the House, this discretion has to be exercised by him within reasonable limits and in a manner so as not to obstruct the working of the House.

As observed by Speaker Reddy[94], it is the first duty of the Speaker to enable the House to function and not to shut it out. The House is paramount, not the Speaker, who can claim no inherent right to override or bypass the House, or to arrogate to himself powers and functions which belong to the House.

In the West Bengal Legislative Assembly by adjourning the House *sine die,* the Speaker rendered the very House, which could take a decision in the matter, whether the Ministry enjoyed the confidence of the majority of the Assembly, ineffective.

In the Punjab Legislative Assembly, the Speaker's decision to adjourn the House for two months created a serious crisis in the Punjab as the Assembly had yet to pass the budget for the year 1968-69. In this context, the Supreme Court observed: "The Legislature cannot be allowed to hibernate due to adjournment by the Speaker for a period beyond 31 March while the financial business languishes and the constitutional machinery and democracy itself are wrecked"[95].

It is not for the Speaker to give his rulings on legal issues or to pronounce on the legality of a Ministry. In this connection, Speaker Reddy observed:

If a controversy arises as to whether a Ministry is 'legal' or not, the proper forum to settle the matter is the Court. But the House is not helpless for even if the Court upholds the appointment of the Chief Minister and other Ministers, the House can vote them out of office if it wants. The Speaker does not come into the picture at all, and if he takes upon himself to pronounce on the legality of the Ministry and precludes the House from expressing its views in the matter, he is arrogating to himself the functions of the House and the Courts. Not only that, if the Speaker just does not allow the House to function, he is, in effect, releasing the Ministry from its obligations and responsibility to the House[96].

To conclude, the Speaker has to be sensitive to the atmosphere in the House. Sometimes when there is excitement, uproar, incriminatory observations, or continuous interruption in the House, he has to employ subtle wit and healthy humour to control the situation, to relieve tension, and to create conditions in which orderly and relaxed debate can proceed. This is a gift which may be either natural or cultivated, but it is certainly a weapon of great potency with a wise and capable Speaker.

93. Report of the Page Committee para 40 (i) and (ii).
94. Address by Speaker Reddy at the Emergent Conference of Presiding Officers on 6 April 1968.
95. *State of Punjab* vs. *Satya Pal Dang,* A.I.R. 1969 S.C. 903.
96. Address of Speaker Reddy, *op. cit.*

The Speaker enjoys the sixth place in rank and precedence along with the Chief Justice of India[97].

II. Deputy Speaker

The Office of the Deputy Speaker has grown in importance and has come to acquire a more prominent position after the enforcement of the Constitution in 1950. Like the Speaker, the Deputy Speaker is elected by the Lok Sabha from amongst its members[98]. He is not subordinate to the Speaker, but holds an independent position and is answerable to the House alone. He holds Office until he ceases to be a member of the House, or until he himself resigns his Office or is removed by a resolution of the House passed by a majority of the members of the House[99].

During the days of the Central Legislative Assembly, the House used to meet only for short periods and that too at long intervals. At present, the House sits for nearly seven months in a year and each sitting lasts for about seven hours. It is not practicable for the Speaker to be present in the House throughout a particular sitting. Every now and then, when he has to attend to his other duties, he has to vacate the Chair, and in his absence it is usually the Deputy Speaker who presides over the deliberations of the House[100]. Further, the Deputy Speaker is required to perform the duties of the Office of the Speaker, whenever that Office is vacant[101].

The Deputy Speaker has the same powers as the Speaker when presiding over a sitting of the House and all references to the Speaker in the Rules are deemed to be references to the Deputy Speaker when he so presides[102]. It has been consistently held that no appeal lies to the Speaker against a ruling given by the Deputy Speaker or any other person presiding over a sitting of the House in the absence of the Speaker. The

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97. President Sectt. Notification No. 33 Pres. 79, dt. 26-7-1979.

98. Art. 93 and Rule 8.

    For the origin, constitutional growth, etc., of the Office of the Deputy Speaker, *see* Chapter- 7 Presiding Officers of Lok Sabha.

99. Art. 94.

100. *See* also Art. 95(2). M.N. Kaul: "Position and Functions of the Deputy Speaker", *J.P.I.,* III (2) p. 147.

101. Art. 95(1). Consequent on the demise of Speaker Mavalankar, the Deputy Speaker assumed the duties of the Speaker and continued to perform them till 7 March 1956, when he resigned the Office of the Deputy Speaker in view of his imminent election as the Speaker the next day—LSS Notfn. No. 496-T/56, 7-3-1956, *Gaz.* (1-1), 7-3-1956.

    After the resignation of N. Sanjiva Reddy from the Office of Speaker on 19 July 1969 as he was a candidate for the Office of the President of the Republic of India, the Deputy Speaker assumed the duties of the Speaker and continued to perform them till the new Speaker was elected on 8 August 1969—L.S.S. Notfn. No. 38/1/69/T, 19-7-1969, *Gaz.* (1-2), 19-7-1969.

    On 1 December 1975, G.S. Dhillon resigned from the Office of the Speaker as he was appointed a member of the Union Council of Ministers. The Deputy Speaker assumed the duties of the Speaker and continued to perform them till the new Speaker was elected on 5 January 1976— LSS Notfn. No. 38/1/75/T, 1-12-1975, *Gaz. Ex.* [II-3(ii)], 1-12-1975.

    On 13 July 1977, N. Sanjiva Reddy resigned from the Office of Speaker as he was a candidate for the Office of the President of the Republic of India. The Deputy Speaker assumed the duties of the Speaker and continued to perform them till the new Speaker was elected on 21 July 1977— LSS Notfn. No. 38/1/77/T, 13-7-1977, *Gaz. Ex.* Pt. 11, Sec. 3(11), 13-7-1977.

    Consequent on the demise of Speaker G.M.C. Balayogi on 3 March 2002, the Deputy Speaker assumed the duties of the Speaker and continued to perform them till 10 May 2002 when the new Speaker (Manohar Joshi) was elected.

102. Rule 10.

ruling given from the Chair settles the matter then before the House and cannot be reopened by anyone[103].

However, whenever a point raised in the House needs some consideration or involves application of precedents or study, it is open to the Deputy Speaker or the Chairman to leave the matter for the decision of the Speaker.

If the Deputy Speaker is a member of a parliamentary committee, he is appointed as the Chairman of that Committee[104]. Usually the Deputy Speaker is nominated to a number of parliamentary committees.

During the absence of the Speaker from any joint sitting of the Houses of Parliament, the Deputy Speaker presides and exercises the powers of the Speaker at such a sitting as is the case when he is presiding over the deliberations of the House[105].

Unlike the Speaker, the Deputy Speaker can speak in the House, take part in its deliberations and vote as a member on any question before the House, but he can do this only when the Speaker is presiding. When he is himself in the Chair, the Deputy Speaker cannot vote except in the event of equality of votes.

The Deputy Speaker has a right to take part in politics of the party to which he belongs, although in practice, as far as possible, he keeps aloof from active participation and controversial issues in order to maintain his position of impartiality in the House[106].

A convention has been established in the Lok Sabha that the Deputy Speaker does not sponsor Bills, resolutions, etc., nor does he table questions.

A question as to whether the Deputy Speaker "could exercise the rights of an ordinary member to participate in debates and attack or criticise the Government and take part in divisions of the House" was raised at the Conference of Presiding Officers held in 1953, and diverse views were expressed on the subject. The Chairman (Speaker Mavalankar), concluding the debate on the point, observed:

> The question of the Deputy Speaker is a question which each Deputy Speaker has to consider himself and decide. Undoubtedly, he is a member. But I think he has also to remember that he has to preside in the Legislature and, therefore, a responsibility lies on him to so conduct himself in the debates that members of the parties do not take him to be party man. And this limitation applies not only to his taking part in politics outside but also so far as the language of expression of views is concerned. That is a question on which he has to exercise his discretion.

The Deputy Speaker is a whole time officer of the House. He does not engage himself in any profession, business or private practice.

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103. *See L.A. Deb.,* 11-7-1923, pp. 4533-42; 13-3-1924, pp. 1689-90; 1-9-1938, pp. 1444-48 and 1455-63; 5-9-1938, pp. 1583-86; *L.S. Deb.*, 13-9-1954, c. 1656; 12-4-1961, cc. 10808-09; 7-8-1962, cc. 418-20.

104. Rule 258(1), Proviso.

105. The Houses of Parliament (Joint Sittings and Communications) Rules, Rule 5. The Deputy Speaker (P.M. Sayeed) presided over the Joint Sitting of the House on Prevention of Terrorism Bill, 2002 held on 26 March 2002 due to the demise of the Speaker (G.M.C. Balayogi).

106. *See* Shakdher, Officers of Parliament, *op. cit.,* p. 37.

As in the case of the Speaker, the salary of the Deputy Speaker is charged on the Consolidated Fund of India and is not subject to the vote of the House[107].

The Deputy Speaker occupies the tenth place[108] in the order of precedence along with the Deputy Chairman of the Rajya Sabha, Ministers of State of Union and members of the Planning Commission.

III. Panel of Chairpersons

At the commencement of the House or from time to time, as the case may be, the Speaker nominates[109] from amongst the members a panel of not more than ten[110] Chairpersons (earlier referred to as Chairmen). In the absence of the Speaker and the Deputy Speaker, one of them presides over the House when so requested by the Speaker or in his absence, by the Deputy Speaker[111]. There is always need of some other persons who can act in the Chair, off and on, as the Speaker and the Deputy Speaker between them may not be able to take the entire load of presiding throughout the duration of the sitting each day. They may require some relief and time to attend to other work outside the House.

After taking into consideration the engagements for the day of the Speaker and the Deputy Speaker and also ascertaining the convenience of members of the Panel of Chairpersons, a roster is prepared each day indicating the hours during which the Speaker, the Deputy Speaker and individual members of the Panel of Chairpersons are to preside. Depending upon developments and the nature of business before the House, suitable changes can be made in the roster at short notice.

In nominating a member to the Panel of Chairpersons, the Speaker gives consideration to his previous experience as a member of Panel of Chairpersons in Lok Sabha or Rajya Sabha or as Speaker, Deputy Speaker, Chairperson or Deputy Chairperson in a State Legislature. Consideration is also given to the various parties in the House as also women members. It has been a convention for the Speaker to nominate some women members on the Panel and to select some members from Opposition groups as members of the Panel. The selection is entirely in the hands of the Speaker but he may consult the leaders of political groups in the Lok Sabha before making a choice finally. It is not necessary that the Panel should have ten members all the time. A Panel of Chairpersons of less than ten members can also be constituted and the remaining member (s) nominated later on.

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107. Art. 112(3) (b), for discussion on the Salaries and Allowances of Officers of Parliament Bill, *see* P. Deb., (II) 27-4-1953, cc. 5169-211; 28-4-1953, cc. 5233-320, particularly T. T. Krishnamachari's speech, *cc.* 5297-304.

108. President's Sectt. Notification No. 33-Pres. 79, dt. 26-7-1979.

109. Speaker announced in the House that he had nominated six members on the Panel of Chairmen on 18.1.1985 (8th LS); six members on 20.12.1989 (9th LS); five members on 12.7.1991, one member on 18.7.1991 and one member on 20.8.1991 (10th LS); seven members on 27.5.1996 and eight members on 13.9.1996 (11th LS); nine members on 27.5.1998 and nine members on 23.2.1999 (12th LS); nine members on 16.12.1999 (13th LS); ten members on 15.7.2004 and ten members on 18.7.2006 (14th LS); ten members on 5.6.2009 (15th LS); ten members on 9.6.2014 (16th LS); 4 members on 21.6.2019, one member on 24.6.2019, three members on 25.6.2019, one member on 2.7.2019, one member on 4.7.2019 and one member on 8.12.2023 (17th LS); 9 members on 1.7.2024 (18th LS).

110. Bn. (II), 4-8-1993, para 2298.

111. Rule 9(1).

Any member of the Panel of Chairpersons, when presiding over a sitting of the House, has the same powers as the Speaker when so presiding[112]. The rulings of a Chairperson are not subject to any criticism nor open to any debate or appeal. In order, that there is an authoritative ruling, a Chairperson often reserves major issues for decision by the Speaker. A reference to the Chairperson's conduct while in the Chair amounts to contempt of the House and, therefore, he is shown all respect as the Presiding Officer of the House.

A Chairperson is free to participate fully in all discussions in the House and to take active part in the issues, including controversial issues before the House. He attends the meetings of his party and is sometimes an active member of his party.

A Chairperson holds office until a new Panel of Chairpersons is nominated[113], unless he resigns earlier from the Panel or is appointed a Minister[114] or elected as Deputy Speaker[115]. Generally, he holds Office for one year but the same person may be renominated from time to time. In case a Chairperson resigns from the Panel, the information is published in the Bulletin and no announcement to that effect is made in the House. Reasons, if any, given in the letter of resignation are, however, not published[116].

IV. Chairpersons of Parliamentary Committees

The Chairpersons of all parliamentary committees[117] under the jurisdiction of the Speaker, except that of Joint Committee on Salaries and Allowances of Members of Parliament, are appointed by the Speaker from amongst the members of the respective Committees[118]. In the case of Joint Committee on Salaries and Allowances of Members of Parliament, the Committee elects its Chairperson at their first sitting after nomination of members of both the Houses to the Committee by Presiding Officers. While appointing the Chairperson of a Committee, the Speaker takes into consideration the seniority of the member, his experience as a member of the Panel of Chairpersons or as the Chairperson of any other parliamentary committee, and the subject or nature of work of the Committee. If the Speaker himself is a member of a Committee, he invariably is the Chairperson of that Committee[119]. Where the Speaker is not a member

112. Rule 10.

113. Rule 9(2).

114. On 10 March 1976, the Speaker made an announcement that he had nominated P. Parthasarathy on the Panel of Chairmen in place of H.K.L. Bhagat who had been appointed as a Minister. On 3 March 1983, the Speaker nominated F.H. Mohsin and R.S. Sparrow on the Panel of Chairmen in place of V.N. Gadgil and S.M. Krishna who had been appointed as Ministers. Announcement to this effect was made by the Speaker in the House on the same day. On 3 March 2011, the Speaker made an announcement in the House that Satpal Maharaj had been nominated as member of Panel of Chairmen in place of Beni Prasad Verma who had been appointed as Minister. Smt. Meenakashi Lekhi, upon her appointment as Minister of State, automatically ceased to be a member on the Panel of Chairpersons *w.e.f.* 7 July 2021 during the 17th Lok Sabha.

115. Dr. M. Thambi Durai ceased to be a member of the Panel of Chairpersons during the 16th Lok Sabha consequent upon his election as the Deputy Speaker of 16th Lok Sabha on 13 August 2014.

116. *See* Bn. II, 15-9-1958, para 1791; 12-6-1967, para 195.

117. Detailed functions of the Chairpersons of the various Committees have been described under the respective heads in Chapter 30 Parliamentary Committees.

118. Rule 258(1).

119. In the case of Business Advisory Committee, Rules Committee and General Purposes Committee, the Speaker is the *ex-officio* Chairperson under Rules 287 and 330, and Rule 1 of General Purposes Committee, respectively.

but the Deputy Speaker is, then the latter is appointed the Chairperson[120]. In the case of Select or Joint Committee on Bills, if a member of the Panel of Chairpersons or the Chairperson of a Standing Parliamentary Committee, or the Chairperson of a Select or Joint Committee on an allied Bill happens to be a member of the Committee, he is generally appointed the Chairperson of the Committee. If the Prime Minister happens to be a member of a Committee, he may be appointed the Chairperson of the Committee notwithstanding the fact that a member of the Panel of Chairpersons is also a member of that Committee[121]. Ministers/Members who are members of the Rajya Sabha may also be appointed Chairpersons of Select or Joint Committees (originating in the Lok Sabha) on Bills[122]. It is not obligatory that the Chairperson of a Committee must be from the ruling party[123]. If the Chairperson of a Committee resigns, or is, for any reason, unable to act, the Speaker appoints any other member of the Committee as Chairperson in his place[124].

120. Rule 258(1), Proviso.

121. The Prime Minister was appointed Chairman of the Joint Committee on the Constitution (First Amendment) Bill, 1951, and also of the Joint Committee on the Constitution (Fifth Amendment) Bill, 1954.

122. For instance, (i) the Minister of Defence, who was a member of the Rajya Sabha, was appointed as the Chairman of the Joint Committee on the Reserve and Auxiliary Air Force Bill, 1952; and (ii) Syed Sibtey Razi, who was a member of the Rajya Sabha, was appointed as the Chairman of the Joint Committee on the Copyright (Second Amendment) Bill, 1992.

123. As per established convention, Chairperson of the Public Accounts Committee is appointed from amongst the members of one of the opposition parties/groups on the Committee.

    By convention, the Deputy Speaker is nominated as a member of the Committee on Private Members' Bills and Resolutions and under Rule 258 is appointed as Chairperson of the Committee.

    In addition, a Select/Joint Committee on a Bill may have as its Chairperson, a member who does not belong to the ruling party, for instance, the Joint Committee on the (i) State Bank of India (Subsidiary Banks) Bill, 1959; and (ii) Air (Prevention and Control of Pollution) Bill, 1978.

124. Rule 258(2). Following are the instances when Chairperson of a Committee was unable to act and the Speaker, under Rule 258(2), appointed another member of Committee to act as Chairperson:

    (i) In absence (abroad) of Chairman, P.A.C. (C. Pattabhai Raman) during September- December 1961, R.L. Chaturvedi was appointed Chairman of P.A.C.

    (ii) In absence (abroad) of Chairman, C.P.U. (Pt. D.N. Tiwary), Surendranath Dwivedy was appointed Chairman of C.P.U. on 25 September 1967.

    (iii) In absence (abroad) of Chairman, E.C. (P. Venkatasubaiah), Shantilal Shah was appointed Chairman of E.C. on 28 October 1968.

    (iv) In absence (abroad) of Chairman, E.C. (K.N. Tewari), Liladhar Kotoki was appointed Chairman of E.C. on 7 September 1972.

    (v) In absence (abroad) of Chairman, C.P.U. (Subhadra Joshi), Amrit Nahata was appointed Chairman of C.P.U. on 23 April 1973.

    (vi) In absence (abroad) of Chairman, C.P.U. (Subhadra Joshi), Nawal Kishore Sharma was appointed Chairman of C.P.U. on 18 May 1973.

    (vii) In absence (abroad) of Chairman, E.C. (R.K. Sinha), Tulsidas Dasappa was appointed Chairman of E.C. on 31 August 1975.

    (viii) In absence (abroad) of Chairman, S.C.T.C. (Ram Dhan), Suraj Bhan was appointed Chairman of S.C.T.C. on 23 September 1977.

    (ix) In absence (abroad) of Chairman, C.P. (H.V. Kamath), Ugrasen was appointed Chairman of C.P. on 23 September 1977.

    (x) During illness of Chairman, J.C. on Catering in Parliament House Complex (Ram Naik), Sushma Swaraj was appointed Chairman, J.C. on Catering in Parliament House Complex on 9 May 1994.

    (xi) Due to inability to discharge duties of Chairman, Committee on Food, Civil Supplies & Public Distribution (Ram Kapse), Shyam Bihari Mishra was appointed Chairman of the Committee on 23 June 1994.

The Speaker may appoint a member as a member as well as Chairperson of the Committee simultaneously[125]. In the absence of the Chairperson from any sitting of the Committee, the Committee chooses another member to act as the Chairperson for that sitting[126].

Duties and Powers

The Chairperson has the duties and powers in respect of proceedings of the Committee more or less similar to those of the Speaker in respect of the proceedings and deliberations of the House. He appoints the Chairperson/Convenor of a sub-Committee, which the Committee may decide to set up[127]. He fixes the date and time for holding the sittings of the Committee[128]. If at any time fixed for any sitting of the Committee, or at any time during any such sitting, there is no quorum, the Chairperson may either suspend the sitting until there is quorum or adjourn the sitting to some future day[129]. Any procedural matter arising at the sittings of the Committee is decided by the Chairperson. If any doubt arises on any point of procedure or otherwise, the Chairperson, may, if he thinks fit refer the point to the Speaker whose decision is final[130]. The Speaker may also himself, from time to time, issue such directions to the Chairperson of a Committee as he may consider necessary for regulating the procedure or work of the Committee[131]. In the deliberations of a Committee, if there is an equality of votes on any matter, the Chairperson or the person acting as such, has a second or casting vote[132]. Minutes of the sittings of a Committee are approved by the Chairperson, and its report is signed by him on behalf of the Committee, before it is presented to the Speaker or the House[133]. He has also the power to correct patent errors or matters of factual nature in the report before its presentation to the Speaker or the House[134]. All communications between a Committee and the Speaker or the House are made by the Chairperson of the Committee. He is, so to say, the spokesman or the mouthpiece of the Committee.

(xii) On resignation of Chairman, Committee on Defence (Indrajit Gupta), Sharad Dighe was appointed Chairman of the Committee on 8 February 1996.

(xiii) During illness of Chairman, S.C.T.C. (Gobinda Chandra Naskar), Biren Singh Engti was appointed to act as Chairman of the S.C.T.C. on 24 August 2011.

125. Rule 258(1).

126. Rule 258(3).

127. Dir. 56(2).

128. Rule 264.

129. Rule 259(2).

130. Rule 283(2). *See* Report of the Committee on the Conduct of Member (The Mudgal Case, 1951).

131. Rule 283(1). *See* Dirs. 48 to 108.

132. Rule 262.

At the Conference of Secretaries of Legislative Bodies, held at Jaipur in October, 1957, a question was raised whether the provision regarding casting of a first vote by the Chairman of a Committee, when the Presiding Officers in the House had been denied the right to vote in the first instance, was in consonance with the provisions of articles 100(1) and 189(1). The general consensus was that the provision of such a normal or first vote by Chairman of a Committee was not contrary to the Constitution; for, whereas the Speaker did not take part in the debates in the House as a member, Chairman of a Committee not only actually guided the deliberations of the Committee but also played a leading role in formulating the conclusions reached by the Committee which were incorporated in the report. Since the Chairman, unlike the Speaker, was not debarred from participating in the discussion, he should not lose his normal vote. The casting vote is exercised only where there is a tie.

133. Rule 277(3).

134. Dir. 71B.

V. Council of Ministers

The Constitution provides for a Council of Ministers headed by the Prime Minister to aid and advise the President who in the exercise of his functions acts in accordance with such advice[135]. The Prime Minister is appointed by the President and other Ministers are appointed by the President on the advice of the Prime Minister[136]. The President invites leader of the majority party or a person capable of commanding majority in Lok Sabha to assume the Office of Prime Minister and the Prime Minister advises the President regarding the appointment of other Ministers[137].

On the death or resignation of Prime Minister, the entire Council of Ministers stands dissolved. However, in the case of resignation, the President may ask the Prime Minister and other Ministers to continue until alternative arrangements are made. In case of death, till the party in majority in Lok Sabha elects a new leader, the President may appoint a person who is most likely to command majority support in Lok Sabha. He may also appoint, as an interim measure, the senior-most member of the outgoing Council of Ministers as Prime Minister[138].

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135. Art. 74(1), as amended. Also *see* Chapter 3 'President in Relation to Parliament'.

136. Art. 75(1).

137. During the first five General Elections and again in the Seventh, Eighth and Tenth General Elections, the Leader of the Congress Party, which secured majority in Lok Sabha, was appointed Prime Minister and other Ministers were appointed on his advice. In the Sixth General Election held in March 1977, the Janata Party secured majority in Lok Sabha and its leader was appointed Prime Minister and other Ministers were appointed on his advice.

    In the Ninth General Election, no party secured an absolute majority and the President invited the Leader of the single largest party (Indian National Congress) to form the Government and they declined the offer. Subsequently, the leader of the next largest party (the Janata Dal) was invited by the President to form the Government and a minority Government at the Centre was formed with the outside support of other parties. The Eleventh General Election as well did not give a clear mandate to any party or alliance. The President invited the Leader of the single largest party (the Bharatiya Janata Party) to form the Government with the stipulation that it should prove its majority on the floor of the House within a prescribed time. Subsequently, this Government resigned and a new Government (the United Front) with outside support was sworn in. Later, consequent upon withdrawal of support from outside, the Government could not survive and another Government (the United Front), again with outside support, was formed. The Twelfth General Election as well did not give a clear mandate to any political party to secure an absolute majority of its own in the House. The President, after extensive consultations with Leaders of various parties, invited the leader of the single largest party (the Bharatiya Janata Party) to form the Government with the stipulation that it should prove its majority on the floor of the House within a prescribed time *i.e.* ten days of its constitution. The thirteenth**,** fourteenth and fifteenth General Elections were held in 1999, 2004 and 2009, respectively. No party could muster absolute majority. The President invited the Leaders of the largest alliance *viz.,* National Democratic Alliance (NDA) for Thirteenth and United Progressive Alliance (UPA) for fourteenth and fifteenth Lok Sabha, respectively, to form the Government. The Sixteenth and Seventeenth General Elections were held in 2014 and 2019 respectively. The President invited the leader of the single largest party (the Bharatiya Janata Party) to form the Government. The Eighteenth General Election was held in 2024. The President invited the Leader of the largest alliance *viz.*, National Democratic Alliance (NDA), to form the Government.

138. On the passing away of Prime Minister Jawaharlal Nehru (27 May 1964) and Prime Minister Lal Bahadur Shastri (11 January 1966), the President appointed the senior-most member of the outgoing Council of Ministers to act as the Prime Minister and other Ministers were appointed by the President on his advice. In both these cases, however, the arrangement was a sort of stop-gap or interim one in as much as when the time came the majority party each time elected a different person as Leader and it was he or she who was later called upon by the President to be the Prime Minister. On the passing away of Prime Minister, Indira Gandhi (31 October 1984), the President appointed Rajiv Gandhi (who was not a member of the Council of Ministers at that time) to act as the Prime Minister. Other Ministers were appointed by the President on his advice. Rajiv Gandhi was later elected as the Leader of Congress (I) Party which was in majority.

The Council of Ministers consists of all the categories of Ministers of the Government of India, whether they are 'Members of Cabinet' or 'Ministers of State' or 'Deputy Ministers[139]. The Constitution does not lay down the number of Ministers—either the minimum or the maximum—that should comprise the Council of Ministers. The size of the Council of Ministers is left to the Prime Minister who determines it according to the requirements from time to time[140].

The expression 'Council of Ministers' is somewhat different from the term 'Cabinet' which does not find a place in the Constitution. While the Cabinet is an inner body within the Council which formulates policy of the Government and meets as often as required, it is seldom that the Council of Ministers meets as a body to transact any state business. The Prime Minister, in his capacity as the head of the Council of Ministers, determines which of the Ministers should be members of the Cabinet. Only

139. According to s. 6.2 of the Salaries and Allowances of Ministers Act, 1952, a 'Minister' has been defined as a 'Member of the Council of Ministers' by whatever name called and includes 'Deputy Minister'. Parliamentary Secretaries are not included in the Council of Ministers, but a Parliamentary Secretary can perform all the functions of a Minister in the Lok Sabha if he is a member of the Lok Sabha (Rule 2). Thus Parliamentary Secretary who is not a member of the Lok Sabha, cannot participate in the proceedings of the House.

    Prior to the inauguration of the Constitution in 1950, all the members of the Cabinet had the same status. But, after the General Election in 1952, a three-fold distinction was made in the ministerial hierarchy with the 'Member of the Cabinet' at the top 'Minister of Cabinet Rank' in the middle, and 'Deputy Ministers' in the lowest rung of the ladder.

140. After the General Election in 1952 there were 15 'Members of the Cabinet', 4 'Ministers of Cabinet rank' and 2 'Deputy Ministers' in the 'Council of Ministers'. The Council of Ministers which was formed in 1957, after the second General Elections, consisted of 13 'Ministers', 14 'Ministers of State' and 12 'Deputy Ministers'. After the third General Elections in 1962, the Council of Ministers included 17 'Ministers', 10 'Ministers of State' and 11 'Deputy Ministers'. The Council of Ministers which was constituted in 1967, after the fourth General Elections, consisted of 19 'Members of the Cabinet', 17 'Ministers of State' and 15 'Deputy Ministers'. The Council of Ministers, constituted after the 1971 elections, consisted of 14 'Members of the Cabinet', 22 'Ministers of State' and 17 'Deputy Ministers'. The Council of Ministers which was constituted after the 1977 elections consisted of 20 'Members of the Cabinet'. The Council of Ministers constituted after the 1980 General Elections consisted of 15 'Members of the Cabinet' and 11 'Ministers of State'. The Council of Ministers, which was constituted after the 1984 General Elections, consisted of 15 'Members of the Cabinet' and 26 'Ministers of State'. The Council of Ministers which was constituted after the 1989 General Elections, consisted of 19 'Members of the Cabinet', 29 'Ministers of State' and 5 'Deputy Ministers'. The Council of Ministers which was constituted after the 1991 General Elections included 16 'Members of the Cabinet', 35 'Ministers of State' and 7 'Deputy Ministers'. The Council of Ministers constituted after the 1996 General Elections under the Prime Ministership of Atal Bihari Vajpayee consisted of 12 'Cabinet Ministers' only. After the resignation of Vajpayee, the new Council of Ministers which was constituted on 1 June 1996 had 12 'Cabinet Ministers' and 12 'Ministers of State'. The Council of Ministers constituted after the 1998 General Elections under the Prime Ministership of Atal Bihari Vajpayee consisted of 20 'Cabinet Ministers' and 21 'Ministers of State' (including 4 Ministers of State with independent charge). The 'Council of Ministers' constituted after the 1999 General Elections under the Prime Ministership of Atal Bihari Vajpayee consisted of 25 'Cabinet Ministers' and 44 'Ministers of State' (including 7 Ministers of State with independent charge). The 'Council of Ministers' constituted after the 2004 General Elections under the Prime Ministership of Dr. Manmohan Singh included 28 'Cabinet Ministers' and 39 'Ministers of State' (including 10 Ministers of State with independent charge).

    The 'Council of Ministers' constituted after the 2009 General Elections under the Prime Ministership of Dr. Manmohan Singh included 33 'Cabinet Ministers', 38 'Ministers of State' and 7 'Ministers of State' (Independent Charge). The 'Council of Ministers' constituted after the 2014 General Election under the Prime Ministership of Narendra Modi consisted of 40 Cabinet Ministers and 62 Ministers of State. The 'Council of Ministers' constituted after the 2019 General Election under the Prime Ministership of Narendra Modi consisted of 24 Cabinet Ministers, 9 Ministers of State (Independent Charge) and 24 Ministers of State. The 'Council of Ministers' constituted after the 2024 General Election under the Prime Ministership of Narendra Modi consisted of 30 'Cabinet Ministers' and 36 Ministers of State (including 5 Ministers of State with independent charge).

the Cabinet Ministers have a right to attend the meetings of the Cabinet. The Ministers of State have no such right but they attend by special invitation.

The salaries and allowances of Ministers are governed by the Salaries and Allowances of Ministers Act, 1952, which came into force with effect from 12 August 1952.

The Ministers hold Office during the pleasure of the President[141].

In the States, the Chief Minister is appointed by the Governor who also appoints the other Ministers on the advice of the Chief Minister[142]. In regard to the appointment of a person who is not a member of the Legislative Assembly as a Chief Minister, the Allahabad High Court observed:

> Appointment as Chief Minister of a person who is not a member of a Legislative Assembly but commands its support, pending his election to that House within six months, is not prohibited by the Constitution nor does it violate the basic principle of parliamentary government that the Chief Minister or the Prime Minister must have the confidence of the Legislature. Whether such a 'stop-gap' appointment is politically desirable or proper is not a matter for the Court to consider[143].

In regard to the appointment of a Chief Minister and Ministers, none of whom are members of the State Legislature, the Supreme Court observed:—

> If the Legislative Assembly of the State endorses the appointment of a Chief Minister and Ministers none of whom are members of the State Legislature, there is nothing in the Constitution which would make this appointment illegal[144], the only condition being that they should be elected to the Legislature within six months.

In this case, the appointment on 18 October 1970 of Tribhuvan Narain Singh as Chief Minister of Uttar Pradesh was challenged. Singh was not a member of either House of Legislature of the State of U.P. at the time of his appointment. It was contended that clause (4) of article 164 only applied when a Minister, who was a member of the Legislature of the State, lost his seat and the idea behind clause (4) of article 164 was to give him a period of six months to get himself re-elected. The Supreme Court rejected this contention and dismissed the appeal.

The Ministers hold office during the pleasure of the Governor[145], and the Council of Ministers is collectively responsible to the Legislative Assembly of the State[146].

In West Bengal, the action of the Governor in dismissing the United Front Ministry and appointing Dr. P. C. Ghosh as Chief Minister on 21 November 1967, was challenged in the Calcutta High Court. Holding that in appointing a Chief Minister,

141. Art. 75(2).

142. Art. 164(1).

143. *Har Sharan Varma v. Chandra Bhan Gupta,* A.I.R. 1962 Allahabad 301. *See* also *Mst. Chandra Kali* v. *Sita Ram,* A.I.R. 1971 Allahabad 236.

144. *Har Sharan Varma* v. *Tribhuvan Narain Singh,* A.I.R. 1971 Supreme Court 1331.

145. Art. 164(1).

146. Art. 164(2).

the Governor must act in his own discretion, and rejecting the argument that only the State Assembly, and not the Governor, could remove a Council of Ministers from office, the Court observed:—

> Article 164(1) provides that the Ministers shall hold office during the pleasure of the Governor... The right of the Governor to withdraw the pleasure during which the Ministers hold office, is absolute and unrestricted...
>
> The provision in clause (2) of article 164, that the Ministers shall be collectively responsible to the Legislative Assembly of the State, does not in any manner fetter or restrict the Governor's power to withdraw the pleasure during which the Ministers hold office. Collective responsibility contemplated by clause (2) of article 164 means that the Council of Ministers is answerable to the Legislative Assembly of the State. It follows that a majority of the members of the Legislative Assembly can at any time express its want of confidence in the Council of Ministers. But that is as far as the Legislative Assembly can go. The Constitution has not conferred any power on the Legislative Assembly of the State to dismiss or remove from office the Council of Ministers. If a Council of Ministers refuses to vacate the office of Ministers, even after a motion of no-confidence has been passed against it in the Legislative Assembly of the State, it will then be for the Governor to withdraw the pleasure during which the Council of Ministers hold office[147].

In a Resolution adopted at the Conference of the Presiding Officers, it was recommended that–

> The question whether a Chief Minister has lost the confidence of the Assembly shall, at all times, be decided in the Assembly[148].

When the question of the prorogation of the Madhya Pradesh Legislative Assembly by the Governor on the advice of the outgoing Chief Minister was being discussed in the Lok Sabha in March 1969, the Union Home Minister observed:—

> If the House is in session and if there is a doubt about the certainty of the support the Government enjoys, it is the Legislature which can and should decide the issue, and not the Governor. When the House is not in session and that too particularly before the House is called after the elections, etc., in such a situation alone the Governor has perforce to use his discretion and find out who has the necessary support[149].

A coalition Ministry with Congress (R) as the major partner was functioning in Uttar Pradesh under the Chief Minister belonging to Bahujan Kisan Dal (BKD). When the gulf between the two parties widened, the Chief Minister asked thirteen Congress (R) Ministers and one BKD Deputy Minister, on 24 September 1970, to submit their resignations forthwith. Not having received these, he advised the Governor to drop them from the Council of Ministers.

> Having been asked by the Governor for his advice, the Attorney-General *inter alia* said that since the Governor was conscious that the Chief Minister did

147. *Mahabir Prasad Sharma v. Prafulla Chandra Ghosh,* A.I.R. 1969 Calcutta 198.

148. Resolution adopted at the Emergent Conference of the Presiding Officers on 7 April 1968.

149. *L.S. Deb.,* 12-3-1969, cc. 271-72.

not command the confidence of the Legislative Assembly, he could call for the resignation of the Chief Minister, and on the latter's failure to heed the advice, dismiss him without waiting for the verdict of the Assembly scheduled to meet on 6 October.

On 29 September 1970 in his report to the President recommending the introduction of President's rule in the State, the Governor said:

> The Chief Minister of a coalition Government cannot be treated at par with the Chief Minister of a single party majority Government in the matter of removal of Ministers or re-constitution of Council of Ministers which involves a fundamental change in the complexion of the Government. When an occasion for such reconstitution of the Government arises, the spirit of the Constitution demands that the Chief Minister should first tender his resignation and then reconstitute the Government. In defence of the Constitution, the Governor cannot permit any other course to be taken.

Functions of the Council of Ministers

The Council of Ministers is charged with the duty to aid and advise the President who, in the exercise of his functions, acts in accordance with such advise[150]. In this connection, the Andhra Pradesh High Court observed:—

> If final authority of deciding matters is not intended to be conferred on the Council of Ministers, they could not, on principle, be held responsible to Lok Sabha. Thus the Minister or Council of Ministers take binding decisions and the President acts according to the advice thus given[151].

It is, however, the Cabinet which acts in the name of, and exercises all the powers on behalf of, the Council of Ministers — it is the pivot around which the entire administration of the country revolves. Its main function is to formulate and present to Parliament for its approval the policy according to which it is going to carry out the administration. It is responsible for the implementation of the policy as approved by the Parliament.

Problems are bound to crop up when several Ministers are involved in implementing the policy on a matter. It is for the Cabinet to coordinate and guide the various steps taken by the different Ministries so that the divergent, and sometimes conflicting, claims of various Ministries are harmonised and directed into a fruitful channel.

As the Council of Ministers is collectively responsible to the Lok Sabha, it is the responsibility of the Cabinet to see that the will of the nation as expressed in Parliament is carried out. To that end, it, *inter alia,* prepares the necessary legislative programme and the concerned Ministers introduce their Bills in Parliament and pilot them through it.

Council of Ministers and the Lok Sabha

After a General Election to the Lok Sabha, the Prime Minister and the Ministers are appointed and administered oaths of office and of secrecy[152], before the new Lok Sabha

150. Art. 74(1). *See* also Chapter 3 'President in Relation to Parliament'.

151. In *re. K. Jayarama Iyer,* A.I.R. 1958 Andhra Pradesh 643.

152. Art. 75(4).

holds its first sitting. The Prime Minister and the other Ministers have also to make and subscribe oath or affirmation as members of Parliament in the House to which they belong[153], before taking their allotted seats in the House[154]. In case the Council of Ministers is reconstituted during the term of the Lok Sabha, all the Ministers, including those who were members of the outgoing Council of Ministers, are administered oaths of office and of secrecy *de novo.*

When a new Minister is appointed and sworn in, the Prime Minister, or in his absence, the Minister of Parliamentary Affairs presents him to the Speaker and the House at the earliest possible opportunity[155]. Generally, a Minister is introduced to the House before the Question Hour. However, there have been occasions where Ministers were introduced to the House later in the day.

When the Council of Ministers is reconstituted with a new Prime Minister, Ministers, who were not members of the outgoing Council of Ministers, are introduced to the House by the Prime Minister[156].

A person who is not a member of either House of Parliament can be appointed a Minister. But if he does not get a seat in either House within six consecutive months from the date of his appointment as Minister, he ceases to be a Minister[157]. He can, however, be appointed as Minister again when he is elected as a member of Parliament. A Minister has the right to attend both the Houses and participate in their proceedings but he cannot vote in the House of which he is not a member. A Minister who is a member of one House has the right to speak in, and otherwise to take part in the proceedings of the other House, but has no right to vote there[158].

Summons for sessions of the Lok Sabha is not issued to a Minister who is not a member of the House (including the one who may not be a member of either House). A Minister who is not a member of the Lok Sabha can speak in the House only in his capacity as a Minister and not in his personal capacity[159].

During the Question Hour, the Parliamentary Secretaries or the Deputy Ministers concerned generally answer the question put down in the name of their Ministers in the list of questions. The Ministers or the Ministers of State intervene when they find it necessary to clarify certain points raised by way of supplementaries.

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153. Art. 99.

154. For seating arrangements, *see* Chapter 15 'Oath, Affirmation, and Seating of Members in the House'.

155. *L.S. Deb.,* 23-2-1988, cc. 1-3.

156. *Ibid.,* 7-9-1964, c. 106.

157. Art. 75(5). A Minister, Chandrashekhar Singh, resigned when he could not be elected to Parliament within six months of his appointment. He later contested a by-election to the Lok Sabha and after his election, he was again appointed as a Minister.

158. *L.S. Deb.,* 8-8-1967, c. 18013.

In U.K., Ministers can participate in the proceedings of the House of which they are a member and not in the other House.

159. On 2 September 1960, Minister of Scientific Research and Cultural Affairs commenced his speech in the Lok Sabha on the motion regarding situation in Assam, by saying that he would speak not as a member of the Government but in his personal capacity. A point of order was raised if the Minister could address the House in his personal capacity when he was not a member of the Lok Sabha. The Chair ruled that the Minister being a member of the Rajya Sabha could speak in the Lok Sabha in his capacity as a Minister only and in no other capacity—*L.S. Deb.,* 2-9-1960, cc. 6575-76.

Individual Ministers are responsible for attending to the business as put down in the list of business for the day. Apart from dealing with motions, resolutions, etc., the primary duty of a Minister is to ensure that his Bill has a smooth passage through the House.

In the case of important debates such as motion of thanks to the President for his Address or motion of no-confidence in the Council of Ministers, it is the Prime Minister[160] who generally explains the position of the Government in respect of the points raised during the debates irrespective of the fact that other Ministers might have participated therein, and provides leadership to the Council of Ministers.

The Council of Ministers is collectively responsible to the Lok Sabha[161]. The collective responsibility of the Council of Ministers to the Lok Sabha implies that a motion of no-confidence can be moved against the Council of Ministers as a whole and not against an individual Minister.

In a writ petition filed in the Madras High Court, it was contended that as under article 75(3) the Council of Ministers "shall be collectively responsible to the House of People", the Council of Ministers cease to hold office as soon as the Lok Sabha is dissolved. According to the petitioner, no void in the carrying out of Government will be created because the President can exercise the executive power of the Union either directly or through officers subordinate to him in accordance with the Constitution as provided in article 53(1). In the appeal by certificate directed against the judgment of the High Court which had dismissed the writ petition, the Supreme Court held that the constitutional provision about a Council of Ministers "to aid and advise the President in the exercise of his functions" is mandatory and, therefore, the President cannot exercise the executive powers without the aid and advice of the Council of Ministers. The Supreme Court further held that article 75(3) only applies when the Lok Sabha does not stand dissolved or prorogued[162].

VI. Parliamentary Secretaries

The institution of the office of Parliamentary Secretary has no statutory origin nor does it derive authority from the Constitution of India. According to Rule 2 of the Rules of Procedure and Conduct of Business in Lok Sabha, 'Minister', means a member of the Council of Ministers, a Minister of State, a Deputy Minister or a Parliamentary Secretary.

160. On 19 February 1964, the Minister of Home Affairs replied to debate on Motion of Thanks on the Address by the Vice-President discharging the functions of the President; on 8 May 1981, in the absence of the Prime Minister who was abroad on a State visit, the Minister of Finance replied to the debate on no-confidence motion, on behalf of the Government.

161. Art. 75(3).

162. *U.N.R. Rao* v. *Smt. Indira Gandhi,* A.I.R 1971 S.C. 1002. This position has since been confirmed by the Constitution (Forty-second Amendment) Act, 1976, s. 13 which came into force *w.e.f.* 3 January 1977, amended article 74(1) to clarify that the President "shall, in the exercise of his functions, act in accordance with" the advice of the Council of Ministers. Also *see* Chapter 3 *President in Relation to Parliament*. Proviso to article 74(1) was inserted *vide* s. II of the Constitution (Forty-fourth Amendment) Act, 1978, whereby the President may require the Council of Ministers to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration. For collective responsibility of the Council of Ministers, procedure for moving no-confidence motion in the Council of Ministers and resignation by individual Ministers, *see* Chapter 28. 'Motions of Confidence and No-confidence in the Council of Ministers'.

The Office of the Parliamentary Secretary in India was first created in 1951[163]. Unlike the Ministers, the oath is administered to the Parliamentary Secretaries by the Prime Minister and not by the President. According to the original concept, Parliamentary Secretaries are appointed purely for the purpose of assisting a Minister in parliamentary work. They may prepare the papers for the Ministers or study special questions but they have no executive powers and as such cannot pass any orders. The whole purpose is to give an opportunity to young members of Parliament to get a little training. If the Parliamentary Secretaries have any kind of official work when Parliament is not sitting, a daily allowance is paid to them for the actual days of work.

Although Parliamentary Secretaries were appointed by the Prime Minister from time to time since 1951[164], the question of powers, functions, status, Salaries and Allowances in respect of Parliamentary Secretaries was not examined until 1984. At this stage, a need was felt to identify the functions of the Parliamentary Secretaries and also for revision of their salary, Allowances, etc. Accordingly, the functions of the Parliamentary Secretaries were considered in the meeting of the Committee of Secretaries, once in May 1985 and again in June 1989. The Committee identified the following as status, powers and functions of Parliamentary Secretary:—

(i) The appointment of a Parliamentary Secretary is entirely on the discretion of the Prime Minister who will decide when and who should be appointed as Parliamentary Secretary;

(ii) The salary, allowances and other pre-requisites will be decided by the Government from time to time keeping in view various factors including the exigencies of duties that may require to be performed by the Parliamentary Secretary;

(iii) He will assist the Minister in his official work;

(iv) He will represent the Department/Ministry in the House to which he belongs; and

(v) He will perform such functions as may be assigned to him by the Minister.

VII. Leader of the House

The Prime Minister, who is the Leader of the majority party in the Lok Sabha, functions as the Leader of the House in the Lok Sabha except when he is not a member of the Lok Sabha. The senior most Minister, who is a member of the Rajya Sabha, is appointed by the Prime Minister as the Leader of the House in the Rajya Sabha.

In January 1966, the appointment of a Prime Minister who was a member of the Rajya Sabha necessitated the appointment of a separate Leader of the House in the Lok Sabha. The Prime Minister made an order appointing a Minister who was a member of the Lok Sabha to be the Leader of the House and communicated it to the Speaker.

163. Satish Chandra and S.N. Mishra were appointed as Parliamentary Secretaries on 11 June 1951.

164. Since 1951, a total of 33 Parliamentary Secretaries have been appointed, the last being Nakul Naik who was appointed on 24 November 1990. From 1967 to 11 November 1984, No Parliamentary Secretary was appointed.

On being informed by the Prime Minister, the Speaker introduced to the House the Minister of Parliamentary Affairs as the Leader of the House in Lok Sabha[165].

In July 1991, at the time of the Constitution of the Tenth Lok Sabha, the Prime Minister who was not a member of either House of Parliament, nominated the Minister of Human Resource Development, as the Leader of the House in the Lok Sabha. On being so informed, the Speaker introduced to the House, the Minister of Human Resource Development as the Leader of the House[166]. The Prime Minister was elected to the Lok Sabha in a by-election in November, 1991 and took oath as member of the Lok Sabha. In December 1991, when the Minister of Parliamentary Affairs informed the Speaker that the Prime Minister would be the Leader of the House, the Speaker informed the House accordingly[167].

In 1996, the Prime Minister who was not a member of either House of the Parliament nominated the Minister of Parliamentary Affairs and Railways as the Leader of the House and the Speaker introduced the Minister as the Leader of the House[168].

In 1997, the Prime Minister who was a member of Rajya Sabha, nominated the Minister of Railways as the Leader of the House but no formal announcement in this regard was made in the House.

Similarly in 2004, the Prime Minister who was a member of Rajya Sabha, nominated the Minister of Defence as the Leader of the House but no formal announcement in this regard was made in the House. He was introduced to the House on 4 June 2004 by the Speaker.

Again in 2009, the Prime Minister being a Member of Rajya Sabha, nominated the Minister of Finance as the Leader of the House. He was introduced to the House on 3 June 2009 by the Speaker. Subsequently, upon the Leader of the House becoming the President of India, the then Minister of Home Affairs was nominated as the Leader of the House. He was formally introduced in the House on 8 August 2012 by the Speaker.

It has been the practice that during the protracted absence of the Leader of the House when Lok Sabha is in session, the Minister of Parliamentary Affairs, in consultation with the former, intimates to the Speaker as to who would act as the Leader of the House, but no formal announcement in this regard is made in the House[169].

The Leader of the House is an important parliamentary functionary and exercises direct influence on the course of business. The whole policy of the Government,

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165. *L.S. Deb.,* 14-2-1966, cc. 20-21. Rule 2 lays down:

"Leader of the House means the Prime Minister, if he is a member of the House, or a Minister who is a member of the House and is nominated by the Prime Minister to function as the Leader of the House."

166. *L.S. Deb.,* 10-7-1991, c. 34.

167. *L.S. Deb.,* 6-12-1991, cc. 570-71.

168. *L.S. Deb.,* 11-6-1996, c. 1.

169. On 6 March 1961, when the Prime Minister left India to attend the Commonwealth Prime Ministers' Conference in London, the Minister of Parliamentary Affairs wrote to the Speaker saying that the Minister of Finance would act as the Leader of the House during the Prime Minister's absence. He, however, mentioned to the Speaker that no formal announcement need be made in the House. A similar communication was received from the Minister of Parliamentary Affairs on 30 August 1961, when the Prime Minister went abroad to attend the Non-aligned Summit at Belgrade.

especially so far as it is expressed in the inner life of the House and in measures dealing with the course of its business, is concentrated in his person.

The arrangement of Government business is the ultimate responsibility of the Leader of the House, though the details are settled, subject to his control, by the Chief Whip who is also vested with the portfolio of the Minister of Parliamentary Affairs. The Leader of the House makes proposals for the dates of summoning and prorogation of the House for the approval of the Speaker. He has to draw up the programme of official business to be transacted in a session of Parliament, namely Bills, motions, discussions on general specific subjects like five-year Plans, foreign policy, economic or industrial policy and other important State activities. He fixes *inter se* priorities for various items of business to ensure their smooth passage.

After setting tentative programme for the whole session, he maps out weekly and daily programme depending upon the state of progress of work and announces the programme to the members in advance every week[170]. He may be a member of the Business Advisory Committee or the Minister of Parliamentary Affairs may liaise for him on the Committee which determines the allocation of time for Government Bills and other business on the basis of suggestions made by or received from the Minister of Parliamentary Affairs from time to time.

The Leader of the House shapes the course and content of legislation inasmuch as his is often the final voice in deciding as to what amendments will be acceptable, what Private Members' Bill will receive the support of the Government, and whether a question should be left to a free vote. The Leader of the House may, therefore, be said to be perhaps the most influential figure in the entire legislative process.

The Leader of the House deals with procedural matters relating to the business of the House and advises the House in every difficulty as it arises. For that purpose he is usually present either in the House or in his room[171], and has the right to address the House whenever he likes[172].

He is supplied in advance with a copy of the personal statement which a member may make in explanation of his resignation from the Office of Minister[173]. He can move, or delegate his functions to any other member to move a motion that the seat of

170. The announcement regarding the Government business for the next week is in practice made by the Minister of Parliamentary Affairs, on behalf of the Leader of the House. In 1966, the Minister of Parliamentary Affairs functioned as the Leader of the House. On an objection being raised by certain members in the House on 17 February 1966, as to the announcement of the Government business for the next week by the Leader of the House, he said: "Some of the functions which I was performing here as Minister of Parliamentary Affairs were functions allotted to the Leader of the House and those powers were then delegated to me by the then Leader of the House. Now I am doing those things in my own right." *See L.S. Deb.,* 17-2-1966, cc. 940-41.

171. Between January 1966 and March 1967, July-November 1991 and May 1996-December 1997, when the Prime Minister was not a member of the Lok Sabha, the function of the Leader of the House was not limited only to the fixing of the subject and order of Government business but he also advised the Prime Minister on all matters connected with Parliamentary Affairs. He used to sit next to the Prime Minister on the Government front bench. In case of the Fourteenth and Fifteenth Lok Sabha also, the Prime Minister was not the member of the House and the Leader of the House sat next to him on the Government front bench.

172. *See L.S. Deb.,* 24-12-1964, c. 6697.

173. Rule 199.

a member should be declared vacant under clause (4) of article 101[174]. The Leader of the House can request the Speaker to fix a day or part thereof for sitting of the House in secret[175]. He can move or authorise any other member to move a motion that the proceedings in the House during the secret sitting be no longer treated as secret[176]. He is available to the Speaker for consultation on behalf of the Government. He is consulted by the Speaker in regard to the arrangement of Government business[177], and allotment of days or allocation of time for:

discussion of the matters referred to in the President's Address to the House under art. 87(1)[178];

transaction of private members' business on any day other than a Friday[179];

discussion of 'No-Day-Yet Named Motions'[180];

discussion and voting of demands for grants[181]; and

consideration and passing of an amendment to regulation, rule, sub- rule, bye-law, etc. laid before the House[182].

As a matter of convention, the Leader of the House is generally consulted when a motion for suspension of a member from the service of the House is moved[183] or a question involving a breach of privilege either of a member or of the House or of a committee is raised in the House.

In his day-to-day activities, the Leader of the House acts as leader of his party but at times he acts as the spokesman and representative of the whole House. The main occasions of his so doing are when the House as a whole desires to define its position towards some external body, as for instance in the case of a difference with the Rajya Sabha or some breach of the privileges of the Lok Sabha or when it is desired to give expression to the feelings of the Lok Sabha on some event of importance in home or foreign affairs. When the House speaks as a corporate body he speaks on its behalf.

The responsibility of the Leader of the House is not only to the Government and its supporters in the House but to the Opposition and the House as a whole. He maintains liaison between the Government and the Opposition groups in the House. He is the

174. Rule 241—The present practice is that it is the Committee on Absence of Members who first report, under Rules 326(1) (ii), that the House should declare the seat of a member vacant. The report, before presentation to the House, is forwarded to the Leader of the House for comments. After it has been agreed to by him and adopted by the House, the Chairperson of the Committee moves a motion as required in Rule 241(1), on giving notice thereof.

175. Rule 248.

176. Rule 251.

177. Rule 25.

178. Rule 16.

179. Rule 26.

180. Rule 190.

181. Rule 208.

182. Rule 235.

183. Normally, when the Speaker names a member, it is the Minister of Parliamentary Affairs who moves a motion for suspension of the member from the service of the House for a specified period. The Motion for expulsion of ten members of Lok Sabha who had been held guilty of improper conduct in the 'Cash for query' scam was moved by Pranab Mukherjee, Leader of the House and the then Minister of Defence, before it was adopted by the House on 23 December 2005.

guardian of the legitimate rights of the Opposition as well as those of the Government. As such, he should be among the foremost champions of the rights of the House as a whole and see that the House is not denied, despite pressure from any quarter, its rightful opportunities.

The Leader of the House, it has been aptly said, should possess an intuitive instinct about what is going on in the minds of members on both sides, and in case of any trouble brewing, he should be able to assess the nature and extent of the commotion. When there is a strong parliamentary pressure on any matter, especially when it comes from both sides, he must be ready to bend to it[184].

As regards the duties and functions of the Leader of the House, the Page Committee observed:

> He should be present in the House for most of the time and during the Question Hour and thereafter, at the beginning of the normal business of the House. His foremost duty is to assist the Speaker in the conduct of the business. He should be at all times prepared to intervene in the discussions, respond to the demands of the Opposition in the matter of giving opportunity for debate, fixing time and dates for discussion, control unruly behaviour of members and help the Speaker in arriving at decisions in regard to matters before the House. If the Leader of the House is unavoidably absent or otherwise busy he should nominate a Deputy Leader who should in the absence of the Leader of the House perform the above functions at any time. Thus, either the Leader or the Deputy Leader should be present in the House[185].

VIII. Leader of the Opposition

In any system of Government there will always be a struggle for power. Those who are not in office will constantly try to oust those who form the Government for the time being. Such struggle can take place in various ways—by forcible seizure of power, revolution, or elective process. The parliamentary system of government makes it obligatory for the opposing forces to struggle for power on the floor of the House by recognised parliamentary methods. One of the biggest parliamentary achievements of the present century is that the role of the Opposition has been formally recognized and is given a due place in the parliamentary system. The Leader of the Opposition is thus an important person. He is a shadow Prime Minister and he has to be prepared to take up the responsibility of forming a government if his party secures a majority at an election or if the government resigns or is defeated. He has, therefore, to measure carefully his words and actions and on a matter of national interest to act with as much responsibility as is expected of the Prime Minister. Though he may criticize the Government vehemently on the floor of the House and outside in his country, but when abroad he should eschew party politics.

The process of parliamentary government is based on mutual forbearance between the Opposition and the Government. If the Leader of the Opposition lets the Prime Minister govern, he, in turn, is permitted to oppose. On certain matters, such

184. Herbert Morrison: *Government and Parliament: A Survey from the Inside,* London 1964, p. 132.
185. Report of the Page Committee, *op. cit.,* para 47(1).

as foreign relations, defence policy, etc., the Prime Minister may at times consult the Leader of the Opposition before making a commitment. And in times of grave national crisis, the Leader of the Opposition usually underlines the unity of the nation on a particular issue by openly identifying himself with the Government policy.

The Prime Minister and the Leader of the Opposition try to meet each other's convenience as far as possible, consistent with their basic policies. While eschewing obstructionism as such, the Leader of the Opposition, if he feels that the Government is trying to slide over an important issue and shun parliamentary criticism, can rightfully demand debate on that issue.

The Leader of the Opposition is the official spokesman of the minority or minorities and to that end he zealously watches any encroachment on their rights. His task, though not so difficult as that of the Prime Minister, is of sufficiently great public importance because he has to maintain a team—a 'shadow Cabinet'—ready to take over administration. In performing his duties and obligations, the Leader of the Opposition has to take into account not only what he is today but what he hopes to be tomorrow.

The Leader of the Opposition must himself be a skilled parliamentarian and familiar with tricky situations. He should be fully conversant with the rules of the House so that he might utilise the opportunities provided thereunder. Vigilance is his hallmark and he must, therefore, be in his place constantly.

The position and responsibility of the Leader of the Opposition has been summed up by the British Prime Minister, Harold Macmillan as under:

> There is, I suppose, no position more difficult and in some ways more unrewarding than that of a Leader of an Opposition—to criticise, to find fault, and at the same time, of course, to develop his own proposals and policies without the power to implement them. It is in a sense unrewarding, because any man who is conscious of administrative capacity and the desire to operate his own plans must feel all the time a sense of frustration.

He further added:

> Equally, under our almost unique system of government the Leader of an Opposition has a very special responsibility to Parliament and to the nation. At moments of danger, moments specially of foreign danger, and particularly also in matters affecting the security and safety of the realm, while he remains a critic he must in a sense be a partner and even a buttress of the Government to which he is opposed. This dual responsibility he must discharge with fidelity.

Prior to the 1977 General Elections to the Lok Sabha, except for a brief spell of one year (December 1969-December 1970), there had been no official 'Opposition' in the sense the term is used in the parliamentary system of government[186]. Consequent on the split in the Congress Party in November 1969, the association of members dissociating themselves with the ruling party was given recognition as Opposition party

186. Under the two-party system, as in Britain, any uncertainty as to which party has the right to be called the 'Official Opposition' is obviated: it is the largest minority party which is prepared in the event of the resignation of the Government to assume Office—*See* May, 23rd edition, p. 247-48.

as it satisfied the tests for recognition.[187] The parliamentary party was called Congress Party (Opposition) and its leader was accepted as the Leader of the Opposition[188]. That was the first time since Independence that the Lok Sabha had a recognised Opposition Party and a Leader of the Opposition. After the sixth Lok Sabha elections, the Janata Party came into power and the membership of the hitherto ruling Congress Party was reduced to the second largest in the Lok Sabha. The Congress Parliamentary Party was recognised as the Opposition Party and its leader as the Leader of the Opposition.

The Page Committee recommended that the leader of the largest recognised Opposition Party (whether a regular party or a party composed of different parties or groups) should be recognised as the Leader of the Opposition. According to the Committee, it would be a healthy parliamentary convention if the Leader of the Opposition is invited by the Chief Minister before the latter makes any policy statements in the House and is given a copy of the statement in advance and his suggestions for fixing any particular business on a particular day are, as far as possible, accepted by the Speaker and the Leader of the House. The Committee further suggested that the Leader of the Opposition should be paid a salary and provided with office as well as residential accommodation and some secretarial staff[189].

The Leaders of the Opposition in the Lok Sabha and the Rajya Sabha are now accorded statutory recognition and given salary and certain other facilities and amenities under the Salary and Allowances of Leaders of Opposition in Parliament Act, 1977[190].

Besides, the Speaker provides certain facilities to the Leader of the Opposition, like (i) seat in the Lok Sabha in the front row left to the Chair next to the seat of Deputy Speaker; and (ii) a room in Parliament House with Secretarial and other facilities. The Leader of the Opposition also enjoys certain privileges on ceremonial occasions, like (i) escorting the Speaker-elect to the rostrum; and (ii) seat in the front row at the time of Address by the President to both the Houses of Parliament.

After the coming into force of the Salary and Allowances of Leaders of Opposition in Parliament Act of 1977, barring the 7th, 8th, 16th and the 17th Lok Sabhas, Leader of the largest party in opposition have been accorded recognition as the Leader of the Opposition in the House.

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187. For conditions of recognition—*see* Chapter 14 *Recognition of Political Parties in Parliament.*

188. *L.S. Deb.,* 17-12-1969, cc. 366-67.

He was given a room in the Parliament House and no other privileges. He did not function as a Leader of Collective Opposition; other Opposition parties/groups did not give up their right to speak for themselves. The Leader of the Opposition could not even make obituary references on behalf of all Opposition parties/groups.

189. Report of the Page Committee, *op. cit.,* paras 48-50.

190. The Leader of the Opposition means a member of the House who is for the time being the Leader in that House of the party in opposition to the Government having the greatest numerical strength and recognised as such by the Speaker.

Explanation.—When there are two or more parties in opposition to the Government, having the same numerical strength, the Speaker shall, having regard to the status of parties, recognise any one of the leaders of such parties as the Leader of the Opposition and such recognition shall be final and conclusive (The Salary and Allowances of Leaders in Parliament Act, 1977).

IX. Whips

In a legislative body, not only the fate of a particular measure under consideration, but the very life of the Council of Ministers itself may depend upon the result of a single division. When the division bell rings, about three and a half minutes are given to the members to reach the Chamber from the Lobbies, Library, *Samvidhan Sadan*, Parliament Library Building, Annexe, Extension to Annexe and new building of Parliament, yet the government or any party cannot take it for granted that its followers would always be present in sufficient number in the precincts of the House at the time of a division. The duty of keeping the members of a party on hand accordingly devolves upon the Whips[191].

In the parliamentary form of Government, a party has its own internal organisation inside Parliament and is served by a number of officials known as the Whips, chosen from members of the party itself. In fact, the efficient and smooth working of parliamentary democracy depends to a very large extent on the Whips of the party in power or parties in Opposition.

The main function of the Whips is, as stated above, to keep members of their party within sound of the division bell whenever any important business is under consideration in the House. Whips are responsible for the attendance of the members at the time of important divisions. During sessions, the Whips of different parties send to their supporters periodic notices, also sometimes called 'Whips', warning them when important divisions are expected, telling them the hour when a vote will probably take place, and requesting them to be in attendance at that time. The importance of the division is indicated by underscoring the notice by a number of lines, or upto three very thick lines[192].

The Whips have to know their men. This involves a close contact with all members and knowledge of their interests, special aptitudes, qualities and potentialities. The Whips take these aspects into account while sending the list of speakers to the Chair in the interest of quality of debate and deliberation or suggesting names of members of their parties for nomination on parliamentary committees. They keep members supplied with information about the business of the House and enforce party discipline. Being constantly in touch with the members in the lobbies, etc., of the House, the Whips, acting as intermediaries between the leaders and the rank and file of their parties, keep the former in touch with the currents of opinion not only within their own party and thereby nip the incipient revolt in the bud but also to some extent with other movements of opinion inside the House. And it is through the Whips that

191. The metaphor is borrowed from the hunting field, and its parliamentary application can be traced to Burke who, in a debate in the House of the Commons, described how the King's Ministers had made great efforts to bring their followers together, how they had sent for their friends to the north and to Paris, whipping them in. The phrase adopted by Burke caught the public fancy and soon became popular—Ilbert: *Parliament, Its History, Constitution and Practice,* London, 1948, p. 135.

192. Realising the vital role played by the Chief Whips and leaders of parties and groups in Parliament as important party functionaries, an Act namely, The Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Act (Act 5 of 1999) was passed during the period of the Twelfth Lok Sabha. The said Act *inter alia* provides additional Secretarial and telephone facilities to the Leaders and Chief Whips. They would be provided with a Grade III Stenographer of the level of Private Secretary.

members of a party come to know about their leader's views and the plans into which the leader thinks it necessary or expedient to initiate them. The Whips are the active agents within the parties—a channel of communication whereby one party negotiates with another concerning topics for debates or conduct of business in the House[193].

It has been aptly said that the Whips are not only shock-absorbers, but also indicators of the party; they are not only advisers to the leader, but also the binding force in the party; they are not only barometers of the different regions and opinions but also the counsellors of members[194].

Government Chief Whip

The Chief Whip of the Government Party in the Lok Sabha is the Minister of Parliamentary Affairs[195]. In the Rajya Sabha, the Minister of State for Parliamentary Affairs holds this position. The Chief Whip is directly responsible to the Leader of the House. It is part of his duties to advise the Government on parliamentary business and to maintain a close liaison with the Ministers in regard to parliamentary business affecting their Departments.

The Chief Whip is the eyes and ears of the leader of the party so far as the members are concerned. He conveys the wishes of the leader to the members of the party and keeps the leader informed of the current opinion in the party as also the moods and inclinations of individual members when these deserve special notice. During sessions, in his capacity as adviser to the leader, he normally meets the Prime Minister not only for one interview daily but also several times in the course of the day for brief consultations.

The Chief Whip is assisted by one or two Ministers of State and at times by Deputy Ministers also[196]. With their assistance, he controls the members of the party in power and ensures that during sittings there is quorum in the House[197] and that adequate number of members of the party are present at the time of voting. For this purpose, he sends them advance intimation through the familiar system of ordinary one, two and three line whips to indicate the extent of urgency attached to the vote on a particular measure before the House. Apart from making the House and keeping the House, the Chief Whip has the hand in shaping the course, tone and tenor of

193. In the U.K., the Government Chief Whip and the Opposition Chief Whip constitute what are known as the 'usual channels' whereby negotiations are carried on regarding conduct of public business. *Morrison: Government and Parliament, op. cit.,* p. 102.

194. From a speech given by the Government Chief Whip at a Conference of Congress Party Whips in September, 1952.

195. The Chief Whip was given a ministerial status in 1949. Till 1962, his rank was that of a Minister of State when he was made a Minister of Cabinet rank. Consequent on the appointment of the Minister of Parliamentary Affairs as the Leader of the House in the Lok Sabha in February 1966, the new Government Chief Whip was given the status of the Minister of State. But it was again raised to the status of Cabinet rank in March 1967, when the Prime Minister became the Leader of the House.

196. Prior to 30 June 1970, the Government Chief Whip had two Deputy Chief Whips to assist him, besides a number of Regional Whips. A Government Deputy Chief Whip was being paid a salary of Rs. 1,650 per month, *in lieu* of the salary and allowances to which he was entitled as a member of Parliament– U.S.Q. No. 951, *L.S. Deb.,* 31-7-1970.

197. The Speaker has remarked that it is the duty of Government to maintain quorum—*L.S. Deb.*, 28-4-1955, c. 6678; *see* also *H.P. Deb.*, 30-3-1953, c. 3325; *L.S. Deb.*, 2-8-1955, c. 9175.

debate on special occasions for he selects the speakers from his party and hands over a list to the Speaker for facilitating the process of 'catching his eye'. The responsibility of keeping everybody at his post and keeping his party united, strong and well-knit falls on him. He selects members for select committees and other parliamentary and Government assignments keeping in view the background, experience, aptitude, qualifications, etc., of members of his party. This gives him quite a wide power of patronage which comes handy in keeping the party members amenable to his influence.

During the course of actual working, Whips of the Government Party and of parties in the Opposition come into contact with each other to sort out matters of common interest and to understand and accommodate each other on many a crucial occasion when it is convenient for both sides to arrive at mutual understanding. Even in the matter of selection of members of the Opposition for select committees, contact between Whips of the Government and the Opposition becomes important.

Whips, both of the ruling party and those of the Opposition, play a very significant role in the smooth and efficient functioning of parliamentary democracy. Apart from their normal duties of making and keeping the House, they are required to establish and maintain, through a tactful handling of situations, good and amicable relations between the Government and the Opposition benches—a pre-requisite for the smooth running of parliamentary business[198].

The question whether the Chief Whip of a party is competent to issue a written whip to some members of his party on the floor of the House came up for discussion in the Lok Sabha as a question of privilege on 14 December 1987.

Although leave to raise the matter as question of privilege was granted, no specific decision was taken by the Lok Sabha as no further motion to consider the matter in the House or to refer it to the Committee of Privileges was moved[199].

X. Comptroller and Auditor-General

The Comptroller and Auditor-General of India is not an Officer of Parliament. He is an independent constitutional authority, not directly answerable to the House, but represented there only through a Minister.

> On 17 March 1960, a member suggested that a letter received by the Speaker from the Comptroller and Auditor-General in connection with certain remarks made by the Defence Minister in the House on 10 March 1960, about the Auditor-General might be laid on the Table. The Speaker in this connection remarked:
>
> The Auditor-General is not an Officer of this House. He is an Officer under the President. Under the Constitution, he is bound to send a report to the President and he (the President) causes it to be laid on the Table of the House through a Minister[200].

The Comptroller and Auditor-General is appointed by the President by Warrant under his hand and seal and cannot be removed from his Office except by an order

198. Report of the Page Committee, *op. cit.,* para 51.

199. *See* Subhash C. Kashyap: "Party Whips, Parliamentary Privilege and Anti-Defection Law", *JPI,* June, 1988.

200. *See L.S. Deb.,* 17-3-1960, cc. 6432-33; 18-6-1962, c. 11265.

of the President passed after an address by each House of Parliament in the prescribed manner[201].

The President generally makes appointment to the Office of the Comptroller and Auditor-General on the advice of the Prime Minister[202]. Before entering upon his Office, the Comptroller and Auditor-General makes and subscribes, before the President, or some person appointed in that behalf by the President, an oath or affirmation according to the form set for the purpose[203]. The Comptroller and Auditor-General is not eligible for further Office either under the Government of India or under the Government of any State after he has ceased to hold his Office[204].

There is a parity of status between the Comptroller and Auditor-General and a Judge of the Supreme Court in several ways. The Constitution provides that the Comptroller and Auditor-General shall only be removed from Office in like manner and on like grounds as a Judge of the Supreme Court[205]. As regards the salary and other conditions of service of the Comptroller and Auditor-General, the Constitution lays down that these shall be such as may be determined by Parliament by law[206]. The Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971 provided that the Comptroller and Auditor-General shall be paid a salary which is equal to the salary of a Judge of the Supreme Court. As regards his term of Office, the Act provided that he shall hold Office for a term of six years from the date on which he assumes such Office or till he attains the age of sixty-five years, whichever is earlier. The Act also made detailed provisions for pension as well as for other conditions of service of the Comptroller and Auditor-General. The provisions of the Act have since been amended in 1976, 1984, 1987 and again in 1994. The amendment made in 1987[207] provides that a person who demits Office as Comptroller and Auditor- General, shall be entitled to a pension which is equal to the pension payable to a Judge of the Supreme Court and such pension (including commutation of pension), family pension and gratuity as are admissible to a Judge of the Supreme Court under the Supreme Court Judges Act and the rules made thereunder. It also provides that the conditions of service relating to travelling allowance, provision of rent-free residence and exemption from payment of income tax on the value of such rent-free residence, conveyance

201. Art. 148(1) read with Art. 124(4).

202. In a statement made by the Minister of State for Finance on 20 March 2013, in response to a Lok Sabha Calling Attention raised by Gurudas Das Gupta on 'Need to change the procedure for appointment of C&AG by constituting a panel consisting of the Prime Minister, the Chief Justice of India and the Leader of Opposition in Lok Sabha', it was stated that 'there does not seem to be any need to change the procedure by setting up a panel for the appointment of C&AG".

203. Art. 148(2). For specimen of the form, *see* Form IV, Third Schedule to the Constitution.

204. Art. 148(4).

The following appointments of the Comptroller and Auditor-General after retirement have been held as not in violation of the letter and spirit of this article:

V. Narahari Rao's appointment in 1956 as an Executive Director of the International Bank.

A.K. Chanda's appointment in 1960 as Chairman of the Third Finance Commission, constituted under article 280—*see L.S. Deb.,* 12-12-1960, cc. 5040-42.

205. Art. 148(1).

206. Art. 148(3).

207. The Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Amendment Act, 1987.

facilities, sumptuary allowance, medical facilities and such other conditions of service as are for the time being applicable to a Judge of the Supreme Court under the Supreme Court Judges Act, and the rules made thereunder, shall so far as may be, apply to a serving or retired Comptroller and Auditor-General as the case may be[208].

The duties and powers of the Comptroller and Auditor-General have been prescribed by law made by Parliament[209]. He is responsible for compiling the accounts of the Union and of each State, except the accounts relating to Defence and Railways[210], and for keeping them, where necessary. He is responsible for preparing the annual accounts separately for the Union and each of the States and Union territories having Legislative Assemblies showing the receipts and disbursements and to submit them to the President, the Governor or the Administrator, as the case may be. The President can, however, after consultation with the Comptroller and Auditor-General, by order relieve him from the responsibility for compiling the accounts of the Union or the accounts of any particular services or Departments of the Union and after the Comptroller and Auditor-General has been so relieved, the President can further relieve him of the responsibility for the preparation and submission of accounts of the Union showing the annual receipts and disbursements under the respective heads of account. The Governor of a State is also empowered to do the same in respect of the accounts of the State, with the previous approval of the President and after consultation with the Comptroller and Auditor-General[211]. Where accounts are compiled by the Comptroller and Auditor-General, he has also to prepare and submit an Appropriation Account. He audits all expenditure from the Consolidated Fund of India, of each State and of each Union territory having a legislative Assembly and also of all transactions relating to the Contingency Funds and the Public Accounts.

The Comptroller and Auditor-General is authorised to audit the accounts of bodies or authorities substantially financed by grants or loans from the Consolidated Fund of India or a State or a Union territory having a Legislative Assembly[212]. He can also scrutinise the procedures of sanctioning a grant or a loan by an authority[213].

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208. *Ibid.*

209. The Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971.

210. Accounts relating to Defence are compiled by the Financial Adviser, Defence and those relating to the Railways by the Financial Commissioner, Railways.

    The Comptroller and Auditor-General has, however, not been responsible for maintaining the accounts of certain selected Departments *(e.g.,* Food Department, Rehabilitation Department, Supply Department, Lok Sabha, Rajya Sabha, etc.) where separate accounts offices existed for the purpose—The Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Bill, 1971, *Notes on Clause* 10.

211. The Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971, ss. 10 and 11, as amended by the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1976, 1984, 1987 and 1994.

    Separation of accounts from audit in the Department of the Union, initiated on 1 April 1976, has been completed with almost all Union Departments now keeping their own accounts and the Comptroller and Auditor-General left with audit functions.

212. The Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971, s. 14. A grant of loan is treated 'substantial' if it is not less than Rs. 25,00,000 and constitutes not less than 75 per cent of the total expenditure of the body or authority in a financial year.

213. The Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971, s.15.

The reports of the Comptroller and Auditor-General relating to the accounts of the Union are submitted to the President who causes them to be laid before Parliament[214]. Similarly in the case of States he submits his reports to the Governor of the State, who causes them to be laid before the Legislature of the State[215].

The audit reports of the Comptroller and Auditor-General on the Accounts of the Union Government that have been laid before Parliament under the Provisions of Article 151 (1) of the Constitution stand automatically referred to the Committee on Public Accounts[216]. These form the basis of investigation by the Committee which submits its reports thereon to Parliament.

In case the House wants to have any information from the Comptroller and Auditor- General, it can do so through the Public Accounts Committee. But in case a Committee has not been constituted, it is for the Speaker to decide as to what should be done in the matter, provided members give a notice for raising a discussion in one form or the other[217].

Though the reports of the Comptroller and Auditor-General are brief, they make a whole year's work of the entire Department available to the Committee. So far as the technical examination of the expenditure incurred by a Government Department is concerned, the Audit Department delves deeply and brings to bear upon such examination its expert knowledge and experience. The Public Accounts Committee then applies its mind from the layman's point of view[218].

The Comptroller and Auditor-General in India assists the Public Accounts Committee. He detects the points of question in the accounts and presents them with such other information concerning them as he has obtained, and leaves the Committee to pursue them further, to consider them, and report on them[219].

At the instance of the Public Accounts Committee, the Comptroller and Auditor-General has on occasions made detailed and further investigations into matters arising out of the examination of Appropriation Accounts by the Committee[220].

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214. The reports are received by the Ministry of Finance on behalf of the President and the Minister of Finance lays them on the Table of each House of Parliament.

215. Art. 151(2).

    The Comptroller and Auditor-General has under him in each State, an Accountant-General whose function is to account and audit both State and Union Government transactions taking place within that State. For the Union territories, there is an 'Accountant-General, Central Revenue'. While under the Government of India Act, 1935, the Auditors-General appointed by the Provinces were independent of the Auditor-General of India, the Accountants-General of States under the Constitution are subordinate to the Comptroller and Auditor-General of India, who is responsible for the financial administration of the whole of India, including the States.

216. Procedure and Practice Vol. I (PAC Branch) Page 12 para 4.1 (Revised Edition 2019) and Rule 308.

217. *See L.S. Deb.,* 18-6-1962, cc. 11266-72.

218. S.L. Shakdher: "Comptroller and Auditor-General of India and the U.K.", *Indian Journal of Public Administration,* Vol. IV, No. 4, 1950, pp. 393-410.

219. At the time of examination of official witnesses, the Comptroller and Auditor-General sits on the right hand side of the Chairperson of the Public Accounts Committee. He assists the Chairperson as the evidence is proceeding and may, with the permission of the Chairperson, ask the witness to clarify a point and make a statement on the facts of a case.

    The Comptroller and Auditor-General or any of his senior officer is also present at the other sittings of the Public Accounts Committee and clarifies to the members important points arising out of the Accounts to be examined by them.

220. For example, *see* 6R (PAC-1LS); 8R, 28R (PAC-2LS); Audit Report (Railways), 1960.

Any note or memorandum asked for by the Committee is invariably sent by the concerned Ministry first to the Comptroller and Auditor-General for verifying the facts contained therein, and then submitted to the Committee[221]. As per practice that has evolved over the years, the information/replies furnished to the Committee (on paras/ reports of C&AG) are simultaneously sent to the C&AG's office and the Committee by the Ministry concerned.

All papers, including statements showing action taken or proposed to be taken by the Government on the previous recommendations of the Committee which are circulated to the members of the Committee, are usually sent to the Comptroller and Auditor-General. A copy of the draft report prepared by the Secretariat of the Committee under the direction of the Chairperson is sent to the Comptroller and Auditor-General in advance for factual verification.

The Comptroller and Auditor-General also attends the sittings of the Committee on Public Accounts[222]. At the instance of the Public Accounts Committee, the Comptroller and Auditor-General has at times made formal presentations on the Audit Reports[223]. His presence at these sittings is recorded in the proceedings of the Committee[224]. Since the 16th Lok Sabha, the officials of the C&AG have started briefing the Committee on subjects before oral evidence is taken.

The Comptroller and Auditor-General also assists the Committee on Public Undertakings in pursuing such matters as have been raised in the Audit Reports (Commercial) or in the Audit Reports pertaining to the Government companies or statutory corporations which have been taken up for examination. The Committee obtains a 'Memorandum of Important Points from the Comptroller and Auditor-General' on the issues raised in the Audit Report. Then suitable questions are framed on the basis of the Audit Reports and the 'Memorandum, furnished by the Comptroller and Auditor-General'.

While taking evidence of the representatives of the Public Undertakings Ministries, on matters dealt with in the Audit Report (Commercial) pertaining to the Undertaking under examination, the Comptroller and Auditor-General or his representative assist the Committee and may, with the permission of the Chairperson, ask the witnesses to clarify a point and may make a statement on the facts of a case[225].

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221. Finance Department, Government of India, Simla, O.M. No. D/6368-F dated 17 August 1934. *See* also 5R (PAC-1LS), para 7.

222. The Comptroller and Auditor-General usually attends the first sitting of the Committee on Public Accounts. Thereafter the representatives from office of C&AG attend the sittings of the Committee held in connection with subjects under examination.

223. On 27 December 2010, in connection with examination of 'Recent Developments in the Telecom Sector including Allocation of 2G And 3G Spectrum'; 12 September 2012, in connection with examination of 'Allocation of Coal Blocks and Augmentation of Coal Production'; and 21 September 2016 in connection with briefing on the subject 'Public Private Partnership Model' which was selected *suo-moto*.

224. Proceedings of the sittings of the Committee are incorporated as Part II of the Report of the Committee and form part of the Report.

225. While taking evidence of the representatives of the Public Undertakings or the Ministry concerned, when examination is based on some audit-paragraph, the officers of Secretariat sit on the left side of the Chairperson and the Comptroller and Auditor-General and his representatives are seated to the right side of the Chairperson. The representative of Comptroller and Auditor-General takes part in the discussion only so far as points relating to audit paras are concerned. Thereafter, he withdraws from the Committee Room.

Prior to taking evidence of officials of an Undertaking, the Committee on Public Undertakings sometimes hold an informal meeting with the Comptroller and Auditor-General of India for clarification of any point arising out of audit paragraphs[226].

The Minister of Finance is very often called upon to answer questions in Parliament on matters which are handled by the Comptroller and Auditor-General on his behalf.

Speaker Mavalankar ruled that so long as the Comptroller and Auditor-General was responsible for maintaining accounts in addition to conducting audit, admissibility of questions relating to the former must be regulated as in the case of any other Ministry.

In regard to audit functions of the Comptroller and Auditor-General, questions relating to day-to-day administration are not normally admitted, but questions involving supply of factual data or statistics on matters which have a bearing on policy may be admitted for written answer only, so that the need for raising supplementaries may be avoided. The Minister of Finance, who is responsible for

226. In connection with the examination of the Rourkela Steel Plant and Air India, the Committee held informal discussions with the Comptroller and Auditor-General of India on 19 January 1965 and 30 November 1965. On the following occasions, the Committee on Public Undertakings also held informal discussion with C&AG of India in connection with subjects under its examination:

(i) On 15 and 16 July 1983, in connection with the examination of Central Coal Washeries.

(ii) On 18 and 19 July 1983, in connection with the examination of SAIL on Durgapur Steel Plant.

(iii) On 12 and 13 July 1984, in connection with examination of Mineral Exploration Corporation Ltd., and its administrative Ministry of Steel and Mines (Deptt. of Steel) on 10 September 1984.

(iv) On 10 September 1985, in connection with the examination of Bharat Electronics Ltd.

(v) On 31 December 1985, in connection with the examination of Indian Petro-chemicals Corporation Ltd., and its administrative Ministry of Petroleum & Natural Gas on 24 March 1986.

(vi) On 15 July and 17 September 1986. in connection with the examination of Eastern Coalfields Ltd. and its administrative Ministry of Industry (Department of Coal) on 7 January 1987.

(vii) On 1 September 1986, in connection with the examination of Cochin Shipyard Ltd. and its administrative Ministry of Surface Transport on 12 January 1987.

(viii) On 29 and 30 November 1990, in connection with the examination of National Mineral Development Corporation Ltd.

(ix) On 29 and 30 March, 27 April, 25 June and 18 August 1993 in connection with the examination of Cement Corporation of India Ltd.

(x) On 6, 7, 16 and 17 September 1993, in connection with the examination of Indian Airlines.

(xi) On 28 January and 10 February 1994, in connection with the examination of Gas Authority of India Ltd.

(xii) On 12 and 13 January 1995, in connection with the examination of Mazagaon Dock Ltd.

(xiii) On 7, 8, and 9 August 1995, in connection with the examination of National Hydro-electric Power Corporation Ltd.

(xiv) On 9 September, 2014, in connection with inclusion of National Highways Authority of India (NHAI), a Statutory Authority involved in commercial activities, in the Fourth Schedule to the Rules of Procedure and Conduct of Business in Lok Sabha.

answering such questions in the House, in practice gets the material for answer from the Comptroller and Auditor-General and places it before the House and may answer supplementaries from such additional material as the Comptroller and Auditor-General may have furnished to him. In case the Minister has no information he informs the House that he will request the Comptroller and Auditor-General to look into the matter[227].

XI. Attorney-General

The Attorney-General is not a member of Parliament or of the Council of Ministers. He has, however, the right to speak in, and otherwise to take part in the proceedings of either House, any joint sittings of the Houses**,** and any committee of Parliament of which he may be named a member, but he cannot vote[228]. He is entitled to all the privileges and immunities of members of Parliament[229] and when present in the House occupies a seat on the Government benches[230].

The Attorney-General[231] is appointed by the President on the advice of the Cabinet and holds Office during the pleasure of the President[232]. There is no statutory age limit for his appointment or retirement.

A person eligible for appointment as the Attorney-General must be a citizen of India who should have been for at least five years a Judge of a High Court, or an Advocate of a High Court with at least ten years' standing, or who is in the opinion of the President a distinguished jurist[233]. He receives such remuneration as the President may determine[234].

The Attorney-General is required to advise the Government of India on such legal matters as are referred to him by the Government and to perform such other duties of legal character as are assigned to him by the President from time to time. He has to appear on behalf of the Government in all cases, including suits, appeals and other

227. Shakdher : "Comptroller and Auditor-General of India and U.K." *op.cit.*

228. *See* Art. 88.

229. *See* Art. 105(4).

230. On 29 April 1963, the Attorney-General occupied seat No. 4 in the front row on the treasury benches—see *Minutes of Proceedings,* 29-4-1963; on 1 May 1969, the Attorney-General occupied seat No. 6 in the front row on the treasury benches by the side of the Minister of Law.

231. As the name 'Attorney-General' suggests, the Office has been introduced into the political system of the country on the model of the corresponding Office in England. In England, the Office developed by necessity primarily because the Sovereign could not appear in his own courts to support his interest in person and, therefore, a representative or an Attorney of the Crown was necessary. The origin of the Office is thus primarily connected with proceedings in Court of Law. In England, the Attorney-General is the Chief Law Officer of the Crown. The appointment is political and is generally conferred on a successful barrister being a supporter of the party in power. Consequently, the Office changes with every change in the Government.

232. Art. 76(1) and (4). Since there is no function which the President may under the Constitution exercise in his individual judgement, it is evident that in appointing the Attorney-General under clause (1) of article 76, the President will act on ministerial advice and so also in the matter of removal under clause (4) of the article.

In England and other important countries of the Commonwealth such as Australia, Canada and New Zealand, the Attorney-General is invariably a Minister and a member of the Legislature. He has the charge of legal measures and deals with the legal questions on behalf of the Government. The courts have no power to compel the Attorney-General to be examined as a witness.

233. Art. 76(1), read with Art. 124(3).

234. Art. 76. *See* the Law Officers (Conditions of Service) Rules, 1987, rule 7.

proceedings, in the Supreme Court or in any High Court, in which the Government of India is concerned[235]. He is also required to appear in courts of law on behalf of the House and the Speaker[236].

It is also the duty of the Attorney-General to represent the Government in any reference made by the President to the Supreme Court under article 143 of the Constitution and discharge the functions conferred on him by or under the Constitution or under any other law for the time being in force[237].

The Attorney-General has the right of audience in all courts in India in the performance of his duties[238]. However, the Attorney-General cannot advise or hold briefs for any part except the Government of India or the Government of a State or any University, Government School or College, local authority, Public Service Commission, Port Trust, Port Commissioners, Government aided or managed Hospitals, a Government company as defined in section 617 of the Companies Act, 1956, any Corporation owned or controlled by the State, or any body or institution in which the Government has a preponderating interest[239].

The Attorney-General and after him the Advocate-General of a State have precedence over the other Advocates and the Supreme Court has the right to issue notices of any proceedings to the Attorney-General and the latter may also apply to be heard in any proceedings[240].

In order to help Lok Sabha and the Speaker to decide issues with reference to legislative proposals before the House, the Attorney-General has on occasions addressed the House at the suggestion of the Speaker or of the House and given his opinion on the legal and constitutional aspects of the matters before the House. However, the Speaker does not seek advice of the Attorney-General with regard to *vires* of a Bill—it is for the Government, when they want to consult him, to bring in the Attorney-General[241].

When the attendance of the Attorney-General is considered necessary in the House, his presence is generally arranged by the Government[242].

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235. Art. 76(2). *See* also the Law Officers (Conditions of Service) Rules, 1987, rule 5.

236. The Attorney-General appeared in the Supreme Court on 28 August 1961, on behalf of the Speaker when a motion was adopted by the House on 25 August 1961 instructing the Attorney-General to arrange for appearance and representation in the matter of the writ petition filed by the Editor and the correspondent of the *Blitz,* in the Supreme Court—*see L.S. Deb.,* 25-8-1961, c. 5058.

237. In order that the Government work may not suffer, the Attorney-General is not permitted to take up private briefs—*L.S. Deb.,* 25-7-1968, *U.S.Q.* No. 948. *See* also the Law Officers (Conditions of Service) Rules, 1987, Rule 8(1).

    Order XXVIIA of the Civil Procedure Code provides that in any suit if it appears to the Court that any substantial question as to the interpretation of the Constitution is involved [*i.e.,*such a question as is referred to in art. 132(1) read with art. 147] the Court shall not proceed to determine that question until after notice has been given to the Attorney-General if the question concerns the Government of India.

238. Art. 76(3).

239. *See* the Law Officers (Conditions of Service) Rules, 1987, rule 8(a).

240. *See* order XLIII rules 1 and 2, Supreme Court Rules, 1966.

241. *See L.S. Deb.,* 22-4-1963, c. 11214; 26-4-1963, c. 12310.

242. On the following occasions, the Attorney-General was present to give his opinion in the House and his presence was arranged by the Government.

    On 25 February 1950, to give his opinion in connection with the Preventive Detention Bill, 1950—*P. Deb. (II),* 25-2-1950, pp. 890-95.

However, on some occasions it was arranged by the Secretariat, the reason being that the Government was not directly involved in these cases[243].

The position is that the Attorney-General may attend the House on his own, at the request of the Government, on a motion passed by the House or in response to a request by the Speaker if he wishes to hear him on any matter before the House.

Members may give notice of motion asking the Attorney-General to be present in the House in connection with a certain Bill or business before the House. Such notices are admitted and it is for the House to take a decision thereon[244].

On 9 May 1953, to give his opinion on the constitutionality of Vindhya Pradesh Legislative Assembly (Prevention of Disqualification) Bill, 1953—*H.P. Deb. (II),* 9-5-1953, cc. 6304-6.

On 28 February 1956, to give his opinion on the interpretation of Art. 286(2) in connection with the Sales Tax Laws Validation Bill, 1956—*L.S. Deb.*, 28-2-1956, cc. 1948-49.

On 29 April 1963 to take part in the debate on the Compulsory Deposit Scheme Bill, 1963—.*L.S. Deb.,* 29-4-1963, cc. 12752-72.

On 4 August 1993, to give his opinion on:

(i) Scope and extent of disciplinary authority of the Election Commission in respect of officers and staff deployed for election work; and

(ii) Scope and extent of authority in the matter of deployment of forces to maintain law and order to ensure free and fair elections, keeping in view the constitutional and legal position that maintenance of law and order is primarily a State subject. (*L.S. Deb.,* 4-8-1993, cc. 689-90)

243. For instance, on 12 March 1954, during discussion on the Indian Cattle Preservation Bill, 1952 (Private Members' Bill), by Seth Govind Das, a member Dr. P.S. Deshmukh, suggested that further consideration of the Bill might be postponed so that House might hear the Attorney-General. The Debate was accordingly postponed. When the Bill was next considered by the House on 1 May 1954, the Attorney-General was present who made a statement. On that day, a request was made on the floor of the House that the Attorney-General might be present also when the Bill was further considered by the House. The Speaker observed that the Attorney-General might be requested accordingly. The Attorney-General was present when the Bill next came up before the House on 2 April 1955. *L.S. Deb.,* 12-3-1954, c. 2018; 1-5-1954, c. 6239.

In four other cases, his presence was deemed necessary in connection with the business of parliamentary committees—the Attorney-General was directed by the Speaker to open the proceedings in the *Mudgal Case* (Committee on the Conduct of a Member, 1951) and be present in the course of inquiry; the Attorney-General was present at the sitting of the Rules Committee held on 17 April 1956, to give his opinion on the procedure to be followed for passing of a Bill seeking to amend the Constitution in the light of requirements of article 368; the Attorney-General gave evidence before the Joint Committee on the Unlawful Activities (Prevention) Bill, 1967, and expressed his opinion on the *vires* of the Bill and also on the question whether restrictions proposed to be imposed by the Bill on the fundamental rights of speech and expression, assembly and to form associations or unions, were reasonable—Report of J.C., para 8.

On 1 May 1969, the Attorney-General came to the House to give his opinion on the power of Parliament to levy wealth-tax on agricultural property (clause 24 of the Finance Bill). Questions were sent to him in advance and he based his statement on them. Supplementary questions were asked on the matter—*L.S. Deb.,* 1-5-1969, cc. 224-48. The Attorney-General was invited by a letter by the Secretary after the Deputy Prime Minister had agreed in response to the request of members that he be called to give his opinion.

The Attorney-General addressed the Joint Committee to enquire into Bofors Contract on 15 February and 8 April 1988 and clarified important legal issues, involved in the enquiry— Report of J.C., para 8.1.

244. On 27 April 1963, a motion was adopted and the Attorney-General was present in the House on 29 April 1963, to take part in the debate on the Compulsory Deposit Scheme Bill, 1963. — *L.S. Deb.,* 27-4-1963, c. 12525.

On 3 December 1966, a motion that the Attorney-General be summoned to the Lok Sabha to give his opinion on the Constitution (Twenty-third Amendment) Bill, 1966, was negatived by the House—*L.S. Deb.,* 3-12-1966, c. 7314.

Where the opinion of the Attorney-General has been circulated to members in advance of his taking part in the proceedings, members may give advance notice of questions which they wish to ask of him and the same may be forwarded to the Attorney-General and the concerned Minister[245].

When taking part in the proceedings of the House, the Attorney-General cannot be cross-examined on the views expressed by him. However, members may be permitted to ask a few questions to seek clarification on some points[246]. No discussion is permissible on the statement made by the Attorney-General in the House.

On 1 May 1954, after the Attorney-General had made a statement regarding *ultra vires* character of the Indian Cattle Preservation Bill, a member sought the Speaker's permission to make certain observations with respect to the Attorney-General's views. The Speaker observed that it was not the practice to allow a discussion on statements made in the House by the Attorney-General[247].

On behalf of the Speaker, references have also been made to the Attorney- General with a view to seeking his advice on procedural matters or constitutional provisions. Such references are made direct and the Attorney-General gives his opinion direct. The Speaker is not bound to follow that opinion but he takes it into consideration before arriving at his decision[248].

On 25 November 1968, a motion that the Attorney-General be invited to address the House on the constitutional aspects of the Indian Railways (Amendment) Bill, 1968, was negatived by the House—*L.S. Deb.,* 25-11-1968, c. 294.

On 19 August 1974, a motion that the Attorney-General be summoned to advise the Lok Sabha on the question whether the House was competent to consider the Additional Emoluments (Compulsory Deposit) Bill, 1974, in view of the constitutional objections raised by members was negatived by the House—*L.S. Deb.,* 19-8-1974, cc. 328-33.

On 5 May 1988 when the Minister of Defence, during his reply to discussion on the JPC on Bofors contract, referred to the opinion of the Attorney-General, some members rising on points of order, submitted that the Attorney-General should be asked to come to the House to clarify the position. The Speaker observed that members could give notice of a motion asking the Attorney-General to be present in the House in connection with a Bill or other business before the House and if such motion was admitted, the House could take a decision thereon. Notices received subsequently were disallowed as discussion on the JPC Report had already concluded—*L.S. Deb.,* 5-5-1988, cc. 403-11.

245. *See L.S. Deb.,* 29-4-1963, c. 12641.

246. *Ibid.,* c. 12753.

247. *H.P. Deb. (II)*, 1-5-1954, c. 6289.

248. The references made to the Attorney-General on behalf of the Speaker are given below with date shown against each:

- Interpretation of article 368 of the Constitution which prescribes the special procedure regarding passing of Bills seeking to amend the Constitution—15-5-1951.
- Whether discussion can take place in the House on a matter which is *sub judice.*—20-9-1955. Whether discussion in the House on the Prize Competitions Bill, 1955, is likely to raise the same questions as are before the Supreme Court in the case of *M/s. R.M.D.C. Limited* v. *the State of Bombay*—20-9-1955.
- Whether it is necessary on a true interpretation of article 93 of the Constitution for the Deputy Speaker to resign his Office of Deputy Speaker before standing for election as Speaker of the House—4-3-1956.
- Whether it is obligatory on the Government to lay on the Table a copy of Report of the Governor where the President has acted upon such report under article 356(1) of the Constitution—28-4-1956.
- What is the effect of prorogation of the House on the business pending before it—10-8-1956.

XII. Chief Election Commissioner

The Lok Sabha is deemed to be duly constituted only upon the issue of a notification by the Election Commission containing the names of all members elected or nominated till the date of the issue of notification[249].

The Election Commission consists of the Chief Election Commissioner and such numbers of other Election Commissioners, if any, as the President may from time to time fix[250].

The Election Commission was made a multi-member body for the first time on 16 October 1989 with two Commissioners and a Chief Election Commissioner. However, on 2 January 1990, it was again made a single-member body by the

- Whether the charges imposed under Rule 5(12)(i) and 5(3)(i) of the Delhi (Control of Building Operation) Regulations were a tax or a fee; and whether under the rule-making power as embodied in section 19 of the said Act, such charges could be levied by the regulations—23-1-1957.
- Whether the parliamentary practice obtaining in the United Kingdom, according to which one House of Parliament will not permit one of its members to be summoned by the other House, without a message desiring his attendance, or without the consent of the member whose attendance is required, is applicable in India, in terms of articles 105(3)/194(c) of the Constitution, to a case where a member of Parliament is required to attend for giving evidence before a State Legislature or a Committee thereof—26-6-1958.
- Whether the Punjab Sugarcane (Prohibition of Use for Manufacture of Gur) Order, 1959, issued under section 3 of the Essential Commodities Act, 1955, is in conflict with article 19(1)(f) and (g) of the Constitution—12-5-1959.
- Whether the President can deliver his Address to both Houses of Parliament assembled under article 87(1) of the Constitution in any language other than in English or Hindi—10-12-1963.
- Interpretation of article 94 of the Constitution with regard to the withdrawal of the resignation by the Deputy Speaker from his office—20-8-1983.
- Interpretation of articles 94 and 179 of the Constitution with regard to the right of the Speaker to resign on dissolution of the House—30-9-1985.
- Points arising out of difficulties faced in the implementation of the Constitution (Fifty-second Amendment) Act, 1985 and the Rules framed thereunder—24-3-1987. Points raised by a member regarding the interpretation of the Constitution (Fifty-second Amendment) Act, 1985 and the Rules framed thereunder in connection with the Speaker's decision to treat him as unattached in the House consequent upon his expulsion from his political party—27-5-1987.
- Whether, in respect of motion for removal of Justice Soumitra Sen, Judge, Calcutta High Court, the procedure proposed to be followed by the Secretariat would stand scrutiny of the relevant statutory provisions (17 August 2011); it is legally necessary to provide Justice Sen a second opportunity in Lok Sabha to present his defence at the end of the debate by replying to the points/allegations made by the members of Lok Sabha (25 August 2011); and the Lok Sabha should proceed with the motion for removal of Justice Sen in case the resignation tendered by him is accepted by the President (2 September 2011).

249. *See* the Representation of the People Act, 1951, s. 73.

In the case of First and Second Lok Sabha, such a notification was issued by the Ministry of Law. In 1961, section 73 of the Representation of the People Act, 1951 was amended and the power was conferred upon the Election Commission—*see* Ministry of Law Notification No. F. 10(7)/ 52C, dated 2-4-1952 and S.R.O. 1120, dated 5-4-1957, and Election Commission Notification No. S.O. 975, dated 2-4-1962.

250. Art. 324(2).

The constitutional provisions (article 324) relating to the setting up of the Election Commission were brought into force on 26 November 1949, while the rest of the Constitution came into force on 26 January 1950. The nucleus of the Office of the Election Commission was set up on 25 January 1950, but the first incumbent of the Office of the Chief Election Commissioner, Sukumar Sen assumed charge of his duties with effect from 21 March 1950.

Government. Though this decision of the Government was challenged in the Supreme Court by one of the affected Commissioners, the Supreme Court upheld the decision of the Government in this regard[251]. Subsequently, on 1 October 1993, the Commission was made a multi-member body by appointing two Election Commissioners in addition to the Chief Election Commissioner.

The appointment of the Chief Election Commissioner and other Election Commissioners is made, subject to the provisions of any law made in that behalf by Parliament, by the President[252]. When any other Election Commissioner is appointed by the President, the Chief Election Commissioner functions as the Chairman of the Election Commission[253].

Before each General Election to the Lok Sabha and to the Legislative Assembly of each State and before each biennial election to the Legislative Council of each State having such Council, the President after consultation with the Election Commission, may also appoint such Regional Commissioners as he may consider necessary to assist the Election Commission in the performance of its functions[254].

When requested by the Election Commission, the President or the Governor of a State also makes available to the Election Commission or to a Regional Commissioner such staff as may be necessary for the discharge of the functions of the Commission[255].

In order that the Election Commission may be independent of the Executive Government, it has been provided under the Constitution that the Chief Election Commissioner shall not be removed from Office except by an order of the President after an address by each House of Parliament in the prescribed manner.

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251. S.S. Dhanoa v. Union of India, S.C.C., 1991 vol. 3, p. 567; A.I.R. 1991 S.C. 1745.

252. Parliament has enacted the Chief Election Commissioner and other Election Commissioner (Appointment, Conditions of Service and term of office) Bill, 2023 (Act No. 49 of 2023) for said purposes.

253. Art. 324(2) and (3).

254. Art. 324(4).

On 8 August 1951, the President's sanction was conveyed to the Election Commission to the creation, on temporary basis, of four posts of Regional Commissioners.

These officers were to assist the Election Commission in the performance of its functions in connection with the First General Election in 1952. Of the four posts sanctioned, only two were eventually filled. These appointments continued until April, 1952.

No Regional Commissioner was appointed for the Second General Election. Instead three Deputy Election Commissioners were temporarily appointed for the purpose.

During the Third General Election, the Election Commission was assisted by three Deputy Election Commissioners—one of these three posts was continued on a regular basis.

Three temporary posts of Deputy Election Commissioners were created for a period of one year from 1 March 1966 to 28 February 1967 but only one was filled up and it continued upto 31May 1967.

Another post of Deputy Election Commissioner was created *w.e.f.* 14 April 1969.

Two more posts of Deputy Election Commissioner were created w.e.f 11 October 2018.

At present there are six posts of Deputy Election Commissioners to assist the Election Commission. No Regional Commissioner has been appointed after the First General Elections.

255. Art. 324(6).

A large number of Electoral Registration Officers, Revising Officers, Returning Officers and Assistant Returning Officers are drawn from the superior Government servants in each State.

The address for removal of the Chief Election Commissioner can be presented to the President only on the ground of 'proved misbehaviour' or 'incapacity' and is to be so presented in the same session in which it is passed by each House of Parliament supported by a majority of the total membership of each House and also by a majority of not less than two-thirds of the members of each House present and voting[256]. Further, the conditions of service of the Chief Election Commissioner cannot be varied to his disadvantage after his appointment[257].

Protection has similarly been given under the Constitution to the other Election Commissioners and Regional Commissioners who cannot be removed from Office except on the recommendation of the Chief Election Commissioner. Their conditions of service and tenure of Office, subject to the provisions of any law made by Parliament, are regulated by the President[258].

The Election Commission under the supervision of the Chief Election Commissioner is responsible for the superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of all elections to Parliament and to the Legislature of every State, and of election to the Office of the President and the Vice-President[259].

The Commission is required to ensure that the electoral rolls are kept up-to-date at all times. Apart from the superintendence of all General Elections, the Commission is also empowered to superintend elections to fill casual vacancies in Parliament as well as in the State Legislatures. Further, the President is required under the Constitution to obtain the opinion of the Election Commission before he decides any question raised as to whether a member of Parliament has become subject to any of the disqualifications under the Constitution and for this purpose, the Election Commission may make such enquiry as it thinks fit[260]. Likewise, in a similar case in respect of a member of a State Legislature, the Governor of that State has to obtain the opinion of the Commission[261].

The provisions relating to elections have been extensively amended from time to time in the light of recommendations made by the Election Commission after the experience it gained during and after the General Elections. Thus, the whole of the

256. Art. 324(5), Proviso read with art. 124(4) and (5).

257. Art. 324(5).

258. Art. 324(5).

259. Art. 324(1).

Parliament has passed two major measures laying down the detailed law under which various elections to Parliament and State Legislatures are being held. The first, the Representation of the People Act, 1950, provides for qualifications of voters and matters connected with the preparation of electoral rolls. It also lays down the procedure for delimitation of Constituencies and allotting the number of seats in Parliament to the States and fixes the number of seats in the respective State Legislatures. The second, the Representation of the People Act, 1951, provides for actual conduct of elections and deals in detail with subjects like administrative machinery for conducting elections, the polls, election disputes, by-elections, etc. Under these two Acts, rules have been made by the Government of India and these are respectively called the Registration of Electors Rules, 1960 and Conduct of Election Rules, 1961. The two Acts and the statutory Rules have been amended from time-to-time to incorporate the necessary changes. Another Act, *viz.* the Presidential and Vice-Presidential Elections Act, 1952, and the Presidential and Vice-Presidential Election Rules, 1974 framed thereunder, provide for all matters relating to the conduct of elections to the Office of the President and Vice-President.

260. Arts. 102 and 103, as amended.

261. Arts. 191 and 192, as amended.

election machinery has been placed under the direction and control of the Election Commission, which alone is entitled to issue directives in matters concerning elections.

XIII. Secretary-General

The position of the Secretary-General[262] of the Lok Sabha is a most unusual one; one might almost say that it is unique. He is expected to know everything that is to be known about everything that has any reference to the Lok Sabha and its business, whether it relates to some rather abstruse constitutional point or the proper precedence that should be followed in certain given circumstances; whatever the problem, members expect immediate and authoritative advice from him. In fact, the efficient and proper working of the House depends largely on the Secretary-General.

The Secretary-General is the adviser to the Speaker in the matter of exercise of all the powers and functions that belong to the Speaker, and to the House through the Speaker. He acts under the authority and in the name of the Speaker but does not work under delegated authority. The orders passed by the Secretary-General are the orders in the name of the Speaker and the Speaker accepts full responsibility for those orders. No two persons are more closely associated than the Speaker and the Secretary-General so far as functioning of the House is concerned. A relationship of utmost confidence in each other exists between them. The Secretary-General may be very competent; he may also be in the midst of politics, yet by training he is not a politician. He, therefore, lacks something which is filled in by the Speaker.

As far back as 1929, Speaker Patel laid down the sound principles and conventions which still guide the relationship between the Speaker and the Secretary-General. After the establishment of a separate Secretariat for the Central Legislative Assembly, he had noted:

> It is the duty of the Secretary and his assistants to study every motion and amendment and consider whether it is in order or not. The Secretary should also anticipate objections likely to be raised in the House in connection with the business of the day; he should then bring such points as he considers necessary to the notice of the Speaker and discuss them with him, before the House sits. He should be ready whenever possible with the previous rulings and precedents and also parliamentary authorities. He must not forget that the Secretary is the only person who can advise the Speaker in all these matters and, therefore, it is his duty to prepare himself to be useful to him. The best and the easiest course is for the Secretary to discuss verbally all questions with the Speaker. It is necessary in the interest of the smooth working of the department that the officers of the department who pass any orders in connection with any business of the Assembly must always bear in mind that the responsibility of such orders is that of the Speaker.

262. Till 12 November, 1973, the Secretary-General was designated as Secretary.

With S.L. Shakdher relinquishing the Office of the Secretary-General, the post was redesignated as "Secretary until further orders"—*L.S. Deb.,* 17-6-1977, cc. 298-99.

On 22 December 1983, the Speaker informed the House that Avtar Singh Rikhy, Secretary, Lok Sabha had been redesignated as Secretary-General, Lok Sabha, *Bn.* (*I*), 22-12-1988, No. 388.

His successor, Dr. Subhash C. Kashyap was appointed as Secretary-General. *Notfn.* No. 296(3)/AN-l/GN-712/84, 25-1-1984. He was thus the first person to have been appointed as the Secretary-General straightaway, *i.e.* without first working as the Secretary.

The functions of the Secretary-General may be broadly classified into two categories: parliamentary and administrative.

The Secretary-General has to be present in the Chamber during the sittings of the Lok Sabha. He occupies a seat just below the desk of the Speaker in the pit of the Chamber and is constantly available for consultation. In the course of the discussions, the Speaker on many occasions has to take a decision and give his ruling in cases involving interpretation of the rules or precedent, and the advice offered and the opinions expressed by the Secretary-General in that behalf are of considerable importance. When some doubt has to be resolved or a rule has to be interpreted, the Secretary-General, with his experience and knowledge of parliamentary precedents, etc. is able to suggest to the Speaker the most appropriate solution. In fact, the Secretary-General has to anticipate as to what is going to happen during the day and for that he must be ready with a solution and he has to be prompt with the solution because there is no time to consult anybody.

The Secretary-General must, therefore, possess certain basic qualifications. The first qualification is his capacity to give advice in the light of a constantly changing situation. Even when a matter is under discussion in the House, new facts emerge, new information comes forth. His second qualification is the capacity to apply rules to the ever-changing phenomena.

Parliamentary procedure goes on changing imperceptibly from day-to-day and the Secretary-General's contribution to the building up of this procedure is significant. When the Secretary-General goes to the Speaker to discuss certain matters with him, it very often happens that points of procedure are crystallized in a single word or observation made by the Speaker. In such cases, the Secretary-General ensures that it is converted into a ruling, and a procedure is set thereby.

The duties of the Secretary-General are of a difficult and delicate nature; he has not only to hold a balance between the Government and the Opposition, but he must also enjoy the confidence of both. The Secretary-General's advice is available to all members, irrespective of party affiliations. The advice is full and frank and completely impartial. However, he never volunteers advice unless asked for[263].

Some of his parliamentary duties are laid down in the Rules but many others are performed by practice and convention. The first business of the Secretary-General is to issue on behalf of the President, a summons to each member to attend a session of the House[264]. The Secretary-General keeps a Roll of Members of the House which must be signed, in his presence, by every newly-elected member before taking his seat[265]. The Secretary-General sends to every member notice of the date for the election of the Speaker and the Deputy Speaker; the date in the former case is fixed by the President

263. While paying tribute to Sir Francis William Lascelles, on his retirement from the Office of the Clerk of the Parliaments, the Marquess of Salisbury observed:

"He (Sir Francis Lascelles) has always seemed to have unlimited time to spare for every one of us. He never volunteered advice, but if he was asked he always gave it; and it was always good. Even if he thought that one was contemplating something particularly silly, he never said so; just the very faintest spasm of pain passed across his face, and that was usually quite enough for most of us"—*H.L. Deb.,* 20-1-1959, c. 556.

264. Rule 3.

265. Rule 6.

and in the latter by the Speaker[266]. He receives notices in writing which any member may give, proposing other names for these Offices.

The Secretary-General is responsible for arrangement of Government business in such order as the Speaker may, after consultation with the Leader of the House, or the Minister of Parliamentary Affairs, determine, and for the preparation of a List of Business for the House for each day of the Session[267]. Every notice required by the Rules has to be given by members to the Secretary-General[268], *e.g.,* notice of questions, motions, resolutions, questions of privilege, adjournment motions, matters of urgent public importance for short duration, etc. The Secretary-General circulates to each member a copy of every list of business, bulletin, list of amendments, notice or other paper which is required by the Rules to be made available for the use of members[269].

On the occasion of the Address by the President to both Houses of Parliament, Secretaries-General of both Houses receive the President on his arrival at the Parliament House and lead the Presidential procession to the Central Hall. Other functionaries who receive the President and join the procession are the Vice-President, the Prime Minister, the Speaker and the Minister of Parliamentary Affairs.

After the conclusion of the Address by the President to a joint sitting of the two Houses, when the Lok Sabha meets half-an-hour later in its Chamber, the Secretary-General lays on the Table a copy each of the Hindi and English versions of the Address, duly authenticated by the President. This is done so that the Address forms part of and is incorporated in the proceedings of the House[270].

The Secretary-General receives petitions, documents and papers addressed to or intended for the House, and reports to the House any such petition received by him[271]. He issues passes for admission of visitors to the Galleries. He causes to be prepared minutes, summaries and *verbatim* record of the proceedings of the House at each of its sittings and have them printed, as well as every report of a Select Committee[272]. He has the custody of all records, documents and papers of the House or any of its Committees or the Secretariat, and does not permit any such paper to be taken out from the Parliament House without the permission of the Speaker[273].

All communications from Ministers and all suggestions, memoranda and representations, etc. received from individuals or associations in respect of matter pending before a parliamentary committee are addressed to the Secretary-General[274].

Ordinarily, the report of a parliamentary committee is presented to the House, but in case a committee complete their report when the House is not in session, the Chairperson of the Committee may present it to the Speaker. In such a case the report

266. Rules 7 and 8.
267. Rules 25 and 31.
268. 265, Rule 332(1); *see* also Rules 34, 57, 58(viii), 170, 185, 193 and 223.
269. Rules 31, 79(2) and 334.
270. For Details, *see* Chapter 10 President's Address, Messages and Communications to the House.
271. Rule 167.
272. Rules 305 and 379.
273. Rule 383.
274. Dir. 63.

is presented to the House by the Chairperson during the next session. But if the Lok Sabha is dissolved in the meantime, the report is laid by the Secretary-General on the Table of the new House at the first convenient opportunity, and while laying it he makes a statement to the effect that the report was presented to the Speaker of the preceding Lok Sabha, and where it was ordered by the Speaker that the Report be printed, published or circulated, the Secretary-General also reports that fact to the House[275].

Any message from the Lok Sabha to be communicated to the Rajya Sabha is signed by the Secretary-General and on receipt of any message from the Rajya Sabha he reports to the House if it is in session and if otherwise, forwards it to each member[276]. All Bills to be transmitted or returned to the Rajya Sabha are certified by the Secretary-General[277]. In case of urgency, he also authenticates Bills, in the absence of the Speaker, before these are presented to the President for assent[278].

The Secretary-General is empowered to fix the date and time of a sitting of a parliamentary committee if the Chairperson of that committee is not readily available.

In the case of Chairperson of a Select or Joint Committee on a Bill not being available, the Secretary-General may, while fixing the date and time of a sitting consult, if necessary, the Minister concerned with the Bill[279]. When it is considered necessary to take evidence of a witness, the Secretary-General issues summons under his signature to the witness to appear before the House or any committee thereof[280].

Where the previous sanction or recommendation of the President is required under the Constitution to the introduction or consideration of a Bill or an amendment thereto, the Minister concerned has to communicate in writing to the Secretary-General the President's sanction or recommendation[281].

Every Bill passed by the Houses of Parliament and assented to by the President is laid on the Table by the Secretary-General[282].

In the case of resignation of his seat in the House by a member, the Secretary-General, as soon as may be, after the Speaker has accepted the resignation, causes the information to be published in the Bulletin and the Gazette and forwards a copy of the notification to the Election Commission for taking steps to fill the vacancy thus caused[283]. Similarly, where a seat is declared vacant by the House, the Secretary-General causes the information to be published in the Gazette and forwards a copy of the notification to the Election Commission for taking steps to fill the vacancy thus caused[284].

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275. Dir. 71A.
276. Rules 10 and 11 of the Houses of Parliament (Joint Sittings and Communications) Rules.
277. Rules 96(2), 121(2) and 137(2).
278. Rule 128(1), Proviso.
279. Rule 264, Proviso.
280. Rule 269(1).
281. Rules 68, 82 and 348.
282. Dir. 35.
283. Rule 240(3).
284. Rule 241(2).

In the case of joint sittings of the two Houses, the Presiding Officer is the Speaker and the responsibility for organising the secretarial work in that connection devolves upon the Secretary-General. It is he who issues summons to each member, whether of the Lok Sabha or the Rajya Sabha, specifying the time and place for a joint sitting and causes to be prepared a full report of the proceedings of every joint sitting and have it published in such form and manner as the Speaker may direct[285].

The Secretary-General heads a completely separate Secretariat which is under the overall control of the Speaker so that the House is assured of independent advice and its directions are executed and implemented without any interference from outside. In this category fall all those administrative and executive functions which the Secretary-General discharges on behalf of the House or the Speaker, including rendering services and providing facilities to the members. By virtue of his being the Secretary-General of the Lok Sabha, he functions as the Secretary of all parliamentary committees. He either attends to such committees himself or causes his officers to attend to them. He generally supervises all the secretarial work of these committees and gives directions, where necessary. In short, he sees that the secretarial work of the House and its committees, manned by competent and qualified officials, is organized properly and conducted smoothly so that the efficiency of parliamentary life is kept and maintained at a high level.

In order that democracy and particularly the Lok Sabha may function effectively, it is of the utmost importance that the members composing that House also are fully instructed in regard to the discharge of their duties in the Lok Sabha. The duty of the Secretary-General does not end with producing the lists of business, circulating it, attending to the comforts of members, advising the Speaker on points of procedure, etc. His duty extends to giving guidance to members in their parliamentary work. There are 11 organised services[286] in the Lok Sabha Secretariat to assist the Secretary-General. The personnel of the Legislative, Financial Committee, Executive and Administrative Service (LAFEAS), manage functioning of the House, human resource, Parliamentary committees, coordination with State Legislatures and foreign Parliaments, and perform general executive functions. In order to keep the members fully informed of the day-to-day developments in India and abroad, an up-to-date, well-equipped and efficient Library and Reference, Research, Documentation and Information Service (LARRDIS) is organised under the overall supervision and guidance of the Secretary-General. The Members' Reference Service provides to the members, reference material on legislative measures and other matters coming up before the House so as to enable them to participate effectively in the debates. The Research and Information Division aims at assessing in advance the needs of the legislators by identifying the topics of current interest on which there is likely to be more general demand for information and keeps them informed by issuing, Documentation Lists, Brochures, Background Notes, Information Bulletins, Fact Sheets, etc. Apart from bringing out various periodicals, the Division is entrusted from time to time with special assignments like preparing Briefs, Research Notes and country notes, etc., for various Parliamentary

285. Rules 3 and 8 of the Houses of Parliament (Joint Sittings and Communications) Rules.
286. R & C.S. Order No. PDA-1403/2019 Dated 17 June 2019.

Conferences and for the goodwill delegations of members of Parliament. Since 2021, the Service has started providing round-the-clock research support to Members of Parliament through Parliamentary Research and Information Support for Members of Parliament (PRISM). Parliamentary Committees are also provided research support in the form of Background Notes. Lok Sabha Secretariat has also signed MoUs with various premier research institutions for research inputs on topical issues for the benefit of Members of Parliament. At each stage, the Secretary-General is intimately involved in taking policy decisions and giving appropriate directions[287].

In order to provide necessary opportunities of training, orientation and study in parliamentary institutions and procedures, a Bureau of Parliamentary Studies and Training (BPST) existed under the overall control and guidance of the Secretary-General. This entity has been rechristened as "Parliamentary Research & Training Institute for Democracies (PRIDE)"[288].

The Secretary-General organises Study Groups consisting of members from all parties, and attends to numerous other activities of the House in so far as its secretarial side is concerned. He is also responsible for preparing and organising the secretarial duties of the Conference of Presiding Officers of Legislative Bodies in India, Conferences of the Chairmen of Parliamentary Committees of various Legislatures in India, Conferences of the Inter-Parliamentary Union (IPU), the Commonwealth Parliamentary Association (CPA) and the Association of SAARC Speakers and Parliamentarians Conferences and Seminars as may be organised by the Indian Parliamentary Group (IPG) and for arranging extra-parliamentary activities such as addresses by distinguished persons to members, receptions, sending of parliamentary goodwill missions abroad or receiving such missions from foreign countries to India. He functions as the *ex-officio* Secretary-General of the IPG which acts both as the National Group of the IPU and as the India branch of the CPA and its Executive Committee[289].

In his capacity as the administrative head of the Secretariat, the Secretary-General exercises the powers vested in the Speaker[290], including the determination of strength[291], method of recruitment[292], and prescription of qualifications[293], etc. for the various categories of posts. He is the appointing[294], punishing[295], and appellate[296] authority for certain classes of officers. The rules of conduct of discipline and control

287. For details, *see* the portion relating to LARRDI Service in Chapter 13.
288. OFFICE ORDER PART-I No.2131, 9 September 2019.
For Details, see the portion relating to PRIDE in Chapter 47.
289. Rule 9 of I.P.G. Rules.
290. Rule 22 of LSS (R. & C.S.) Rules, 1955 and R. & C.S. Order No. 2, dt. 28-11-1955.
291. LSS (R. & C.S.) Rules, 1955, Rule 3.
292. *Ibid.,* Rule 4.
293. *Ibid.,* Rule 5.
294. *Ibid.,* Rule 6 read with R. & C.S. Order No. PDA–1104/2004, dt. 17-12-2004.
295. *Ibid.,* Rule 14 read with R. & C.S. Order No. PDA–1104/2004, dt. 17-12-2004.
296. *Ibid.,* Rule 18.

over the officers and staff of the Secretariat are enforced by the Secretary-General[297]. He also exercises financial powers[298] and initiates Budget proposals relating to the Lok Sabha and the Secretariat. The Secretary-General is the accounting officer[299] for the money sanctioned by the House for expenditure under the Demands for Grants of the Lok Sabha and the Lok Sabha Secretariat.

He authenticates the orders of the President and the Speaker[300]. He corresponds directly with the Ministries and Departments of the Government of India or State Governments or Governments of foreign countries on behalf of the Lok Sabha or its Secretariat. The Secretary-General also corresponds with members, including Ministers, in connection with the business of the House or any matter likely to come up before the House.

The Secretary-General is a permanent official of the Secretariat of the House and is selected and appointed by the Speaker in consultation with the Leader of the House and the Leader of the Opposition from amongst those who have made their mark by long years of service in the Parliament or State Legislatures or the Civil Service[301]. He is the leading public servant, not only because it is his function to ensure the administration and working of the Lok Sabha from day-to-day and the correct observance of parliamentary procedure, but also because he enjoys his position by virtue of his political impartiality. He is unconnected with politics and so is impervious to any kind of external pressure or political influence. In order that he may perform his duties with zeal in the public interest, sufficient safeguards are provided to give him security of service and independence. He is answerable only to the Speaker and his action cannot be discussed either inside or outside the House.

In his capacity as the Secretary-General of the House, he enjoys the privilege of freedom from arrest, save on a criminal charge. He cannot be obstructed in the execution of his duty as it would amount to contempt of the House. The House treats as breach of its privilege not only acts directly tending to obstruct the Secretary- General or other officers in the performance of their duty, but also any conduct which may tend to deter them from doing their duty in future[302].

Whether taking his place at the Table, assisting in committee or dealing with the day-to-day business of the House, the Secretary-General becomes very well known to members who turn to him for his advice on points of law and procedure. By his outstanding ability, devoted service and unfailing courtesy, the Secretary-General makes his own place in the estimation of the House so much so that it is said that the retirement of a Secretary-General inevitably marks the end of a parliamentary chapter[303].

297. *Ibid.,* Rule 19 and LSS (Conduct) Rules, 1955.

298. Financial and Other Powers enjoyed by the Lok Sabha Secretariat. B.&P. No. 2(1960 ed.).

299. Scheme of Separation of Accounts from Audit under which the Pay and Accounts Office, Lok Sabha, was set up with effect from 1 October, 1955.

300. R. & C.S. Order No. 1, dt. 3-11-1955.

301. R. & C.S. Order No. PDA–903/96, dt. 19-10-1996 read with R. & C.S. Order No. PDA–905/96, dt. 28-10-1996 read with R. & C.S. Order No. PDA–918/97, dt. 27-01-1997.

302. May, Twenty-third Edn., p. 148.

303. The Lord Privy Seal (Mr. Harry Crookshank), while speaking on the retirement of Sir Frederic William Metcalfe from the Office of the Clerk of the House of Commons, observed: 'The resignation of a Clerk of the House inevitably marks the end of a parliamentary chapter.—*H.C. Deb.,* 29-7-1954, c. 722.

Thus, the functions he is charged with demand great qualities of mind, judgment and maturity of thought. His actions must be based on sincerity of purpose and impartiality of outlook. Because of the difficult and delicate nature of the functions exercised by the Secretary-General, his work has been publicly recognised and eulogized by the Speaker and by all the political groups on the floor of the House[304]; they have all given expression to their appreciation of the arduous nature of the daily functions with which he stands charged—functions which bear the imprint of, and are characterised by the great spirit of devotion and attachment to the parliamentary institution and have sometimes to be carried out in difficult conditions[305].

304. For observations made in the House on the retirement of the Secretary, M.N. Kaul, *see L.S. Deb.*, 7-9-1964, cc. 107-12.

- For the tributes paid to S.L. Shakdher on his relinquishing the Office of the Secretary-General, *see L.S. Deb.*, 17-6-1977, cc. 291-98.
- For the tributes paid to Avtar Singh Rikhy on his retirement, *see L.S. Deb.,* 22-12-1983, c. 308.
- For the tributes paid to K.C. Rastogi on his relinquishing the Office of the Secretary-General, *see L.S. Deb.,* 20-12-1991, cc. 1221-28.
- For the tributes paid to C.K. Jain on his relinquishing the Office of the Secretary-General, *see L.S. Deb.,* 14-6-1994, c. 510.
- For the tributes paid to Dr. R.C. Bhardwaj on the eve of his demitting the Office of the Secretary- General, *see L.S. Deb.,* 22-12-1995, c. 548.
- For the tributes paid to S.N. Mishra on the eve of his demitting the Office of the Secretary- General, *see L.S. Deb.,* 12-7-1996, c. 284.
- For the tributes paid to G.C. Malhotra on the eve of his demitting the Office of the Secretary- General, *see L.S. Deb.*, 28-7-2005 cc. 364-72.
- For the tributes paid to P.D.T. Achary on his relinquishing the Office of Secretary-General, *see L.S. Deb.,* 9-11-2010, c. 847.
- For the tributes paid to T.K. Viswanathan on his relinquishing the Office of Secretary-General, *see L.S.Deb.,* 2-9-2013.
- For the tributes paid to P. Sreedharan on his relinquishing the Office of Secretary-General, *see L.S. Deb.,* 31-7-2014.
- For the tributes paid to P.K. Grover on his relinquishing the Office of Secretary-General, *see L.S.Deb.,* 1-12-2014.
- For the tributes paid to Anoop Mishra on his relinquishing the Office of Secretary-General, *see L.S.Deb.,* 15-12-2017.
- For the tributes paid to Snehlata Shrivastav on her relinquishing the Office of Secretary-General, *see L.S.Deb.,* 29-1-2021.

305. Also *see* Subhash C. Kashyap, *The Office of the Secretary-General,* Lok Sabha Secretariat, New Delhi, 1989.

CHAPTER 9

Summoning and Prorogation of the Houses of Parliament and Dissolution of the Lok Sabha

Summoning of Parliament

The term of Lok Sabha is five years[1]. Dissolution of Lok Sabha may be effected before the expiry of its term by an order made by the President. At the end of its term, Lok Sabha stands automatically dissolved even if no formal order of dissolution is issued by the President[2]. However, while a Proclamation of Emergency, issued by the

1. Art. 83(2).

   Until 1976, the life of the Lok Sabha was five years. The Constitution (Forty-second Amendment) Act, 1976 (s.17) increased it to six years. It was again reduced to five years by the Constitution (Forty-fourth Amendment) Act, 1978. (s.13 *w.e.f.* 20-6-1979).

2. The period of five years excludes the period between the constitution of the new Lok Sabha and the date appointed for its first sitting.

   The life of the Third Legislative Assembly, which held its first meeting on 19 January 1927, was extended upto 31 July 1930, by an order made by the Governor-General on 16 January 1930. It would ordinarily have been dissolved on 9 January 1930.

   The life of the Fourth Legislative Assembly, which held its first meeting on 14 January 1931, was extended up to 31 December 1934, by an order of the Governor-General, read out to the Legislative Assembly on 22 December 1933.

   The Fifth Legislative Assembly which held its first meeting on 21 January 1935, continued upto 1 October 1945, on the basis of orders made by the Governor-General on 30 October 1937; 7 May 1938; 19 August 1939; 22 June 1940; 10 July 1941; 13 June 1942; 29 May 1943 and 23 May 1944. After coming into force of certain provisions of the Government of India Act, 1935, the life of the Central Legislative Assembly was governed by Sec. 63D(1) as set out in the Ninth Schedule to that Act.

   Provisional Parliament was not dissolved but faded away under the provisions of article 379 [since repealed by the Constitution (Seventh Amendment) Act, 1956] when on 17 April 1952 both Houses of Parliament were constituted and summoned by the President to meet for the First Session.

   The First Lok Sabha, which met for the first time on 13 May 1952, was dissolved by the President on 4 April 1957, thirty-eight days earlier than its normal life of five years. The Second Lok Sabha which held its first sitting on 10 May 1957, was dissolved on 31 March 1962, forty days earlier than its normal life of five years. The Third Lok Sabha held its first sitting on 16 April 1962, and was dissolved on 3 March 1967, forty-four days before the expiry of its term of five years. The Fourth Lok Sabha met on 16 March 1967, and was dissolved on 27 December 1970, one year and seventy-nine days before the expiry of its term of five years. The Sixth Lok Sabha held its first sitting on 25 March 1977 and was dissolved on 22 August 1979, two years, seven months and three days before the expiry of its term of five years. The Seventh Lok Sabha which held its first sitting on 21 January 1980, was dissolved on 31 December 1984, twenty days before the expiry of its term of five years. The Eighth Lok Sabha first met on 15 January 1985 and was dissolved on 27 November 1989, forty-eight days before the expiry of its term of five years. The Ninth Lok Sabha, which held its first sitting on 18 December 1989 was dissolved on 13 March 1991, three years, nine months and four days before the expiry of its term of five years. The Tenth Lok Sabha first met on 9 July 1991, and was dissolved on 10 May 1996, three months and twenty-eight days before the expiry of its term of five years. The Eleventh Lok Sabha, which held its first sitting on 22 May 1996 was dissolved on 4 December 1997, three years, five months and

President under article 352, is in operation, the life of Lok Sabha may be extended by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate[3].

A session of Lok Sabha comprises the period commencing from the date and time mentioned in the order of the President summoning Lok Sabha and ending with the day on which the President prorogues or dissolves Lok Sabha[4].

It is not necessary that Lok Sabha and Rajya Sabha should be summoned and prorogued simultaneously or on the same dates[5]. Until 1961, Sessions of the two Houses generally commenced on different dates[6] , except for the first session of every year when the President addresses members of both the Houses assembled together[7]. However, since 1962, generally both the Houses have been meeting simultaneously.

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eighteen days before the expiry of its term of five years. The Twelfth Lok Sabha first met on 23 March 1998 and was dissolved on 26 April 1999, three years, seven months and four days before the expiry of its term of five years. The Thirteenth Lok Sabha first met on 20 October 1999 and was dissolved on 6 February 2004, eight months and thirteen days before the expiry of its term of five years. The Fourteenth Lok Sabha, which met for the first time on 2 June 2004 was dissolved on 18 May 2009, fourteen days before the expiry of its term of five years. The Fifteenth Lok Sabha which met for the first time on 1 June 2009 was dissolved on 18 May 2014, thirteen days before the expiry of its term of five years. The Sixteenth Lok Sabha which met for the first time on 4 June 2014 was dissolved on 25 May 2019, nine days before the expiry of its term of five years. The Seventeenth Lok Sabha met for the first time on 17 June 2019 and was dissolved on 5 June 2024 . The Eighteenth Lok Sabha met for the first time on 24 June 2024.

See also Subhash C. Kashyap: Dissolution of Lok Sabha, *The Parliamentarian,* LVII, January 1977.

3. The Fifth Lok Sabha held its first sitting on 19 March 1971. Its duration was extended by one year upto 18 March 1977 [*vide* the House of the People (Extension of Duration) Act, 1976] and again upto 18 March 1978 [*vide* the House of the People (Extension of Duration) Amendment Act, 1976]. It was dissolved on 18 January 1977 before the completion of the extended term.

4. The Eighth Session of the Eighth Lok Sabha commenced on 23 February 1987 and was adjourned *sine die* on 12 May 1987. The Lok Sabha, however, was not prorogued. On a proposal from the Minister of Parliamentary Affairs, the Speaker, exercising his powers under proviso to Rule 15 of the Rules of Procedure and Conduct of Business in Lok Sabha, agreed to reconvene the sittings of Lok Sabha from 27 July 1987 to 28 August 1987. The two parts, preceding and following the period of adjournment of Lok Sabha *sine die* on 12 May 1987, were treated as constituting one session divided into two parts namely, Part I and Part II. On conclusion of the second part of the Eighth Session, Lok Sabha adjourned *sine die* on 28 August 1987 and was prorogued on 3 September 1987. Similarly, the Fourteenth Session of the Eighth Lok Sabha, the Third Session of the Ninth Lok Sabha, the First Session of the Eleventh Lok Sabha, the Fourteenth Session of the Thirteenth Lok Sabha**,** the Seventh Session of the Fourteenth Lok Sabha and the fifteenth session of Fifteenth Lok Sabha also consisted of two parts each. On conclusion of Part II of each session, the Lok Sabha was prorogued.

5. *Vide* art. 85. This is a departure from the British practice, for in the U.K. both the Houses are summoned, prorogued and dissolved together, even though the House of Lords is a hereditary body and dissolution has no effect on its membership.

6. When the two Houses are not summoned simultaneously, sessions of Rajya Sabha usually commence one week after the commencement of the sessions of Lok Sabha. Rajya Sabha was summoned to meet on 28 February 1977, for a short two-day session for seeking the approval of the House for the extension of the Proclamations of President's rule in Tamil Nadu and Nagaland, which were scheduled to expire on 10 and 24 March 1977, respectively. This was the first time that the Rajya Sabha met while the Lok Sabha stood dissolved and the election process had been set in motion.

7. Art. 87(1).

During the course of a session, Lok Sabha may be adjourned from day to day or for more than a day[8]. It may also be adjourned *sine die*[9]. Adjournment, as the term implies, is a postponement of the sitting or proceedings of either House from one time to another specified for the reassembling of the House[10]. Adjournment *sine die* means termination of a sitting of the House without any definite date being fixed for its next sitting.

As a normal parliamentary practice in the British Parliament, it is the House which determines by its own decision on a motion moved when it should adjourn or whether it should adjourn to a fixed date or *sine die*[11]. Deviating from this, the Rules of Lok Sabha have vested the authority in the Speaker to abridge the process of moving a motion and cutting short the discussion thereon. The power of the Speaker is, however, limited in the sense that he either adjourns the House at a fixed hour or at such other hour as he may determine after taking the sense of the House, and he adjourns it from day to day according to the Calendar of Sittings issued at the beginning of a session. If any variation is required in this, the matter must be decided by the House on a motion made on behalf of the Leader of the House[12].

8. At 11.10 hours on 6 September 1974, the Speaker adjourned the House till 12.15 hours to enable the members of the Business Advisory Committee and Leaders of Parties and Groups to attend an urgent sitting of the B.A.C.

   At 12.20 hours, the Secretary-General announced that as the sitting of the B.A.C. was still going on, the Speaker had directed that the House would re-assemble at 12.45 hours—*L.S. Deb.,* 6.9.1974, c. 4.

   On 17 November 1987, owing to pandemonium in the House, the Speaker adjourned the House at 12.40 hours till 14.00 hours. At 14.00 hours, the Secretary-General announced that the Speaker had directed that the House would remain adjourned till 14.30 hours—*L.S. Deb.,* 17.11.1987.

   On 20 August 1993, House was adjourned at 13.01 hours to meet again at 14.00 hours. As quorum could not be made, even after ringing of bell thrice from 14.00 hours to 14.10 hours, the Secretary-General informed the members present that there was no quorum and the Speaker had directed that the House would meet at 14.30 hours on that day. The House accordingly re-assembled at 14.35 hours.

   On 21 August 1993, the House was adjourned at 13.01 hours to meet again at 14.00 hours. As quorum could not be made even after ringing of bell thrice from 14.00 hours to 14.10 hours, the Secretary-General informed the members present that there was no quorum and the Speaker had directed that the House would meet at 15.00 hours on that day. The House accordingly re-assembled at 15.03 hours.

   (Similar instances have also taken place on 22, 25 and 29 April 1994, 8 and 19 August 1994, 6 September 1996 and 8 August 1997).

   On 16 December 2005 during Question Hour, on receipt of an information regarding a threat perception within the precincts of the House, Speaker at 11.52 hours adjourned the House to meet again at 1300 hours.

   The Security personnel immediately combed the entire Parliament House Complex but no suspicious article was found. At 13.00 hours, as directed by the Speaker, members were informed that House would meet at 15.00 hours. The House, accordingly, re-assembled at 15.00 hours.

9. The Sixth Session of the Eleventh Lok Sabha was scheduled to adjourn *sine die* on 19 December 1997. Due to continued interruptions, the Speaker adjourned the Lok Sabha *sine die* on 24 November 1997; the Speaker re-convened the sitting of the Lok Sabha on 2 December 1997, which was again adjourned *sine die* on that day itself. The Prime Minister had in the meanwhile resigned on 28 November 1997.

10. Dod. 1993 P. 743.

11. At 18.30 hours on 5 September 1974, a motion by a member that the House be adjourned was negatived by the House.—*L.S. Deb.,* 5.9.1974, cc. 1-31.

12. The Ninth Session of the Seventh Lok Sabha was scheduled to adjourn *sine die* on 13 August 1982. However, on that day the House agreed with the recommendation of the Business Advisory Committee that the Session might be extended by one day in order to provide time for discussion on the Motion of No-Confidence in the Council of Ministers.—Bn.(I), 13.8.1982. The Seventh Session

In the Gujarat Legislative Assembly, on 28 March 1970, the Government came forward with a majority recommendation of the Business Advisory Committee to adjourn the House *sine die* after the day's business—the other pending business to be transacted by the House on its re-assembly. The Assembly was accordingly adjourned *sine die* on that day on a motion moved by the Government and adopted by the House.

Earlier, the Speaker had declined to admit two notices of Motions of No-confidence in the Council of Ministers tabled the previous day, on the ground that it would mean repetition of the debate which had already taken place on the Budget and that no serious reason had been advanced in support of the motions.

The legality of the adjournment of the House was questioned in a writ petition filed in the Gujarat High Court. Rejecting the writ petition, the High Court, on 2 May 1970, held that the Assembly had the power to adjourn itself even in the absence of a specific provision in the Rules authorising the House in this behalf. The power of the Assembly was not curtailed by the Rule which specifically gave powers to the Speaker to adjourn the House. The ruling of the Speaker allowing the motion for adjournment of the House was within his powers and final[13].

The Punjab Legislative Assembly was scheduled to discuss, on 30 January 1971, the matter of the recent strike of the low paid Government employees and the situation created by the 'power famine' in the State. However, the House was adjourned *sine die* on 29 January on a motion moved by the Chief Minister and carried by the House by a voice vote[14].

The Speaker may, if he thinks fit, call a sitting of the House before the date or hour to which it has been adjourned or at any time after the House has been adjourned *sine die*[15].

(Budget Session) of the Fifteenth Lok Sabha which was scheduled, as per usual practice, to be held in two parts, was to adjourn *sine die* on 21 April 2011. However, as per recommendation of BAC (25 R) and agreed to by the House, the first part of the Session was extended upto 25 March 2011, *i.e.* from 17 March 2011 to 25 March 2011 and the sittings of the second part of the session *i.e.* from 17 March 2011 to 21 April 2011 was treated as cancelled on account of Assembly elections in the States of Assam, Kerala, Tamil Nadu, West Bengal and Union Territory of Puducherry.

The Ninth Session of the Fifteenth Lok Sabha was scheduled to conclude on 21.12.2011. However, as per recommendation of BAC, a sitting of Lok Sabha was fixed on 22nd December, 2011 *in lieu* of cancellation of sitting of Lok Sabha on 5 December 2011. Again, as per recommendation of BAC, sittings of Lok Sabha were fixed on 27, 28 and 29 December 2011 in order to provide sufficient time for completion of essential items of Government Business. Accordingly, the House was adjourned *sine die* on 29.12.2011.

The First Session of Seventeenth Lok Sabha was scheduled to conclude on 26 July 2019. However, on the proposal of Minister of Parliamentary Affairs, sitting of the House was extended upto 7 August 2019 in order to provide sufficient time for completion of essential items of Government Business. However, the session was adjourned *sine die* on 6 August 2019 and sitting fixed for 7 August 2019 stood cancelled. Accordingly, the House sat on 29, 30 and 31 July and 1, 2, 5 and 6 August 2019.

13. *The Hindu,* 3 May 1970.

14. *The Hindustan Times,* 30 January 1971.

15. Rule 15.

The Eighth Session of the Eighth Lok Sabha commenced on 23 February 1987 and was adjourned *sine die* on 12 May 1987. Lok Sabha was, however, not prorogued.

On a proposal from the Minister of Parliamentary Affairs, the Speaker, exercising his powers under Rule 15, agreed to reconvene the sittings of Lok Sabha from 27 July 1987 which continued till 28 August 1987. The two parts preceding and following the period of adjournment of Lok Sabha *sine die* on 12 May 1987 were treated as constituting one session divided in two parts namely, Part I and Part II.

Information regarding the adjournment of the House *sine die* is issued in the Bulletin.

There have been two instances when the sittings of the Assemblies and the agenda thereof, have been fixed by authorities other than the Speaker. In a case concerning the Uttar Pradesh Vidhan Sabha, the Supreme Court of India ordered holding of a Special Session of the Assembly with the only agenda for conducting a 'Composite Floor-Test' to decide upon the question as to who among the two claimants to the post of Chief Minister (Kalyan Singh and Jagdambika Pal) enjoyed the majority support of the House. The Court ordered peaceful conduct of proceedings and that the result of the test be announced by the Speaker faithfully and truthfully. The order of the Supreme Court introduced the concept of, Composite Floor-Test, though the Rules of Procedure do not provide for such a test[16].

In another case, the Supreme Court in its order dated 9 March 2005[17] on a writ petition filed by Arjun Munda, ordered the Speaker, Jharkhand Legislative Assembly, to hold a floor test on a date specified by the Court to determine as to which group of political parties enjoyed majority in the Assembly. The Court as per its order not only extended the Session of the Jharkhand Legislative Assembly by one day *i.e.* 11 March 2005, for putting the motion of confidence to the vote of the House on that day but also emphasized that the only agenda for the day would be the floor test between the contending political alliances. It was further emphasized that the proceedings of the House would be conducted in a totally peaceful manner. The Speaker *pro-tem* was further directed that the proceedings of the House will be video-graphed to safeguard against any foul play. These directions of the Court raised ripples in the uneasy relationship between the Legislature and the Judiciary as it was taken as undue interference in the internal functioning of the Legislature by the Judiciary.

The Speaker, Lok Sabha in his capacity as the Chairman of the Presiding Officers of the Legislative Bodies in India convened an emergent Conference of the Presiding Officers at New Delhi on 20 March 2005. The Conference after deliberating upon

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Following action was taken for reconvening the sittings of Lok Sabha—(i) D.O. letters were issued to each member individually under signatures of the Secretary-General on the pattern of summons informing them that the Lok Sabha will resume its sittings on 27 July 1987 and that the second part of the session was likely to conclude on 28 August 1987.

Information regarding commencement of Part II of the Eighth Session of the Eighth Lok Sabha, besides other information on the usual lines, was published in Bulletin Part II. The Provisional Calendar of Sittings and Charts showing dates of ballots and last dates of receipt of notices of Questions were also issued.

O.M. to Ministries and Deptts. and press release were also issued.

On conclusion of Part II of the Eighth Session, Lok Sabha adjourned *sine die* on 28 August 1987 and was prorogued on 3 September 1987.

Similar action was also taken at the time of reconvening of Second Part of the Fourteenth Session of the Eighth Lok Sabha, Second Part of the Third Session of the Ninth Lok Sabha, Second Part of the First Session of the Eleventh Lok Sabha, reconvening of sittings during the Fourth and Sixth Sessions of the Eleventh Lok Sabha, Second part of the Fourteenth Session of Thirteenth Lok Sabha and the second part of the Seventh Session of Fourteenth Lok Sabha and second part of the fifteenth Session of Fifteenth Lok Sabha.

16. *Jagdambika Pal v. Union of India*, AIR 1998 SC 998.
17. *Arjun Munda* v. *Governor of Jharkhand & Others*, Writ Petition (Civil) No. 123/2005.

the subject unanimously adopted a resolution resolving *inter alia* that there must exist mutual trust and respect between the Legislature and the Judiciary and also understanding that they are not acting at cross purposes but striving together to achieve the same goal that is to serve the common man of this country and to make the country strong; and the success of democratic governance would be greatly facilitated if these two important institutions respect each others' role in the national endeavour and do not transgress into areas assigned to them by the Constitution and it is imperative to maintain harmonious relations between the Legislatures and the Judiciary.

Also there are instances when, a sitting of Lok Sabha has been called at short notice before the date and time to which the House was adjourned.

(i) On 28 February 1970, the motion for leave to introduce the Finance Bill, 1970, was opposed. The motion was adopted by the House in the midst of continuous interruptions and before the Bill could be formally introduced, the Speaker adjourned the House till 11.00 hours of 2 March 1970. Later, certain members drew the attention of the Speaker in his Chamber to this fact. Considering that unless the Bill was introduced the taxes which were to be collected from that midnight under the Provisional Collection of Taxes Act, 1931, could not be collected although they had been made public, the Speaker directed that Lok Sabha would meet again at 22.00 hours that day for the introduction of the Bill. Members were informed of this through a para in the Bulletin, and over the radio and the telephone. Accordingly, the House met at that hour and the Bill was introduced at 22.55 hours. Thereafter, the House was adjourned to meet again at 11.00 hours on 2 March 1970[18].

(ii) On 3 December 1971, the House was adjourned till 11.00 hours of 6 December 1971. With the sudden attack by Pakistan on India in the evening of 3 December a sitting of the House was called on 4 December 1971 and members were informed about it over the radio and the telephone. The House met on that day at the appointed hour when the Proclamation of Emergency issued by the President in the meantime was approved and the Defence of India Bill passed. Thereafter, the House adjourned to meet at 10.00 hours on 6 December 1971.

(iii) On 22 March 1979, the Speaker informed the House about the death of Jayaprakash Narayan on the basis of the information given to him by the Prime Minister. Thereafter, obituary references were made to the passing away of Jayaprakash Narayan and at 13.50 hours, the House was adjourned to meet at 11.00 hours on 23 March 1979. Shortly thereafter, when it came to the notice that the news about the death of Jayaprakash Narayan was incorrect, the Speaker directed that the House, which had been adjourned till 11.00 hours of 23 March 1979 would sit at 17.00 hours on the same day, *i.e.* 22 March 1979 for transacting business not concluded earlier. Members were informed through a special Bulletin-Part II along with List of Business for the sitting and over the radio and telephone. Accordingly, the House met at the appointed hour.

18. *L.S. Deb.,* 28.2.1970, cc. 1-22.

The House then unanimously adopted a motion expressing relief at the progress of Jayaprakash Narayan's health and wishing him full recovery. The House then adjourned to meet again at 11.00 hours on 23 March 1979[19].

The rules relating to the adjournment of a State Assembly are generally the same as in Lok Sabha. However, in some States, Speakers have exercised powers which were held to be beyond the scope of the Rules, practice and custom in this behalf and these acts became subjects of acute political controversy, judicial decisions and public criticism. Some of the instances of such sudden and irregular adjournment of State Legislative Assemblies are given below—

Summoned on the advice of the new Chief Minister, the West Bengal Legislative Assembly met on 29 November 1967, for a trial of strength. Immediately after the Assembly met at the appointed hour, the Speaker made statement *suo motu* and adjourned the House *sine die* on the triple ground that the dissolution of the earlier Ministry, the appointment of the new Chief Minister and the summoning of the House on his advice were "unconstitutional and invalid". After the adjournment by the Speaker, the Governor prorogued the Assembly. On 29 January 1968, the Governor summoned the Legislature to meet on 14 February for its Budget Session. Meanwhile, the constitutionality as well as the *bona fides* of the Governor's action had been upheld by the Calcutta High Court on a writ petition. When the Assembly met on the scheduled date, the Speaker, immediately after entering the Chamber, again adjourned the House *sine die,* repeating his Ruling of 29 November 1967, questioning the legality of a session summoned on the advice of the new Chief Minister.

On 7 March 1968 when the Speaker, Punjab Legislative Assembly, gave his Ruling that the two Motions of No-confidence against him, admitted on the previous day, were "violative of article 179(c) of the Constitution and should be deemed to have not been moved at all", it led to a pandemonium and the House had to be adjourned for half an hour. The situation, however, worsened after the break and the Speaker arbitrarily adjourned the House for two months, although the Budget for 1968-69 had yet to be passed by the Assembly.[20]

The Third Session of the Fifth Goa Legislative Assembly was scheduled to be held from 10 January to 18 January 2008. Meanwhile the Goa Government faced a crisis as it was reduced to a minority when three M.L.As withdrew their support to the Government. However, the Chief Minister survived the crisis as the Governor prorogued the Assembly on the same day, *i.e.* on the first day of the Session thus avoiding the floor test demanded by the Opposition.

Sessions of Lok Sabha

Normally, three sessions of Lok Sabha are held in a year. The question of having more or less fixed dates for the commencement of the three session's was considered

19. *Ibid.,* 22.3.1979, cc. 321-34 and 335-52.

20. The Assembly was recalled. For subsequent developments, *see* Chapter XXII, under 'Certification of a Money Bill'.

by the General Purposes Committee of Lok Sabha at their sitting held on 22 April 1955, and they recommended the following time-table for the three sessions—

Session	Date of Commencement	Date of Termination
Budget Session	1 February	7 May
Autumn Session	15 July	15 September
Winter Session	5 November or the fourth day after *Diwali,* whichever is later	22 December

The Cabinet agreed with these recommendations. The time-table has not, however, been observed in practice. Sessions have commenced on different dates though more or less in the specified months, and the duration has varied according to the volume of business conducted by the House. However, since 2017, the budget session has been commencing from the last week of January. After a general election, usually, the First Session has commenced in March for 2 or 3 weeks and the Second Session in April-May for a longer period, say ten to twelve weeks, to transact financial business. However, there have also been departures necessitated by the schedule of general election.[21]

The holding of general election in itself depends on several factors such as weather conditions, law and order conditions, movement of security forces, agricultural factors,

21. The First Session of the Seventh Lok Sabha commenced on 21 January 1980 and lasted till 2 February 1980. The Second Session commenced on 11 March 1980 and concluded on 28 March 1980. The Third Session, which commenced on 9 June 1980, lasted till 12 August 1980.

Similarly, the First Session of the Eighth Lok Sabha commenced in January and lasted over two weeks. The Second Session, which commenced in March 1985, lasted for nine weeks.

While the First Session of the Ninth Lok Sabha commenced on 18 December and concluded on 30 December 1989, the Second Session went on for more than twelve weeks from 12 March to 31 May 1990.

During the Tenth Lok Sabha, its First Session took almost ten weeks, *i.e.* from 9 July to 18 September 1991 but the Second Session was one month long from 20 November to 20 December 1991.

Then, in the case of the Eleventh Lok Sabha, the First Session commenced on 22 May and concluded on 12 June 1996 and the Second Session went on from 10 July to 13 September 1996.

The First Session of the Twelfth Lok Sabha commenced on 23 March 1998 and concluded on 31 March 1998 while the Second Session began on 27 May and concluded on 6 August 1998.

The First Session of the Thirteenth Lok Sabha commenced on 20 October 1999 and concluded on 29 October 1999 while the Second Session commenced on 29 November 1999 and concluded on 23 December 1999.

The First Session of the Fourteenth Lok Sabha commenced on 2 June 2004 and concluded on 10 June 2004 while the Second Session commenced on 5 July 2004 and concluded on 26 August 2004.

The First Session of the Fifteenth Lok Sabha commenced on 1 June 2009 and concluded on 9 June 2009, while the Second Session commenced on 2 July 2009 and concluded on 7 August 2009.

The First Session of the Sixteenth Lok Sabha commenced on 4 June 2014 and concluded on 13 June 2014 while the Second Session commenced on 7 July 2014 and concluded on 14 August 2014.

The First Session of the Seventeenth Lok Sabha commenced on 17 June 2019 and concluded on 6 August 2019 while the Second Session commenced on 18 November 2019 and concluded on 13 December 2019.

The First Session of Eighteenth Lok Sabha commenced on 24 June 2024 and concluded on 2 July 2024 while the Second Session commenced on 22 July 2024 and concluded on 9 August 2024.

festivals, examination schedules and logistical requirements. Though it has been nowhere specifically mentioned about the gap between the last session of the previous Lok Sabha and the first session of the new Lok Sabha but it too is governed by the provisions of article 85(1) of the Constitution. The Supreme Court under article 143 of the Constitution nor the Representation of the People's Act prescribe any period of limitation for holding elections for constituting Legislative Assembly after premature dissolution of the existing one. However, in view of the scheme of the Constitution and the Representation of the People's Act, the elections should be held within six months for constituting Legislative Assembly from the date of dissolution of the Legislative Assembly.[22]

Summoning of Lok Sabha

The power to summon Lok Sabha is vested in the President. He exercises this power on the recommendation of the Prime Minister or the Cabinet. He may make informal suggestions to the Prime Minister as to the more convenient date and time of summoning the House, but the ultimate advice in this matter rests with the Prime Minister.

> In West Bengal consequent on the resignation of eighteen members, including one Minister, from the ruling United Front on 6 November 1967, *prima facie* doubts arose about majority support to the Government in the Legislative Assembly. The Governor desired that the Assembly be summoned on 23 November so that a confidence vote might be taken, but the Chief Minister said that he would call the Assembly into session on 18 December as scheduled. Thereupon, the Governor dismissed the Ministry on 21 November 1967.

The crisis in West Bengal, as observed by Speaker Reddy, was not unavoidable, for the Governor need not have precipitated matters by insisting on the Chief Minister to convene the Assembly earlier than scheduled, when the interval between the two dates was only of a few days.[23]

In a Resolution adopted at the Conference of Presiding Officers, it was recommended that the Government of India should, in the light of the following observations, take urgent and suitable steps in regard to the powers of Governors to summon or prorogue the Legislatures and to dismiss Ministries:

> That a Governor shall summon or prorogue the Legislature on the advice of the Chief Minister. A convention shall be developed that the Chief Minister may fix the dates of summoning or prorogation after consulting the Presiding Officer concerned. The Governor may suggest an alternative date but it shall be left to the Chief Minister or the Cabinet to revise their decision or not. Where, however, there is undue delay in summoning a Legislative Assembly and the majority of members of the Legislative Assembly desire to discuss a Motion of No-confidence in a Ministry and make a request to that effect in writing to the Chief Minister, the Chief Minister shall advise the Governor to summon the Assembly within a week of such request.[24]

22. In *re*: Special Reference No. 1 of 2002, A.I.R. 2003 SC 87.
23. In his Address at the Emergent Conference of Presiding Officers, New Delhi on 6 April 1968.
24. Resolution adopted at the Emergent Conference, *op. cit.,* on 7 April 1968.

The proposal to summon Lok Sabha is initiated by the Minister of Parliamentary Affairs (and by the Leader of the House in case the Prime Minister is not the Leader of the House) and submitted to the Prime Minister, after an informal consultation with the Speaker in regard to the date of commencement and the duration of the session.[25] The Prime Minister may agree with the suggestion or refer it to the Cabinet.[26] The proposal as finally agreed to by the Prime Minister or the Cabinet is formally submitted to the Speaker[27]. If the Speaker[28] also agrees (in the case of a rare disagreement, he may refer the matter back to the Prime Minister for reconsideration), he directs the Secretary-General to obtain the order of the President[29] to summon Lok Sabha on the date and time specified. After the President has signed the order, the Secretariat notifies it in the Gazette Extraordinary and issues a press communique for wider publicity in the Press as well as over the All India Radio and Doordarshan (Television).[30]

25. *L.S. Deb.,* 1-8-1972, *c.* 211.

26. After the President had summoned Lok Sabha to meet on 19 November 1962, by his order dated 14 September 1962, published in *Gaz. Ex.* (II), the Prime Minister proposed that in view of the situation created by the Chinese aggression on the northern border of India, the date of commencement of the session might be advanced to 8 November 1962. President's orders were taken again and fresh summons, dated 29 October 1962, were issued to members summoning them to Lok Sabha on 8 November 1962.

27. *L.S. Deb.,* 20-2-1970, c. 44.

28. When the Office of the Speaker is vacant and the duties of the Office are being performed by the Deputy Speaker, the concurrence of the Deputy Speaker is obtained to the proposal of the Government for the commencement of the session.

29. When the Vice-President is acting as President under art. 65(1), his orders are obtained regarding summoning of Lok Sabha (Eighth Session of the Fourth Lok Sabha, 1969; First Session of the Sixth Lok Sabha, 1977).

30. Prior to 1929, the orders of the Governor-General regarding summoning, prorogation and dissolution of the Central Legislature were obtained and notified in the Gazette by the Legislative Department of the Government of India. At a conference held on 17 June 1929, under the Chairmanship of the Governor-General (Lord Irwin), at which the Speaker (President) of Legislative Assembly (Vithalbhai Patel), the Home Member and Law Member of the Government of India were present, it was decided that in future, orders of the Governor-General regarding summoning, prorogation and dissolution of the Legislative Assembly would be obtained and notified by the Legislative Assembly Department. This practice has continued ever since.

    The Minister of Parliamentary Affairs in 1955 and the Minister of Home Affairs in 1958, suggested that orders of the President regarding the summoning and prorogation of Lok Sabha should be obtained and notified under the orders of the Minister of Parliamentary Affairs. On both these occasions, the suggestion was not accepted by the Speaker, the reasons being—

    that in addition to being Head of the State, the President is part of Parliament also, and therefore, in matters relating to summoning, prorogation and normal dissolution of Lok Sabha, it is necessary that the Speaker should fix the date in consultation with the Government and then communicate it to the President; that leaving the entire discretion of summoning or otherwise of Lok Sabha to the Government might affect adversely the Opposition or the minority groups;

    that regulation of time for sitting of the House and its adjournment, calling a sitting after adjournment *sine die* and the fixing of the time and commencement of sitting, being all parts of the same process, the Speaker is the person who is the ultimate authority to take a decision and make recommendations to the President;

    that just as no sitting of a parliamentary committee can be convened without the Chairman's concurrence, likewise in order to uphold democratic principles, summoning, prorogation or dissolution of Lok Sabha should not be done without the Speaker's consent; and that the Constitution nowhere provides that the Executive will communicate such a decision to the President.

Issue of Summons

The Secretary-General issues summons to members individually[31]. This is usually issued the same day or next working day after the receipt of the President's order[32]. The language used in the summons closely follows the order and specifies the date, time and place of commencement of the session.

The interval between the issue of the order by the President summoning Lok Sabha, issue of summons, etc., to members and the date of commencement of the session is about four to ten weeks[33]. Where the interval is very short, members may be informed about the commencement of the session and the issue of summons through press communiqué, over the radio and television[34].

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31. Rule 3.

32. However, summons for the 4th and 5th Sessions of the Provisional Parliament, the 1st Session of the First Lok Sabha, the 1st Session of the Fifth Lok Sabha, the 1st Session of the Sixth Lok Sabha, the 2nd and 6th Sessions of the Seventh Lok Sabha, the 7th Session of the Eighth Lok Sabha, the 10th Session of the Tenth Lok Sabha, the 11th Session of the Thirteenth Lok Sabha, the 4th, 5th, 6th, 8th, 9th, 12th and 13th Sessions of Fourteenth Lok Sabha, 1st Session of Fifteenth Lok Sabha, 1st, 2nd, 4th, 5th, 7th, 9th, 10th, 11th, 13th, 14th, 15th, 16th and 17th Session of Sixteenth Lok Sabha and 1st, 3rd, 4th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, and 15th Sessions of Seventeenth Lok Sabha were issued on the same day on which President's order was published in the Gazette.

33. The interval was less than four weeks in the case of the Second Session of Provisional Parliament, the First and Sixteenth Sessions of the Second Lok Sabha, the First, Fourth and Eighth Sessions of the Third Lok Sabha, the First Session of the Fourth Lok Sabha, the First, Thirteenth, Fourteenth, Fifteenth and Sixteenth Sessions of the Fifth Lok Sabha, the First and Ninth Sessions of the Sixth Lok Sabha, the First, Second and Third Sessions of the Seventh Lok Sabha, the First and Second Sessions of the Eighth Lok Sabha, the First, Fourth and Fifth Sessions of the Ninth Lok Sabha and the First, Second, Sixth and Sixteenth Sessions of the Tenth Lok Sabha, the First to Fourth Sessions of the Eleventh and the Twelfth Lok Sabha, the First, Fifth, Tenth, Eleventh, Twelfth Sessions of the Thirteenth Lok Sabha, the First, Fifth, Seventh to Thirteenth Sessions of the Fourteenth Lok Sabha, the First to Fifteenth Sessions of the Fifteenth Lok Sabha, the First to Seventeenth Sessions of the Sixteenth Lok Sabha and the First to Fifteenth Sessions of the Seventeenth Lok Sabha and the First and Second Session of the Eighteenth Lok Sabha.

34. The Sixth Lok Sabha was constituted on 23 March 1977. The order regarding summoning of the First Session of the Sixth Lok Sabha was signed by the Vice-President acting as President on 23 March 1977, and Lok Sabha was to meet on 25 March 1977. As most of the members had already arrived in Delhi by 23 March 1977, in connection with election of leaders of Janata Party and Congress Party, summons for the session were issued to members at their Delhi addresses only and the need to send telegrams did not arise.

    General Elections to the Seventh Lok Sabha were held on 3 and 6 January 1980 and results were declared by 18 January 1980. The Seventh Lok Sabha was constituted on 10 January 1980. The Prime Minister/Ministers took oath of Office on 14 January 1980. Summons for the First Session, which was to commence on 21 January 1980, were issued on 16 January 1980. Since the time gap between the issue of summons and the date of commencement of the Session was only 5 days, telegrams were also issued to all outstation members, besides issuing summons in ordinary course. Press communique was also issued on 15 January 1980 regarding summoning of Lok Sabha.

    Summons for the Fifth Session of the Ninth Lok Sabha which was to commence on 16 November 1990, was issued on 12 November 1990. Since the time gap between the issue of summons and the date of commencement of the session was only four days, besides issuing of summons in the ordinary course, telegrams to all the members at their permanent addresses and wireless messages to all the Chief Secretaries/Administrators of all the States and Union territories requesting them to inform the members regarding summoning of Lok Sabha were also issued on 11 November 1990.

    Summons for the First Session of the Tenth Lok Sabha which was to commence on 22 May 1996, was issued on 18 May 1996. As there was not sufficient time gap between issue of summons and commencement of session, telegrams were also issued to members. A copy of Press Release to all District Collectors/District Magistrates through NICNET with the request to inform the members of Lok Sabha about the commencement of the session was also sent.

    Similarly, Press Release with a request to inform the members of the Lok Sabha about commencement of the First Session of the Eleventh Lok Sabha was also issued to all District Collectors/ District Magistrates through NICNET.

Summons to members, who are in Delhi, are sent through messengers and to others by registered post to ensure delivery[35]. It is, however, open to a member to arrange to collect the summons and other papers from the Secretariat on the day on which these are issued to all members. Where a registered cover containing the summons is undelivered, efforts are made by the Secretariat to find out the current address at which the member could be contacted and the summons is issued at that address. Summons to the members under detention are issued at their jail addresses[36]. In case a member informs that he has not received the summons, a duplicate copy thereof is issued to him[37].

Where a person becomes a member of the House after the issue of the summons, but before the actual commencement of a session, the summons is duly issued to him on receipt of information about his membership[38]. In case he becomes a member after the commencement of the session, he is only informed through a letter of the date on which the session had commenced and its probable duration[39].

Summons are not issued to a member whose election to Lok Sabha has been declared void by the High Court, even though on his application for stay order, the Supreme Court allows him to attend the House for the days necessary to keep his seat alive pending disposal of the appeal by that Court[40].

Summons for the First Session of the Twelfth Lok Sabha which was to commence on 23 March 1998 was issued on 21 March 1998. As there was not sufficient time gap between issue of summons and commencement of session, telegrams were also issued to members.

Summons for the First Session of the Thirteenth, Fourteenth and the Fifteenth Lok Sabha, which were to commence on 20 October 1999, 2 June 2004 and 1 June 2009 were issued on 16 October 1999, 28 May 2004 and 26 May 2009, respectively. As there was not sufficient time gap between issue of summons and commencement of session, telegrams were also issued to members. Summons for the First Session of Sixteenth and Seventeenth Lok Sabha, which were to commence on 4 June 2014 and 17 June 2019 were issued on 30 May 2014 and 3 June 2019 respectively.

35. On account of Covid-19 pandemic situation, the practice of issuing hard copies of Summons was discontinued with effect from the Fourth Session of Seventeenth Lok Sabha and *in lieu* thereof digital Summons are being issued to members individually through Member's Portal.

36. At the time of issue of summons for the Fourteenth Session of the Fifth Lok Sabha, 20 members were under detention. The summons were issued to them by Registered A/D, post care of the Jail authority concerned.

37. Duplicate summons for the Eighth Session of the Second Lok Sabha were issued to two members, to one, on 24 June 1959, and to the other on 18 July 1959, on the basis of intimation received from them that the summons which had been dispatched to them on 25 May 1959, were not received by them.

38. On 28 December 1957, when the summons for the Fourth Session of the Second Lok Sabha, which was to commence on 10 February 1958, were issued, the summons to one member whose election to Lok Sabha had been declared void by the Election Tribunal was not sent. However, on 31 December 1957, the High Court of Madhya Pradesh passed an order staying the operation of the order of the Tribunal and under section 116 A(4) of the R.P. Act, 1951, that member continued to be a member of Lok Sabha without any break and thus became entitled to receive the summons.

Summons for the Fifth Session of the Second Lok Sabha, which was to commence on 1 August 1958 were issued to members on 2 June 1958. The declaration from the Returning Officer regarding the election of a particular member to Lok Sabha was received on 5 June 1958, and a summons was issued to him on the same day.

39. For instance, summons was not issued to a member who was elected on 16 December 1958, after the Sixth Session of the Second Lok Sabha had commenced on 17 November 1958, nor to another member who was nominated by the President on 4 April 1959, after the Seventh Session of the Second Lok Sabha had commenced on 9 February 1959.

40. Election of a member to the Eighth Lok Sabha from Dadra and Nagar Haveli constituency was declared void by Bombay High Court on 2 April 1985. On an application by the member, the H.C. stayed operation of its order for thirty days on an undertaking by him that he shall not participate in the

proceedings of or vote in Lok Sabha and that he shall attend Lok Sabha only to record his presence. The member, thereafter, preferred an appeal in the Supreme Court. In its order on 26 April 1985, S.C. continued the operation of stay granted by H.C. with same restrictions till further orders. In view of the restrictions imposed by S.C. summons for Third to Eighth Sessions were not issued to him. He was, however, informed through letters about commencement and duration of sessions. Copies of Bn. (II), question chart, provisional calendars of sittings were also supplied to him along with letters. S.C., in its final judgement on 25 March 1987, allowed the appeal preferred by the member and set aside judgment of Bombay H.C. The member therefore continued to be a member of the Eighth Lok Sabha without any break. Necessary information was published in Bn. (II) dated 10 April 1987 and a circular issued to all Officers/Branches. Copies of the judgement were placed in Parliament Library. Summons for the Ninth Session was issued to the member along with other members.

Election of a member (D.J. Tandel) of the Ninth Lok Sabha from Daman and Diu constituency was set aside by Bombay High Court on 23/25 October 1990. The High Court, however, granted a stay on the operation of its order for eight weeks. *Vide* its order dated 22 November 1990, the High Court extended the stay for three weeks more. The member preferred an appeal in the Supreme Court. The Supreme Court *vide* its order on 8 January 1991 admitted the appeal and granted permission to the member to sign the Attendance Register in the Lok Sabha once in 60 days. Later, the Supreme Court *vide* its order dated 30 January 1991, granted an absolute stay on the order of the High Court and set the appeal for final hearing on 20 March 1991. In view of setting aside of the election of the member, summons for the Seventh Session were not issued to him. He was, however, informed through a letter about the commencement and duration of the session. Copies of Bn. (II), Question Chart and the Provisional Calendar of Sittings were also supplied to him along with the letter.

Before the appeal of the member could come up for final hearing in the Supreme Court, the Ninth Lok Sabha was dissolved on 13 March 1991. Subsequently, Supreme Court, *vide* its order passed on 26 April 1991, dismissed the appeal by the member as having become infructuous on the dissolution of the Ninth Lok Sabha.

Election of a member (Uttamrao Laxmanrao Patil) to the Ninth Lok Sabha from Erandol constituency was declared null and void by the Bombay High Court on 19 December 1990. Subsequently, *vide* its order of 20 December 1990, the High Court stayed the operation of its order for four weeks and directed the member to obtain a stay from the Supreme Court. On an appeal by the member, the Supreme Court, *vide* its order of 10 January 1991 granted a stay on operation of the order of the High Court and directed that *status quo* be maintained till the final disposal of the matter by the Court in the case.

In view of setting aside of election of the member, summons for the Seventh Session of Ninth Lok Sabha were not issued to him. He was, however, informed through a letter about commencement and duration of the session. Copies of Bn. (II), Question Chart and the Provisional Calendar of Sittings were also supplied to him along with the letter.

Thereafter, due to dissolution of the Ninth Lok Sabha on 13 March 1991, the case was not proceeded with.

Election of a member (Yashwantrao Patil) to the Tenth Lok Sabha from Ahmednagar constituency was declared null and void by the Bombay High Court on 30 March 1993. The High Court, however, granted a stay on the operation of its order for six weeks. The High Court, under section 99 of the Representation of the People Act, 1951, named another member (Sharad Pawar) for commission of corrupt practice under section 123(4) of the Act. Both the members, thereafter, preferred appeals in the Supreme Court. The Supreme Court, by its order of 10 May 1993, admitting the appeal by Sharad Pawar, imposed restrictions on the member's right to vote and participate in the proceedings of the Lok Sabha and to draw emoluments as a member of Parliament. Further proceedings under Section 8A of the Representation of the People Act, 1951 were stayed and the member was permitted to sign the Attendance Register to avoid disqualification. Again, by its order of 14 May 1993, the Supreme Court admitting the appeal by Yashwantrao Patil continued the operation of the stay granted by the High Court and imposed restrictions on the member's right to participate in proceedings of the Lok Sabha and vote/and to draw emoluments until further orders. The member was, however, permitted to sign the Attendance Register to avoid disqualification.

In view of these restrictions imposed by the Supreme Court, summons for the Seventh and the Eighth Sessions of the Tenth Lok Sabha were not issued to Yashwantrao Patil. As regards Sharad Pawar, summons for the Seventh Session were not issued to him. However, before commencement of the Eighth Session, he resigned from the membership of the Lok Sabha. In these cases also, the said members were informed through letters about the commencement and duration of the sessions. Copies of Bn. (II), Question Chart and the Provisional Calendar of Sittings were also supplied to them along with the letters.

The Supreme Court, in its final judgement on 19 November 1993, upheld the order of the Bombay High Court setting aside the election of Yashwantrao Patil. The Supreme Court, however, set aside the High Court's order naming Sharad Pawar under Section 99 of the Representation of the People Act. Yashwantrao Patil ceased to be a member of the Lok Sabha *w.e.f.* 19 November 1993. Necessary information in this regard was published in Bn. (II) dated 2 December 1993 and a circular issued to all Officers/Branches. Copies of the judgment were placed in the Parliament Library.

A summons already issued may be cancelled and a fresh one issued to members on account of change in the date of commencement of the session[41].

Along with the summons or immediately after its issue, every member is supplied a printed copy of the Provisional Calendar of Sittings, showing the days on which Lok Sabha will sit and the type of business which will be conducted at each such sitting. Members are also informed in detail, through the Bulletin, about the President's Address, time of sittings of the House, procedure for ballots of Private Members' Business, allotment of days for answering questions and procedure connected with the giving of notices of questions, etc. A chart showing the first and the last dates of receipt of notices of questions is also supplied to each member.

President's Address

At the commencement of the First Session of Parliament after each general election to Lok Sabha and thereafter, at the commencement of the First Session of every year, the President addresses members of both the Houses of Parliament assembled together and informs Parliament of the causes of its summons[42].

41. (i) The Governor-General had summoned the Central Legislative Assembly to meet on 20 January 1947, for the Budget Session and the notification and summons to members had been issued on 29 November 1946. It was subsequently decided by the Governor-General that the session should be postponed to 3 February 1947. The summons were re-issued on 23 December 1946.

(ii) The President's order summoning Rajya Sabha to meet on 7 August 1953, was published in the Gazette on 1 June 1953, and summons were issued to members on 28 May 1953. It was subsequently decided by the President on 5 August 1953, that the session should be postponed to 24 August 1953. The summons were re-issued on 6 August 1953, and a paragraph was added at the end thereof, cancelling the previous summons.

(iii) The President's order summoning the Lok Sabha to meet on 19 November 1962, was published in the Gazette on 15 September 1962, and summons were issued to members on 19 September 1962. Due to Chinese aggression on India, it was subsequently decided to advance the date of commencement of the session to 8 November 1962. The order changing the date for commencement of the session was signed by the President on 27 October 1962.

(iv) The President's order summoning the Lok Sabha to meet on Monday, 13 March 1967, was published in the Gazette on 9 January 1967, and summons were issued to members on 13 January 1967. In the meantime, elections to the new Lok Sabha had been completed and there was a general feeling that instead of the outgoing Lok Sabha holding a lameduck session, the new Lok Sabha should hold a session. The Prime Minister having concurred with this view, it was decided that the session of the outgoing Lok Sabha should be cancelled. Accordingly, the President, by an order published in the Gazette on 3 March 1967, rescinded his earlier order of 9 January 1967. Members were informed of the cancellation of the session of Lok Sabha and the summons issued therefore through a paragraph in *Bulletin Part II (Bn. II,* 2-3-1967, p. 1994).

42. Art. 87(1). Before article 87(1) was amended in its present form by the Constitution (First Amendment) Act, 1951, the article required the President to address both the Houses assembled together at the commencement of each session. Accordingly, the President addressed each of the three sessions held in 1950 of the Provisional Parliament.

During the Third Session, a question arose whether the next session might commence with the President's Address or that the session be merely adjourned to meet again on 5 February 1951, which would obviate the necessity of the President's Address. Speaker Mavalankar, in this connection, suggested that instead of the President addressing each session, it might be provided that he would give his Address at the commencement of the first session every year.

The Constitution was accordingly amended with the result that now the President addresses both the Houses assembled together only at the commencement of the first session each year, except, in case, a general election to Lok Sabha has taken place, when on the commencement of the first session of the new Lok Sabha, the President again addresses both the Houses assembled together in the same year. In 1957, the President addressed both the Houses assembled together once on 18 March 1957, and again after the general election to Lok Sabha on 13 May 1957. In 1962 also the President addressed both the Houses assembled together once on 12 March 1962, and again after the general election to Lok Sabha on 18 April 1962. In similar situations, the President addressed both the Houses assembled together twice during 1989, 1991, 1996, 1999, 2009, 2019 and 2024. However, in 1967, as also in 1971, the President addressed both the Houses assembled together only once, *i.e.* on 18 March 1967 and

Fourteenth Session of the Thirteenth Lok Sabha commenced on 2 December 2003. The Lok Sabha adjourned *sine die* on 23 December 2003 but the House was not prorogued. The House was re-convened on 29 January 2004, which was treated as the second part of the session that had commenced on 2 December 2003. Constitutional validity of the proceedings of the second part of the session was challenged[43] before the Supreme Court in a writ petition on the ground that it being the first session of the year, the President should have addressed both Houses under article 87(1) of the Constitution. The writ petition was dismissed by the Supreme Court.

The Seventh Session of the Fourteenth Lok Sabha was not prorogued after it was adjourned sine die on 22 March 2006. Under Rule 15, the Speaker reconvened its sittings from 10 May 2006 for the second Part of the Session which was adjourned *sine die* on 23 May 2006. The Fourteenth Session was not prorogued after it was adjourned *sine die* on 22 July 2008. Under Rule 15, the Speaker reconvened its sittings from 17 October 2008 for the Second Part of the Session. On 24 October 2008, the House was adjourned to meet again on 10 December 2008. The Lok Sabha resumed its sitting from 10 December 2008 and was adjourned *sine die* on 23 December 2008.

The Fifteenth Session of Fifteenth Lok Sabha which met on 5 December 2013 was not prorogued after it was adjourned *sine die* on 18 December 2013. Under Rule 15, the Speaker reconvened its sittings from 5 February 2014 for the Second Part of the Session. The first part of session was to continue till 20 December 2013, fixed as per earlier schedule.

The assembly of members of Lok Sabha and Rajya Sabha to hear the President's Address under article 87(1) is deemed to be neither a joint sitting of both the Houses nor a sitting of Lok Sabha nor of Rajya Sabha[44]. When the President addresses

23 March 1971, respectively, as there was no session of the outgoing Lok Sabha after the commencement of the calendar year. In 1977, Lok Sabha was dissolved on 18 January. The first session of Rajya Sabha in that year was held on 28 February, but there was no Address by the President. After the general elections, Lok Sabha was constituted on 23 March 1977. The Vice-President acting as President, addressed both the Houses assembled together on 28 March 1977. In 1980 and 1985, the President addressed both the Houses of Parliament assembled together only once, *i.e.* on 23 January 1980 and 17 January 1985, respectively. The Fourteenth Session of Thirteenth Lok Sabha was adjourned *sine die* on 23 December 2003. However, the House was not prorogued. The second part of the Fourteenth Session commenced on 29 January 2004 without the customary Presidential address on the first sitting of Lok Sabha as the Session was in continuation of the earlier Winter Session. The Thirteenth Lok Sabha was subsequently dissolved on 6 February 2004. The Fourteenth Lok Sabha was constituted on 17 May 2004 and the President Addressed both the Houses of Parliament assembled together only once *i.e.* on 7 June 2004. Similarly, the Fifteenth Session of Fifteenth Lok Sabha, after being adjourned *sine die* on 18 December, 2013, was not prorogued. The House reconvened its sittings from 5 February, 2014 for the second part of the session without the customary Presidential Address at the commencement of the first sitting of Lok Sabha as the session was in continuation of the earlier Winter Session. The Fifteenth Lok Sabha was dissolved on 18 May, 2014. After the constitution of the Sixteenth Lok Sabha on 18 May 2014, the President Addressed both the Houses of Parliament assembled together only once *i.e.* on 9 June 2014.

See also under Chapter 10-President's Address, Messages and Communications to the House.

43. *Ramdas Athawale* vs. *Union of India & Others*, writ petition (civil) No. 86/2004.

44. This view has been held consistently since the very inception of the Legislature at the Centre. On 16 September 1936, with reference to a question as to whether the speech delivered by the Governor-General to the Legislature was part of the Assembly proceedings, Speaker (President) Abdur Rahim explained the position as follows:

"As regards this point, 1 want to make the position quite clear. At least one of my predecessors in office (Sir Frederick Whyte) was distinctly of the opinion that when the Governor-General addresses the Members of Assembly or of the Assembly and the Council of State together under Section 63B(3), that is not a meeting of the Assembly or a 'Joint Sitting' of the two Chambers, and that a meeting of the Assembly is only duly constituted when Mr. President has taken the Chair... I am inclined to agree

the Houses under the said article, he functions as a limb of Parliament. When he discharges the constitutional function of addressing the two Houses, he is in charge of the proceedings of the Houses until the Address is completed. For the purpose, he may conduct the proceedings in an appropriate manner, consistent with his position and dignity as well as the dignity and status of the Houses. Although the President is in charge of the proceedings, neither he[45] nor the Chairman of Rajya Sabha nor the Speaker nor any other person can be said to preside at the meeting of the members of the two Houses assembled together for the Address under the said article.

However, the President is deemed to exercise control over the members and call the members to order, and may ask a member to leave the meeting if the member rises to speak, makes any demonstration or otherwise disrupts the meeting[46]. Action against such member may thereafter be taken by the House to which the member belongs.

President's Address to both Houses of Parliament assembled together has to be laid on the Table on the same day by the Secretary-General when the House holds its sitting in its own Chamber half an hour after the President's Address and it is at that stage that the Address is incorporated in the Proceedings of Lok Sabha.

First Sitting of Lok Sabha

The first sitting of Lok Sabha after a general election is held when it meets for the first time on the date and time specified by the President in the order summoning it. A sitting of the House is duly constituted when it is presided over by the Speaker or any other member of Lok Sabha competent to preside over a sitting of the House under the Constitution or the Rules of Procedure[47].

Before the President addresses the members of Lok Sabha returned at a general election, a few preliminary steps have to be taken. Members have to make and subscribe an oath or affirmation and then to take their seats in the House. Thereafter, the House elects the Speaker. Two or three sittings of Lok Sabha are held for this purpose before the date of the President's Address[48]. In subsequent sessions of Lok Sabha no such preliminary formalities have to be observed.

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with Sir Frederick Whyte"—*see L.A. Deb.,* 16-9-1936, pp. 1142-43.

45. Since the President is not and cannot be a member of either House of Parliament, *vide* article 59(1), he cannot be said to preside over the meeting of the two Houses assembled together for his address under article 87(1).

46. The Joint Secretary/Additional Secretary, Security remains in attendance in the Central Hall where the President delivers his Address to members of both Houses of Parliament assembled together. The President may requisition his services, if necessary, in forcibly removing the member who may be named by him.

47. Art. 95 and Rule 11.

48. The First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, Sixteenth, Seventeenth and Eighteenth Lok Sabha met on 13 and 15 May 1952; 10 and 11 May 1957; 16 and 17 May 1962; 16 and 17 March 1967; 19 and 22 March 1971; 25 and 26 March 1977; 21 and 22 January 1980; 15 and 16 January 1985; 18 and 19 December 1989; 9 and 10 July 1991; 22 and 23 May 1996; 23 and 24 March 1998; 21 and 22 October 1999; 2, 3 and 4 June 2004; 1 and 2 June 2009; 4, 5 and 6 June, 2014; 17, 18 and 19 June, 2019; and 24, 25 and 26 June, 2024 respectively, when members took their seats and elected the Speaker. The President addressed both the Houses of Parliament assembled together on 16 May 1952; 13 May 1957; 18 May 1962; 18 March 1967; 23 March 1971; 28 March 1977; 23 January 1980; 17 January 1985; 20 December 1989; 11 July 1991; 24 May 1996; 25 March 1998; 25 October 1999; 7 June 2004; 4 June 2009; 9 June 2014; 20 June 2019; and 27 June 2024 respectively.

Thus, after a general election to Lok Sabha the First Session commences when Lok Sabha meets in its own chamber for the first time with the Speaker *pro tem*[49] in the Chair for the purpose of enabling members to take their seats in the House and elect the Speaker and not when the President addresses[50] members of both Houses of Parliament in pursuance of article 87(1).

Prorogation of the House

Termination of a session of the House by an order made by the President under article 85(2) is called 'prorogation'. The President, in exercising the power to prorogue the House, acts on the advice of the Prime Minister. The Prime Minister may consult the Cabinet before the advice is submitted to the President. Prorogation of the House may take place any time, even while the House is sitting. Usually, however, prorogation follows the adjournment of the sitting of the House *sine die*[51].

The period between prorogation of the House and its reassembly in a new session is termed as 'inter-session period'.

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49. When Offices of the Speaker and the Deputy Speaker are vacant a member of Lok Sabha appointed by the President under article 95(1) to perform the duties of the Speaker is called Speaker *pro tem.* Need to appoint the Speaker *pro tem* generally arises when Lok Sabha meets after a dissolution, for the Speaker of dissolved Lok Sabha who continues in Office till the first meeting of new Lok Sabha, vacates his office and someone has to preside till a new Speaker is elected.

50. The expression 'at the commencement' in article 87(1) includes a reasonable time after the date appointed by the President for the commencement of the first session of Lok Sabha. The Minister of Law on a reference made by the Lok Sabha Secretariat in 1960 held the same view.

    So far as the Rajya Sabha is concerned, such a position does not arise as that House is a continuing body and the Vice-President of India is its *ex-officio* Chairman. After dissolution of Lok Sabha on 4 April 1957, Rajya Sabha met only on 13 May 1957, after the President's Address to members of both Houses on that day.

51. On 22 December 1950, the Provisional Parliament was adjourned till 5 February 1951, with the result that the Third Session of Provisional Parliament, which commenced on 15 November 1950, continued till 9 June 1951 and the House was not prorogued during the period of adjournment.

    On 11 December 1962 the Third Lok Sabha was adjourned, till 21 January 1963, with the result that its Third Session which commenced on 8 November 1962, continued till 25 January, 1963 and the House was not prorogued during the period of adjournment.

    The Eighth Session of the Eighth Lok Sabha, commenced on 23 February 1987 which was adjourned *sine die* on 12 May 1987. The Speaker, exercising his powers under proviso to Rule 15 reconvened the sittings of Lok Sabha from 27 July 1987 to 28 August 1987, with the result that its Eighth Session which commenced on 23 February 1987 continued till 3 September 1987 and the House was not prorogued during the period of adjournment. The Lok Sabha was prorogued on 3 September 1987.

    The Fourteenth Session of the Eighth Lok Sabha, commenced on 18 July 1989, was adjourned *sine die* on 18 August 1989. The Speaker, exercising his power under proviso to Rule 15, reconvened the sittings of Lok Sabha from 11 to 16 October 1989. However, the House was adjourned *sine die* on 13 October 1989. With the result, the Fourteenth Session which commenced on 18 July 1989 continued till 20 October 1989 and the House was not prorogued during the period of adjournment. The Lok Sabha was prorogued on 20 October 1989.

    Similarly, the Third Session of the Ninth Lok Sabha commenced, on 7 August 1990, was adjourned *sine die* on 7 September 1990. The Speaker, exercising his power under proviso to Rule 15, reconvened the sittings of Lok Sabha from 1 to 5 October 1990. With the result, its Third Session which commenced on 7 August 1990 continued till 11 October 1990 and the House was not prorogued during the period of adjournment. The Lok Sabha was prorogued on 11 October 1990. There have been similar instances in case of the First, Fourth and Sixth Sessions of the Eleventh Lok Sabha held in 1996 and 1997, the Fourteenth Session of Thirteenth Lok Sabha in 2003-2004, the Seventh and Fifteenth Sessions of Fourteenth Lok Sabha held in 2006 and 2008-2009 and the Fifteenth Session of Fifteenth Lok Sabha in 2013-14.

Where all the items on the agenda have been discussed and the meeting of the Legislature is adjourned, the adjourned meeting (in this case the Mysore Legislative Assembly met on 15 March 1971, after having been adjourned on 26 December 1970) is not a new 'session' as new items can be added to the agenda or the agenda can be modified. A session is terminated only by prorogation and not by adjournment[52].

The time-gap between the adjournment of Lok Sabha *sine die* and its prorogation is generally two to four days[53], although there are instances when Lok Sabha was prorogued on the same day on which it was adjourned *sine die*[54]. Information regarding prorogation of Lok Sabha is issued in the Bulletin.

On 20 July 1967, the Madhya Pradesh Legislative Assembly, which was discussing the demands for grants for Education, was prorogued by the Governor on the advice of the Chief Minister[55].

The matter was discussed in Lok Sabha on the same day, on an adjournment motion. Repudiating the charge that the Union Government had issued a directive to the State Governor, the Union Home Minister said that as a constitutional head, the Governor was bound by the advice of the Chief Minister in regard to the prorogation of the Assembly[56].

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52. *H. Siddaveerappa and others* v. *State of Mysore* by its Chief Secretary, Vidhana Soudha, A.I.R. 1971 Mysore 200.

53. The Fourteenth Session of the Fifth Lok Sabha was prorogued on 3 September 1975, 27 days after its adjournment *sine die* on 7 August 1975.

    The Eighth Session of the Sixth Lok Sabha was prorogued on 3 August 1979, 16 days after its adjournment *sine die* on 16 July 1979.

    The Fifteenth Session of the Seventh Lok Sabha was prorogued on 11 September 1984, 15 days after its adjournment *sine die* on 27 August 1984.

    The Eleventh Session of the Eighth Lok Sabha was prorogued on 30 September 1988, 25 days after its adjournment *sine die* on 5 September 1988.

    The Twelfth Session of the Eighth Lok Sabha was prorogued on 5 January 1989, 20 days after its adjournment *sine die* on 16 December 1988.

    The Seventh Session of the Tenth Lok Sabha was prorogued on 23 September 1993, 26 days after its adjournment *sine die* on 28 August 1993.

    The Fifth Session of the Sixteenth Lok Sabha was prorogued on 10 September 2015, 28 days after its adjournment *sine die* on 13 August 2015.

    The Sixth Session of Seventeenth Lok Sabha was prorogued on 31 August 2021, 20 days after its adjournment *sine die* on 11 August 2021.

    The Ninth Session of Seventeenth Lok Sabha was prorogued on 17 August 2021, 9 days after its adjournment *sine die* on 08 August 2021.

    The Fourteenth Session of Seventeenth Lok Sabha was prorogued on 29 December 2023, 8 days after its adjournment *sine die* on 21 December 2023.

    The Fifteenth Session of Seventeenth Lok Sabha was prorogued on 15 February 2024, 5 days after its adjournment *sine die* on 10 February 2024.

    The Second Session of Eighteenth Lok Sabha was prorogued on 20 August 2024, 11 days after its adjournment *sine die* on 9 August 2024.

54. The Second and Third Sessions of the Second Lok Sabha, the Fifth, Seventh and Eleventh Sessions of the Third Lok Sabha, the Second Session of the Seventh Lok Sabha and the Fifth Session of Thirteenth Lok Sabha, the Second, Third, Eleventh, Thirteenth and Fourteenth Sessions of the Sixteenth Lok Sabha and the Second Session of Seventeenth Lok Sabha were prorogued on the same day they were adjourned *sine die.*

55. On the previous day, thirty-six members of the ruling Congress party were reported to have crossed the Floor and joined the opposition SVD.

56. *L.S. Deb.,* 20-7-1967, cc. 13493-500.

The Madhya Pradesh Legislative Assembly was prorogued on 12 March 1969, by the Governor on the advice of the outgoing Chief Minister who had resigned on 10 March 1969 owing to the reported differences among the constituents of the ruling SVD.

When the matter was raised in Lok Sabha, the Union Home Minister reiterated the position that "once the Chief Minister gives an advice for prorogation, the Governor is bound to accept it"[57].

The Haryana Legislative Assembly was prorogued on 28 February 1970, the Assembly having been adjourned *sine die* the previous day on a motion moved by the Chief Minister and carried by the House. The notice for adjourning the House *sine die* was received by the Speaker on 27 February 1970 at about 12.15 hours. On the same day, after 13.00 hours, the Speaker received a notice for motion of no-confidence in the Council of Ministers which was admitted by him and discussion thereon was fixed for 3 March 1970.

The 'constitutional aspect of the question of prorogation when a motion of no-confidence in the Council of Ministers having been admitted was pending in the House' was discussed in Lok Sabha on 2 and 4 March, 1970. Intervening in the debate, the Union Home Minister said that it was the Governor's constitutional duty to accept the advice of the Chief Minister to prorogue the House and the Chief Minister had demonstrated on his motion for adjournment, that the House was with him[58].

The Punjab Legislative Assembly, which had been adjourned *sine die* by the Speaker on 27 March 1970, was prorogued by the Governor on 10 April 1970 on the advice of the Chief Minister. The Opposition protested against the adjournment of the House on the ground that no-confidence motions against the Speaker were pending in the House.

The Governor rejected various legal and constitutional objections raised by the Opposition to the prorogation: he was satisfied that the notice for moving the resolution for the removal of the Speaker was received late and that the Speaker was within his constitutional rights to ignore it[59].

Procedure for Prorogation

After the adjournment of Lok Sabha *sine die,* the Minister of Parliamentary Affairs (or the Leader of the House, as the case may be) sends a communication to the Secretary-General conveying the intention of the Prime Minister or the Cabinet to prorogue the House.

The proposal of the Prime Minister, after being agreed to by the Speaker, is submitted to the President[60] by the Secretary-General. After the President has made the order[61] it is notified in the Gazette Extraordinary of the day on which the order is received in the Secretariat. Simultaneously, a paragraph is issued in the Bulletin informing the members of the prorogation of Lok Sabha. Besides, a press communique

57. *Ibid.,* 12-3-1969, cc. 271-72.

58. *Ibid.,* 2-3-1970, c. 272 and 4-3-1970, cc. 369-70.

59. *Asian Recorder,* Vol. XVI, No. 21, 1970, p. 9553; *See* also art. 179(c).

60. When the Vice-President is acting as President under art. 65(1), proposal regarding prorogation is submitted to him (Seventh Session of the Fourth Lok Sabha, 1969; First Session of the Sixth Lok Sabha, 1977).

61. The President's order of prorogation takes immediate effect and has seldom been prospective or retrospective.

is also issued. All India Radio and *Doordarshan/Sansad TV* Channel are also asked to broadcast/telecast the news.

It is not necessary that the order of prorogation should reach each and every member individually before it would become effective: it would suffice if the order is duly notified in the Official Gazette[62].

Effects of Prorogation

On adjournment of Lok Sabha or its adjournment *sine die,* the pending business does not lapse. Prorogation terminates a session and does not constitute an interruption in the continuity of life of Lok Sabha which is brought to an end only by dissolution[63].

A distinction has always been made between prorogation and dissolution insofar as their effect upon pending business in the House is concerned. The first standing orders, made under the Government of India Act, 1919, specifically provided that, on prorogation of a session, all pending notices would lapse, but Bills already introduced and pending before the House would be carried over to the next session[64]. This protection accorded to Bill was extended to notices of Bills as well in 1929[65]. By convention, all motions, resolutions and amendments moved and pending in the House and its Committees were also carried over. The saving in favour of pending Bills later came to be incorporated in Section 30(1) of the Government of India Act, 1935[66] and the provision regarding pending notices was incorporated in the Rules of Procedure framed by the Constituent Assembly (Legislative)[67].

The present position with regard to the effect of prorogation of Lok Sabha upon different categories of pending business in the House may briefly be stated thus:

Bills: Under article 107(3), Bills pending before either House are expressly saved from lapsing upon prorogation. Bills before Select or Joint Committees are also protected. On 26 July 1956, a question was raised as to the effect of prorogation of the House on the functioning of Select or Joint Committees on Bills. The objection was ruled out by the Speaker who observed:

> There is a specific statutory provision in the Constitution that on prorogation of Parliament, a Bill shall not lapse. That means the prorogation has no effect so far as that Bill is concerned. A Bill means all stages of the Bill. Here we were in the Select Committee stage... The Select Committee can go on even when the House is prorogued; because prorogation has no effect on the pendency of a Bill[68].

The order of the House allotting time for discussion of a Bill or of a particular stage thereof does not lapse upon prorogation[69]. Notices of intention to move for leave to

62. *State of Punjab* vs. *Satya Pal Dang and others,* A.I.R. 1969, S.C. 903.
63. *M.S.M. Sharma* vs. *Shri Krishna Sinha and others,* A.I.R. 1960, S.C. 1186.
64. Legislative Assembly Rules, 1920, S.O. No. 4.
65. *Ibid.,* S.O. No. 4, as amended.
66. Because of non-operation of the federal part of the Act, this statutory provision came into force only on 15 August 1947, *vide* the India (Provisional Constitution) Order, 1947, s. 3, read with 30 of the Schedule.
67. *See* Constituent Assembly (Legislative) Rules of Procedure and Conduct of Business, 1948, Rule 106(1).
68. *L.S. Deb.,* 26-7-1956, cc. 984-85; *see* also Rule 284.
69. The Bills to which time has been allotted by the House are not placed before the Business Advisory Committee or Committee on Private Members' Bills and Resolutions, as the case may be, for allocation of time again during the next session.

introduce Bills also do not lapse on prorogation and no fresh notice is necessary in the following session except where any recommendation obtained under the Constitution in respect of the Bill has ceased to be operative[70].

Motions, Resolutions and Amendments: Under the Rules of Procedure, motions, resolutions and amendments which have already been moved and are pending in the House do not lapse on prorogation and are carried over to the next session[71].

A point was raised in Lok Sabha whether inasmuch as article 107(3) specifically saved only Bills pending before either House from lapsing and all other pending business lapsed upon prorogation. The Speaker observed that the article did not specifically mention that all items of pending business other than Bills would lapse on prorogation, and therefore, the provision in the "Rules of Procedure of Lok Sabha", framed under article 118, would apply[72].

Business pending before Parliamentary Committees: The Rules of Procedure specifically provide that any business pending before a Committee shall not lapse by reason only of the prorogation of the House and the Committee shall continue to function notwithstanding such prorogation[73]. This provision, adopted in March 1957, was made in the Rules after consultation with the Attorney-General[74].

The true construction of article 107(3) is that Parliament wanted to put it beyond doubt that Bills shall not cease by reason of prorogation of the House; and in regard to other effects of prorogation, it left the matter to the will and pleasure of the House by making such provisions as it desired in the Rules of Procedure under article 118(1), even though the House may go to the extent of protecting all part- discussed business of whatever kind from the effect of prorogation and limiting its effect to notices only of which the House is not seized; and even in the case of notices an exception has been made in favour of notice of Bills[75].

On prorogation of either House of Parliament, the President has the power to issue Ordinances under article 323. If an Ordinance is promulgated before the order of prorogation is made and notified, the Ordinance would be void[76].

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70. Rule 335, Proviso.

71. Rule 336.

72. *L.S. Deb.,* 20-7-1956, cc. 420-37.

    This view was also supported by the Attorney-General who, upon a reference subsequently made to him, gave his opinion as follows:

    Article 107(3) enacts one exception to the rule that a prorogation has the effect of quashing all pending business. That article, however, does not prevent Parliament from creating further and other exceptions to that rule by the exercise of its power under articles 118(1) and 118(2) of the Constitution. There is no provision in the Constitution which fetters or restricts that power so as to prevent Parliament from creating these further and other exceptions. Rules 335 and 336 of the Rules are, therefore, competent and valid.

73. Rule 284. *See* also Chapter 30—'Parliamentary Committees'.

74. The Attorney-General in a note to the Rules Committee had stated: Committees not connected with Bills can function during the inter-session period, if the Rules of Procedure so provide. There would seem to be nothing incongruous in the Committee functioning when the parent body is unable to function. The parent body would by its procedural rules authorise the Committees to function so that the power and the authority of the Committees to function will be derived from the parent body-Min. (RC), 19-3-1957, p. 38.

75. This is in accordance with the opinion expressed by the Attorney-General—*see* also Rule 335.

76. *Bidya Chaudhury vs. Province of Bihar,* A.I.R. 1950, Patna 19.

Dissolution of the House

The end of the life of Lok Sabha either by an order made by the President under article 85(2)(b) or on the expiration of the period of five years from the date appointed for its first meeting is termed as 'dissolution of the House'[77].

Once a Legislature is duly constituted[78], it becomes capable of dissolution though it begins to function only after it has been summoned to meet.

In Kerala, the newly constituted Legislative Assembly, after the mid-term election in February/March 1965, was dissolved under a Proclamation under article 356 of the Constitution issued on 24 March 1965, even before it could be summoned to meet. The constitutionality and *bona fides* of the Proclamation were challenged in a petition. The Court held:

> "Neither article 172 nor article 174 prescribes that a dissolution of a State Legislature can only be after the date fixed for its first meeting... once the Assembly is constituted, it becomes capable of dissolution[79]."

In another similar instance, the elections for the Thirteenth Bihar Legislative Assembly were held in three phases in the month of February, 2005. Notification was issued by the Election Commission in pursuance of section 73 of the Representation of People Act, 1951. For the 243 seats of the Assembly, none of the parties/pre-poll combinations could gather simple majority. In such circumstances, the Governor of Bihar in his report dated 6 March 2005 recommended to the President that the newly constituted Assembly be kept in suspended animation, since no political party was in a position to form a Government. A notification was issued on 7 March 2005 under article 356 of the Constitution, imposing the President's Rule over the State of Bihar and the Assembly was kept in suspended animation. Even thereafter, when no stable combination could be formed, the Governor of Bihar sent another report on 21 May 2005 to the President of India. It was mentioned in the report that a trend was indicated to win over elected representatives of the people. In his view, a situation had arisen in the State wherein it would be desirable in the interest of the State that Assembly which has been kept in suspended animation be dissolved so that the people/electorate could be provided with one more opportunity to seek the mandate of the people. The Union Cabinet decided to accept the report and recommended to the President the dissolution of the Legislative Assembly of Bihar. The President was pleased to approve the recommendation. After due process the notification of dissolution was issued on 23 May 2005. Thus the Bihar Assembly after its constitution was dissolved even without holding a single sitting. This notification on being challenged before the Supreme Court, the Court by majority judgment held that the Bihar Assembly was for all intents and purposes, was deemed to be duly constituted on issue of notification under section 73 of the Representation of the People Act and the duration

77. *See* art. 83(2). By the amendment of this article by the Constitution (Forty-second Amendment) Act, 1976, the duration of Lok Sabha was made six years. The life of Lok Sabha was again made five years by the Constitution (Forty-fourth Amendment) Act, 1978.

78. Section 73 of the Representation of the People Act, 1951, provides that upon the issue of a notification by the Election Commission in the Official Gazette of the names of the members elected for the various constituencies, Lok Sabha or the Legislative Assembly "shall be deemed to be duly constituted".

79. *K.K. Aboo* vs.. *Union of India and others.* A.I.R. 1965 Kerala 229.

thereof is distinct from its due constitution. The Court further held that the proclamation dissolving the Legislative Assembly of Bihar was unconstitutional but observed that even if the dissolution notifications were unconstitutional, the natural consequence was not restoration of *status quo ante*. The Court felt that restoration of *status quo ante* would not be a proper relief even if the notifications were declared invalid.[80]

The dissolution of Lok Sabha before the completion of its full term is not unconstitutional.

> The Second Lok Sabha was dissolved by the President on 31 March 1962, when it had not completed the full term of five years. A petition filed by Dr. N.C. Samantsinhar before Circuit Bench of the Punjab High Court at Delhi under article 226 of the Constitution praying that a *rule nisi* be issued (and in the interval respondents be directed not to proceed with the summoning of the Third Lok Sabha on 16 April 1962) declaring the premature dissolution void and ineffective, was dismissed by the High Court on 4 April 1962.

Dissolution puts an end to the representative character of the individuals who at the time compose Lok Sabha. Once dissolved, the Lok Sabha cannot assemble again until after a general election. It has been held:

> A Legislature can be summoned to meet only if it is in *esse* at the time. A dissolved Legislature is incapable of being summoned to meet[81].

Rajya Sabha is not subject to dissolution, as also a Legislative Council where the State Legislature is bicameral.

The power to dissolve Lok Sabha is vested in the President who exercises this power on the advice of the Prime Minister. The Prime Minister may consult the Cabinet or inform it of his intention to make a recommendation to the President[82]. The power to advise the President to dissolve Lok Sabha is a potent weapon in the hands of the Prime Minister to keep his party intact and acts as a deterrent against its break-up. A question has been raised whether a Prime Minister who has lost confidence of the party in power or who is in danger of losing such confidence should advise the President for a dissolution of Lok Sabha and whether the President is within his constitutional rights to reject such advice[83]. No definite answers have been provided to these questions and there are no precedents to rely upon. However, one thing is clear: a Prime Minister who has not resigned or who has not been dismissed by the President can always give such advice irrespective of the fact whether he has lost the confidence of his

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80. *Rameshwar Prasad & Others vs. Union of India & another,* A.I.R. 2006 SC 980.

81. *Ibid.*

82. In 1970, the Prime Minister conveyed to the President the Cabinet's decision to dissolve the Lok Sabha. Again in 1977, the Prime Minister advised the President to dissolve the Fifth Lok Sabha and order fresh elections.

83. Under the provisions of the then Constitution of Jammu and Kashmir, the Governor was bound to accept the advice of the Chief Minister for dissolution of the State Assembly. On the recommendation of the Chief Minister of Jammu and Kashmir, Sheikh Abdullah (who had lost the support of the majority Congress Legislature Party), the Governor dissolved the Assembly and imposed Governor's rule on 27 March 1977. The Governor stated that the Chief Minister had advised him to dissolve the State Assembly. As he had no legal option, he dissolved the Assembly and took over the administration.

party or not. The President, if he decides not to accept such advice, must first find an alternative Prime Minister who can command a majority in Lok Sabha and then seek his advice and act accordingly.

So far as a State Assembly is concerned, the constitutional provision regarding its dissolution is on the same lines as in the case of Lok Sabha. However, article 356 requires that if at any time during the life of an Assembly the Government of the State cannot be carried on in accordance with the provisions of the Constitution, the Governor has to make a report to the President[84]. Normally, the Governor, in such circumstances, does not dissolve the Assembly, even though he may be advised by the Chief Minister to do so, but it is not illegal if he dissolves the Assembly, before he has made a report to the President.

The Punjab Legislative Assembly was summoned to meet on 14 June 1971, on the advice of the Chief Minister, as the period for which a vote on account taken earlier from the Assembly was to expire on 30 June 1971. With the growing differences within the ruling Akali Party coming to ahead about 12 June 1971 the Chief Minister advised the Governor for the immediate dissolution of the Assembly so that he might seek a fresh-mandate from the people. Acting on his advice, the Governor dissolved the Assembly on 13 June 1971. The Chief Minister also submitted his resignation which the Governor accepted.

The propriety of the action of the Governor in not exploring the possibilities of forming an alternative Government and in dissolving the Assembly himself was discussed in Parliament[85]. Replying to the debate in Rajya Sabha, the Union Minister of State in the Ministry of Home Affairs observed that where a Chief Minister has *prima facie* lost the confidence of the majority of the Assembly, as appeared to be the case in Punjab, the proper course for the Governor would be not to act on the advice of the Chief Minister in the matter of dissolution but to make an independent assessment of the situation by consulting the Opposition parties[86].

It is a moot point whether the Governor on his own should dissolve the Assembly before submitting his report to the President under article 356. Normally, the practice has been for the President to order dissolution of the Assembly where so recommended by the Governor in his report, because after consultation with the Opposition parties if the Governor is still of the view that dissolution is the appropriate course of action in the situation prevailing, then in

84. In exercise of the powers conferred by article 356 of the Constitution, the Vice-President acting as President of India, B.D. Jatti, issued on 30 April 1977, nine Proclamations assuming to himself all functions of the Governments of the States of Bihar, Haryana, Himachal Pradesh, Madhya Pradesh, Orissa, Punjab, Rajasthan, Uttar Pradesh and West Bengal. The Legislative Assemblies of these States were also dissolved. Earlier, the Union Home Minister, Charan Singh, had suggested to the Chief Ministers of these States that in view of the rout of the Congress Party in the Lok Sabha elections held in March 1977, they should themselves dissolve the State Assemblies and seek the mandate of the people. But the Chief Ministers had declined to accept the suggestion. Further, efforts were made to contest the constitutionality of the Union Government's request in the Supreme Court. The Supreme Court, however, declined to interfere.

85. *R.S. Deb.,* 21-6-1971, cc. 97-148; 26-6-1971, cc. 19-42; *L.S. Deb.,* 2-8-1971, cc. 225-37 5-8-1971, cc. 202-61.

86. *R.S. Deb.,* 22-6-1971, cc. 30-42.

that case, certainly the President would give such an advice of the Governor his most earnest consideration[87].

There have been two earlier instances when an Assembly was dissolved by the Governor—the Kerala Legislative Assembly on 26 June 1970, and the Tamil Nadu Legislative Assembly on 4 January 1971. However, in both the cases, the Chief Minister enjoyed the majority support of the Assembly.

When the President has issued an order in pursuance of a Proclamation under art. 356 whereby the powers exercisable by the Governor of the State, which have been assumed by the President, would be exercisable also by the Governor, there is no constitutional or legal infirmity in the order of the Governor dissolving the Assembly[88].

Procedure for Dissolution

The Procedure in regard to the normal dissolution of Lok Sabha is that the Secretary-General, a few days before the termination of the last session of Lok Sabha, makes an enquiry from the Prime Minister through the Minister of Parliamentary Affairs (and through the Leader of the House, if the Prime Minister is not the Leader of the House), or the Minister of Parliamentary Affairs (or the Leader of the House, as the case may be) himself sends a communication about the date suggested by the Prime Minister.

The proposal of the Prime Minister, as agreed to by the Speaker, is submitted by the Secretary-General to the President. A draft order is also sent along with the note indicating the date on which it is proposed to dissolve the House. The order is signed by the President on the date on which Lok Sabha is to be dissolved. After the President has made the order[89], it is notified in the Gazette Extraordinary of the day on which the order is received in the Secretariat. Simultaneously, the Secretariat issues a press communique for wide publicity of the order in the Press as well as over the All India Radio, Doordarshan, etc. A paragraph is also issued in the Bulletin informing the members of the dissolution of Lok Sabha.

In case the Prime Minister decides to recommend to the President to dissolve the Lok Sabha before the end of its normal term, the Prime Minister submits the proposal to the President and communicates the President's order of dissolution to the Speaker who asks the Secretary-General to notify it in the Gazette and inform the members through the Bulletin, press and other news media.

With the break-up of the Congress Parliamentary Party in November 1969, the ruling party lost its majority in Lok Sabha. On the advice of the Prime Minister, the President dissolved Lok Sabha on 27 December 1970 — one year and seventy-nine days before its normal term because the Prime Minister wanted to seek a fresh mandate of the people on the Government's policies with a view that if returned in majority the party in power could implement those policies in a smooth way. The

87. *Ibid.*

88. *L.S. Deb.,* 18-3-1974, c. 379 *re*: statement by the Minister of Home Affairs on the dissolution of Gujarat Legislative Assembly by the Governor of the State.

89. The President's order of dissolution takes immediate effect and has seldom been prospective or retrospective.

President's order was communicated to the Speaker and members were informed about the dissolution of the House through the bulletin, over the radio, etc.

The Fifth Lok Sabha, which was elected in 1971, was dissolved by the President on 18 January 1977. The President's order dissolving the Lok Sabha was issued to the press on 18 January 1977, by the Ministry of Parliamentary Affairs. Before the Prime Minister advised the President to dissolve the Lok Sabha, she (Smt. Indira Gandhi) had consulted the Speaker.

Effects of Dissolution

Dissolution, as already stated, marks the end of the life of a House and is followed by the constitution of a new House[90]. Once the House has been dissolved, the dissolution is irrevocable. There is no power vested in the President to cancel his order of dissolution and revive the previous House. The consequences of a dissolution are absolute and irrevocable. In Lok Sabha, which alone is subject to dissolution under the Constitution, dissolution "passes a sponge over the parliamentary slate". All business pending before it or any of its committees lapses on dissolution[91]. No part of the records of the dissolved House can be carried over and transcribed into the records or registers of the new House[92]. In short, dissolution draws the final curtain upon the existing House[93].

The position as to the effect of dissolution upon different categories of business may be stated as follows:

Bills: Before 1923, the position in the Central Legislative Assembly was that a Bill passed by one House and transmitted to the other House did not lapse upon the dissolution of the House which had passed it. If the other House passed the Bill, it would become law on receiving assent of the Governor-General. The question then arose as to what the position would be of a Bill where the other House, instead of merely agreeing, made amendments to the Bill. To meet this contingency, Rule 36C was framed in 1924 which provided:

> On the dissolution of either Chamber, all Bills which have been introduced in the Chamber which has been dissolved or have been laid on the Table in that Chamber under Rule 25, and which have not been passed by the Indian Legislature, shall lapse.

This rule remained in force till 14 August 1947, and by implication saved Bills already passed by both the Houses and awaiting assent of the Governor-General from lapsing on the Assembly ceasing to exist.

Article 107 lays down the effect of dissolution upon Bills before each House of Parliament in the event of dissolution of Lok Sabha. The present position of the effect of dissolution upon the pending Bills is that—

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90. In India, under section 14 of the R.P. Act, 1951, a general election to Lok Sabha can be held six months in advance of the expiration of the life of the existing House, although the new House is constituted only after dissolution of the existing House.

91. Even business, like Bills, disposed of by Lok Sabha but remained pending in Rajya Sabha on the date of dissolution lapses.

92. The exceptions, however, are: Reports of Parliamentary Committees and assurances by Ministers.

93. M.N. Kaul: "Effect of Dissolution upon Pending Business in Parliament", J.P.J., IV(1).

In Lok Sabha, all Bills pending at the time of dissolution, whether originating in the House or transmitted to it by Rajya Sabha, lapse; and

In Rajya Sabha, Bills passed by Lok Sabha, but which have not been disposed of and are pending in Rajya Sabha on the date of dissolution, lapse. Only the Bills originating in Rajya Sabha which have not been passed by Lok Sabha but are still pending before Rajya Sabha, do not lapse[94].

If, however, in respect of a Bill upon which the Houses have disagreed and the President has notified his intention of summoning a Joint Sitting of the Houses for the consideration of the Bill prior to dissolution, that Bill does not lapse and may be passed at a Joint Sitting of both Houses, notwithstanding that dissolution has intervened since the President notified his intention to summon the Joint Sitting of the Houses[95].

There is no express provision in the Constitution regarding the effect of dissolution on a Bill which has been passed by the two Houses of Parliament and sent to the President for assent. It has, however, been held that such a Bill does not lapse on dissolution of Lok Sabha. Further, if such a Bill is returned by the President for reconsideration, the successor House can reconsider it and if it is passed by the successor House (with or without amendments), it will be deemed to have been passed "again"[96].

Other Business, e.g. Motions, Resolutions, etc.: All other business pending in Lok Sabha, *e.g.,* motions, resolutions, amendments, supplementary demands for grants etc., at whatever stage, lapses upon dissolution, as also the petitions presented to the House which stand referred to the Committee on Petitions.

A motion for approval or modification of statutory rules laid on the Table of both Houses under the provisions of an Act, passed by Lok Sabha and transmitted to Rajya Sabha for concurrence and *vice versa* also lapses on dissolution of Lok Sabha[97].

A motion given in pursuance of Section 3(1) of Judges (Inquiry) Act, 1968 for presenting an address to the President praying for removal of a Judge, if admitted, will not lapse on the dissolution of the Lok Sabha[98].

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94. A Bill (*e.g.* the Architects Bill, 1970) originating in Rajya Sabha and pending in that House after having been transmitted to Lok Sabha and returned by Lok Sabha with amendments, also lapses.

95. Art. 108(5).

96. *Purushothaman Nambudiri v. State of Kerala,* A.I.R. 1962 S.C. 694. In this case it was held that "a Bill pending assent of the Governor or President is outside clause (5) of article 196 and cannot be said to lapse on the dissolution of the Assembly".

97. The effect of dissolution of Lok Sabha in relation to statutory rules laid on the Table was discussed by the Committee of Secretaries of Legislative Bodies in India at their meeting held at Hyderabad in March 1957. It was held that in such cases the 'general law of lapsing' should apply. It was stressed that the new House was a different body and no part of the records of the old House could be carried over to or written into the register of the new House. The new House would not, therefore, be able to entertain any message or amendment communicated by the other House.

98. In sub-Committee of *Judicial Accountability v. Union of India,* the Supreme Court held as under:

"It is true that Purushothaman Nambudiri case (A.I.R. 1962 SC 694) dealt with a legislative measure and not a pending business in the nature of motion. But, we are persuaded to the view that neither the doctrine that dissolution of a House 'passes a sponge over parliamentary slate' nor the specific provisions contained

Anything said or done during the "existence" of a House, "cannot be raised as a privilege issue" after that House has been dissolved[99].

Business before Committee: All business pending before parliamentary committees of Lok Sabha lapse upon dissolution of Lok Sabha. Committees themselves stand dissolved on dissolution of Lok Sabha[100]. However, a committee which is unable to complete its work before the dissolution of the House may report to the House to that effect, in which case any preliminary memorandum or note that the committee may have prepared or any evidence that it may have taken is made available to the new committee when appointed[101]. Likewise, where a report completed by a committee when the House is not in session is presented by its Chairperson to the Speaker and before its presentation to the House in the next session, Lok Sabha is dissolved, the report is laid by the Secretary-General on the Table of the new House at the first convenient opportunity. While laying the report, the Secretary-General makes a statement to the effect that the report was presented to the Speaker of the preceding Lok Sabha before its dissolution; where it was ordered by the Speaker that the report be printed or circulated under Rule 280, the Secretary-General also reports that fact to the House[102].

Assurances by Ministers: The assurances given by Ministers on the floor of the House, which are pending for implementation are deemed not to lapse on the dissolution of the Lok Sabha, irrespective of whether a report to that effect has been made by the Committee on Government Assurances[103].

Emergency Session

The procedure for summoning Lok Sabha for an emergency session is generally the same as for a regular session[104]. The President's order takes the same form as for commencement of any other session; so also do other formalities. The Press

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in any rule or rules framed under Article 118 of the Constitution determine the effect of dissolution on the motion for removal of a Judge under Article 124. The reason is that Article 124(5) and the law made thereunder exclude the operation of Article 118 in this area." A.I.R. 1992 SC 320.

99. *L.S. Deb.,* 7-4-1977, cc. 11-12.

100. *See* Kaul: *'Effect of Dissolution', op. at., JPl.,* Vol. IV, No. 1, 1958, p. 19.

101. Rule 285. *See* also Chapter 30–'Parliamentary Committees'.

102. Dir. 71A(6).

103. Before the dissolution of the First Lok Sabha, the Committee on Government Assurances selected from among the pending assurances such of those as were of a substantial character and incorporated them in a report so as to enable the successor Committee of the new House to pursue them.

In the report (which was presented on 28 March 1957, the last sitting of First Lok Sabha), the Committee recommended that these assurances might be implemented by the Government.

104. In 1942, an emergency session of the Legislative Assembly was convened on 14 September 1942, to discuss the situation arising out of the Civil Disobedience Movement launched by the Congress in August 1942. Orders of the Governor-General were received on 24 August 1942, and summons to members were issued the next day.

When the Indian Rupee was devalued, an emergency session of the Constituent Assembly (Legislative) was called on 5 October 1949. The session lasted for two days. Proposal of the Cabinet to summon the session was received late in the evening on 21 September 1949, and summons to members were issued on 23 September 1949.

An emergency session of the Provisional Parliament was held to discuss the Korean situation in 1950. On 11 July 1950, the Cabinet proposed to call the session from 31 July 1950. On the same day, orders of the President were obtained and summons to members were issued.

communique issued by the Secretariat also mentions the special purpose for which the session is being convened. Further, if the session is summoned at a short notice and there is no time to issue the regular summons, members may be informed through Press and Electronic Media[105].

When an emergency session is summoned at a short notice, the air and railway transport authorities are instructed to give top priority to members proceeding to attend the session.

Considering the duration and purpose for which an emergency session is summoned, the Speaker decides if the Question Hour should be dispensed with[106].

If the interval between the issue of summons and commencement of the session is such that the prescribed period of notice of questions, private member's resolutions and Bills cannot be completed, the Speaker has the power to relax the period of notice[107]. In the case of questions such power is, however, exercised in consultation with the Government.

105. Rule 3. Proviso.

This Proviso was added to the Rule by the Rules Committee at its meeting held on 14 December 1953.

Since the First Sessions of the Fifth and the Seventh Lok Sabha were called at a short notice and the gap between the date of issue of summons and the date of commencement of sessions was only 4 and 5 days, respectively, in addition to issuing summons in the ordinary course, all outstation members were also informed about the summoning of Lok Sabha telegraphically. Wireless message was also issued to all Chief Secretaries/Administrators of all States/Union territories requesting them to convey to members about the commencement of the Fifth Session of Ninth Lok Sabha and the First Session of the Tenth Lok Sabha. Press Release to all District Collectors/District Magistrates through NICNET with the request to inform members of Lok Sabha about commencement of the First Session of the Eleventh Lok Sabha was also issued. However, these sessions were not emergent sessions.

106. Question Hour was not dispensed with during the Emergency Sessions, 1942, 1949 and 1950.

107. *See* Rules 33, 65(3) and 170.

During the First Session of the Second Lok Sabha in 1957, the interval between the date of issue of summons and the day when Private Members' Bills were to be taken up was barely a month. Considering the difficulty in complying with the period of one month's notice in the circumstances, the Speaker relaxed the period for the introduction of Bills. Similar relaxation was also made in the First Session of the Third, the Fourth and the Fifth Lok Sabha in 1962, 1967 and 1971, respectively.

CHAPTER 10

President's Address, Messages and Communications to the House

President's Address

The Constitution provides for an Address by the President to either House of Parliament or both Houses assembled together[1]. The Constitution also makes incumbent upon the President to address both Houses of Parliament assembled together at the commencement of the first session after each general election to Lok Sabha and at the commencement of the first session of each year and inform Parliament of the causes of its summons[2].

The provision for Address by the Head of State to Parliament goes back to the year 1921 when the Central Legislature was set up for the first time under the Government of India Act, 1919. The Act provided for the Address by the Governor-General in his discretion to either House of the Central Legislature[3]. Though there was no specific provision in the Act for the Governor-General's Address to both the Houses assembled together, in practice, however, during the years 1921 to 1946, the Governor-General addressed the Lower House separately as well as both the Houses assembled together on a number of occasions.

Till August 1947, the Address by the Governor-General was governed by the provisions of the Government of India Act, 1919. After Independence in 1947, the Government of India Act, 1935, as adapted, provided that the Governor-General may address the Dominion Legislature and for that purpose require the attendance of members[4], but actually the Governor-General did not address the Constituent Assembly (Legislative) on any occasion during its existence from November 1947 to January 1950. During the year 1950, when the Constitution came into force, three sessions of the Provisional Parliament were held. It was felt that to have President's Address as many as three times in a year involved repetitions and expenditure of time on discussions of the Address. Besides, such a procedure involved some administrative difficulties[5].

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1. Art. 86(1). This provision is analogous to that provided in ss. 63A(2) and 63B(3) as set out in the Ninth Schedule to the Government of India Act, 1935. However, since the commencement of the Constitution, the President has not so far addressed either House or both Houses assembled together under the provision of this article.
2. Art. 87(1).
3. Ss. 63A(3) and 63B(3), *op. cit.*
4. S. 20(1) of the Government of India Act, 1935, as adapted.
5. The Prime Minister, while replying to the debate on clause 7 of the Constitution (First Amendment) Bill, 1951, as reported by the Select Committee, observed:

   "The real difficulty of course is that this (Address) involves a certain preparation outside this House which is often troublesome. Members are aware that when a coach and six come, all kinds of things have to be done for that purpose. Anyhow, that trouble does not fall on the House or members thereof, but on the administration of Delhi"—*P. Deb. (II),* 2-6-1951, c. 9960.

Hence, the Constitution was amended to provide for the President's Address only at the commencement of the first session after each general election to Lok Sabha and at the commencement of the first session each year[6].

Being a statement of policy of the Government, the Address is drafted by the Government: it is not the President but the Government who are responsible for the contents of the Address[7]. It contains a review of the activities and achievements of the Government during the previous year and its policy with regard to important internal and current international problems. It also contains a brief account of the programmes of Government business for the session. It, however, does not cover the entire probable legislative business to be transacted during the session. Therefore, after the Address, a separate paragraph giving details of the Government business expected to be taken up during the session is published in the Bulletin.

In the States, it is the Governor who delivers the Address to the State Legislature informing it "of the causes of its summons". If the Governor is incapacitated from delivering the Address, the President may make other provisions for performance of that function of the Governor[8]. The provision is mandatory. In this connection, the Calcutta High Court observed:

> If a Legislature meets and transacts legislative business, without the preliminary of an address by the Governor, when required under article 176, its proceedings are illegal and invalid and may be questioned in a court of law[9].

The Governor of West Bengal, in his Address to both Houses of the State Legislature in 1969, skipped over two paragraphs of the Address. The constitutional and political aspects of the matter were debated in Lok Sabha. In his reply to the debate, the Minister of Home Affairs stated that the Address of the Head of State "is a public declaration of policy that the Government wants to follow in the coming year.... The Address is supposed to look to the future and to the present. But the two paras tried to interpret history..."[10].

According to the Attorney General, the Address by the Governor cannot be utilised by the Council of Ministers to cast any reflection on or make any adverse criticism of any act of the Governor done by him as a constitutional head of the State[11].

The Punjab Governor, while delivering his address to both the Houses of the Legislature assembled together on 14 March 1969, read out the passages

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6. *Vide* s. 7 of the Constitution (First Amendment) Act, 1951—*see* also Chapter 9—Summoning, and Prorogation of the Houses of Parliament and Dissolution of the Lok Sabha.
7. *L.S. Deb.,* 22-2-1960, c. 2105.
8. *Vide* article 160.
9. *Syed Abdul Mansur Habibullah* v. *the Speaker, West Bengal Legislative Assembly,* A.I.R. 1966, Calcutta 371.
10. *L.S. Deb.,* 10-3-1969, c. 357.
11. U.S.Q. No. 6145, *L.S. Deb.,* 11-4-1969.

which were critical of the actions of the Government during the last year or so. On 21 March, the Punjab Legislative Council adopted an amendment by the Congress Opposition to the official Motion of Thanks for the Governor's Address. The amendment regretted that "the observations made in para 4 of the Address regarding the violations of constitutional provisions and parliamentary conventions at the time of passing the Budget for the year 1968-69 are contrary to admitted facts. The Budget was passed in accordance with the provisions of the Ordinance promulgated by him. By giving his assent to the Appropriation Bills, the Governor became as much a party to the passing of the Budget as the two Houses of the Legislature. These observations amount to such contradictions which he should have been pleased to avoid making in his Address, particularly when they are also against the finding of the Supreme Court of India".

Fixation of Date for the Address

In the case of the first session after each general election to Lok Sabha, the President addresses both Houses of Parliament assembled together after the members have made and subscribed the oath or affirmation and the Speaker has been elected. It generally takes two to three days to complete these preliminaries. No other business is transacted till the President has addressed both Houses assembled together[12]. This is done in order to give precedence to the President's Address over all other business. For the same reason, in the case of the first session each year, the President's Address takes place at the time and date notified for commencement of the session of both the Houses of Parliament. The session of Lok Sabha that day commences half-an-hour after the conclusion of the Address when the Houses assemble in their respective Chambers for the transaction of formal business.

While forwarding to the Speaker the proposal regarding commencement of the first session of a new Lok Sabha or the first session of the year, the Minister of Parliamentary Affairs (or the Leader of the House, in case the Prime Minister is not the Leader of the House) also suggests the date and time at which the President may address both Houses of Parliament assembled together. The President's order summoning either House of Parliament does not make any mention of the Address by the President nor is the information regarding the Address contained in the summons issued to members. Members are informed about the date, time and venue of the President's Address through a paragraph in the Bulletin.

Ceremonies connected with the Address

Members of both Houses of Parliament assembled together in the Central Hall of the *Samvidhan Sadan* where the Address of the President was delivered[13].

12. *L.S. Deb.,* 11-5-1957, c. 25.

13. Before the First General Elections held in 1952 when two separate Houses were constituted, the President addressed the Provisional Parliament at the commencement of its First, Second, Third, Fourth and Fifth Session in the Parliament Chamber (the then Lok Sabha Chamber) situated inside the *Samvidhan Sadan*.

    An exception to the practice was made during the 17th Lok Sabha when Members of both Houses (on two occasions *i.e.,* on 29 January, 2021 and 31 January, 2022) assembled in the Central Hall, the Chambers and Galleries of the Lok Sabha and Rajya Sabha in the *Samvidhan Sadan* in adherence with the Covid-19 protocols.

New members who had not already made and subscribed the oath or affirmation needed to be admitted to the Central Hall of *Samvidhan Sadan* on the occasion of the President's Address on production of the certificate of election granted to them by the Returning Officer or on introduction by a member who had made oath or affirmation or on production of the summons for the session issued to them by the Secretary-General.

In the Central Hall of *Samvidhan Sadan*, seats in the first few rows in sector 1 to 4 and front row in sectors 5, 7 and 8 used to be reserved for members of the Union Council of Ministers[14], Deputy Speaker, Lok Sabha and Deputy Chairman, Rajya Sabha. Seats were also reserved for Leader of Opposition in both Houses; Former Prime Ministers and senior Leaders of alliance parties in the front rows. Seats in sectors 5 to 8 were reserved for the Leaders of parties and groups having reasonable strength in both the Houses. Seats were reserved for the Members of Panel of Chairpersons, Lok Sabha/Panel of Vice-Chairpersons, Rajya Sabha and Chairpersons of Parliamentary Committees on both sides of the gangway in the Central Hall of *Samvidhan Sadan*. Other members used to occupy any of the vacant seats.

In 2024, the President's Address was held in the Lok Sabha Chamber of Parliament House of India (the New Building of Parliament). Seats were reserved for Cabinet Ministers, Ministers of State (Independent Charge), Leaders of Houses, Leader of Opposition in Rajya Sabha, Leader of single largest opposition party in Lok Sabha, former Prime Ministers, Deputy Chairman of Rajya Sabha, Leaders of Parties in Lok Sabha and Rajya Sabha having strength of 8 & above and 5 & above respectively in the first two rows. Blocks of seats were reserved in third and fourth rows for the Ministers of State; Chairpersons, Parliamentary Committees; Panel of Vice-Chairpersons, Rajya Sabha, Panel of Chairpersons, Lok Sabha, Deputy Leaders/ Chief Whips of Parties in Lok Sabha, Deputy Leaders/Chief Whips of Parties in Lok Sabha and Rajya Sabha having strength of 8 & above and 5 & above respectively and senior members of both the Houses. From fifth row onwards, the remaining Members of Lok Sabha and Rajya Sabha were seated on free sitting basis.

The President's Address to both Houses of Parliament assembled together is the most solemn and formal act under the Constitution. Utmost dignity and decorum befitting that occasion is maintained. Any action on the part of a member which mars the occasion of the President's Address or creates disturbance is punishable by the House to which he belongs[15]. Where such an offence is committed, the House may

14. In order to ensure that seats reserved for the Ministers do not remain vacant, the Ministers are requested to intimate, well before the President's Address, in case they are unable to attend the Address. On receipt of requisite intimation, seats reserved for the Ministers concerned are released to be occupied by other members.

    Deviations from the above practice happened in 2021 and 2022 when the Covid pandemic protocols necessitated the usage of the Chambers and Galleries of both the Houses for accommodating members to witness the Presidents' Address.

15. On the occasion of the President's Address to both the Houses of Parliament assembled together on 12 February 1968, two members of Lok Sabha created obstruction. The incident was followed by a walk-out by about 70 to 80 members belonging to both the Houses. On 28 February, having given an opportunity to the two members to explain their position, Lok Sabha adopted a motion from which other members who had joined in the walk-out were left out, disapproving of their conduct and reprimanded them "for their undesirable, undignified and unbecoming behaviour",— *L.S. Deb.,* 20-2-1968, cc. 2167, 2170-2225, 2234-80; 28-2-1968, cc. 467-87.

    A member of Lok Sabha was alleged to have created obstruction and showed disrespect to the President on the occasion of his Address to both the Houses of Parliament assembled together on 23 March

1971. On a motion adopted by the House on 2 April, a Committee was constituted by the Speaker on 5 April 1971 "to go into the matter in all details and to suggest suitable action and also guidelines for the future"—*L.S. Deb.,* 2-4-1971, cc. 188-223, 239-46, 271-72 and *Bn. (II),* dated 5-4-1971. The Committee presented its first report to the House on 15 November 1971. The Committee were of the view that the conduct of the member should be viewed with disapproval. They, however, suggested that in view of what was stated by the member in his oral evidence before the Committee, a lenient view might be taken and the matter might be dropped.

A similar Committee was constituted earlier in 1963 and on its recommendation being accepted by the House, three members were reprimanded by the Speaker,—*L.S. Deb.,* 18-2-1963, cc. 2-10; 19-2-1963, cc. 173-74; 19-3-1963, c. 4790.

On 13 March 1972, a group of members created disturbance by continuously interrupting the President during his Address and then staging a walk-out. The Speaker referred the said incident for the consideration of a Committee on 17 March 1972 *(L.S. Deb.,* 17-3-1972, c. 193). In their second report, the Committee *inter alia* formulated certain guidelines for the conduct of members and maintenance of order, dignity and decorum on the occasion of the President's Address: (i) the insertion of a new article, 87A, in the Constitution so as to provide that the President shall preside on the occasion of the Address to the House(s) of Parliament; (ii) amendment of article 118 for making rules as to the procedure on the occasion of the President's Address; and (iii) similar constitutional provisions for the Governor's Address to a State Legislature under articles 175 and 176 of the Constitution.

On 19 February 1973, while the President was delivering his Address, some members walked out of the Central Hall. On 18 February 1974, as soon as the President started delivering his Address, a member made certain remarks. Simultaneously, some members rushed in front of the dais and shouted something. After five minutes, they left the Central Hall, continuing to shout. On 17 February 1975, as soon as the President started reading his Address, a member got up and interrupted him by shouting something and then by staging a walk-out. The President did not take any notice of the interruption and continued his Address.

On 16 February 1981, while the Vice-President was reading the Hindi version of President's Address, a member rose in his seat and made a submission and thereafter left the Central Hall. However, Vice-President continued reading the Address. On 18 February 1982, when President was reading his Address, a member made certain remarks regarding UP Government. President asked him to resume his seat and not to disturb him. Thereafter, member sat down and President resumed his Address. On 12 March 1990, when President was reading his Address, some members got up at their places and referred to 'Meham' issue and Punjab problem. President continued reading his Address without paying heed to interruptions. Thereafter, certain members staged a walkout. Subsequently, when the President referred to the downward trend in prices of essential commodities some members voiced their dissent. Thereupon, President observed that they would have ample time to discuss the Address and asked them not to interrupt him. Again when the President referred to the Mandal Commission Report, two members rose and made certain remarks. The President asked them to resume their seats. Later, they staged a walkout. President continued with his Address. On 16 February 2006, when President was reading his Address, one member rose and made certain remarks. President did not take note of it and continued with his Address. On 25 February 2008, when the President was reading her Address, members of Telangana Rashtra Samiti (TRS) rose and shouted slogans and showed placards. Thereafter, they walked out of the Central Hall. However, the President continued with her Address.

On 2 February, 2009, while President was delivering her address, a member of Lok Sabha raised an issue. President continued with her speech without taking cognizance of the incident.

On 22 February, 2010, while President was delivering her address, a member of Lok Sabha rose to make a point. President continued with her speech without taking cognizance of the incident.

On 21 February, 2011, after President had concluded her address, some members displayed banners. A member of Lok Sabha also spoke something.

On 12 March, 2012, before and after commencement of the President's Address, members of various parties raised slogans on different issues. However, President continued with her speech without taking any cognizance of the interruptions.

On 21 February, 2013, before President commenced his address, some members displayed placards over different issues. A member of Lok Sabha also rose and spoke something. President began reading his speech without taking any cognizance of the incident.

On 31 January, 2017, soon after President concluded his address, some members raised objections.

constitute a committee to go into the matter and report, or where the offence is definite and specific it may punish the member(s) in question without going through the process of a committee. In either case, the accused member must be heard and, if necessary, the discussion on the relevant motion on the incident may be postponed to enable that member to state his position[16]. As a convention, no member leaves the Central Hall while the President is addressing[17]. A few days before the Address, members are informed through Bulletin about the ceremonies and rules to be observed on that occasion. They are also requested to take their seats five minutes before the President arrives in the Central Hall and remain in their seats till the President leaves the Central Hall after the conclusion of the Address[18].

In West Bengal, the Governor failed to deliver his Address to the Legislature on 8 February 1965, due to noisy disturbances and made up the failure by publication of the Address to the members of the Legislature by laying the Address on the Table of the House. Dismissing the writ of *mandamus,* the Calcutta High Court observed that procedural failure should not be over- emphasised because by laying a copy of

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On 20 June, 2019, before President commenced his address, some members displayed placards. President began reading his speech without taking any cognizance of the incident.

On 31 January, 2020, before President commenced his address, a member of Lok Sabha raised his voice. Some members stood up showing placards while some other members raised their voice. President continued with his speech without taking any cognizance of the interruptions. When the Vice-President began reading the introductory and concluding paragraphs of the speech, a member raised his voice.

On 31 January, 2022, before President commenced his address, some members showed placards and raised slogans against the Government. However, President began reading his speech without taking any cognizance of the interruptions.

However, in the case of disturbances created by some members at the time of the Governor's Address to the Rajasthan Legislative Assembly, the Governor himself ordered expulsion of those members from the House:

> On 26 February 1966, the Governor of Rajasthan expelled some members of Rajasthan Legislative Assembly from the House for repeatedly interrupting his Address to the House. Later, a privilege motion was moved by an Opposition member and the matter was referred to the Privileges Committee of the Assembly. The Committee held that the Governor had acted within his powers and authority in expelling those members during the course of his Address under article 176(1)—Raj. *LA. Deb.,* 24-9-1966.
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> The action of the Governor in having the members removed from the House was also challenged by a writ petition in the Rajasthan High Court. The Court dismissed the writ petition holding, *inter alia,* that it was only after the Governor had delivered his Address that the Legislature was given the opportunity to discuss the same and express its opinion and that, therefore, the petitioners could not legitimately claim any right to put questions to the Governor or make any kind of comments even before he had addressed the Assembly. As regards the action of the Governor, the Court did not feel persuaded to entertain the matter for the reason, among others, that the petitioners were expelled during the Address of the Governor only to enable him to discharge his constitutional duty of delivering the Address and to enable other members to hear him.-*Yogendra Nath Handa* v. *State,* A.I.R. 1967 Rajasthan 123.

16. *See,* for instance *L.S. Deb.,* 20-2-1968, c. 2167 and 28-2-1968, cc. 467-488.
17. On the occasion of the President's Address to the Provisional Parliament on 5 February 1952, a member left the Chamber in the middle of the Address. The next day, he sent a letter of apology to the Speaker, explaining the circumstances under which he had to leave in the middle of the Address.
18. The lobbies and galleries on the ground and first floors, respectively, of the Central Hall are reserved for the President's family members and his guests; for the heads of Foreign Missions and their spouses; for the family members and guests of the Chairman and the Speaker; for the Press correspondents; for the distinguished visitors; and for the visitors sponsored by the members of Rajya Sabha and Lok Sabha.

the Governor's Address on the Table, the object of the Address was substantially served and the members could become aware of the contents of the Address. The Court further observed:

"Unless there grows a constitutional convention that the Governor's Address shall be heard with attention, respect and ceremony due to the constitutional head of the State, there may be occasions when members of the Legislature may indulge in loud shoutings and unruly behaviour, when the Governor comes to address. If the shouting be loud enough or the behaviour sufficiently unruly, the Governor may not be able to begin or to finish the Address, due to human limitations, and may have to think of other modes of publication of the Address. To hold that Legislature must not be deemed to have met when a Governor is unable to begin or to finish the Address under article 176, and is compelled otherwise to publish the Address, is to put a value on such disturbances which they do not deserve"[19].

The President arrives at the Gaja Dwar (north-west portico)[20] in the State coach or Limousine attended by the Secretary and Military Secretary to the President and escorted by the President's Bodyguard mounted on horses. Before arrival of the President, Marshal of Lok Sabha lifts the Sengol installed in the Lok Sabha Chamber respectfully in an upright position and proceeds towards the Gaja Dwar, in a procession consisting of Speaker, Lok Sabha; Minister of Parliamentary Affairs; and Secretaries-General of both Houses. On reaching the Gaja Dwar foyer, the Marshal holding the Sengol in an upright position, takes his designated place, while Speaker, Lok Sabha and others move forward to the Gaja Dwar to receive the dignitaries. Upon alighting at Gaja Dwar, the President is received by Chairman, Rajya Sabha; Prime Minister; Speaker, Lok Sabha; Minister of Parliamentary Affairs; and Secretaries-General of both Houses. The President's mounted bodyguard positioned at Gaja Dwar present the National Salute as soon as the President takes position on the saluting dais. The entourage enters the Gaja Dwar and forms a procession at the foyer facing the staircase leading to the Lok Sabha Lobby with the Marshal holding the Sengol at the front of the processsion.

The President is then conducted to the Lok Sabha Chamber in a procession.[21] The

19. *Syed Abdul Mansur Habibullah* v. *the Speaker, West Bengal Legislative Assembly,* A.I.R. 1966 Calcutta 363.

20. Before the shifting of venue of the President's Address to the Lok Sabha Chamber in the Parliament House of India, the President used to arrive at Building Gate No. 5 of the *Samvidhan Sadan* where National Salute used to be presented to the President by the President's Bodyguard. Thereafter, the President was conducted to the Central Hall of the *Samvidhan Sadan* in a procession comprising of the Chairperson, Rajya Sabha, the Prime Minister, the Speaker, Lok Sabha and Minister of Parliamentary Affairs along with Secretaries-General of both the Houses, Military Secretary and Deputy Military Secretary to the President, Secretary to the President and ADCs to the President.

21. The procession is formed as indicated below—

Marshal Lok Sabha (hoding the sacred Sengol)

A.D.C.	|	A.D.C.
Secretary-General, Rajya Sabha	|	Secretary-General, Lok Sabha
Chairman, Rajya Sabha	|	Speaker, Lok Sabha
Minister of Parliamentary Affairs	The President	Prime Minister
Secretary to President	|	Military Secretary to President
A.D.C.	|	A.D.C.
A.D.C.	|	A.D.C.

procession is led by the Marshal of Lok Sabha holding the Sengol in an upright position. When the procession enters the gangway of the Lok Sabha Chamber, another Marshal of Lok Sabha announces the arrival of the President from the dais. Simultaneously, the trumpeters of the Rashtrapati Bhawan positioned in one of the galleries give a fanfare[22]. The members rise on the entry of the President and remain standing until the President has taken the seat on the dais. On reaching the snout of the Table of the House, the procession bifurcates. Marshal of Lok Sabha moves towards the desk of Secretary General and installs the sacred Sengol in an upright position. Chairman of Rajya Sabha and the Speaker of Lok Sabha move towards their seats on the dais–the Chairman to the right and the Speaker[23] to the left of the President who occupies the middle seat; the Prime Minister and Minister of Parliamentary Affairs occupy the seats on the benches in the front row facing the dais and other officers in the procession reach their seats on either side of the Table of the House. The Secretary-General of Lok Sabha, Military Secretary and Deputy Military Secretary to the President and two A.D.C.s sit on the left-hand side of the President, and the Secretary-General of Rajya Sabha, Secretary to the President and two A.D.C.s on the right-hand side. Two A.D.C.s stand behind, on either side of the President's chair on the dais. Six Presidential Bodyguards (*Sowars*), three on either side, take position adjacent to the wall behind the dais. Marshal of Rajya Sabha and Marshal of Lok Sabha stand behind the Chairman, Rajya Sabha and Speaker, Lok Sabha, respectively, while the Marshal of Lok Sabha, after installing the Sengol, takes position below the dais, adjacent to the barricade enclosing the Table of the House. With the President reaching the seat on the dais, a band of Rashtrapati Bhawan, positioned in the same Gallery as the Trumpeters, plays the National Anthem. Thereafter, as the President sits down, the Presiding Officers, members and visitors in the galleries resume

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On 10 February 1964, the Vice-President discharging the functions of President addressed both Houses of Parliament assembled together. Certain changes were, therefore, made in the order of procession and seating arrangements on the dais. In the procession Deputy Chairman, Rajya Sabha deputised for the Chairman, Rajya Sabha; Secretary and Speaker, Lok Sabha were on the left side and Secretary and Deputy Chairman, Rajya Sabha were on the right side of Vice-President. On the dais, Speaker and Deputy Chairman occupied seats on the right and left, respectively, of the Vice-President. Similarly, in the Central Hall, Secretary, Lok Sabha, sat on the right side and Secretary, Rajya Sabha, on the left side of the dais.

On 28 March 1977, the Vice-President acting as President addressed both Houses of Parliament assembled together. In the procession, Chairman pro tem, Rajya Sabha, deputised for the Chairman, Rajya Sabha; Secretary-General and Speaker, Lok Sabha, were on the left side and Secretary-General and Chairman pro tem, Rajya Sabha were on the right side of the Vice-President acting as President. On the dais, Speaker and Chairman pro tem occupied seats on the right and left, respectively, of the Vice-President acting as President. In the Central Hall, Secretary-General, Lok Sabha sat on the right side and Secretary-General, Rajya Sabha, on the left side of the dais.

On 31st January, 2024, Marshal of Lok Sabha holding venerated 'Sengol' was ahead in the procession and placed the 'Sengol' near the podium from where President delivered her Address.

22. The announcement of the President's arrival in Central Hall by trumpet and fanfare was introduced on the occasion of the President's Address on 10 February 1958. Prior to that, the A.D.C. leading the procession used to announce the entry of the President in Central Hall by saying: "Members of Parliament—The President". The practice of the Marshal of Lok Sabha announcing the arrival of the President was started in 1978 and for a couple of years trumpeters giving the fanfare was dispensed with.

23. On 5 January 1976, the Deputy Speaker of Lok Sabha deputised for the Speaker, who had resigned the office earlier. On the dais in the Central Hall, the Deputy Speaker, Lok Sabha and the Chairman, Rajya Sabha, occupied seats on the left and right, respectively, of the President.

their seats. The President then reads the printed Address[24], in Hindi or English followed by reading of the Address in the other version by the Vice-President. The Vice-President, since 2004 has been reading the first and concluding paragraphs of the Hindi or English version and the rest of the Address is being treated as read. After the conclusion of the Address, the President rises, followed by the members and visitors in the galleries when the National Anthem is played again. The President, thereafter, leaves the Lok Sabha Chamber in a procession which is formed in like manner as at the time of arrival. The members remain standing till the procession leaves the Lok Sabha Chamber. On arrival at the gate, the President takes leave of the Chairman, Rajya Sabha; the Prime Minister; the Speaker, Lok Sabha; Minister of Parliamentary Affairs; and Secretaries-General of both the Houses. The President's bodyguard again present the 'National Salute'. The President attended by the Secretary and Military Secretary boards the State Coach/ Car and leaves for the Rashtrapati Bhawan escorted by the mounted bodyguard. After conclusion of the ceremony, the sacred Sengol is carried back in a procession consisting once again the Speaker, Lok Sabha; the Minister of Parliamentary Affairs; and the two Secretaries-General and placed in its glass casing, next to the Speaker's Chair.

No photograph of the ceremony is permitted to be taken. However, since 20 December 1989, the ceremony is being televised live.

Laying of a Copy of the Address on the Table

Assembly of the two Houses of Parliament to hear the President's Address does not constitute a sitting of Lok Sabha or Rajya Sabha or a joint sitting of the two Houses since a sitting of Lok Sabha or Rajya Sabha or a joint sitting of both the Houses is duly constituted only when it is presided over by the Speaker or any other member competent to preside under the Constitution or the Rules[25]. In order that the Address

24. (i) Copies of the Address to be read by the President are obtained from the President's Secretariat and placed on the Table of the President in advance. A copy each of the Address in Hindi and English is also made available for use of the Vice-President and the Speaker.

(ii) In 1968, the President read the Address first in Hindi. He sat down for a moment and then got up and read the English version. In 1970, the President delivered the Address in English and Hindi version thereof was read by the Secretary to the President, at the conclusion of each paragraph by the President.

A point of order was raised when Lok Sabha met in its own Chamber that reading of the Hindi text of the Address by the Secretary to the President was against the constitutional provisions. The Speaker observed that he was not aware of the constitutional impropriety and he could not direct the President to read the text of the Address in a particular language—L.S. Deb., 20-2-1970, cc. 43-45.

In 1971, 1972, 1973 and 1974, the President read the Address in English, and thereafter the Vice-President read out the Address in Hindi. In 1975 and 1976, the President delivered his Address first in Hindi and later on in English. In 1977, the Vice-President acting as President delivered his Address first in Hindi and later on in English. In 1978, 1979, 1980, 1981, 1982, 1988, 1989, 1990, 1991, 1992, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2013, 2014, 2015, 2016 and 2017, the President read the Address in English and thereafter the Vice-President read the Address in Hindi. In 1983, 1984, 1985, 1986, 1987, 1993, 1994, 1995, 1996, 1997, 2009, 2010, 2011, 2012, 2018, 2019, 2020, 2021, 2022 and 2023, the President read the Address in Hindi and the Vice-President in English. The President, in the year 2005, 2006 and 2007, read his Address through a laptop screen placed on the podium. The President, in 2002 and from 2008 to 2012, delivered the Address while sitting. The President, in 2003, 2004 and from 2013 to 2023, delivered the address while standing.

25. Art. 118; Rule 11 of Rules of Procedure and Conduct of Business in Lok Sabha; and Rule 10, Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha).

delivered by the President forms part of, and is incorporated in the proceedings of the House, a separate sitting of the House is held half-an-hour after the conclusion of the President's Address when a copy each of the Hindi and the English version of the Address duly authenticated by the President is laid on the Table by the Secretary- General[26]. The authenticated copy is delivered by the President's Secretariat, an hour before commencement of the Address. After certain formal business like introduction of Bills, presentation of Reports, laying of papers on Table by Ministers, etc., is completed, the House normally stands adjourned for the day[27].

It is a convention that printed copies of the Address, received from the President's Secretariat, are distributed to members and others only after a copy thereof has been laid on the Table. A copy of the Address is distributed to members in the lobby of the House. Members who did not get their copies from the lobby are requested to obtain them from the Publications Counter[28].

Procedure for correction of error in the Address: In case certain corrections are made by the President in the copy of the Address authenticated by him and if these corrections have not been incorporated in other printed copies, a corrigendum is issued by the Secretariat before distribution of copies to members[29].

If any error is detected by a Ministry in the Address after it has been delivered by the President and a copy thereof laid on the Table, the procedure for correcting the error is for the Ministry concerned to bring it to the notice of the President.

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26. The procedure of laying on the Table a copy of the President's Address was adopted for the first time in 1952 when the President addressed both Houses of Parliament on 16 May 1952 after the first General Elections. Prior to that, the President's Address to the Provisional Parliament or the Governor-General's Address to the Central Legislative Assembly or both Houses of Central Legislature was printed in the Debates without its having been laid on the Table of the House.

    A point was raised in the House on 16 September 1936, when a member enquired as to whether the speeches delivered by the Governor-General to the Legislature were part of the proceedings and if not, why they were printed in the Assembly Debates. Speaker Abdur Rahim, explaining the position, said that the Governor-General's Address was not part of the Assembly proceedings as it had been held that when the Governor-General addressed, it was not a meeting of the Assembly or a joint meeting of the two Chambers. But at the same time, he said, it had been the uniform practice since the commencement of the Assembly to include the Address by the Governor-General in the proceedings so as to make available to members a full and authentic report of the Address. He further stated that he did not propose to alter the established practice unless the House clearly expressed a desire to that effect by an appropriate motion-*see LA. Deb.,* 16-9-1936, pp. 1142-43.

27. However, on 18 March 1967, when the House sat in its own Chamber half-an-hour after the conclusion of the President's Address, certain members insisted that motions of adjournment and motions of no-confidence in the Council of Ministers, of which they had given notice, should be taken up on that very day. As the Government had no objection to the discussion being held on the motion of no-confidence in the Council of Ministers on the same day, the Speaker allowed the motion to be taken *up-LS. Deb.,* 18-3-1967, cc. 100-120.

    On another occasion, on 23 January 1980, a Calling Attention on US arms aid to Pakistan in the context of recent developments in Afghanistan was taken up after laying of a copy of the President's Address-*LS. Deb.,* 23-1-1980, cc. 34-36.

28. Members are informed about the arrangements for the distribution of copies of the President's Address through the Bulletin-II.

29. On 8 February 1960, certain corrections were made by the President in the printed copies of the Hindi and English versions of the Address authenticated by him and received in the Secretariat an hour before the commencement of the Address at 11.00 hours. Necessary corrigenda were issued by the Secretariat to both versions of the Address and distributed, along with copies of the Address, to members.

On his approving of the correction being made, the President may send a message to the House, either addressed direct to the Speaker or conveyed to him through a Minister, which, when announced and laid on the Table, is incorporated in the proceedings and official records of the House[30].

Discussion on the Address

The discussion on the Address is held a few days after the delivery of the Address and in the intervening period other Government business is transacted[31].

The relevant article of the Constitution, as originally enacted, provided that provision be made by rules regulating the procedure of either House for the allotment of time for discussion of the matters referred to in the President's Address and for the precedence of such discussion over other business of the House[32].

Accordingly, discussion on the Address commenced, during the three sessions of the Provisional Parliament in 1950, on the day following the delivery of the Address by the President. It was, however, felt that a discussion on the Address immediately after it had been delivered did not give sufficient time to members to study the Address and prepare themselves for the discussion and also to give notices of amendments. The words "and for the precedence of such discussion over other business of the House" were, therefore, omitted by the Constitution (First Amendment) Act, 1951[33].

The Speaker, in consultation with the Leader of the House, allots time for the

30. In 1959, the President delivered his Address on 9 February 1959. The discussion on the Motion of Thanks on the President's Address commenced on 13 February 1959. The Motion of Thanks was adopted by the House on 19 February and conveyed to the President on the same day. The Department of Parliamentary Affairs at this stage detected a mistake in the Address, *viz.*, in paragraph 35 of the Address for the words "Forty-Nine Bills" the words "Fifty-Nine Bills" were to be substituted and requested that the correction might either be communicated to members through the Bulletin or the mistake might be corrected in the parliamentary debates. The Department of Parliamentary Affairs were asked to follow the procedure stated above for carrying out the correction in the Address. However, no further communication was received from them.

    In 1961, the Ministry of Community Development and Co-operation requested that in para 24 of the President's Address delivered on 14 February 1961, the last word "to" be substituted for the word "by". They also were informed about the procedure to be followed for carrying out correction in the Address but no further communication was received from them.

    In another case, after the President delivered his Address on 21 February 1994, an intimation was received from Director, President's Secretariat about omission of a sentence in the Hindi version of the President's Address. On scrutiny, it was found that while addressing members, the President read out the said sentence in the Hindi version and its English translation was also read out by Vice-President. It was also found that the English version of the authenticated copy and copies circulated to members contained the said sentence whereas the authenticated copy and copies circulated to members in Hindi, did not contain the said sentence. It was, therefore, decided that necessary correction may be made in the Hindi version of the authenticated copy and corrigendum need not be issued.

    On 20 February 1997, an hour before the delivery of his Address to both the Houses of Parliament, the President deleted one sentence from the authenticated copies (Hindi and English versions) of the Address. Rest of the copies (Hindi and English versions) were corrected in hand by the staff of the President's Secretariat and by Table Office.

31. There was no provision either in the Government of India Act, 1919, or in the Government of India Act, 1935, for discussion on the Governor-General's Address to the Central Legislature. The discussion on his Address, therefore, never took place in the Central Assembly.

32. Art. 87(2), as originally enacted.

33. For observations of the Prime Minister in this connection, *see* his reply to cl. 7 of the Constitution (First Amendment) Bill, 1951, as reported by the Select Committee—*P. Deb.,* 2-6-1951, c. 9949.

discussion of the matters referred to in the President's Address[34]. For this purpose, about a week before the President's Address, the Minister of Parliamentary Affairs (or the Leader of the House in case the Prime Minister is not the Leader of the House) suggests the provisional programme of dates for discussion on the Address. After the programme has been approved by the Speaker, it is published in the Bulletin for the information of members. The actual allocation of time for discussion on the Address is, however, made by the House on the recommendation of the Business Advisory Committee after the President has delivered the Address. Generally three days are allotted for the discussion.

The discussion takes place on a Motion of Thanks moved by a member and seconded by another member[35].

According to an established practice, the mover and the seconder of the Motion are selected by the Prime Minister and invariably belong to the ruling party[36]. The notice of the Motion, given by a member and seconded by another, is received through the Minister of Parliamentary Affairs (and through the Leader of the House in case the Prime Minister is not the Leader of the House), and after it is admitted by the Speaker, the Motion is published in the Bulletin and the List of Business.

On the days allotted for discussion, the House is at liberty to discuss the matters referred to in the Address[37]. The scope of discussion on the Address is very wide and the entire administration is thrown open for discussion. Even matters which are not specifically mentioned in the Address are brought into discussion through amendments to the Motion of Thanks. The only limitations are that members cannot refer to matters which are not the direct responsibility of the Government of India[38], and that the name of the President cannot be brought in during the debate since the Government and not the President is responsible for the contents of the Address[39].

Amendments to the Motion of Thanks

Notices of amendments to the Motion of Thanks, received after the President has delivered his Address but before a copy thereof is laid on the Table, are treated as valid. However, lists of amendments are circulated to members after the notice of the Motion of Thanks is received in the Secretariat.

A member is permitted to Table not more than ten amendments to the Motion of Thanks[40].

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34. Art. 87(2) and Rule 16. Unlike article 87, there is no constitutional provision making it obligatory for allotment of time for discussion of the matters referred to in the President's Address under article 86(1), though the Rules empower the Speaker to do so—*see* Rule 22.
35. Rule 17.
36. However, there were occasions when the Motion of Thanks to the President's Address was seconded by one of the members of the ruling coalition or party supporting the Government—*see L.S. Deb.,* 16-3-2000, c. 305; 7-3-2001, c. 410; 15-3-2002, c. 398 and 24-2-2003, c. 390.
37. Rule 17. However, with the unanimous consent of the House, a matter can be discussed on a separate motion although it may have been referred to in the Address.—*see LS. Deb.,* 11-2-1964, c.168.
38. *LS. Deb.,* 16-5-1957, c. 635.
39. *Ibid,* 22-2-1960, c. 2105.
40. Direction 42.

Notices of amendments to the Motion of Thanks are tabled by members with reference to matters referred to in the Address as well as to matters which, in the opinion of the movers thereof, the Address had failed to mention[41]. The amendments are moved by members in such form as is considered appropriate by the Speaker[42]. The amendments tabled by members are examined in the Secretariat and such of them as are *prima facie* in order are circulated to members. The amendments which are inconsistent with the provisions of the Constitution or refer discourteously to a friendly foreign government or Head of State or cast reflection on the conduct of the President and Vice-President or relate to matters under control of the Speaker, are disallowed[43]. If separate time has been allotted during the same session for discussion of particular subjects referred to in the Address, amendments pertaining to those subjects are also disallowed[44]. Substitute motion to the Motion of Thanks, which being itself a substantive motion, is inadmissible.

Discussion on the Motion is initiated by the proposer of the Motion who is followed by the seconder. After the seconder has concluded his speech, an announcement is made by the Speaker to the effect that the members whose amendments to the Motion of Thanks have been circulated, may, if they desire to move their amendments, send slips at the Table within 15 minutes indicating the serial numbers of the amendments they would like to move. Only those amendments, slips in respect of which are received at the Table within the stipulated time, are treated as moved.

A list showing the serial numbers of the amendments indicated by the members is put on the Notice Board thereafter to facilitate the members to immediately bring to the notice of the officers at the Table any discrepancy noticed in the list. Even at this stage the Speaker has the discretion to rule any amendment out of order even though it had been circulated to the members. Those members who do not move the amendments at this stage are not permitted to do so later when the discussion has started[45]. In rare cases, however, where the Speaker is satisfied with the explanation of the member for not indicating his intention to move his amendment at the appropriate stage, he may permit the member to move the amendment at a later stage[46].

Normally, an amendment given notice of by several members is printed in the list of amendments after clubbing the names of all such members according to the date and time of receipt of notices. However, moving of identical amendments is not in order.

Even if an identical amendment is printed in separate lists, the amendment is treated as moved by that member only whose name appears first in the printed list of amendments and if the member also indicates his intention to move the amendment,

41. *H.P. Deb.* (II), 19-5-1952, cc. 87-88.
42. Rule 18.
43. *H.P. Deb.* (II), 17-2-1954, c. 386; and *LS. Deb.,* 20-3-1957, c. 112.
44. *P. Deb.* (II), 1-8-1950, cc. 32-33.
45. *P. Deb.* (II), 1-2-1950, p. 41; *H.P. Deb.* (II), 19-5-1952, cc. 88-89; and *L.S. Deb.,* 19-2-1959, cc. 1960-61.
46. *L.S. Deb.,* 15-5-1957, c. 356; 21-2-1966, cc. 1359, 1373; and 28-2-1979, cc, 273-274.

notwithstanding that other members also have indicated their intention to move the identical amendments.[47]

The Speaker may, if he thinks fit, prescribe a time limit for speeches after taking the sense of the House[48]. For this purpose, on the opening day of the discussion, the Speaker makes an announcement fixing the time limit which does not ordinarily exceed 30 minutes for the Leaders of Groups and 15 minutes for other members[49]. The Prime Minister, when replying to the debate on behalf of the Government is, however, allowed more time.

Discussion on the Address is generally not interrupted during the course of the sitting of the House by any other business. Only business of a formal character can be transacted on these days before the House commences or continues the discussion on the Address[50]. Interruption of discussion on the Address may, however, take place in favour of discussion on an adjournment motion in case leave to move such a motion has been granted by the House[51], or discussion on the Address may be postponed on a motion being made to that effect in favour of a Government Bill or other Government business[52].

At the end, generally the Prime Minister replies to the debate on President's Address[53] but it is in order for any other Minister to do so[54]. On some occasions, however, Ministers have participated in, or replied to, the debate on points concerning their respective Ministries and the Prime Minister has reviewed the position on matters of national and international importance[55].

After the Prime Minister has replied to the debate, the amendments that had been moved are disposed of and the Motion of Thanks put to the Vote of the House. If during

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47. Direction 42A.

48. Rule 21.

49. *L.S. Deb.,* 20-2-1961, c. 871.

50. Rule 19(1) (b).

51. Rule 19(3).

52. Rule 19(2).

    (i) On an occasion, the discussion on the Address was postponed for some time in favour of a Government Bill without a formal motion being made for the purpose-*see L.S. Deb.,* 2-2-1956 and 21-2-1956.

    (ii) On 21 March, 1967, discussion on the Address was postponed to take up Railway and General Budgets—*see L.S. Deb.,* 21-3-1967, c. 674; 27-3-1967, c. 991; 28-3-1967, cc. 1263-69; and 29-3-1967, cc. 1864-1969.

    (iii) In 1995, the President addressed both the Houses of Parliament on 13 February. Due to urgent financial and legislative business, the discussion on the Motion of Thanks on the Address by the President was taken up only on 25 April 1995.

53. On an occasion, the Home Minister replied to the debate while the Prime Minister participated in the debate earlier—*L.S. Deb.,* 16-2-1957 and 17-5-1957.

54. Rule 20 and *LS. Deb.,* 19-2-1964, c. 609.

55. *P. Deb.* (II), 1-8-1950, cc. 96-106; 2-8-1950, cc. 111-312; 17-11-1950, cc. 194-262; *H.P. Deb.* (II), 20-5-1952, cc. 206-214; 21-5-1952, cc. 238-48 and 307-13; 22-5-1952, cc. 376-97; 22-2-1954, cc. 410-39 and 449-54; *L.S. Deb.* (II), 25-2-1955, cc. 415-37 and 22-2-1956, cc. 691-701.

the course of his reply to the debate the Prime Minister announces the decision of the Council of Ministers to resign, the Motion of Thanks is declared infructuous and not proceeded with[56].

After the Motion is carried, it is conveyed to the President direct by the Speaker through a letter[57]. The President also acknowledges the receipt of the Motion through a message to the Speaker[58]. On receipt of the message, the Speaker reads it out to the House.

Messages and Communications to the House

The Constitution provides that the President may send messages to either House of Parliament, whether with respect to a Bill then pending in Parliament or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration[59].

The Rules provide that when such a message is received from the President, the Speaker shall read out the message to the House and give necessary directions in regard to the procedure that shall be followed for the consideration of matters referred to in the message. In giving these directions, the Speaker is empowered to suspend or vary the Rules to such extent as may be necessary[60].

The President may also send a message notifying his intention to summon both the Houses to meet in a joint sitting for the purpose of deliberating and voting on a Bill, other than a Money Bill or a Bill to amend the Constitution which, having been passed by one House and transmitted to the other House is rejected by that House[61]; or the Houses have finally disagreed to the amendments to be made in the Bill[62]; or 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.

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56. On 6 March 1991, while concluding his reply to Motion of Thanks on the President's Address to both the Houses of Parliament assembled together on 21 February 1991, the Prime Minister informed that the Council of Ministers had decided to tender their resignation and that he would be meeting the President immediately to convey to him their decision.

    The Speaker, thereupon, observed that in view of the decision of the Council of Ministers to resign, the Motion of Thanks on the President's Address had become infructuous—*see L.S. Deb.,* 6-3-1991, cc. 813-14.

57. On 3 March 1987, when Speaker was abroad, the Deputy Speaker conveyed to the President through a letter signed 'for Speaker' the Motion of Thanks adopted by the House.

58. Rule 246. *see* also *L.S. Deb.,* 4-5-1962, c. 2612; 25-3-1986, c. 298; 10-3-1987, cc. 395-96.

59. Art. 86 (2). This provision is analogous to the one in s. 20(2) of the Government of India Act, 1935. Since the commencement of the Constitution, the President has, however, not sent any message under this provision.

60. Rule 23.

61. Art. 108(1) (a). On 22 March 2002, the President sent a message notifying his intention to summon both the Houses to meet in a Joint Sitting for the purpose of deliberating and voting on the Prevention of Terrorism Bill, 2002 which after being passed by Lok Sabha on 18 March 2002 was rejected by Rajya Sabha on 21 March 2002, the motion for consideration of the Bill having been negatived by Rajya Sabha. The Bill was finally passed in the Joint Sitting held on 26 March 2002 and assented to by the President on 28 March 2002.

62. Art. 108(l)(b). On 18 April 1961, the President sent a message under this article notifying his intention to summon both the Houses to meet in a Joint Sitting for the purpose of deliberating and voting on the Dowry Prohibition Bill, 1959, regarding which the Houses had finally disagreed as to the amendments to be made in the Bill. Similarly, the President sent a message dated 8 May 1978 received on 10 May 1978 notifying his intention to summon both Houses to meet in a Joint Sitting for the purpose of deliberating and voting on the Banking Service Commission (Repeal) Bill, 1977 on which the Houses had finally disagreed. For details, *see* Chapter IV- Relations between the Houses.

The President has also been empowered to return a Bill, as soon as possible, on presentation to him after its having been passed by the Houses of Parliament for assent, if it is not a Money Bill, or a Bill to amend the Constitution[63] to the Houses with a message requesting them to reconsider the Bill or any specified provisions thereof and, in particular, to consider the desirability of introducing any such amendment as he may recommend in his message[64]. When a Bill is so returned, the Houses have to reconsider the Bill accordingly, and if the Bill is passed again by the Houses with or without amendment and presented to the President for assent, the President cannot withhold assent therefrom.

Communications between the President and the House

Communications from the President to the House are made to the Speaker by written message signed by the President or, if the President is absent from the place of sitting of the House, his message is conveyed to the Speaker through a Minister[65]. The messages received from the President are read out by the Speaker to the House[66]. Communications from the House to the President are made—

(i) by formal address, after motion made and carried in the House; and

(ii) through the Speaker[67].

Apart from the Motion of Thanks on the President's Address, no other communication has so far been sent from the House to the President.

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63. Arts. 111 and 368.

64. So far, the President has returned two Bills with messages for reconsideration of the Bills by Parliament. The Indian Post Office (Amendment) Bill, 1986 was presented to the President on 19 December 1986 for his assent by the Rajya Sabha Secretariat. The President returned the Bill along with a message to reconsider the Bill, specifically clause 16 thereof, to the Rajya Sabha on 7 January 1990. The Bill was not reconsidered by the Rajya Sabha in terms of Presidential message for more than 12 years. On 13 March 2002, Rajya Sabha adopted a motion recommending to Lok Sabha that Lok Sabha do agree to leave being granted by Rajya Sabha to withdraw the Bill. On 16 March 2002 Lok Sabha concurred in the motion. The Bill was ultimately withdrawn in Rajya Sabha on 21 March 2002.

    The Parliament (Prevention of Disqualification) Amendment Bill, 2006, as passed by the Houses, was presented to the President on 24 May 2006 for his assent by Rajya Sabha Secretariat. The President returned the Bill on 30 May 2006 for reconsideration of Houses with a message containing his observations. The Bill was reconsidered and passed again by Rajya Sabha on 27 July 2006. The Bill, as passed again by Rajya Sabha, was laid on the Table of Lok Sabha on 28 July 2006 and passed by Lok Sabha on 31 July 2006. The Bill was assented to by the President on 18 August 2006.

65. Rule 246. On two different occasions, messages signed by the President and addressed to the Speaker notifying his intention to summon both the Houses of Parliament to meet in a Joint Sitting for the purpose of deliberating and voting on the (i) Dowry Prohibition Bill, 1959, and (ii) Banking Service Commission (Repeal) Bill, 1977 were forwarded to the Speaker by the Minister of Parliamentary Affairs and were read out in the House by the Speaker. *L.S. Deb.,* 19- 4-1961, c. 12428; and 10-5-1978, c. 296. However, messages sent by the President every year under his signature acknowledging the Motion of Thanks which are also addressed to the Speaker are received by him direct and reported to the House.

66. *LS. Deb.,* 19-4-1961, c. 12428.

    In the Central Legislative Assembly, till 1935, whenever a message from the Governor-General was reported to the Assembly, it was received by the members standing *(LA. Deb.,* 5-2-1934, p. 480; 8-2-1934, p. 655; and 5-2-1935, p. 408). The practice was revived in Lok Sabha in the year 1960 when the message from the President acknowledging receipt of "Motion of Thanks" adopted by the House on his Address was received by the members standing. This practice was, however, discontinued from the year 1962 as certain members had raised objection to it in the previous year.

67. Rule 247. This Rule is analogous to Standing Order 74 of the Central Legislative Assembly.

CHAPTER 11

Powers, Privileges and Immunities of Houses, their Committees and Members

In parliamentary language the term privilege applies to certain rights and immunities enjoyed by each House of Parliament and Committees of each House collectively, and by members of each House individually. The object of parliamentary privileges is to safeguard the freedom, the authority and the dignity of Parliament. Privileges are necessary for the proper exercise of the functions entrusted to Parliament by the Constitution. They are enjoyed by individual members, because the House cannot perform its functions without unimpeded use of the services of its members; and by each House collectively for the protection of its members and the vindication of its own authority and dignity[1].

In modern times, parliamentary privilege has to be viewed from a different angle than in the earlier days of the struggle of Parliament against the executive authority. Privilege at that time was regarded as a protection of the members of Parliament against an executive authority not responsible to Parliament. The entire background in which privileges of Parliament are now viewed has changed because the Executive is now responsible to Parliament. The foundation upon which they rest is the maintenance of the dignity and independence of the House and of its members[2].

In interpreting these privileges, therefore, regard must be had to the general principle that the privileges of Parliament are granted to members in order that "they may be able to perform their duties in Parliament without let or hindrance"[3]. They apply to individual members "only insofar as they are necessary in order that the House may freely perform its functions. They do not discharge the member from the obligations to society which apply to him as much and perhaps more closely in that capacity, as they apply to other subjects"[4]. Privileges of Parliament do not place a member of Parliament on a footing different from that of an ordinary citizen in the matter of the application of laws unless there are good and sufficient reasons in the interest of Parliament itself to do so[5].

The fundamental principle is that all citizens, including members of Parliament, have to be treated equally in the eyes of the law. Unless so specified in the Constitution or in any law, a member of Parliament cannot claim any privileges higher than those enjoyed by any ordinary citizen in the matter of the application of law[6].

1. M.N. Kaul–*Codification of the Law on Privilege* (Note circulated at the Conference of Presiding Officers in August 1950).
2. *Report of Committee of Speakers,* 1956, p. 9, para 16.
3. *Report of Committee of Privileges in Captain Ramsay Case,* H.C. 164 (1939-40), p. vi, para 19.
4. *Report of Committee of Privileges in Lewis Case,* H.C. 244(1951), p. ix, para 22.
5. *Report of Committee of Speakers,* 1956, p. 9, para 18.
6. *Report of Committee of Privileges in Deshpande Case,* 1 L.S., para 17.

When any individual or authority disregards or attacks any of the privileges, rights and immunities, either of the members individually or of the House in its collective capacity or of its committees, the offence is termed a breach of privilege, and is punishable by the House. Besides, actions in the nature of offences against the authority or dignity of the House, such as disobedience to its legitimate orders or libels upon itself, its members or officers are also punishable, although these actions are not breaches of any specific privilege. Such actions, though often called 'breaches of privilege', are more properly distinguished as 'contempts'[7].

Each House is the guardian of its own privileges: it is not only the sole judge of any matter that may arise which in any way infringes upon those privileges but can, if it deems it advisable, punish, either by imprisonment or reprimand, any person whom it considers to be guilty of contempt. The penal-jurisdiction of the House is not confined to its own members nor to offences committed in its immediate presence, but extends to all contempts of the House, whether committed by members or by persons who are not members, irrespective of whether the offence is committed within the House or beyond its walls.

The power of the House to punish any person who commits a contempt of the House or a breach of any of its privileges is the most important privilege. It is this power that gives reality to the privileges of Parliament and emphasises its sovereign character so far as the protection of its rights and the maintenance of its dignity are concerned[8].

Question of Codification of Privileges

The powers, privileges and immunities of either House of Parliament and of its members and committees have been laid down in article 105 of the Constitution. In this article, the privilege of freedom of speech in Parliament and the immunity to members from "any proceedings in any court in respect of anything said or any vote given" by them in Parliament or any committee thereof are specifically provided for. The article also provides that no person shall be liable to any proceedings in any court "in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings". In other respects, however, clause (3) of this article as originally enacted, provided that "the powers, privileges and immunities of each House of Parliament, and of the members and the committees of each House, shall be such as may from time to time be defined by Parliament by law, and until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution", namely 26 January 1950[9].

Article 105(3) was amended by the Constitution (Forty-fourth Amendment) Act, 1978[10]. Section 15 of the Constitution (Forty-fourth Amendment) Act, 1978 which

7. For details, *see* this Chapter under sub-head 'Breach of Privilege and Contempt of the House', *infra.*

8. Kaul, *op. cit.*

9. For observations of Alladi Krishnaswami Ayyar and Dr. B.R. Ambedkar, *see C.A. Deb.,* 19-5-1949, pp. 148-49; 3-6-1949, pp. 582-83. *See* also *C.A. Deb.,* 16-10-1949, pp. 374-75.

10. Similarly, article 194(3) relating to the powers, privileges and immunities of the Houses of State Legislatures has been amended [by section 26 of the Constitution (Forty-fourth Amendment) Act,

came into force with effect from 20 June 1979 provides that in other respects, the powers, privileges and immunities of each House of Parliament, and of the members and the Committees of each House, shall be such as may from time to time be defined by Parliament by law, and until so defined, shall be those of that House and of its members and committees immediately before the coming into force of Section 15 of the Constitution (Forty-fourth Amendment) Act, 1978. Privileges enjoyed by Parliament as on 20 June 1979, have thus been specified as the period of reference and specific mention of the House of Commons has been omitted. The purpose of this amendment, as stated by the then Law Minister while replying to the discussion on the Constitution (Amendment) Bill, was that "a proud country like India would like to avoid making any reference to a foreign institution in its own solemn constitutional document". The amendments made in the articles 105(3) and 194(3) were, however, of verbal nature and the position remains basically the same as on 26 January 1950.

No comprehensive law[11] has so far been passed by Parliament to define the powers, privileges and immunities of each House, and of the members and the committees thereof. In the absence of any such law, the powers, privileges and immunities of the House, and of the members and the committees thereof, continue to remain in actual

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1978], so that the powers, privileges and immunities of a House of the Legislature of a State, and of the members and the committees of a House of such Legislature, shall be such as may from time to time be defined by the Legislature by law, and, until so defined, shall be those of that House and of its members and committees immediately before the coming into force of section 26 of the Constitution (Forty-fourth Amendment) Act, 1978.

11. In 1956, Parliament enacted the Parliamentary Proceedings (Protection of Publication) Act, 1956, sponsored by a private member, section 3 of which provided:

(1) Save as otherwise provided in sub-section (2), no person shall be liable to any proceedings, civil or criminal, in any court in respect of the publication in a newspaper of a substantially true report of any proceedings of either House of Parliament, unless the publication is proved to have been made with malice.

(2) Nothing in sub-section (1) shall be construed as protecting the publication of any matter, the publication of which is not for the public good.

The Act also applied to parliamentary proceedings broadcast by wireless telegraphy. The said Act was repealed in February 1976. However, the position as under the Act of 1956 was restored by the Parliamentary Proceedings (Protection of Publication) Act, 1977.

Under section 135A of the Code of Civil Procedure, members of Parliament and State Legislatures are exempt from arrest and detention under civil process during the continuance of a session of the House or a committee meeting and during forty days before and after such session or committee meeting.

Article 361A of the Constitution inserted by section 42 of the Constitution (Forty-fourth Amendment Act, 1978, provides that:

(1) No person shall be liable to any proceedings, civil or criminal, in any court in respect of the publication in a newspaper of a substantially true report of any proceedings of either House of Parliament or the Legislative Assembly, or, as the case may be, either House of the Legislature of a State, unless the publication is proved to have been made with malice:

Provided that nothing in this clause shall apply to the publication of any report of proceedings of a secret sitting of either House of Parliament or the Legislative Assembly, or as the case may be, either House of the Legislature of a State.

(2) Clause (1) shall apply in relation to reports or matters broadcast by means of wireless telegraphy as part of any programme of service provided by means of a broadcasting station as it applies in relation to reports or matters published in a newspaper.

Explanation: In this article, "Newspaper" includes a news agency report containing material for publication in a newspaper.

practice, the same as those of the House of Commons, U.K., and of its members and committees, at the time of the commencement of the Constitution.

The question of undertaking legislation on the subject has engaged the attention of the Presiding Officers since 1921. Speaker Frederick Whyte stated at the first Speakers' Conference held that year:

> The whole question of 'privileges' in respect of the Legislatures in India was one of great importance..., the point being whether legal powers should be asked for to enable the Legislatures to punish contempts.

He further observed that since no privileges resembling those of the House of Commons had been statutorily conferred on Legislatures in India, they possessed no powers to punish contempts.

The matter was considered from time to time at the Conference of Speakers and ultimately in 1933, when the discussions on the Government of India Bill were taking place in the Parliament of the U.K., the Secretary of the Central Legislative Assembly was authorized by the Speakers' Conference to address a memorandum to the Clerk to the Joint Select Committee, House of Lords, London. Paragraph 4 of the memorandum, which was approved and signed by Speaker Shanmukham Chetty, stated as follows:

> The unanimous opinion of the Conference of Speakers was that the future Legislatures, both Central and Provincial, in India must be given the privileges, immunities and powers enjoyed by the House of Commons... The Conference felt that in order to achieve this object it was essential that a section on the lines of section 18 of the British North America Act, 1867, as subsequently amended by the Parliament of Canada Act, 1875, should be incorporated in the Constitution of India..., for the purpose of the exercise and safeguarding these privileges and immunities, the Legislatures, both Central and Provincial, should be made a Court of Record to enquire into and punish contraventions of the Act.

The British Parliament, however, did not accept the proposal.

The question was again taken up at the Speakers' Conference in 1938.

Speaker Abdur Rahim addressed memorandum on the subject to the Government of India to be forwarded to the authorities concerned. Paragraph 5 of this memorandum stated as follows:

> The Conferences were unanimously and emphatically of opinion that the Government of India should be requested to take immediate steps to get sections 28 and 71 of the Government of India Act, 1935, amended so as to secure for the Central and Provincial Legislatures and the officers and members thereof all the powers and privileges which are held and enjoyed by the Speaker and members of the British House of Commons.

At the Presiding Officers Conference held in 1939, it was agreed that there should be a definition of privilege. However, no legislation on the subject was ultimately passed[12].

12. *P.O.C. Proceedings,* 18-7-1939, pp. 18-24.

Subsequently, at the instance of Speaker Mavalankar, as far as the Centre was concerned, section 28 of the Government of India Act was amended by an Adaptation Order, dated 31 March 1948. As adapted, S. 28(2) reads as follows:

> In other respects, the privileges of members of the Dominion Legislature shall be such as may from time to time be defined by Act of the Dominion Legislature and, until so defined, shall be such as were immediately before the establishment of the Dominion enjoyed by the members of the House of Commons of the Parliament of the United Kingdom.

In September 1949, when the question of enacting legislation on the subject was considered by the Conference, the Chairman (Speaker Mavalankar) expressed this view:

> It is better not to define specific privileges just at the moment but to rely upon the precedents of the British House of Commons. The disadvantage of codification at the present moment is that whenever a new situation arises, it will not be possible for us to adjust ourselves to it and give members additional privileges. Today, we are assured that our privileges are the same as those of the members of the House of Commons...
>
> In the present set-up any attempt at legislation will very probably curtail our privileges. Let us, therefore, content ourselves with our being on at par with the House of Commons, Let that convention be firmly established and then we may, later on, think of putting it on a firm footing[13].

A Committee consisting of four Speakers was appointed to examine the recommendations received from the Provinces on the question of legislation on the subject.

In their Report, the Committee of Speakers, *inter alia,* made the following observations:

> The Committee is doubtful as to whether under article 194(3) a Legislature can enact a law defining the powers, privileges and immunities of its members in certain respects only and also providing therein that in other respects the powers, privileges and immunities will be those of the House of Commons. The Committee is of the opinion that if it is competent to a Legislature under this article to enact such a law, then only the Legislature should undertake a legislation defining the powers, privileges and immunities of members. Otherwise, it would not be advisable to undertake any legislation at present[14].

The issue of the codification of privileges and the report of the Committee of Speakers were discussed in detail at the Conference of Presiding Officers held in August 1950. In his opening address to the Conference, the Chairman (Speaker Mavalankar) observed:

> There will be two great difficulties and handicaps if we were to think of any legislation in respect of the privileges. These are:
>
> (i) Any legislation at the present stage would mean legislation only in regard to matters acceptable to the Executive Government of the day. It is obvious that, as they

13. *Ibid.,* 2-9-1949, pp. 28-29.
14. *Report of the Committee of Speakers, appointed to suggest Powers, Privileges and Immunities of Legislatures and their Members,* 1950, p. 1, para 4.

command the majority, the House will accept only what they think proper to concede. It is important to bear in mind that the privileges of members are not to be conceived with reference to this or that party, but as privileges of every member of the House, whether he belongs to Government or the Opposition party. My fears are, therefore, that an attempt at legislation would mean a substantial curtailment of the privileges as they exist today.

(ii) My second reason is that any legislation will crystallize the privileges and there will be no scope for the presiding authorities to widen or change the same by interpretation. Today they have an opportunity of adapting the principles on which the privileges exist in the United Kingdom to conditions in India.

I may here invite your attention to the Secretary's note[15] on the subject which is being circulated to you[16.]

The note referred to above, *inter alia,* emphasized:

Our Constitution has one important peculiarity in that it contains a declaration of fundamental rights and the Courts have been empowered to say that a particular law or a part of law is void or invalid because it is in conflict with a particular fundamental right and therefore beyond the powers of Parliament.

At the present time the privileges of Parliament are part and parcel of the Constitution and, therefore, of what is known as the 'fundamental law'. The Courts will, therefore, be compelled to reconcile the existing law of privilege, which carries with it the power of the Speaker to issue a warrant without stating the grounds on the face of it, with the fundamental rights. It will be extremely difficult for the Supreme Court to say that what is so explicitly provided in a part of the Constitution in regard to the existing privileges of Parliament is in any way restricted by the fundamental rights[17].

Once, however, the privileges are codified by an Act of Parliament in India, the position changes entirely... The statute will be examined in the same way as any other

15. *P.O.C. Proceedings,* 21-8-1950, pp. 2-3.

16. *P.O.C. Proceedings,* 21-8-1950, pp. 2-3.

17. In 1958, the Supreme Court in the *Searchlight Case* upheld this view and declared:

"It is true that a law made by Parliament in pursuance of the earlier part of art. 105(3) or by the State Legislature in pursuance of the earlier part of art. 194(3) will not be a law made in exercise of constituent power ... but will be one made in exercise of its ordinary legislative powers under art. 246 read with the entries.... (entry 75 of List I and entry 39 of List II of the Seventh Schedule), and that consequently if such a law takes away or abridges any of the fundamental rights, it will contravene the pre-emptory provisions of art. 13(2) and will be void to the extent of such contravention and it may well be that, that is precisely the reason why our Parliament and the State Legislatures have not made any law defining the powers, privileges and immunities just as the Australian Parliament had not made any under section 49 of their Constitution corresponding to art. 194(3)... It does not, however, follow that if the powers, privileges or immunities conferred by the latter part of those articles are repugnant to the fundamental rights, they must also be void to the extent of such repugnancy. It must not be overlooked that the provisions of art. 105(3) and art. 194(3) are constitutional laws and not ordinary laws made by Parliament or the State Legislatures and that, therefore, they are as supreme as the provisions of Part III.

Art. 19(1) & (4) and art. 194(3) have to be reconciled and the only way of reconciling the same is to read art. 19(l)(a) as subject to the latter part of art. 194(3)... in our judgment the principle of harmonious construction must be adopted and so constructed that the provisions of art. 19(l) & (4), which are general, must yield to art. 194(1) and the latter part of its clause (3) which are special," *M.S.M. Sharma* v. *Sri Krishna Sinha,* A.I.R. 1959 S.C. 395.

> statute passed by Parliament and the courts may well come to the conclusion that in view of the provisions in the fundamental rights, it is not open to any Legislature in India to prescribe that the Speaker may issue a valid warrant without disclosing the grounds of commitment on the face of the warrant… all matters would (then) come before the courts and Parliament would lose its exclusive right to determine matters relating to its privilege.

During the discussion that took place in the Conference, opinions were divided. Some expressed their views in favour of undertaking legislation while others opposed the idea. No decision was ultimately taken by the Conference on the subject[18].

The plea for codification of privileges was also put forward in 1954 by the Press Commission[19], but it was not upheld by Speaker Mavalankar who, in his address to the Conference of Presiding Officers at Rajkot on 3 January 1955, observed:

> The Press Commission considered this matter purely from the point of view of the Press. Perhaps they may have felt the difficulties of the Press to be real; but from the point of view of the Legislature, the question has to be looked at from a different angle.
>
> Any codification is more likely to harm the prestige and sovereignty of the Legislature without any benefit being conferred on the Press. It may be argued that the Press is left in the dark as to what the privileges are. The simple reply to this is that those privileges which are extended by the Constitution to the Legislature, its members, etc. are equated with the privileges of the House of Commons in England. It has to be noted here that the House of Commons does not allow the creation of any new privileges; and only such privileges are recognized as have existed by long time custom. No codification, therefore, appears to be necessary[20].

The Conference debated the issue and unanimously decided that "in the present circumstances, codification is neither necessary nor desirable"[21].

Speaking in the Lok Sabha on private member's Bill the Parliamentary Privilege Bill–which sought to include members' letters to Ministers within the meaning of the term "Proceedings in Parliament", the Minister of Law observed[22].

> After all, it is now acknowleged more or less universally that matters of privilege should be left uncodified rather than codified. It is all the more so in this country. Though in England, Parliament may, if it so chooses, pass any law concerning privilege without any limitation whatsoever either by way of extending it or restricting it, in this country the moment we think of passing any law we shall have to contend with limitations which the Constitution imposes upon us. That matter has been made quite clear in the recent judgment of the Supreme Court in the *Patna Searchlight Case* wherein it appears to have been laid down that if Parliament sought to pass a law

18. *P.O.C. Proceedings,* 21-8-1950, pp. 35-51.
19. *Report of the Press Commission,* 1954, Part I, p. 421, para 1096.
20. *P.O.C. Proceedings,* 3-1-1955, p. 5.
21. *Ibid.,* pp. 35-37.

    The dignity and independence of the two Houses are in great measure preserved by keeping their privilege indefinite—H.C. *Deb.,* Vol. 563, cc. 1300-01.
22. *L.S. Deb.,* 20-2-1959, cc. 2275-76.

> seeking to confer some privilege which it now enjoys, it might have been bad in law as well as against the Constitution.
>
> Therefore, I think it will be a good rule of caution and prudence if we do not indulge in large scale legislation or indiscriminate legislation concerning the privileges of this House or of the other House.

It was contended in a writ petition filed in the Madras High Court that article 194(3) was transitional or transitory in character, that non-enactment of any law on the subject was a deliberate inaction with the consequence that what was guaranteed under the second limb of the said article was no longer available, and must be held to have lapsed by default. In this connection, the Court observed:

> It is very difficult to see how any theory of automatic lapse, or lapse due to inaction, can apply to article 194(3) in its relation to the State Legislature... it is impossible to arrive at any conclusion that the inaction is deliberate; far more so, to sustain any theory that such inaction has the effect of a lapse or extinction. *Far contra,* where the Constitution intends setting a term to any situation of rights it explicitly says so, and articles 334, 337 and 343 are very clear instances[23].

A plea for the codification of powers, privileges and immunities of the Legislatures and members and committees thereof was made at the Conference of Presiding Officers held at Bombay in 1965. The Conference debated the issue and decided against codification.

The Second Press Commission, in its report submitted to the Government on 3 April 1982, recommended that from the point of view of freedom of the Press it is essential that the privileges of Parliament and State Legislatures should be codified as early as possible. It was also recommended that the Rules of Procedure and Conduct of Business of the Houses of Parliament and State Legislatures dealing with the procedure for taking action against alleged breaches of privilege, etc., should be reviewed with a view to incorporating therein, provisions for affording reasonable opportunity to contemnors to defend themselves in the proceedings for breach of privilege.

The question of codification of powers, privileges and immunities of the House and of the members and the Committees thereof was also considered during the First Conference of the Chairmen of Committees of Privileges of Parliament and State Legislatures in India, held in New Delhi on 14 and 15 March 1992. It was unanimously decided by the Conference that 'there should be no codification of privileges'.

The matter was also taken up by the Committee of Privileges of the Tenth Lok Sabha for examination with the approval of the Speaker, Lok Sabha. The Committee in their Fourth Report on the issue of 'Codification of Parliamentary Privileges' which was laid on the Table of the House on 19 December 1994 felt that the ground reality was entirely opposite to the picture projected insofar as allegations of the misuse of parliamentary privileges are concerned. The Committee also held the view that the Legislature's powers to punish for contempt was more or less akin and analogous to the power given to the courts to punish for their contempt. The Committee, therefore, felt that what constitutes a breach of privilege or contempt of the House can be best

23. *C. Subramaniam* v. *Speaker of the Madras Legislative Assembly,* A.I.R. 1969, Madras 10.

decided according to the facts and circumstances of each case rather than by specifying them in so many words. In view of this, the Committee recommended against codifying parliamentary privileges.

Even after presentation of the Fourth Report (Tenth Lok Sabha), various misconceptions did continue to exist and lamentably even among the educated classes. The Committee of Privileges (Fourteenth Lok Sabha) felt that there was a strong case for revisiting the very concept of parliamentary privileges. The Committee of Privileges accordingly, with the approval of the Speaker, Fourteenth Lok Sabha, took up for consideration the matter regarding "Parliamentary Privileges – Codification and related matters." The Eleventh Report of the Committee of Privileges was laid on the Table of the House on 30 April 2008. The Committee at the very threshold, addressed the basic reasons/primary factors from which emanated the oft felt need in certain quarters and demand from others for codification of parliamentary privileges. The Committee felt it appropriate to focus on these core areas/factors. The Committee, therefore proceeded to clarify the extent and scope of privileges of the members and dispel certain misconceptions that prevail. Through a comprehensive questionnaire the Committee elicited opinion from the eminent persons/institutions belonging to Legislature, Legal Profession, Media and Academia. The Committee also obtained opinion from Foreign Parliaments.

The Committee in their Report, after having considered the entire gamut of aspects relating to parliamentary privileges, the ground realities, responses to questionnaire on parliamentary privileges, established a position in the matter, and after an in-depth study of the case law summed up their observations/conclusions as under:

> (i) Parliamentary privileges are made available to members of Parliament solely to enable them to perform their parliamentary duties unfettered. Members while not performing their parliamentary duties do not enjoy any privileges.
>
> (ii) Contrary to certain misconceptions in some quarters, privileges are not any special rights which are conferred upon members to the exclusion of common citizens. Privileges do not compromise the fundamental precept that all citizens are equal in the eyes of law.
>
> (iii) Privileges are enabling rights of members to put across the views and voice the concerns of their constituents fearlessly. These could, therefore, be termed as indirect rights of members' constituents. It is this essence of privileges which needs to be appreciated.
>
> (iv) The penal powers of the House for breach of privilege or contempt of the House have been very sparingly used. During the past five and a half decades in Lok Sabha there has been only one case of admonition, two cases of reprimand and one case of expulsion for commission of breach of privilege and contempt of the House. In Rajya Sabha there have been only two cases of reprimand for commission of breach of privilege and contempt of the House.

(v) The above position bears testimony to the fact that there has not been any misuse of parliamentary privileges as erroneously believed in some quarters.

(vi) The majority view of those who responded to the Committee's questionnaire do not favour codification of parliamentary privileges.

The Committee finally opined that there does not arise any occasion for codification of parliamentary privileges and as a matter of fact an awareness needs to be created with regard to the true import of the term parliamentary privileges and the ground realities that exist. The Committee accordingly recommended against codification of parliamentary privileges.

The main arguments that have been advanced in favour of codification are—

(i) Parliamentary privileges are intended to be enjoyed on behalf of the people, in their interests and not against the people opposed to their interests;

(ii) unless the parliamentary privileges, immunities and powers are clearly defined and precisely delimited through codification, they remain vague and inscrutable for the citizens and for the Press—nobody really knowing what precisely the privileges of Parliament, its members and its committees are, thereby causing many an unintended violations;

(iii) the concept of privileges for any class of people is anachronistic in a democratic society and, therefore, if any, these privileges should be the barest minimum—only those necessary for functional purposes—and invariably defined in clear and precise terms;

(iv) sovereignty of Parliament has increasingly become a myth and a fallacy for, sovereignty, if any, vests only in the people of India who exercise it at the time of general elections to the Lok Sabha and to the State Assemblies;

(v) in a system wedded to freedom and democracy—rule of law, rights of the individual, independent Judiciary and constitutional government—it is only fair that the fundamental rights of the citizens enshrined in the Constitution should have primacy over any privileges or special rights of any class of people, including the elected legislators, and that all such claims should be subject to judicial scrutiny, for situations may arise where the rights of the people may have to be protected even against the Parliament or against captive or capricious parliamentary majorities of the moment;

(vi) the Constitution specifically envisaged privileges of the Houses of Parliament and State Legislatures and their members and committees being defined by law by the respective Legislatures and as such the Constitution-makers definitely intended these privileges being subject to the fundamental rights, provisions of the Constitution and the jurisdiction of the courts;

(vii) it is best if matters which are amenable to judicial scrutiny are dealt with by courts and, in any case, there is hardly any reason why courts which have full power to enquire into the existence of privileges, powers and

immunities claimed by the Houses of Parliament should not also look to their proper exercise, and to set aside any order made by the Houses or to give interim relief to a complainant pending final disposal of the complaint; and

(viii) in any case, there is no question of any fresh privileges being added inasmuch as (a) under the Constitution, even at present, parliamentary privileges in India continue in actual practice to be governed by the precedents of the House of Commons as they existed on the day our Constitution came into force; and (b) in the House of Commons itself, creation of new privileges is not allowed[24].

It would thus be seen that while the predominant view in the parliamentary forums has been against codification, the academic circles and the Press have been, by and large, in favour of codification. The main arguments against codification are as follows:

(i) The privileges of Parliament are part and parcel of the Constitution and, therefore, of what is known as the 'fundamental law'. As pointed out by the Supreme Court in the *Searchlight Case,* the provisions of article 105(3) and article 194(3) are constitutional laws and not ordinary laws made by Parliament or the State Legislatures and they are, therefore, as supreme as the provisions of Part III.

(ii) As further pointed out by the Supreme Court in *M.S.M. Sharma v. Sri Krishna Sinha Case* (A.I.R. 1959 S.C. 395), article 19(l)(a) and article 194(3) have to be reconciled and the only way of reconciling the same is to read article 19(l)(a) as subject to the latter part of article 194(3). The principle of harmonious construction must be adopted and so constructed that the provisions of article 19(l)(a), which are general, must yield to article 194(1) and the latter part of clause (3) thereof which are special.

(iii) A law made by Parliament in pursuance of the earlier part of article 105(3) or by the State Legislature in pursuance of the earlier part of article 194(3) will not be a law made in exercise of constituent power... but will be one made in exercise of its ordinary legislative powers under article 246... and that consequently if such a law takes away or abridges any of the fundamental rights, it will contravene the pre-emptory provisions of article 13(2) and will be void to the extent of such contravention[25].

(iv) To say that parliamentary privileges are intended to be enjoyed on behalf of the people and not against the people, pre-supposes a conflict of interest.

This is a fallacious argument. In fact, there is or should be no dichotomy between the two.

It is to be stressed that these privileges do not belong to any feudal body or feudal lords; they belong to the representatives of the people elected to the Houses of Parliament and as such should not be seen as something antagonistic

24. *See* Subhash C. Kashyap: *Parliament of India,* New Delhi, 1988, pp. 212-13.
25. *M.S.M. Sharma* v. *Sri Krishna Sinha,* A.I.R. 1959, S.C. 395.

to the rights and interests of the people. The people of India, through the Constitution, have conferred these rights on members to be exercised by them collectively and individually in their capacity as representatives of the people in the wider interest of the people.

(v) The only purpose and justification for these privileges is that the representatives of the people should be enabled to discharge their responsibilities and duties to the people effectively and efficiently without any fear or favour and without any obstruction or hindrance.

(vi) The scope of parliamentary privileges is very well-defined and restricted. The litmus test is that no privilege of Parliament or a member of Parliament will be attracted if any obstruction, libel or reflection upon a member of Parliament does not concern his character or conduct in his capacity as a member of the House and is not based on matters arising in the actual transaction of the business of the House. The volume of case law built up in India over the years has clearly established this principle. It is, therefore, not correct to say that parliamentary privileges are vague and inscrutable.

(vii) The basic law that all citizens should be treated equally before the law holds good in the case of members of Parliament as well. They have the same rights and liberties as ordinary citizens except when they perform their duties in the Parliament. The privileges, therefore, do not, in any way, exempt members from their normal obligation to society which apply to them as much and perhaps, more closely in that capacity as they apply to others.

(viii) To take for granted that the codification of privileges will *ipso facto* put an end to confrontation between makers of law and dispensers of justice is perhaps a naive notion; instead of solving any problems, may be, it will create other unforeseen problems in the matter of relations between the Legislature and the Judiciary.

(ix) The Legislature's power to punish for contempt is more or less akin and analogous to the power given to the courts to punish for their contempt. What constitutes a breach of privilege or contempt of the House can be best decided according to the facts and circumstances of each case rather than by specifying them in so many words.

(x) If there is mutual trust and respect between Parliament and courts, there is hardly any need to codify the law on the subject of privileges. With a codified law more advantage will flow to persons bent on vilifying Parliament, its members and committees and the courts will be called upon more and more to intervene... A written law will make it difficult for Parliament as well as courts to maintain that dignity which rightly belongs to Parliament and which the courts will always uphold as zealously as they uphold their own[26]; and

(xi) If the privileges are codified, all matters would come before the courts and the Legislatures would lose their exclusive right to determine matters relating to their privilege and precision will be gained at the sacrifice of substance.

26. Hidayatullah, M. *A Judge's Miscellany,* Bombay, 1972, pp. 210-11.

Ambit and Scope of Privileges

In the Eleventh Lok Sabha, the Committee of Privileges decided to undertake a review of the entire gamut of parliamentary privileges and related matters. Consequently, a Study Group of the Committee of Privileges was constituted for undertaking a study of parliamentary privileges, ethics and related matters. The Study Group, however, decided to enlarge the scope of the study and undertook a comprehensive study of not only the privileges and rights but also responsibilities and obligations of members which brought the study within the realms of Ethics and Code of Conduct. The Study Group, after making a comparative study[27] of mechanisms existing in the United Kingdom, the United States of America and Australia for dealing with ethics, standards, privileges and related matters, arrived at its conclusions and submitted its Report to the Committee of Privileges on 14 October 1997. The Committee of Privileges, after due deliberation and making certain modifications, adopted the Report on 'Ethics, Standards in Public Life, Privileges, Facilities to Members and other related matters' on 7 November 1997.

As the House was not in session, the Chairman, Committee of Privileges presented[28] the Report to the Speaker on 27 November 1997. However, before the Report could be presented to the House, the Eleventh Lok Sabha was dissolved on 4 December 1997.

This Report covers in detail the various facets of parliamentary privileges and more particularly, ethical matters. The crux of the recommendations/conclusions made in the Report is based upon the Committee's considered opinion that privileges/obligations and ethics are all interlinked and hence should be dealt with by a single Parliamentary Committee. The pivotal recommendation has been that the Committee of Privileges be renamed as the Committee on Ethics and Privileges for dealing with both ethics and privilege related matters.[29] There are various other vital recommendations in respect of obligations and privileges of and facilities to members, electoral reforms, amendment of the Anti-Defection Law and criminalisation of politics. These recommendations, if and when implemented, would have far reaching ramifications inasmuch as they tend to redefine the legislators' role in our polity and to an extent amplify the scope of parliamentary privileges.

Main Privileges of Parliament

Some of the privileges of Parliament and of its members and committees are specified in the Constitution, certain statutes and the Rules of Procedure of the House, while others continue to be based on precedents of the British House of Commons and on conventions which have grown in this country.

27. The Study Group also went on study tours to Australia, the United Kingdom and the United States of America in the context of its study.

28. *Dir.* 71-A read with Rule 280.

29. The Committee of Privileges (13 LS), after due deliberation, without prejudice to the recommendations contained in the Ethics Report of their predecessor Committee, recommended in their First Report (presented to the Speaker, Lok Sabha on 4 April 2000 and laid on the Table of the House on 18 April 2000) that a separate Ethics Committee be constituted in Lok Sabha. Subsequently on 16 May 2000, the Speaker (13 LS) constituted a 15 member Committee on Ethics in Lok Sabha.

Some of the more important of these privileges are:

(*i*) *Privileges specified in the Constitution:*

Freedom of speech in Parliament[30].

Immunity to a member from any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof[31].

Immunity to a person from proceedings in any court in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings[32].

Prohibition on the courts to inquire into proceedings of Parliament[33].

Immunity to a person from any proceedings, civil or criminal, in any court in respect of the publication in a newspaper of a substantially true report of any proceedings of either House of Parliament unless the publication is proved to have been made with malice. This immunity is also available in relation to reports or matters broadcast by means of wireless telegraphy[34].

(*ii*) *Privileges specified in Statutes:*

Freedom from arrest of members in civil cases during the continuance of the session of the House and forty days before its commencement and forty days after its conclusion[35].

(*iii*) *Privileges specified in the Rules of Procedure and Conduct of Business of the House:*

Right of the House to receive immediate information of the arrest, detention, conviction, imprisonment and release of a member[36].

Exemption of a member from service of legal process and arrest within the precincts of the House[37].

Prohibition of disclosure of the proceedings or decisions of a secret sitting of the House[38].

(*iv*) *Privileges based upon Precedents*: Members or officers of the House cannot be compelled to give evidence or to produce documents in courts of law, relating to the proceedings of the House without the permission of the House[39].

Members or officers of the House cannot be compelled to attend as witness before the other House or a committee thereof or before a House of

30. Art. 105(1).
31. Art. 105(2).
32. *Ibid.*
33. Art. 122.
34. Art. 361 A.
35. C.P.S. s. 135 A—For further details, *see* sub-head 'Freedom from Arrest in Civil Cases' *infra.*
36. Rules 229 and 230.
37. Rules 232 and 233.
38. Rule 252.
39. 1R (CPR-1LS).

State Legislature or a committee thereof without the permission of the House and without the consent of the member whose attendance is required[40].

In addition to the above-mentioned privileges and immunities, each House also enjoys certain consequential powers necessary for the protection of its privileges and immunities. These powers are:

to commit persons, whether they are members or not, for breach of privilege or contempt of the House[41].

to compel the attendance of witnesses and to send for persons, papers and records[42].

to regulate its procedure and the conduct of its business[43].

to prohibit the publication of its debates and proceedings[44] and to exclude strangers[45].

Privilege of Freedom of Speech and Immunity from Proceedings

Constitutional Provisions: The privilege of freedom of speech of members of Parliament is embodied in clauses (1) and (2) of article 105, and is reproduced below:

1. Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament.

2. No member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.

This privilege was expressly granted to the members of the Indian Legislature for the first time under the Montague-Chelmsford reforms and given statutory recognition[46]. Thereunder, a member of the Legislature had the immunity from any proceedings in any court in respect of his "speech or vote" in either Chamber of Indian Legislature[47]. In the Government of India Act, 1935, both as originally enacted and as adapted, and subsequently in the Constitution, the position was stated beyond doubt by using the words "anything said or any vote given"[48].

40. 6R (CPR-2LS).

41. *P.D.,* 1961, Vol. V-2, Pt. III, pp. 51-52 *(Rajasthan Vidhan Sabha Case,* 10 April 1954) 1974, Vol. XIX-2, pp. 42-43 and 1975, Vol. XX-1, pp. 7-8 (shouting of slogans and carrying of arms by `visitors to Lok Sabha); *Homi D. Mistry vs. Nafisul Hassan — the Blitz Case,* I.L.R. 1957, Bombay 218; *the Search light Case,* A.I.R. 1959 S.C. 395; *C. Subramaniam's Case,* A.I.R. 1968, Madras 10.

42. Rules 269 and 270, *Harendra Nath Barua* vs. *Dev Kant Barua,* A.I.R. 1958, Assam 160.

43. Art. 118(1).

44. The Search light Case.

45. Rule 387.

46. Section 67(1) of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935.

47. Section 28(1) of the Government of India Act, 1935.

48. On the attainment of Independence by the country, section 28(1) of the Government of India Act, 1935, was adapted and remained in operation from 15 August 1947, till the Constitution came into force.

In a case, it was argued that the immunity granted by article 105(2) related to what was relevant to the business of Parliament and not to something which was utterly irrelevant. Rejecting the argument, the Supreme Court ruled:

> The article confers immunity *inter alia* in respect of "anything said... in Parliament", the word "anything" is of the widest import and is equivalent to "everything". The only limitation arises from the words "in Parliament" which means during the sitting of Parliament and in the course of business of Parliament. Once it is proved that Parliament was sitting and its business was being transacted, anything said during the course of that business was immune from proceedings in any Court. What they say is only subject to the discipline of the rules of Parliament, the good sense of the members and the control of proceedings by the Speaker. The Courts have no say in the matter and should really have none[49].

The provisions of article 105(2) also apply in relation to persons who by virtue of the Constitution have the right to speak in, and otherwise to take part in the proceedings of, either House or any committee thereof as they apply in relation to members of Parliament[50]. The immunity, however, is confined to "anything said or vote given" in Parliament or any committee thereof.

Speech and action in Parliament may be said to be unquestioned and free. However, this freedom from external influence or interference does not involve any unrestrained licence of speech within the walls of the House. The right to freedom of speech in the House is circumscribed by the constitutional provisions[51] and the Rules which also guard against making of unwarranted allegations against a person[52], and the procedure for inviting attention to incorrect statements made by Ministers or members is governed by Directions[53]. When a member violates any of these restrictions, the Speaker may direct him to discontinue his speech[54] or order the defamatory, indecent, unparliamentary or undignified words used by the member to be expunged from the proceedings of the House[55], or direct the member to withdraw from the House[56], or put the question for suspension of the member from the service of the House[57].

The freedom of speech conferred on members under article 105(2) is thus subject only to those provisions of the Constitution which regulate the procedure of Parliament and to the rules and standing orders of the House, but is free from any restrictions

49. *Tej Kiran Jain vs. N. Sanjiva Reddy.* A.I.R. 1970 S.C. 1573.

50. Art. 105(4). Under article 88, every Minister and the Attorney-General of India have the right to speak in, and otherwise to take part in the proceedings of, either House, any joint sitting of the Houses, and any Committee of Parliament of which he may be named a member, but is not by virtue of this article entitled to vote.

51. For instance, *see* art. 121.

52. Rules 352 and 353; *P. Deb.* (II), 24-9-1951, c. 3243; *H.P. Deb.* (II), 1-8-1952, c. 5042; 30-3-1953, cc. 3252-53 and 3316-17.

53. Dir. 115(1), *L.S. Deb.,* 22-12-1956, cc. 4089-90; 4-12-1957, cc. 3550-51; 17-3-1959, cc. 6668-69.

54. Rule 356; *P. Deb.,* (II), 29-2-1952, c. 1626.

55. Rule 380; *L.S. Deb.,* 25-7-1952, c. 4633; 13-3-1953, cc. 1988-1991; 1-9-1954, c. 448; 7-5-1970, c. 201 and 10-6-1971, cc. 222-24.

56. Rule 373; *HP. Deb.,* (II), 10-3-1954, c. 1732; *L.S. Deb.,* 1-4-1959, c. 9041; and 17-8-1959, cc. 2809-10.

57. Rule 374; *See* also *Kamath's Case, L.S. Deb.,* 26-8-1955, cc. 11329-31; *Arjun Singh Bhadauria's Case, L.S. Deb.,* 9-4-1959, cc. 10861-64; *H.C. Kachwai's Case, L.S. Deb.,* 2-5-1972, cc. 443-50 and 3-5-1972, cc. 172-84.

which may be imposed by any law made under article 19(2) upon the freedom of speech of an ordinary citizen.[58]

Interpreting clause (1) of article 194[59], the Supreme Court observed[60]:

> ...the words 'regulating the procedure of the Legislature' occurring in cl. (1) of art. 194 should be read as governing both 'the provisions of the Constitution' and the rules and standing orders. So read, freedom of speech in the Legislature becomes subject to the provisions of the Constitution regulating the procedure of the Legislature, that is to say, subject to the articles relating to procedure in Part VI, including arts. 208 and 211; just as freedom of speech in Parliament under article 105(1), on a similar construction, will become subject to the articles relating to procedure in Part V, including articles 118 and 121.

For his speech and action in Parliament, a member is subject only to the discipline of the House itself and no proceedings, civil or criminal, can be instituted against him in any court in respect of the same[61]. Absolute privilege has been given in respect of anything said or any vote given in Parliament or a committee thereof so that members may not be afraid to speak out their minds and freely express their views. Members are, therefore, completely protected from any proceedings in any court even though the words uttered by them in the House may be false and malicious to their knowledge[62]. Though a speech delivered by a member in the House may amount to contempt of court, no action can be taken against him in a court of law as speeches made in the House are privileged[63]. Anything said or done in the House is a matter to be dealt with by the House itself[64]. On the same principle, proceedings for breach of privilege have not been allowed in the Lok Sabha in respect of a speech, allegedly casting reflections on members of Parliament, delivered by a member of a State Legislative Assembly in that Assembly[65].

The express constitutional provisions of clauses (1) and (2) of article 105 are thus a complete and conclusive code in respect of the privilege of freedom of speech and immunity from liability to proceeding in a court for anything said in the House or for publication of its reports. Anything which falls outside the ambit of these provisions is, therefore, liable to be dealt with by the courts in accordance with the law of the land. Thus, if a member publishes questions which have been disallowed by the Speaker and which are defamatory, he will be liable to be dealt with in a court under the law of defamation[66].

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58. *M.S.M. Sharma* vs. *Sri Krishna Sinha (Search light Case),* A.I.R. 1959 S.C. 395.
59. Corresponding provision for Houses of Parliament in article 105(1).
60. *Searchlight Case* (A.I.R. 1959 S.C 395, *op. cit.*).
61. *M.S.M. Sharma* vs. *Sri Krishna Sinha* A.I.R. 1959 S.C 395; *Suresh Chandra Banerji* v. *Punit Goala,* A.I.R. 1951 Calcutta 176; *Surendra Mohanty* vs. *Nabakrishna Choudhury and Others,* A.I.R. 1958 Orissa 168; In the matter of Article 143 of the Constitution of India, A.I.R. 1965 S.C. 745; and *Tej Kiran Jain* vs. *N. Sanjiva Reddy,* A.I.R. 1970 S.C. 1573.
62. *Suresh Chandra Banerji* vs. *Punit Goala,* A.I.R. 1951, Calcutta 176.
63. *Surendra Mohanty* vs. *Nabakrishna Choudhury and Others,* A.I.R. 1958, Orissa 168.
64. *Ibid*.
65. *L.S. Deb.* 26-3-1959, cc. 7965-69. For similar instances in State Assemblies, *see P.D.* 1971, Vol. XVI, 1, pp. 23-24, 1973, Vol. XVIII, 2, pp. 24-25; and 1975, Vol. XX, 2, pp. 46-47.
66. *In re. Jatish Chandra Ghose,* A.I.R. 1956, Calcutta 433-37.

Maintaining Privilege of Freedom of Speech: It is the duty of each member to refrain from any course of action prejudicial to the privilege of freedom of speech which he enjoys. As declared by the House of Commons, U.K., by a resolution on 15 July 1947:

> It is inconsistent with the dignity of the House, with the duty of a member to his constituents and with the maintenance of the privilege of freedom of speech of any member of this House to enter into any contractual agreement with an outside body, controlling or limiting the member's complete independence and freedom of action in Parliament or stipulating that he shall act in any way as the representative of such outside body in regard to any matters to be transacted in Parliament; the duty of a member being to his constituents and to the country as a whole, rather than to any particular section thereof[67].

Protection of Witnesses, etc. concerned in Proceedings in Parliament

Witnesses, petitioners and their counsel, who appear before any House or any committee thereof, are protected under article 105(3) from suits and molestation in respect of what they say in the House or a Committee thereof. This privilege may be regarded as an extension of the privilege of freedom of speech of the House as its purpose is to ensure that information is given to the House freely and without interference from outside.

Any molestation of, or threats against, persons who have given evidence before any committee thereof on account of what they may have said in their evidence, is treated by the House as a breach of privilege[68].

It is also a contempt of House to molest any petitioner or counsel on account of his having preferred a petition to the House[69] or in respect of his conduct while discharging his professional duties as a counsel[70].

Similarly, the bringing of legal proceedings against any person on account of any evidence which he may have given in the course of any proceedings in the House or in a committee thereof, is treated by the House as a breach of privilege[71]. Moreover, an action for slander based on statements made in evidence before a committee of the House will not be entertained by the courts[72].

Right to Exclude Strangers

Each House has the right to exclude strangers and to debate within close doors. This right flows as a necessary corollary to the privilege of freedom of speech as it

67. *H.C. Deb.,* (1946-47), 440, cc. 284-355; *see* also *H.C.* 118 (1946-47) for the Report of Committee of Privileges on *the case of Mr. Brown and Civil Service Clerical Association,* p. XII, para 13; and H.C. 85 (1943-44), the *case of Mr. Robinson and the National Union of Distributive and Allied Workers.*

68. *Graefy's Case, Parl. Deb.,* (1819) 39, cc. 976-77, 978-81, 986-87; *Parrott's Case, Parl. Deb.* (1845) 81, c. 1446; *Case of the Cambrian Railway Directors, Parl. Deb.* (1892) 5, cc. 595, 698, 883; *K. Ravindran's case, L.S. Deb.,* 10-7-1980, cc. 211-12.

69. May, Twenty-fourth Edn., p. 267.

70. *Ibid.*

71. *Case of Philips and others. Parl. Deb.* (1845) 81, c. 1436.

72. May, Twenty-first Edn., p. 132.

enables the House to obtain, when necessary, such privacy as may secure freedom of debate. As observed by the Supreme Court[73]:

> ...the freedom of speech claimed by the House (House of Commons) and granted by the Crown is, when necessary, ensured by the secrecy of the debate which in its turn is protected by prohibiting publication of the debates and proceedings as well as by excluding strangers from the House... This right (to exclude strangers) was exercised in 1923 and again as late as on 18 November 1958. This shows that there has been no diminution in the eagerness of the House of Commons to protect itself by secrecy of debate by excluding strangers from the House when any occasion arises.
>
> The object of excluding strangers is to prevent the publication of the debates and proceedings in the House...

In the Lok Sabha, the Speaker has the power to order the withdrawal of strangers from any part of the House whenever he may think fit[74]. During a secret sitting of the House no stranger is permitted to be present in the Chamber, the Lobby or the Galleries[75].

If any stranger is found to be present in any part of the precincts of the House which is reserved for the exclusive use of members, or if any stranger misconducts himself within the precincts of the Parliament House or does not withdraw when the strangers are directed to withdraw while the House is sitting, he may be removed from the precincts of the House or be taken into custody by the Additional Secretary/Joint Secretary, Security of the Lok Sabha[76].

Right to Control Publication of Proceedings

The publication of report of debates or proceedings of Parliament is subject to the control of the respective House which has the right to prohibit the publication of its proceedings. In this regard the Supreme Court, *inter alia,* observed:

> Our Constitution clearly provides that until Parliament or the State Legislature, as the case may be, makes a law defining the powers, privileges and immunities of the House, its members and Committees, they shall have all the powers, privileges and immunities of the House of Commons as at the date of the commencement of our Constitution and yet to deny them those powers, privileges and immunities after finding that the House of Commons had them at the relevant time, will be not to interpret the Constitution but to remake it[77].

The underlying object of the power of the House to control and, if necessary, to prohibit the publication of its debates and proceedings is to protect freedom of speech by ensuring privacy of debate whenever necessary, and prevails over the general right of the individual to freedom of speech and expression guaranteed by the Constitution[78].

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73. *M.S.M. Sharma* vs. *Sri Krishna Sinha (Searchlight Case),* A.I.R. 1959 S.C. 395.
74. Rule 387; *See* also Chapter 33—Admission of visitors to Lok Sabha.
75. Rule 248(2). *See* also Chapter 17—Sittings of the House.
76. Rule 387. A.P.D. 1976, Vol. XXI, 1, p. 15. Intrusion of a Stranger in the Rajasthan Vidhan Sabha.
77. *M.S.M. Sharma* vs. *Sri Krishna Sinha,* A.I.R. 1959 S.C. 395.
78. *Ibid.*

In the Lok Sabha, the Secretary-General is authorised to prepare and to publish a full report of the proceedings of the House under the directions of the Speaker[79]. The Speaker may also authorise the printing, publication, distribution or sale of any paper, document or report in connection with the business of the House or any paper, document or report laid on the Table or presented to the House or a committee thereof. Such printing, publication, distribution or sale is deemed to be under the authority of the House within the meaning of the constitutional provisions in this regard[80]. If a question arises whether a paper, document or report is in connection with the business of the House or not, the question is referred to the Speaker whose decision is final[81].

Publication by any person in a newspaper of a substantially true report of any proceedings of either House of Parliament is protected under the Constitution from civil or criminal proceedings in court unless the publication is proved to have been made with malice[82]. Statutory protection has also been given by the Parliamentary Proceedings (Protection of Publication) Act, 1977, to publication in newspapers or broadcasts by wireless telegraphy, of substantially true reports of proceedings in Parliament[83].

If a member publishes his own speech made in the House separately from the rest of the debate, it becomes a separate publication unconnected with the proceedings in the House, and the member publishing it becomes responsible for any libellous matter contained therein under the ordinary law of the land[84].

Right of each House to be the Sole Judge of the Lawfulness of its own Proceedings

Parliament is sovereign within the limits assigned to it by the Constitution. There is an inherent right in the House to conduct its affairs without any interference from an outside body. The Constitution specifically bars the jurisdiction of courts of law in respect of anything said or any vote given by a member in the House. In the matter of judging the validity of its proceedings, the House has exclusive jurisdiction[85].

The House has also collective privilege to decide what it will discuss and in what order, without any interference from a court of law:

> ...It is well known that no writ, direction or order restraining the Speaker, from allowing a particular question to be discussed, or interfering with the legislative processes of either House of the Legislature or interfering with the freedom of discussion or expression of opinion in either House can be entertained[86].

79. Rule 379.
80. Art. 105(2).
81. Rule 382.
82. Art. 361A inserted by the Constitution (Forty-fourth Amendment) Act, 1978.
83. The Parliamentary Proceedings (Protection of Publication) Act, 1977, ss. 3 and 4. Between February 1976 and April 1977, the Act remained repealed.
84. Rex. v. Creevey, I.M. & S. 373.
85. *Surendra Mohanty* v. *Nabakrishna Choudhury* and Others (A.I.R. 1958, Orissa 168), I.L.R. 1958, Cuttack 195.
86. *Raj Narain Singh* v. *Atmaram Govind Kher.,* A.I.R. 1954, Allahabad 319; *Hem Chandra Sen Gupta* v. *Speaker, West Bengal Legislative Assembly,* A.I.R. 1956, Calcutta 378; *C. Shrikishen* v. *State of Hyderabad* and Others A.I.R, 1956, Hyderabad 186.

The House is not responsible to any external authority for following the procedure it lays down for itself, and it may depart from that procedure at its own discretion[87].

The validity of any proceedings in Parliament cannot be called in question in any court on the ground of any alleged irregularity of procedure. No officer or member of Parliament in whom powers are vested for regulating the procedure or the conduct of business, or for maintaining order, in Parliament, is subject to the jurisdiction of any court in respect of the exercise by him of those powers[88]. The Allahabad High Court in this regard held:

> ...This Court is not, in any sense whatever, a court of appeal or revision against the Legislature or against the ruling of the Speaker who, as the holder of an office of the highest distinction, has the sole responsibility cast upon him of maintaining the prestige and dignity of the House.
>
> ...This Court has no jurisdiction to issue a writ, direction or order relating to a matter which affected the internal affairs of the House[89].
>
> The Kerala High Court have, however, in their full Bench decision held:
>
> The immunity envisaged in article 212(1) of the Constitution is restricted to a case where the complaint is no more than that the procedure was irregular.

If the impugned proceedings are challenged as illegal or unconstitutional such proceedings would be open to scrutiny in a court of Law[90].

Right of the House to punish its Members for their Conduct in Parliament

Each House has the power to punish its members for disorderly conduct and other contempts committed in the House while it is sitting[91]. This power is vested in the House by virtue of its right to exclusive cognizance of matters arising within the House and "to regulate its own internal concerns".

> It has been observed by the Allahabad High Court that "a Legislative Assembly would not be able to discharge the high functions entrusted to it properly, if it had no power to punish offenders against breaches of its privileges, to impose disciplinary regulations upon its members or to enforce obedience to its commands"[92].
>
> Again in a case which related to an action for contempt of court arising out of a speech delivered in the Orissa Legislative Assembly, the Orissa High Court held that "anything said or done in the House is a matter to be dealt with by the House itself" and that the Legislature or the Speaker had the power "to take suitable action against a member who, while exercising his freedom of speech under clause (1) of art. 194, transgresses the limits laid down in that clause"[93].

87. Rule 388.

88. Art. 122, Art. 212 in case of State Legislatures.

89. *Raj Narain Singh* v. *Atmaram Gobind Kher,* A.I.R. 1954, Allahabad 319. *See* also *State of Bihar Kameshvar Singh,* A.I.R. 1952 S.C. 252; *Saradhakar* v. *Orissa Legislative Assembly,* A.I.R. 1952, Orissa 234; *C. Shrikishen* v. *State of Hyderabad and Others,* A.I.R. 1956, Hyderabad 186; *Hem Chandra Sen Gupta and Others* v. *Speaker of Legislative Assembly of West Bengal,* A.I.R. 1956, Calcutta 378; *Godavaris Misra* v. *Nandakishore Das,* A.I.R. 1953, Orissa 111; *Ram Dubey Government of Madhya Bharat,* A.I.R, 1952, Madhya Bharat 57.

90. *State of Kerala* v. *R. Sudarshan Babu* and Others, I.L.R. (Kerala) 1983, pp. 661-70.

91. *See* art. 105(3).

92. *Raj Narain Singh* v. *Atmaram Gobind Kher,* A.I.R. 1954, Allahabad 319.

93. *Surendra Mohanty* v. *Nabakrishna Choudhury and Others,* A.I.R. 1958, Orissa 168.

The Speaker, who preserves order in the House, has "all powers necessary for the purpose of enforcing his decisions"[94]. The disciplinary powers of the Speaker and the House are partly embodied in the rules which provide for the withdrawal or suspension of any member whose conduct is grossly disorderly or who disregards the authority of the Chair or abuses the rules of the House by persistently and willfully obstructing its business[95].

In a writ petition filed by some members of the Haryana Vidhan Sabha, the High Court of Punjab and Haryana observed *inter alia* that the power of the Speaker to regulate the procedure and conduct of business could not be questioned by the court and it was not competent to inquire into the procedural irregularities of the House[96].

Proceedings in Parliament

The term "proceedings in Parliament" or the words "anything said in Parliament" have not so far been expressly defined by courts of law. However, as technical term, these words have been widely interpreted to mean any formal action, usually a decision taken by the House in its collective capacity, including the forms of business in which the House takes action and in the whole process, the principal part of which is debate, by which it reaches a decision. The term thus connotes more than mere speeches and debates.

The term "proceedings in Parliament" covers both the asking of a question and the giving of written notice of such question, motion, Bill or any other matter and includes everything said or done by a member in the exercise of his functions as a member in a committee of either House, as well as everything said or done in either House in the transaction of parliamentary business[97].

In this connection, the Orissa High Court, *inter alia,* observed:

> It seems thus a settled parliamentary usage that "proceedings in Parliament" are not limited to the proceedings during the actual session of Parliament but also include some preliminary steps such as giving notice of questions or notice of resolutions, etc. Presumably, this extended connotation of the said term is based on the idea that when notice of a question is given and the Speaker allows or disallows the same, notionally it should be deemed that the questions were actually asked in the session of Parliament and allowed or disallowed, as the case may be[98].

Under the Constitution, as already stated, the validity of any 'proceedings in Parliament cannot be called in question on the ground of any alleged irregularity of procedure'[99].

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94. Rule 378.
95. Rules 373 and 374.
96. *See* H.C. 101(1938-39), pp. iv-v.
97. *Jai Singh Rathi* v. *State of Haryana,* A.I.R. 1970, Punjab and Haryana 379; *see* also, *Kerala High Court Case, op. cit.*
98. In Godavaris *Misra* v. *Nandakishore Das,* A.I.R. 1953, Orissa 111.

    While giving of a written notice of a question or a resolution is regarded as 'proceedings in Parliament', a letter written by a member of Parliament to a Minister on a public matter in the course of discharge of his duties as a member is not regarded as 'proceedings in Parliament'.
99. Art. 122(1).

Evidence in Courts regarding Proceedings in Parliament

Leave of the House is necessary for giving evidence in a court of law in respect of the proceedings in that House or committees thereof or for production of any document connected with the proceedings of that House or Committees thereof, or in the custody of the officers of that House. According to the First Report of the Committee of Privileges of the Second Lok Sabha, "no member or officer of the House should give evidence in a court of law in respect of any proceedings of the House or any Committees of the House or any other document connected with the proceedings of the House or in the custody of the Secretary-General without the leave of the House being first obtained"[100].

When the House is not in session, the Speaker may, in emergent cases, allow the production of relevant documents in courts of law in order to prevent delays in the administration of justice and inform the House accordingly of the fact when it reassembles or through the Bulletin[101]. However, in case the matter involves any question of privilege, especially the privilege of a witness, or in case the production of the document appears to him to be a subject for the discretion of the House itself, the Speaker may decline to grant the required permission without leave of the House[102].

Whenever any document relating to the proceedings of the House or any committee thereof is required to be produced in a court of law, the court or the parties to the legal proceedings have to request the House stating precisely the documents required, the purpose for which they are required and the date by which they are required. It has also to be specifically stated in each case whether only a certified copy of the document should be sent or an officer of the House should produce it before the court[103].

In pursuance of the above recommendations of the Committee of Privileges and the discussion in the House thereon, the Government of India requested all States to discuss the matter with the Chief Justices of their respective High Courts for issue of suitable directions on the following points:

> that when parliamentary records are required to be produced before courts of law, a proper form of address should be adopted;
>
> that in most cases it would be sufficient to call for only the certified copies of the documents, at any rate in the first instance, and that the original documents might be called for at a later stage if the parties insisted upon their strict proof;
>
> that the courts should bear in mind the provisions of section 78(2) of the Indian Evidence Act, 1872, under which proceedings of the Legislatures can be proved by the production of the authorized parliamentary publications and ensure that Parliament is troubled only when unpublished documents in its custody are required in evidence.

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100. 1R. (CPR-2LS); adopted by the Lok Sabha on 13-9-1957, *L.S. Deb.,* 13-9-1957, cc. 13760-63; 1R (CPR-8LS); adopted by the Lok Sabha on 6-5-1988, *L.S. Deb.,* 6-5-1988, cc. 259-60.

    Where the document required to be produced in a court of law relates to an administrative matter connected with the service record of an officer of the Secretariat, the Speaker may himself give the necessary permission under Rule 383.

101. A para in the Bulletin Part II was issued on 28 October 1957, in regard to the case of Shankar Deo, M.P.

102. 1R (CPR-2L.S.) para 8. *See* also *L.S. Deb.,* 13-9-1957, cc. 13760-63.

103. 1R (CPR-2L.S.).

A special form of letter of request is prescribed for use by the courts of law while requesting the House for the production of parliamentary records or for oral evidence of officers of the House in the courts.

When request is received during a session of the Lok Sabha for producing in a court of law a document connected with the proceedings of the House or Committees thereof or a document which is in the custody of the Secretary-General[104], the case is referred by the Speaker to the Committee of Privileges. On a report from the Committee, a motion is moved in the House by the Chairman or a member of the Committee to the effect that the House agrees with the report, and further action is taken in accordance with the decision of the House[105].

A question was raised whether it was necessary to refer to the Committee of Privileges every such request received and whether the Speaker himself could not grant such permission. The Speaker considered it correct, in the light of provisions of article 105(3), that the present procedure should continue to be followed[106].

The Committee of Privileges, Fourteenth Lok Sabha, felt that it was about time that the procedure for dealing with the requests for documents relating to proceedings of the House, its Committees, etc., received from Courts of Law and investigating agencies were given a fresh look, particularly in the light of the provisions of the Right to Information Act, 2005. The Committee, with the permission of the Speaker, took up the examination of the matter. The Twelfth Report in the matter was presented to the Speaker, Lok Sabha on 28 April 2008 and laid on the Table of the House on 30 April 2008. The Report was adopted by the House on 23 October 2008.

The Committee in their Report recommended the following procedure:

(*I*) *Procedure for making requests for documents relating to the proceedings of the House or of any Committee of the House:*

A. If request for documents relating to proceedings of the House or of any Committee of the House is made by a court or by the parties to a legal proceedings before a court, the court or the parties to the proceedings as the case may be, shall specify the documents required, the purpose for which they are required and the date by which they are required. It should also be specifically stated in each case whether only certified copies or photocopies of the documents should be sent or an officer of the House should produce it before the court.

B. If the request for documents relating to proceedings of the House or of any Committee thereof is made by investigating agencies like the police, the Central Bureau of Investigation, etc., they shall specify the documents required, the purpose for which they are required and the date by which they are required.

104. Custody of records, documents and papers belonging to the House or any of its Committees or the Secretariat vests in the Secretary-General. No such records, documents or papers are permitted to be taken out of Parliament House without the permission of the Speaker. Rule 383.

105. 1R (CPR-2L.S.), *op. cit.,* paras 10 and 11; *see* also 2R and 10R(CPR-2LS), 9R(CPR-4LS) and *L.S. Deb.,* 26-11-1969, c. 211.

106. *L.S. Deb.,* 25-4-1958, cc. 11486-97.

(*II*) *Procedure for dealing with requests for documents relating to proceedings of the House or any Committee of the House.*

A. (i) If the request has been made by a court or by the parties to the proceedings before a court and the House is not in session, the Speaker may in emergent cases allow the production of the relevant documents in court in order to prevent delays in administration of justice and inform the House accordingly of the fact when it meets.

(ii) If such a request, however, appears to the Speaker to involve any question of privilege, especially the privilege of the House, any Committee of the House, any member or a witness or, in case the production of the document appears to him to be a subject for the discretion of the House itself, he may, notwithstanding the fact that House is not in session, decline to grant the required permission and refer the matter to the Committee of Privileges for examination and report.

(iii) If such a request has been made when the House is in session, the request may be referred by the Speaker to the Committee of Privileges.

(iv) If the request requires appearance of a member or officer of the House in court, with or without documents for deposition, in relation to proceedings of the House or any Committee of the House, the Speaker may refer the matter to the Committee of Privileges, whether the House is in session or not.

B. (i) If the request has been made by investigating agencies like the police, the Central Bureau of Investigation, etc., the Speaker may permit them to take photocopies or photographs of the required documents without parting with the original documents.

(ii) In case, however, such a request appears to the Speaker to involve any question of privilege, especially the privilege of the House, any Committee of the House, any member, or a witness, or in case the production of the document appears to him to be a subject for discretion of the House itself, or the investigating agency insists on having the original documents for reasons to be specified in writing or they desire to record evidence of any member or officer of the House, he may refer the matter to the Committee of Privileges for examination and report.

(*III*) *Procedure for dealing with requests from courts or investigating agencies for documents other than those relating to the proceedings of the House or any Committee of the House, which are in the custody of the Secretary-General.*

A. If requests are received from a court or an investigating agency like the police or the Central Bureau of Investigation, etc., for documents, other than those relating to the proceedings of the House or any Committee of the House, which are in the custody of the Secretary-General, copies of such documents may be made available, with the permission of the Speaker.

Explanation: Documents in the custody of the Secretary-General, other than those relating to the proceedings of the House or any Committee of the House, shall mean and include (but it shall not be treated as an exhaustive list of such documents), those relating to general information pertaining to the sittings of the House, any Committee of the House, any member of the House or duration of sessions of the House, like dates on which the House sat; the number and/or dates of sittings of a Committee of the House; the number of the days a member attended the sittings of the House or any Committee of the House; TA/DA drawn by a member during a specified time; specimen signatures/handwriting of a member; documents submitted by a member; information submitted by a member regarding his assets and liabilities; the names and addresses of PAs, etc. employed by a member; and so on.

(*IV*) *The question whether a document relates to the proceedings of the House or any Committee of the House shall be decided by the Speaker and his decision shall be final.*

(*V*) *Documents relating to the proceedings of the House or any Committee of the House which are public documents should be taken judicial notice of and requests for certified copies thereof may not be ordinarily made unless there are sufficient reasons for making such requests.*

(*VI*) *Procedure after the Report of the Committee of Privileges has been presented or laid on the Table of the House.*

After the Report of the Committee of Privileges has been presented to or laid on the Table of the House, the Chairman or any member of the Committee may move a motion in the House to the effect that the House agrees with the Report and further action will be taken in accordance with the decision of the House.

A recommendation was also made that the Government may bring forward an amendment to the Right to Information Act, 2005 *inter alia* requiring an applicant under the Act for information/documents relating to matters coming under the jurisdiction of Parliament to state the reasons for which the same are required; empowering the presiding officer to refer such a request to the Committee of Privileges of the House for examination and report.

Proceedings in Parliament and the Criminal Law

Since a member of Parliament is not liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any Committee thereof[107], it follows that a member is not amenable to the courts of law for anything said in debate, however criminal in its nature. Thus, the Orissa High Court held that "no law court can take action against a member of the Legislature for any speech made by him there"[108].

107. Art. 105(2).

108. *Surendra Mohanty* v. *Nabakrishna Choudhury and Others,* A.I.R. 1958 Orissa 168.

It has also been held that the disclosures made in the House either by speeches or questions cannot be made the subject matter of a prosecution under the Official Secrets Act[109].

A criminal act committed by a member within the House cannot be regarded as a part of the proceedings of the House for purposes of protection. Thus, in the Maharashtra Legislative Assembly when a member shouted at the operator to connect his mike to the loudspeaker, threw a paper-weight in the direction of the loudspeaker-operator and rushed towards the Speaker and grabbed the mike in front of the Speaker, he was not only expelled from the House but was subsequently convicted under different sections of the Indian Penal Code and sentenced to a rigorous imprisonment for six months[110].

JMM Case – Immunity from Proceedings in Court for Voting in the House

In the General Election for the Tenth Lok Sabha held in 1991, the Indian National Congress (I.N.C.) emerged as the single largest party and it formed the Government with P.V. Narasimha Rao as the Prime Minister. During the Seventh Session of the Tenth Lok Sabha, on 28 July 1993, a No-Confidence Motion was moved against the Government by Ajoy Mukhopadhyaya, a member belonging to CPI(M). At that time, the effective strength of the Lok Sabha was 528 and Congress (I) had a strength of 251 members, Congress (I) was short of 14 members for a simple majority. The Motion of No-Confidence was taken up for discussion in the Lok Sabha on 26 July 1993 and the debate continued till 28 July 1993. The Motion was, thereafter, put to vote that day. On 28 February 1996, Ravindra Kumar of Rashtriya Mukti Morcha (R.M.M.) filed a complaint dated 1 February 1996 with the Central Bureau of Investigation (C.B.I.) wherein it was alleged that in July 1993, a criminal conspiracy was hatched by P.V. Narasimha Rao, Satish Sharma, Ajit Singh, V.C. Shukla, R.K. Dhawan and Lalit Suri to prove the majority of the Government on the floor of the House on 28 July 1993 by bribing members of Parliament of different political parties, individuals and groups to an amount of over Rs. 3 crore and that in furtherance of the said criminal conspiracy a sum of Rs. 110 crore was handed over by the aforementioned persons to Suraj Mandal. On the basis of the said complaint, the CBI registered four cases under Section 13(2) read with Section 13(l)(2)(iii) of the Prevention of Corruption Act, 1988 *inter alia* against Shibu Soren, Simon Marandi and Shailendra Mahto, members of Parliament belonging to the Jharkhand Mukti Morcha (JMM) Party.

These developments also found an echo in the Lok Sabha. During the Sixteenth Session of the Tenth Lok Sabha, on 11 March 1996, a question of privilege was sought to be raised in the House regarding the issue of alleged pay off and inducements to members of JMM for not voting in favour of the No-Confidence Motion. The then Speaker, Shivraj V. Patil, while disallowing the notice observed, "...The matter is before the court which may take a proper decision on the basis of the evidence that may be produced before it". Subsequently, in pursuance of the order dated 24 May 1996 passed by the Delhi High Court in Civil Writ Petition No. 23/96, another case was registered on 11 June 1996 against V.C. Shukla, R.K. Dhawan, Lalit Suri and others

109. Report of the Select Committee (House of Commons, U.K.) on the Official Secrets Act (1938-39), H.C. 101 (1938-39).

110. P.D. 1967; Vol. XII, pt. 1 pp. 53-54.

under Section 120-B IPC and Sections 7, 12, 13(2) read with Section 13(l)(d)(iii) of the Prevention of Corruption Act, 1988. After completing the investigation, the CBI submitted three chargesheets dated 30 October 1996, 9 December 1996 and 22 January 1997 in the court of Special Judge, New Delhi.

Meanwhile, in a related development in the Lok Sabha, in October 1996, representations were made to the Speaker, Eleventh Lok Sabha, P.A. Sangma by Shibu Soren, member, Eleventh Lok Sabha and Suraj Mandal, Simon Marandi and Shailendra Mahto, members of the Tenth Lok Sabha in the matter.

Shibu Soren, in his representation dated 5 October 1996 *inter alia* had posed a legal query *viz.* "an allegation of bribe against a member of House in connection with the voting in the House is a breach of privilege, which can only be inquired by the House and is not justiciable in a Court of Law".

Shibu Soren, Suraj Mandal, Simon Marandi and Shailendra Mahto, in their joint representation dated 18 October 1996, while referring to the ongoing case against them in the court of Ajit Bharihoke, Special Judge, Delhi in response to a Civil Writ Petition filed by R.M.M., had *inter alia* contended that "the investigation which is being conducted by the CBI into the aforesaid allegations, (their) arrest and the proceedings which are being pursued by them and others in various courts in respect of the same, are not only unconstitutional or without any jurisdiction, but constitute a serious encroachment upon the supremacy of the Lok Sabha in its exclusive field, its powers and privileges".

On the point of immunity to the members of Parliament from proceedings in any Court of Law, in respect of anything said or any vote given by them in Parliament or any Committee thereof, it had also been contended that "the entire proceedings of the learned High Court are barred not only by article 105(2) of the Constitution of India, but also by the powers and privileges and the exclusive jurisdiction of the Lok Sabha to investigate any matter which involves breach of its privileges".

On examination of this matter, it was felt that as there was no definitive judicial pronouncement on these issues till that time, the proper forum for raising such legal and constitutional points would therefore be a Court of Law. Shibu Soren was thereafter informed in writing that as the constitutional and legal issues raised in his representation regarding the scope and extent of the immunity to members under article 105 of the Constitution involve precise interpretation, and the proper forum for raising such issues was therefore a Court of Law. The member was accordingly requested that if he so desired, he might take up these constitutional and legal points through his counsel, with the appropriate court.

The Special Judge, after hearing the arguments, passed the order dated 6 May 1997 wherein he held that there is sufficient evidence on record to justify framing of charges against all the appellants. The Special Judge also held that there is *prima facie* evidence of commission of offence under Section 193 of IPC by accused Nos. A-3 to A-5, *i.e.* Suraj Mandal, Shibu Soren and Shailendra Mahto.

Before the Special Judge, an objection was raised on behalf of the accused persons that the jurisdiction of the court to try the case was barred under article 105(2) of the Constitution, as the trial is in respect of matters which relate to the privileges and immunities of the House of Parliament (Lok Sabha) and its members, in as much as the foundation of the charge sheets is the allegation of acceptance of bribe by some members of Parliament for voting against the No-Confidence Motion and that the controversy to be decided in this case would be in respect of the motive and action of members of Parliament pertaining to the vote given by them in relation to the No-Confidence Motion. The Revision petition against the said order of the Special Judge in the Delhi High Court was filed. After examination of the matter, the Delhi High Court found that there was no ground for interfering with the order passed by the Special Judge.

Feeling aggrieved by the said judgment of the High Court, the appellants moved in appeal to the Supreme Court of India. The appeals were heard by a bench of three Judges of the Supreme Court. After hearing the arguments of the counsel for the appellants, the following order was passed by that bench on 18 November 1997:—

Among other questions a substantial question of law as to the interpretation of article 105 of the Constitution of India is raised in these petitions. These petitions are, therefore, required to be heard and disposed of by a Constitution Bench.

In pursuance of the said order, the matter was placed before the five-judge Constitution Bench of the Supreme Court. At the commencement of the hearing, the Court passed the following order on 9 December 1997:—

> By order dated 18 November 1997 these matters have been referred to this Court for the reason that among the questions, a substantial question of law as to the interpretation of article 105 of the Constitution of India is raised in these petitions. These petitions are, therefore, required to be heard and disposed of by a Constitution Bench. The learned counsel for the parties agree that the Constitution Bench may only deal with the questions relating to interpretation of article 105 of the Constitution and the applicability of the Prevention of Corruption Act to a member of Parliament and member of State Legislative Assembly and the other question can be considered by the Division Bench.

The five-judge Constitution Bench of the Supreme Court delivered their judgement in the matter on 19 April 1998.

The two basic questions formulated by the Court for its consideration were as follows—

> (i) Does article 105 of the Constitution confer any immunity on a member of Parliament from being prosecuted in a criminal court for an offence involving offer or acceptance of bribe?
>
> (ii) Is a member of Parliament excluded from the ambit of the Prevention of Corruption Act, 1988 for the reason that – (a) he is not a person who can be regarded as a "public servant" as defined under Section 2(c) of the said Act, and (b) he is not a person comprehended in clauses (a), (b) and (c) of

sub-section (1) of Section 19 of the said Act and there is no authority competent to grant sanction for his prosecution under the said Act?

Three separate decisions were delivered by the five-judge bench – first by Justice S.C. Agarwal and Justice A.S. Anand; the second by Justice G.N. Ray; and the third by Justice S.P. Bharucha and Justice S. Rajendra Babu.

The learned judges, put the accused/appellants into two broad categories – (a) the alleged bribe takers; and (b) the alleged bribe givers. The first category was further divided into two sub-categories – those who voted in the House on the Motion of No-Confidence and those who did not vote on the motion.

The majority and minority judgments on each of the above two points and the rationale adopted for the judgment may be summarised in brief as follows:–

(i) Does article 105 of the Constitution confer any immunity on a member of Parliament from being prosecuted in a criminal court for an offence involving offer or acceptance of bribe?

The Majority Judgment, delivered by Justice S.P. Bharucha and Justice S. Rajendra Babu, Justice G.N. Ray concurring with them in a separate judgment, held that the alleged bribe takers, other than Ajit Singh, have the protection of article 105(2) and are not answerable in a Court of Law for the alleged conspiracy and agreement. Ajit Singh, not having cast his vote on the Motion of No-Confidence, derives no immunity from article 105(2). The alleged bribe givers do not enjoy any immunity. The criminal prosecution against them must, therefore, go ahead.

"The charge against the alleged bribe takers is that they were party to a criminal conspiracy and agreed to or entered into an agreement with the alleged bribe givers to defeat the No-confidence Motion...by illegal means... The stated object of the alleged conspiracy and agreement is to defeat the No-confidence Motion and the alleged bribe takers are said to have received monies as a motive or reward for defeating it. The nexus between the alleged conspiracy and bribe and the No-confidence Motion is explicit. The charge is that the alleged bribe takers received the bribes to secure the defeat of the No-confidence Motion... We do not think that we can ignore the fact that the votes were cast and, if the facts alleged against the bribe takers are true, that they were cast pursuant to the alleged conspiracy and agreement, it must then follow, given that the expression "in respect of must receive a broad meaning, that the alleged conspiracy and agreement had a nexus to and were in respect of those votes and that the proposed inquiry in the criminal proceedings is in regard to the motivation thereof. It is difficult to agree with the learned Attorney-General that, though the words 'in respect of' must receive a broad meaning, the protection under article 105(2) is limited to court proceedings that impugn the speech that is given or the vote that is cast or arise thereout or that the object of the protection would be fully satisfied, thereby. The object of the protection is to enable members to speak their mind in Parliament and vote in the same way, freed of the fear of being made answerable on that account in a Court of Law–Article 105(2) does not say, which it would have if the learned Attorney-General were right, that a member is not liable for what he has said or how he has voted. While imputing no such motive to the present prosecution, it is not difficult to envisage a member who has made a speech or cast a vote that is not to the liking of the powers that be

being troubled by a prosecution alleging that he had been party to an agreement and conspiracy to achieve a certain result in Parliament and had been paid a bribe."

"The protections to be enjoyed by a member of Parliament as contained in sub-article (2) of article 105 essentially flows from the freedom of speech guaranteed under sub-article (l) of article 105. Both the sub-articles (1) and (2) complement each other and indicate the true content of freedom of speech and freedom to exercise the right to vote envisaged in article 105 of the Constitution. The expression 'in respect of' appearing in several articles of the Constitution and in some other legislative provisions has been noticed in a number of decisions of this Court. The correct interpretation of the expression 'in respect of' cannot be made under any rigid formula but must be appreciated with references to the context in which it has been used and the purpose to be achieved under the provision in question. The context in which the expression 'in respect of' has been used in sub-article (2) of article 105 and the purpose for which the freedom of speech and freedom to vote have been guaranteed in sub-article (2) of the article 105 do not permit any restriction or curtailment of such right expressly given under sub-article (1) and sub-article (2) of article 105 of the Constitution. It must, however, be made clear that the protection under sub-article (2) of article 105 of the Constitution must relate to the vote actually given and speech actually made in Parliament by a member of Parliament."

"Mr. Rao submitted that since, by reason of the provisions of article 105(2), the alleged bribe takers had committed no offence, the alleged bribe givers had also committed no offence. Article 105(2) does not provide that what is otherwise an offence is not an offence when it is committed by a member of Parliament and has a connection with his speech or vote therein. What is provided thereby is that a member of Parliament shall not be answerable in Court of Law for something that has a nexus to his speech or vote in Parliament. If a member of Parliament has by his speech or vote in Parliament, committed an offence, he enjoys, by reasons of article 105(2), immunity from prosecution therefore. Those who have conspired with the member of Parliament in the commission of that offence have no such immunity. They can, therefore, be prosecuted for it."

The minority judgement delivered by Justice S.C. Agarwal and Justice A.S. Anand held that a member of Parliament does not enjoy immunity under article 105(2) or under article 105(3) from being prosecuted before a criminal court for an offence involving offer or acceptance of bribe for the purpose of speaking or by giving his vote in Parliament or in any committee thereof.

"The expression 'in respect of' precedes the words 'anything said or any vote given' in article 105(2). The words 'anything said or any vote given' can only mean speech that has already been made or a vote that has already been given. The immunity from liability, therefore, comes into play only if a speech has been made or vote has been given. The immunity would not be available in a case where a speech has not been made or a vote has not been given... If the construction placed by Shri Rao on the expression 'in respect of' is adopted, a member would be liable to be prosecuted on a charge of bribery if he accepts bribe for not speaking or for not giving his vote

on a matter under consideration before the House but he would enjoy immunity from prosecution for such a charge if he accepts bribe for speaking or giving his vote in Parliament in a particular manner and he speaks or gives his vote in Parliament in that manner. It is difficult to conceive that the framers of the Constitution intended to make such a distinction in the matter of grant of immunity between a member of Parliament who receives bribe for speaking or giving his vote in Parliament in a particular manner and speaks or gives his vote in that manner and a member of Parliament who receives bribe for not speaking or not giving his vote on a particular matter coming up before the House and does not speak or give his vote as per the agreement so as to confer an immunity from prosecution on charge of bribery on the former but denying such immunity to the latter. Such an anomalous situation would be avoided if the words 'in respect of' in article 105(2) are construed to mean 'arising out of'. If the expression 'in respect of' is thus construed, the immunity conferred under article 105(2) would not be confined to liability that arises out of or is attributable to something that has been said or to a vote that has been given by a member in Parliament or any committee thereof. The immunity would be available only if the speech that has been made or the vote that has been given is an essential and integral part of the cause of action for the proceedings giving rise to the liability. The immunity would not be available to give protection against liability for an act that precedes the making of the speech or giving of vote by a member in Parliament even though it may have a connection with the speech made or the vote given by the member if such an act gives rise to a liability which arises independently and does not depend on the making of the speech or the giving of vote in Parliament by the member. Such an independent liability cannot be regarded as liability in respect of anything said or vote given by the member in Parliament. The liability for which immunity can be claimed under article 105(2) is the liability that has arisen as a consequence of the speech that has been made or the vote that has been given in Parliament."

"The construction placed by us on the expression 'in respect of' in article 105(2) raises the question: Is the liability to be prosecuted arising from acceptance of bribe by a member of Parliament for the purpose of speaking or giving his vote in Parliament in a particular manner on a matter pending consideration before the House an independent liability which cannot be said to arise out of anything said or any vote given by the member in Parliament? In our opinion, this question must be answered in the affirmative. The offence of bribery is made out against the receiver if he takes or agrees to take money for promise to act in a certain way. The offence is complete with the acceptance of the money or on the agreement to accept the money being concluded and is not dependent on the performance of the illegal promise by the receiver. The receiver of the money will be treated to have committed the offence even when he defaults in the illegal bargain. For proving the offence of bribery all that is required to be established is that the offender has received or agreed to receive money for a promise to act in a certain way and it is not necessary to go further and prove that he actually acted in that way."

"The offence of criminal conspiracy is made out when two or more persons agree to do or cause to be done an illegal act or when two or more persons agree to do or cause to be done by illegal means an act which was not illegal. In view of the proviso to Section 120A IPC, an agreement to commit an offence shall by itself amount to criminal conspiracy and it is not necessary that some act besides the agreement should be done by one or more parties to such agreement in pursuance thereof. This means that the offence of criminal conspiracy would be committed if two or more persons enter into an agreement to commit the offence of bribery and it is immaterial whether in pursuance of that agreement the act that was agreed to be done was done or not.

The criminal liability incurred by a member of Parliament who has accepted bribe for speaking or giving his vote in Parliament in a particular manner thus arises independently of the making of the speech or giving of vote by the member and the said liability cannot, therefore, be regarded as a liability 'in respect of' anything said or any vote given in Parliament. We are, therefore, of the opinion that the protection granted under article 105(2) cannot be invoked by any of the appellants to claim immunity from prosecution."

One important observation made by the learned judges (Justice Bharucha and Justice Rajendra Babu) is that Parliament may proceed against the alleged bribe givers as well as the bribe takers for breach of privilege and contempt.

> (ii) Is a member of Parliament excluded from the ambit of the Prevention of Corruption Act, 1988 for the reason that: (a) he is not a person who can be regarded as a "public servant" as defined under Section 2(c) of the said Act, and (b) he is not a person comprehended in clauses (a), (b) and (c) of sub-section (1) of Section 19 of the said Act and there is no authority competent to grant sanction for prosecution under the said Act?

On this issue, strictly speaking there were no majority or minority decisions. All the three judgments held that members of Parliament are 'public servants'.

However, according to Justice Bharucha and Justice Rajendra Babu, the members of Parliament cannot be prosecuted for offences under Sections 7, 10, 11 and 13 of the Prevention of Corruption Act, 1988 because of want of authority competent to grant sanction.

According to Justice Agarwal and Justice Anand, since there is no authority competent to remove a member of Parliament and to grant sanction for his prosecution under Section 19(1) of the Act, the court can take cognizance of the offences mentioned in Section 19(1) in the absence of sanction but till provision is made by Parliament in that regard by suitable amendment in the law, the prosecuting agency, before, filing a chargesheet in respect of an offence punishable under Sections 7, 10, 11, 13 and 15 of the Prevention of Corruption Act, 1988 against a member of Parliament in a criminal court, shall obtain the permission of the Chairman, Rajya Sabha/Speaker, Lok Sabha as the case may be.

Justice G.N. Ray concurred with this judgment:

"Although in the Constitution the word 'office' has not been used in the provisions relating to members of Parliament and members of State Legislatures but in other

parliamentary enactments relating to members of Parliament the word 'office' has been used. Having regard to the provisions of the Constitution and the Representation of the People Act, 1951 as well as the Salary, Allowances and Pension of Members of Parliament Act, 1954 and the meaning that has been given to the expression 'office' in the decision of this Court, we are of the view that membership of Parliament is an 'office' inasmuch as it is a position carrying certain responsibilities which are of a public character and it has existence independent of the holder of the office. It must, therefore, be held that the member of Parliament holds an 'office'.

The next question is whether a member of Parliament is authorised or required to perform any public duty by virtue of his office. As mentioned earlier, in *R.S. Nayak* v. *A.R. Antulay,* this Court said that though a member of the State Legislature is not performing any public duty either as directed by the Government or for the Government but he no doubt performs public duties cast on him by the Constitution and by his electorate and he discharges constitutional obligations for which he is remunerated fees under the Constitution."

"In the 1988 Act, the expression 'public duty' has been defined in Section 2(b) to mean a duty in the discharge of which the State, the public or the community at large has an interest."

"The Form of Oath or Affirmation which is required to be made by a member of Parliament (as prescribed in Third Schedule to the Constitution) is in these terms:

"I, A.B. having been elected (or nominated) a member of the Council of States (or the House of the People) do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter."

"The words 'faithfully discharge the duty upon which I am about to enter' show that a member of Parliament is required to discharge certain duties after he is sworn in as a member of Parliament. Under the Constitution, the Union Executive is responsible to Parliament and members of Parliament act as watchdogs on the functioning of the Council of Ministers. In addition, a member of Parliament plays an important role in parliamentary proceedings, including enactment of legislation, which is sovereign function. The duties discharged by him are such in which the State, the public and the community at large have an interest and the said duties are, therefore, public duties. It can be said that a member of Parliament is authorised and required by the Constitution to perform these duties and the said duties are performed by him by virtue of his office."

"We are, therefore, of the view that a member of Parliament holds an office and by virtue of such office he is required or authorised to perform duties and such duties are in the nature of public duties. A member of Parliament would, therefore, fall within the ambit of sub-clause (viii) of clause (c) of Section 2 of the 1988 Act."

However, as suggested by the Court, no law has been enacted by the Parliament as yet specifying the competent authority to grant sanction for prosecution of a member of Parliament under Section 19(1) of the Prevention of Corruption Act, 1988. Therefore,

in case a member of Parliament is sought to be prosecuted, the prosecuting agency before filing of a chargesheet in respect of an offence punishable under Sections 7, 10, 11, 13 and 15 of the Prevention of Corruption Act, 1988, is required to obtain the permission of the Chairman, Rajya Sabha or Speaker, Lok Sabha, as the case may be. Accordingly, the Speaker, Lok Sabha is the competent authority to grant sanction for prosecution of members of Lok Sabha. During the Fifteenth Lok Sabha, the Speaker sanctioned prosecution of two members of Lok Sabha for offences punishable under the Prevention of Corruption Act, 1988, on a request in this regard, received from the prosecuting/investigating agencies.

Subsequent Developments

In November 1998, the Union Government filed a petition seeking review of the above judgment of the Supreme Court. On 16 December 1998, a five-judge Constitution Bench of the Supreme Court dismissed the Union Government's review petition on the ground of inordinate delay in filing of the same. The Bench was headed by Chief Justice A.S. Anand and consisted of Justices S.P. Bharucha, K. Venkatasami, B.N. Kirpal and S. Rajendra Babu. The Chief Justice, in his order, observed:

> "There is inordinate delay in filing the review petition. The application seeking condonation of the delay contains no reasonable or satisfactory explanation. It is merely mentioned that the delay occurred due to paucity of staff... It is hardly any ground for condonation of delay. The application for condonation of delay is dismissed and as a consequence, the review petition is also dismissed as time barred."

On 5 May 1999, the Supreme Court of India while disposing of all appeals to it moved by P.V. Narasimha Rao and others against the order of the Delhi High Court dismissing the appellants' revision petition against the order of Special Judge Ajit Bharihoke, Delhi High Court, *inter alia,* passed the following order:

> "During the pendency of these appeals, as this Court had not granted any stay of further proceeding, the trial has already commenced and is continuing. In view of the questions already answered by the Constitution Bench on the issues posed before their Lordships, it is not necessary for us to go into any other questions raised in these appeals since those questions have to be answered by the learned Trial Judge bearing in mind the law laid down by the Constitution Bench in the aforesaid case."

In pursuance of the above order of the Supreme Court, the alleged bribe takers moved applications for their discharge claiming immunity from prosecution in view of their parliamentary privilege under article 105(2) of the Constitution.

These applications were contested by the prosecution *vide* its reply dated 31 May 1999 wherein it was alleged that the judgment of Constitution Bench of the Supreme Court dated 17 April 1999, cannot be construed to have conferred immunity to alleged bribe takers (applicants) for the act of abetment of commission of offence punishable under Section 7 of the Prevention of Corruption Act, 1988. Therefore, this trial against them should proceed under Section 12 of the Prevention of Corruption Act, 1988. It was further alleged that the accused Shibu Soren, Suraj Mandal and Simon Marandi had also been charged with offence punishable under Section 193 IPC, which was allegedly committed during the pendency of investigation of this case. Thus, the

aforesaid act having no direct nexus with the votes given by the said applicants in the Parliament, the trial on the aforesaid charge should proceed. It was also alleged that so far as accused Ajit Singh was concerned, Supreme Court had categorically held that he was not entitled to protection of article 105(2) of Constitution of India; therefore, there was no merit in his plea seeking immunity under article 105(2) of the Constitution of India as well as discharge in this case.

After consideration of the submissions by the applicants and the prosecution, the Special Judge, CBI delivered the following Judgment on 4 June 1999:

> (*i*) "All the applicants have been charged for having committed offence of conspiracy punishable under Section 120-B IPC read with Sections 7, 12 and 13(2) read with 13(l)(d) of Prevention of Corruption Act, 1988 as well as substantive offences punishable under Section 7 of the Prevention of Corruption Act, 1988 and 13(2) read with 13(l)(d) of Prevention of Corruption Act, 1988. Besides that, accused Suraj Mandal, Shibu Soren and Simon Marandi have also been charged for the offence punishable under Section 193 IPC. There is a factual difference pertaining to voting pattern on No-confidence Motion in the role of accused Ajit Singh and other applicant-accused persons. As per record, the applicants except Ajit Singh voted against the No-confidence Motion, whereas Ajit Singh voted in favour of No-confidence Motion...".
>
> (*ii*) 'It is obvious that as per majority view of the Constitution Bench of the Apex Court all the applicants except Ajit Singh are entitled to immunity conferred by article 105(2) of the Constitution of India. Now the question arises as to how far this immunity can be extended in case of the applicants who admittedly were members of Parliament at the relevant time'.
>
> Clue to answer to this question can be found in para nos. 134 to 137 of the judgment and para no.143 of the judgment which reads as follows:
>
> "Our conclusion is that the alleged bribe takers, other than Ajit Singh, have the protection of article 105(2) and are not answerable in a Court of Law for the alleged conspiracy and agreement. The charges against them must fail. Ajit Singh, not having cast a vote on the No-confidence Motion, derives no immunity from article 105(2)."
>
> (*iii*) "Perusal of the observation of Honourable Justice Bharucha in the above referred judgment makes it clear that majority view of the Constitution Bench of Honourable Supreme Court is that article 105(2) of the Constitution should be given a broader interpretation and immunity granted *vide* said article is not only available to the applicants against the criminal proceedings regarding their alleged act of taking bribe for voting against the No-confidence Motion, but it is also available against the alleged conspiracy by the bribe takers to defeat the No-confidence Motion by illegal means because the nexus between the alleged conspiracy and the bribe and No-confidence Motion is explicit. Conclusion of Honourable Justice Bharucha in para no. 143 of the judgment reported in (1998) 4 SCC 425 makes it clear that after analysing the facts of the case and Article 105(2) of the Constitution *vis-a-vis* the provisions of Prevention of Corruption Act, majority have concluded that

alleged bribe takers other than Ajit Singh have protection of article 105(2) of the Constitution and they are not answerable in the Court of Law for the alleged conspiracy and agreement. The charges against them must fail... Thus conclusion of majority view of Constitution Bench is clear that applicants namely Suraj Mandal, Shibu Soren, Simon Marandi, Ram Lakhan Singh Yadav, Ram Sharan Yadav, Roshan Lal, Anadi Charan Das, Abhay Pratap Singh and Haji Gulam Mohammed Khan are entitled to immunity under article 105(2) of the Constitution, so far as the charges under section 120-B IPC, read with Sections 7, 12, and 13(2) read with 13(l)(d) of Prevention of Corruption Act, 1988 and substantive charges under Sections 7 and 13(2) read with 13(l)(d) of Prevention of Corruption Act, 1988 are concerned. Thus, in my view, they cannot be proceeded against the aforesaid charges and said charges must be dropped".

(*iv*) "Now the question arises, if the aforesaid immunity under article 105(2) can be extended to accused Suraj Mandal, Shibu Soren and Simon Marandi who have charges for the offence punishable under Section 193 IPC. Allegations against them are that during the pendency of investigation of the present case, while writ petition no. 789/96 was pending disposal in Honourable High Court of Delhi in between February and April 1996 at Delhi, Ranchi and other places, said accused persons caused to bring false evidence into existence by fabricating or causing to fabricate the documents or records, *i.e.* to JMM Central Office, Ranchi in order to create an evidence to the effect that the amounts deposited in their accounts were actually donation received by the party and not the alleged bribe amount".

(*v*) "As per evidence collected by investigating officer, voting on No-confidence Motion was done in July 1993 and fabrication of the evidence have allegedly been done during February to April 1996 when the investigation of this case was going on. Considering such a long time gap between the voting and the alleged fabrication of evidence/record, it cannot be said that there is any nexus between the actual vote given by these accused persons in the Parliament and the fabrication. Alleged fabrication of the evidence is a subsequent act on the part of applicant accused persons not only to create a defence for use in judicial proceedings against them, but said fabricated evidence can be used as a defence against the accused persons who are being prosecuted for having conspired to abet the act of taking bribe by the alleged bribe takers. Thus, in my opinion, the charge under Section 193 IPC framed against Suraj Mandal, Shibu Soren and Simon Marandi may be having a remote connection to the other charges against them, but it has no direct nexus with the vote given by them in the Parliament. As such, aforesaid charges cannot be dropped. Immunity under article 105(2) of the Constitution is only in respect of anything said or any vote given by member of Parliament in the Parliament. But alleged act which is subject matter of charge under Section 193 IPC, has been committed outside the Parliament and after a lapse of more than two and half years from the vote given by these accused persons

in the Parliament. Now, therefore, no nexus can be drawn between vote given by accused and fabrication. Thus, I am of the view that applicants can be tried for charges under Section 193 IPC...".

(*vi*) "His (Ajit Singh's) role in the episode is different from the role of other alleged bribe takers. As per evidence collected during investigation, other alleged bribe takers had voted against the No-confidence Motion and they had allegedly received bribe in furtherance of conspiracy for defeating the Confidence Motion by voting against it. However, in the case of accused Ajit Singh as per his own contention he has voted in favour of No-confidence Motion, whereas charges against him are that he entered into a criminal conspiracy with others to defeat No-confidence Motion by illegal means and agreed to obtain illegal gratification other than this legal remuneration from the alleged bribe givers as a motive or reward for defeating the No-confidence Motion and in furtherance of said agreement he also accepted and obtained illegal gratification of Rs. 300 lakh for self as well as other Janata Dal (Ajit Group) MPs. If we analyse aforesaid charges framed against the accused, Ajit Singh's alleged motive of his having entered into conspiracy and having accepted illegal gratification for self and others, was to defeat the No-Confidence Motion by voting against it. However, admittedly he has voted in favour of No-confidence Motion, therefore, no nexus can be derived between the alleged motive of Ajit Singh for voting in favour of No-confidence Motion and his motive relating to conspiracy in question and acceptance of illegal gratification. Thus, in my view, immunity under article 105(2) cannot be extended to him. It may not be out of place to mention that after judgment of Constitution Bench was pronounced, Ajit Singh admittedly filed a review petition in Honourable Supreme Court. He admittedly took the plea in his review petition that he has actually voted in favour of No-confidence and he has been denied immunity by the judgment of Constitution Bench on mis-conception of the fact that he did not vote on No-confidence Motion. Said review petition was admittedly dismissed by Honourable Supreme Court. Mere fact that Honourable Supreme Court dismissed the review petition even after the fact of vote given by Ajit Singh on No-confidence Motion was brought to their notice, makes it clear that as per Apex Court, Ajit Singh is not entitled to the immunity under article 105(2) of the Constitution. Reason is obvious. The motive of vote given by Ajit Singh in favour of No-confidence Motion is entirely different from the motive of his having allegedly accepted the bribe. Thus no nexus could be drawn between the motive of Ajit Singh voting in favour of No-confidence Motion and his motive of entering into alleged conspiracy and taking illegal gratification. Thus, in my opinion, in view of categoric finding of majority view of Constitution Bench, Ajit Singh is not entitled to be discharged on the basis of immunity under article 105(2) of the Constitution of India".

(*vii*) "The act of abetment by alleged bribe takers has a direct nexus with their having accepted illegal gratification pursuant to the abetment as well

as the motive behind the vote given in the Parliament. Therefore, in view of the majority view of the Constitution Bench of Apex Court, immunity under article 105(2) of the Constitution also extends to the alleged act of conspiracy and abetment".

(*viii*) "In view of my discussion above, I conclude that all the applicants except Ajit Singh are entitled to immunity under article 105(2) of the Constitution in relation to charges under Section 120-B IPC read with Sections 7, 12 and 13(2) read with 13(l)(d) of Prevention of Corruption Act, 1988, but prosecution of accused persons Suraj Mandal, Shibu Soren and Simon Marandi shall proceed for offence punishable under Section 193 IPC. I further conclude that applicant Ajit Singh is not entitled to immunity under article 105(2) of the Constitution and his trial on charges framed against him shall proceed. As a result of above said conclusion, accused Ram Lakhan Singh Yadav, Ram Sharan Yadav, Roshan Lal, Anadi Charan Das, Abhay Pratap Singh, and Haji Gulam Mohammed Khan are hereby discharged and all the charges except under Section 193 IPC against accused Suraj Mandal, Shibu Soren and Simon Marandi are dropped".

Privilege of Freedom from Arrest or Molestation

Need of the Privilege: The privilege of freedom from arrest in civil cases for the duration of the session and for a period of forty days before and after the session, like other privileges, is granted to members of Parliament in order that they may be able to perform their duties in Parliament without let or hindrance. The object of this privilege is "to secure the safe arrival and regular attendance of members on the scene of their parliamentary duties".

Scope of the Privilege: A review of the development of this privilege reveals a tendency to confine it more narrowly to cases of civil character and to exclude not only every kind of criminal case, but also cases which, not strictly criminal, partake more of a criminal than of a civil character. This development is in conformity with the principle laid down by the Commons in a conference with the Lords in 1641 that "privilege of Parliament is granted in regard to the service of the Commonwealth and, is not to be used to the danger of the Commonwealth".

In India, the exemption from arrest and detention in prison under civil process was conferred in 1925 on the members of legislative bodies by the Legislative Members Exemption Act[111], which inserted section 135A in the Code of Civil Procedure, 1908. This section, subsequently adapted by the Adaptation of Laws Order, 1950[112] provides that a member of a Legislature is not liable to arrest or detention in prison under civil process during the continuance of any meeting of the House of Legislature or any committee thereof, of which he may be a member, and during fourteen days before and after such meeting. However, with the enforcement of the Constitution on 26 January 1950, the scope and duration of the privilege of freedom from arrest in India came to be the same as that obtaining in the United Kingdom[113], *i.e.* forty days before and after

111. S. 3 of the Legislative Members Exemption Act, 1925.

112. Issued under art. 372(2).

113. Art. 105(3).

a session of the House and not merely for fourteen days as provided in section 135A of the Code of Civil Procedure, 1908[114]. Thus, the Madras High Court ruled:

> There is immunity extending for a period of forty days prior to the meeting and forty days subsequent to the conclusion of the meeting for a member of Parliament from being arrested for a civil debt; that is, if there is a decree against him, or, if he is sought to be arrested before judgment, he can certainly claim the immunity and freedom from arrest. It is also clear that such immunity cannot extend or be contended to operate, where the member of Parliament is charged with an indictable offence[115].

The arrest of a member of Parliament in civil proceedings during the period when he is exempted from such arrest is a breach of privilege and the member concerned is entitled to his release. In a case in the Rajasthan Vidhan Sabha, the House agreed with the report of its Committee of Privileges that the arrest of a member in revenue proceedings was a breach of privilege of the House, revenue proceedings being in the nature of civil proceedings[116].

Freedom from arrest does not extend to criminal offences: The privilege of freedom from arrest "cannot extend or be contended to operate, where the member of Parliament is charged with an indictable offence[117]. The House will not allow even the sanctuary of its walls to protect a member from the process of criminal law though service of a criminal process on a member within the precincts of Parliament may be a breach of privilege[118]. A member released on parole cannot attend the sittings of the House[119].

> In a case where the petitioner, a member of the then Travancore-Cochin Legislative Assembly, was under arrest in connection with two criminal cases pending against him, the Travancore-Cochin High Court observed:
>
> ...It is clear from May's Parliamentary Practice (15th Ed. p. 7S) that 'the privilege of freedom from arrest is not claimed in respect of criminal offences or statutory detention' and that the said freedom is limited to civil causes, and has not been allowed to interfere with the administration of criminal justice or emergency legislation...
>
> So long as the detention is legal...the danger of the petitioner losing his seat [under art. 190(4)] or the certainty of his losing his daily allowance cannot possibly form the foundation for relief against the normal or probable consequences of that detention[120].

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114. This view was also expressed by the Ministry of Home Affairs, Government of India in their letter No. 91/51 Police 1, dated 5 May 1952, addressed to the Secretary, Government of the erstwhile Madhya Bharat State.
115. *In the matter of Venkateswarlu,* A.I.R. 1951, Madras 272, *See* also in *re. K. Anandan Nambiar,* A.I.R. 1952, Madras 117; *Ansumali Majumdar* v. *State of West Bengal,* A.I.R. 1952, Calcutta 632; *A. Kunjan Nadar* v. *The State,* A.I.R. 1955, Travancore-Cochin 154.
116. *See* the *Case of Gurdayal Singh Sandhu, Raj. V.S. Deb.,* 27-9-1956.
117. *See in the matter of Venkateswarlu,* A.I.R. 1951, Madras 272.
118. H.C. 185 (1970-71), p. 7.
119. *L.S. Deb.,* 24-11-1965, c. 3615.
120. In *A. Kunjan Nadar* v. *The State,* A.I.R. 1955, Travancore-Cochin 154; *see* also May, Twenty-fourth Edn. p. 243.

In the *Dasaratha Deb Case* (1952), the Committee of Privileges of the Lok Sabha *inter alia* held that the arrest of a member of Parliament in the course of administration of criminal justice did not constitute a breach of privilege of the House.

On 24 December 1969, a question of privilege was raised in the Lok Sabha regarding arrests of some members while they were stated to be on their way to attend the House. The Chair ruled that since the members were arrested under the provisions of the Indian Penal Code and had pleaded guilty, no question of privilege was involved[121].

Any investigation outside Parliament of anything that a member says or does in the discharge of his duties as a member of Parliament would amount to a serious interference with the member's right to carry out his duties as such member. References made in the First Information Report and affidavits filed in court by the Central Bureau of Investigation to the disclosures made by a member in the Lok Sabha and the documents laid by him on the Table of the House have been deprecated by the Chair[122]. But where disclosures made by a member on the floor of the House indicate that he is in possession of vital information in a criminal case which is under investigation by the police, the Committee of Privileges, Rajya Sabha, recommended the following procedure—

If in a case a member states something on the floor of the House which may be directly relevant to criminal investigation and is, in the opinion of the investigating authorities, of vital importance to them as positive evidence, the investigating authority may make a report to the Minister of Home Affairs accordingly. If the Minister is satisfied that the matter requires seeking the assistance of the member concerned, he would request the member through the Chairman to meet him. If the member agrees to give the required information the Home Minister will use it in a manner which will not conflict with any parliamentary right of the member. If, however, the member refuses to respond to the Home Minister's request, the matter should be allowed to rest there[123].

In pursuance of the recommendations of the Committee, suitable instructions were issued by the Ministry of Home Affairs to all State Governments and Union Territory Administrations[124].

Freedom from arrest not claimed in respect of Preventive Detention: The privilege of freedom from arrest does not extend to preventive arrest or detention under statutory authority by executive order.

In *Deshpande Case* (1952), the Committee of Privileges of Lok Sabha reported that the arrest of a member under the Preventive Detention Act, 1950, did not constitute a breach of the privileges of the House. The Committee *inter alia* observed:

121. *P.D.* 1970, Vol. XV, 2, p. 42; 1976, Vol. XXI, 1, p. 12.

122. *L.S. Deb.,* 17-12-1981, cc. 303-05.

123. 12th Report of the Committee of Privileges, Rajya Sabha.

124. Ministry of Home Affairs, letter Nos. 32/2/66/68-Poll. 1. (A) DS dated June 1969 and 2 August 1969.

> Preventive detention is in its essence as much a penal measure as any arrest by the police, or under an order of a Magistrate, on suspicion of the commission of a crime, or in course of, or as a result of, the proceedings under the relevant provisions of the Criminal Procedure Code and no substantial distinction can be drawn on the ground that preventive detention may proceed merely on suspicion and not on the basis of the commission of an offence on the part of the person directed to be detained. The Constitution authorizes preventive detention in the interests of the State and it is well settled that "the privilege of Parliament is granted in regard to the service of the Commonwealth and is not to be used to the danger of the Commonwealth", and further every detention by whatever name it is called—preventive, punitive or any other, as was pointed out by the Committee of Privileges in the House of Commons in *Ramsay's Case,* has this in common: 'the protection of community as a whole'...

The above position has also been reiterated by courts of law in India. The Calcutta High Court, *inter alia,* observed:

> Preventive detention partakes more of a criminal than of a civil character. The Preventive Detention Act only allows persons to be detained who are dangerous or are likely to be dangerous to the State. It is true that such orders are made when criminal charge's possibly could not be established but the basis of the orders are a suspicion of nefarious and criminal or treasonable activities[125]...

In a case before the Madras High Court, a member of the Madras Legislative Assembly, who was in detention under the Maintenance of Public Order Act when he received the summons for a session of the Madras Legislative Assembly, prayed to the court for the issue of a writ by way of *mandamus* or other appropriate writ to declare and enforce his right to attend the sittings of the Madras Legislative Assembly either freely or with such restrictions as might be reasonably imposed. The Court held that a member could not claim any privilege from arrest and detention under the preventive detention legislation and observed:

> Once a member of a Legislative Assembly is arrested and lawfully detained, though without actual trial under any Preventive Detention Act, there can be no doubt that under the law as it stands, he cannot be permitted to attend the sittings of the House. A declaration by us that he is entitled to do so, even under armed escort, is entirely out of the question[126].

In this context, the Supreme Court observed:

> Rights of a member of Parliament to attend the session of Parliament, to participate in the debate and to record his vote are not constitutional rights in the strict sense of the term and quite clearly, they are not fundamental rights at all. So far as a valid order of detention is concerned, a member of Parliament can claim no special status higher than that of an ordinary citizen[127].

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125. In *Ansumali Majumdar* v. *State of West Bengal,* A.I.R. 1952, Calcutta 632; *see* also in the matter of *Venkateswarlu,* A.I.R. 1951, Madras 269.

126. In *re. K. Anandan Nambiar,* A.I.R. 1952, Madras 117.

127. *K. Anandan Nambiar and R. Umanath* v. *Chief Secretary to the Government of Madras,* A.I.R. 1966 S.C. 657.

Exemption from Attending as Witness in Courts

The privilege of exemption from attending as a witness in a court is akin to the privilege of freedom from arrest in a civil case and is based on the principle that attendance of a member in the House takes precedence over all other obligations and that the House has the paramount right and prior claim to the attendance and service of its members.

In the Madras Legislative Assembly, a member sought to raise a question of privilege that he had been served with a subpoena to attend a court as a witness when the Assembly was in session. The Chair took pleasure of the House whether it would give leave to the member to attend to the court as a witness. On the House not agreeing, the Chair observed that the member could claim privilege and remain in the House[128].

On 1 May 1974, the Speaker of the Lok Sabha received a notice from the Supreme Court in the matter of the Special Reference under article 143 of the Constitution regarding Presidential election. The notice required the Speaker to appear before the Court through an Advocate of the Court and take such part in the proceedings before the Supreme Court as he may deem fit. The General Purposes Committee before whom the matter was placed advised that neither Lok Sabha nor the Speaker should enter appearance in this matter. The House agreed with this decision and the Supreme Court was informed accordingly[129].

A similar notice from the Supreme Court was also received by the Chairman, Rajya Sabha. As advised by its General Purposes Committee no action was taken in the matter by the Rajya Sabha[130].

In another case, the Chairman of the Public Accounts Committee received summons from a court regarding a suit involving certain observations made in a report of that Committee. The Speaker of Lok Sabha while placing the matter before the House on 1 August 1975, advised the Chairman of the Public Accounts Committee to ignore the summons and not to put in any appearance in the court[131].

Immunity from Service of Legal Process and Arrest within the Precincts of the House

No arrest can be made within the precincts of the House nor a legal process, civil or criminal, served without obtaining the permission of the Speaker, and this permission is necessary whether the House is in session or not[132]. Precincts of the House have been defined in the Rule[133].

> The Punjab Vidhan Sabha, in a case where a police officer attempted to execute a warrant of arrest against a member within the precincts of the House without first obtaining the leave of the House, held the police officer guilty

128. *Madras L.A. Deb.,* 17-11-1959.
129. *L.S. Deb.,* 9-5-1974, cc. 222-24.
130. *R.S. Deb.,* 9-5-1974.
131. *L.S. Deb.,* 1-8-1975, cc. 4-5. *See* also, p. 219, *infra.*
132. Rule 232 and 233.
133. Rule 2(1) and Dir. 184.

> of breach of privilege. The police officer concerned tendered an unqualified apology which was accepted by the House[134].

However, in a case of arrest of employees of the Legislature Secretariat within the precincts of the House, the Speaker of the Kerala Legislative Assembly, disallowing the question of privilege, ruled:

> The prohibition against making arrest, without obtaining the permission of the Speaker, from the precincts of the House is applicable only to the members of the Assembly. I do not think it is possible, nor is it desirable to extend this privilege to persons other than the members, since it would have the effect of putting unnecessary restrictions and impediments in the due process of law[135].

The Government of India have issued instructions to the authorities concerned to the effect that courts of law should not seek to serve a legal process, civil or criminal, on members of Parliament through the Speaker or the Secretariat. The appropriate procedure is for the summons to be served direct on the member concerned outside the precincts of Parliament, *i.e.,* at their residence or at some other place[136].

Instructions have also been issued by the Government of India to the police and other authorities concerned, through the State Governments and Administrations, to the effect that requests for seeking the permission of the Speaker to make arrests within the precincts of the House should not be made by the authorities concerned as a matter of routine. Such requests should be confined only to urgent cases where the matter cannot wait till the House adjourns for the day. The request in each case should be signed by an officer not below the rank of a Deputy Inspector-General of Police and should state the reasons why arrest within the precincts of the House is necessary[137].

House to be informed of the Arrest, Detention, Conviction and Release of Members

When a member is arrested on a criminal charge or for a criminal offence or is sentenced to imprisonment by a court or is detained under an executive order, the committing judge, magistrate or executive authority, as the case may be, must immediately intimate such fact to the Speaker indicating the reasons for the arrest, detention or conviction, as the case may be, as also the place of detention or imprisonment of the member, in a prescribed form. In *Jambuwant Dhote Case* (1973), the Committee of Privileges recommended that when a member is arrested and detained under the Maintenance of Internal Security Act, 1971, or under any other law providing for preventive detention, the authorities should, besides sending to the Speaker immediate information regarding the arrest and detention of the member together with the reasons for arrest and detention, send a copy of the detailed 'grounds' to the

134. *Punjab* v. *S. Deb.,* 19-2-1959 and 19-3-1959.

135. *P.D.* 1973, Vol. XVIII, 2, p. 34.

136. Ministry of Home Affairs, Letters No. 35/2/57-P. 11, 7 October 1958 addressed to all State Governments and Administrations and No. I/1602/25/95-IS (D. HI), 19 June 1996 addressed to the Chief Secretaries of all State Governments and Union Territories [F.No. 16/76/95/LB-I (Priv.)].

137. Ministry of Home Affairs, Letters No. 56/58-Judi., 14 April and 30 September 1953, and No. 35/2/57-P. II, 8 February, 1958.

Speaker, Lok Sabha, simultaneously, when those grounds are supplied to the detenue as per law for preventive detention[138]. When a member is arrested and after conviction released on bail pending an appeal or is otherwise released, such fact is also required to be intimated to the Speaker by the authority concerned in the prescribed form[139].

> Even when a member has not been arrested within the strict legal meaning of the term "arrest" but has been detained by the police for sometime and then let off, failure on the part of the authorities concerned to send the necessary intimation in the matter to the Speaker has been held to constitute, technically, a breach of privilege of the House[140].

It is the committing judge or magistrate who is to inform the Speaker about the arrest or detention or conviction of a member, because it is he who has prevented the member from attending the House and discharging his duty. Where a panel of judges has awarded the punishment, it is the senior-most judge who has to intimate the fact. Only a person in lawful authority may arrest or detain any person and the House has therefore, to see on receipt of the information whether the person had the authority to prevent a member from functioning.

In case a fine is imposed on a member, it is not incumbent on the authorities to send such intimation. Where it is so sent by an officer of a court *e.g.* the Registrar, it is not contrary to the Rules.

As soon as the intimation regarding the arrest, conviction or release of a member is received by the Speaker, he reads it out in the House if it is in session[141]. If the House is not in session, he directs that the information be published in the Bulletin for the information of the members[142].

When the intimation of the release of a member either on bail or by discharge on appeal is received before the House has been informed of the original arrest, the fact of his arrest, or his subsequent release or discharge need not be intimated to the House by the Speaker[143].

If a member has started attending the House before the House has been informed of his release, such intimation is not read out in the House, but is published in the Bulletin for the information of the members.

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138. *P.O.* 1975, Vol. XX, 2, pp. 37-41.

139. Rules 229, 230 and Third Schedule to the Rules.

    The Government of India have advised the State Governments and Administrations that when a member was released from jail on any ground, for example, on bail pending appeal or on the sentence being set aside on appeal or on the remission of sentence by Government on appeal or on termination of preventive detention, such release should invariably be communicated to the Speaker. When a member, who is under detention or is undergoing a sentence of imprisonment, is transferred from one jail to another, the change in the place of detention or imprisonment is also required to be intimated to the Speaker. Ministry of Home Affairs, Letter No. 35/2/57-P. II, 21 May 1958.

140. *Swami Brahmanand Case, IR* (CPR-4LS); *K.C. Haldar Case,* P.D. 1976, Vol. XXI, 1, pp. 2-4; also *Kumari Frida Topno Case,* IR (CPR-10LS).

141. Rule 231.

142. *Ibid.*

143. Rule 231, Proviso.

The failure on the part of a judge or a magistrate or other authority to inform the House of the arrest, detention or imprisonment of a member would constitute a breach of the privileges of the House.

> On 1 March 1950, a member raised a question of privilege in the House regarding the removal from Delhi of another member, under the East Punjab Public Safety Act, 1949, without communicating the fact to the Speaker of the House. The matter was discussed by the House and when the Government expressed their regret, the House, on a motion moved by a member, decided to drop the matter[144].
>
> The Hyderabad Legislative Assembly held a sub-inspector of police guilty of breach of privilege for failure to intimate to the Speaker of the Assembly the arrest of a member. The sub-inspector was called to the Bar of the Andhra Pradesh Legislative Assembly (the principal successor of the Hyderabad Legislative Assembly on reorganization of States) where he tendered an unconditional apology[145].

Although the failure to intimate to the Speaker the place of imprisonment or detention of a member, or his transfer from one jail to another or his release from custody would not by itself involve a breach of privilege, it would nevertheless be non-compliance with an established convention in this regard[146].

> It has been held by the Committee of Privileges in the *Dasaratha Deb Case* (1952), that where a member is arrested in the course of administration of criminal justice and immediately released on bail, there is no duty on the part of the magistrate concerned to inform the House. It was also held by the Committee in their Fourth Report (1958) that no breach of privilege had been committed by the authorities concerned in not sending intimation to the Speaker of the release of a member on bail pending trial.

If a member is bound over under section 107 of the Code of Criminal Procedure for keeping the peace, it is not necessary for the magistrate passing the order to inform the Speaker of the matter since such an order does not prevent the member concerned from attending the sittings of the House.

In order to determine whether in a particular case the required intimation has been immediately sent to the Speaker, all the circumstances of that case are taken into account. The Committee of Privileges have held that "while it is well recognized that such intimation should be given promptly, it is not possible to lay down any hard and fast rule on the subject. Much would depend upon the surrounding circumstances of each case"[147].

In case where delays have occurred in sending the required intimation to the Speaker, the authorities concerned have expressed regret for the same[148].

144. *P. Deb.* (II), 1-3-1950, pp. 1019-45.

145. *Hyd. L.A. Deb.,* 18-6-1952; 19-6-1952, pp. 353, 393-98; 10-12-1952, pp. 1106-24 and Andh. Pr. *L.A. Deb.,* 25-3-1957, pp. 327-30; 15-4-1957, p. 96.

146. Minutes recorded by Speaker Ayyangar on 23 August, 1957 and Ministry of Home Affairs Letter No. 35/2/57-P. II, 21 May 1958, to all State Governments and Administrations.

147. *The Deshpande Case* (1952) (CPR-1LS). *See also Mahavir Tyagi's Case, R.S. Deb.,* 30-8-1973; *Jambuwant Dhote Case, P.D.* 1975, Vol. XX, 2, pp. 37-47.

148. A member was released on bail on 9 June 1952. In communicating the fact of release of the member to the Speaker on 12 March 1953, the Magistrate concerned tendered apologies for the delay in sending the intimation-*See L.S. Deb.*, 19-3-1953, cc. 2346-7; *see* also *L.S. Deb.,* 20-10-1982, cc. 326-27.

Communications from a Member in Custody to the Speaker or the Chairperson of a Parliamentary Committee not to be Withheld

It is a breach of privilege to withhold any communication addressed by a member in custody to the Speaker, Secretary-General or the Chairperson of a Parliamentary Committee. No breach of privilege is, however, involved where the government withholds a letter written from jail by a member to another member[149]. The Madras High Court in 1952 held that a member of a Legislature, in detention, was "entitled to the right of correspondence with the Legislature, and to make representations to the Speaker and the Chairman of the Committee of Privileges and no executive authority has any right to withhold such correspondence"[150].

The Committee of Privileges recommended in 1958 that provisions might be incorporated in the Jail Codes, Security of Prisoners Rules, etc. of State Governments and Administrations to the effect that all communications addressed by a member of Parliament, under arrest or detention or imprisonment for security or other reasons, to the Speaker of Lok Sabha or the Chairman of Rajya Sabha, as the case may be, or to the Chairperson of a Parliamentary Committee or of a Joint Committee of both Houses of Parliament, should be immediately forwarded by the Superintendent of the jail concerned to the Government so as to be dealt with by them in accordance with the rights and privileges of the prisoner as a member of the House to which he belongs[151]. In the interests of uniformity, the Committee also suggested making of similar provisions in respect of members of the State Legislatures.

The Ministry of Home Affairs accordingly advised all State Governments and Administrations to make necessary provisions in their relevant rules[152].

Use of Handcuffs

There is no privilege specifically exempting a member of Parliament, who is under arrest on a criminal charge, from being handcuffed[153]. The Government of India have, however, issued instructions to the police and other authorities concerned, through the State Governments and Administrations, to the effect that persons in police custody and prisoners, whether under trial or convicts, should not be handcuffed as a matter of routine and that the use of handcuffs should be restricted to cases where the prisoner is a desperate character or where there are reasonable grounds to believe that he will use violence or attempt to escape or where there are other similar reasons[154].

149. 4R (CPR-2LS), pp. 11-12.

150. In *re. K. Anandan Nambiar,* A.I.R. 1952, Madras 117.

151. *Case of Kansari Haider,* 4R(CPR-2LS), pp. 11-12.

152. Ministry of Home Affairs Letter No. 35/8/58-P.II, 24-1-1959 and 14-5-1959.

Most of the State Governments and Administrations have since made required provisions in this regard and suitably amended their relevant rules.

153. 5R (CPR-2LS), p. 47.

154. Ministry of Home Affairs Circular Letter No. F. 2/13/67-P IV, 26 July 1957, and No. 35/8/58-P n, 24 January, 1959; 5R (CPR-2LS), p. 48.

For instances of handcuffing of members, *see* P.D. 1975, Vol. XX, pp. 53-54, (U.P. Vidhan Sabha), and *LS. Deb.,* 6-8-1974, cc. 123-26; 14-8-1974, cc. 203-08; 30-8-1974, cc. 165-72 (Bihar Satyagrahis).

Extension of Privilege of Freedom from Arrest and Molestation to Witnesses, Petitioners, etc.

Upon the same principle which applies to members of Parliament, the privilege of freedom from arrest and molestation has been extended to witnesses summoned to attend before the House or any Committee thereof, and to others in personal attendance upon the business of the House, such as counsel of witnesses of parties appearing before the House or a Committee, in coming, staying and returning; and to officers of the House, in immediate attendance upon the service of Parliament[155].

Consequently, it is contempt of the House to arrest or procure the arrest on a civil process of witnesses, petitioners or other persons summoned to attend the House or any Committee thereof, while going to, attending, or returning from the House or any Committee of the House[156]. Similarly, to arrest or procure the arrest of an officer of the House in immediate attendance upon the service of the House, except on a criminal charge, is a contempt of the House[157].

Power of the House to Punish for Breach of Privilege or Contempt and Commit to Custody and Prison

Each House of Parliament, as also a House of the Legislature of a State, has the power to secure the attendance of persons on matters of privilege and to punish for breach of privilege or contempt of the House and commit the offender to custody or prison.

Parliament and State Legislatures possess not only the power to punish for contempt but have also the right to judge for themselves what is contempt or what is not, as without this the privilege of punishing for contempt would be worthless[158].

The term "breach of privilege" means a disregard of any of the rights, privileges and immunities either of members of Parliament individually, or of the House in its collective capacity. After due inquiry, a breach of privilege is punished in the same way as courts of law punish for contempt of their dignity or authority.

In practice, the term "breach of privilege" is also applied to contempts generally. It is, however, properly applicable only to that type of contempt which consists in the violation or disregard of the privileges of the House or the individual members thereof.

Contempt of the House may be defined generally as "any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results, even though there is no precedent of the offence"[159]. Hence, if any act, though not tending directly to obstruct or impede the House in the performance of its functions, has a tendency to produce this result indirectly by bringing the House into odium, contempt or ridicule or by lowering its authority, it constitutes a contempt. Further, the House

155. May, Twenty-fourth Edn., p. 267.
156. *Ibid.,* p. 132.
157. *Ibid.,* p. 131.
158. Hidayatullah, *op. cit.,* p. 193.
159. May, Twenty-fourth Edn., p. 251.

may punish not only contempts "arising out of facts of which the ordinary courts will take cognizance, but also those of which they cannot, such as contemptuous insults, gross calumny or foul epithets by word of mouth not within the category of actionable slander or threat of bodily injury"[160].

Contempts of Parliament may, however, vary greatly in their nature and in their gravity. At one extreme they may consist in little more than vulgar and irresponsible abuse; at the other they may constitute grave attacks undermining the very institution of Parliament itself[161]. Such offences are usually described as breaches of privilege, but this is not strictly correct. Whereas all breaches of privilege are contempts of the House whose privileges are violated, a person may be guilty of a contempt of the House even though he does not violate any of the privileges of the House, *e.g.* when he disobeys an order to attend a committee or publishes reflections on the character or conduct of a member in his capacity as a member[162].

The power of the House to punish for contempt or breach of privilege has been aptly described as the "keystone of parliamentary privilege" and is considered necessary to enable the House to discharge its functions and safeguard its authority and privilege[163]. This power is akin in nature and owes its origin to the powers possessed by the courts of law to punish for contempt. Without such a power, the House "would sink into utter contempt and inefficiency"[164].

The power of the Legislature to punish for contempt is of recent origin in this country. The Act of 1919 which conferred certain privileges on the members of the Indian Legislature, did not give the Legislature any power to punish for contempt or breach of privilege[165]. The Government of India Act, 1935, widened the ambit of privileges but it expressly stated that nothing in that Act or any other Indian Act, should be construed as conferring, or empowering the Federal Legislature to confer, on either Chamber or on both Chambers sitting together, or on any Committee or Office of the Legislature, the status of a court, or any punitive or disciplinary powers other than a power to remove or exclude persons infringing the rules or standing orders, or otherwise behaving in a disorderly manner[166]. With the commencement of the Constitution, however, the power to punish for contempt or breach of privilege and to commit the offender to custody or prison was conferred on the Houses of Parliament and State Legislatures, and was upheld by the Bombay High Court in 1957, when Coyajee, acting Chief Justice, *inter alia,* observed:

> ...the framers of the Constitution intended the House alone to be sole judge on a question of admitted privilege. To my mind, it is quite clear, therefore, that under article 194(3), when it prescribed that the privileges shall be those of the House of

160. *Ibid.,* p. 129.

161. H.C. 112 (1947-48), pp. iii-iv, *Daily Mail Case;* Committee of Privileges (14 L.S.) in their 19th report held the act of placing bundles of currency notes on the Table of the House to constitute a contempt of the House.

162. Abraham and Hawtrey, p. 76.

163. Dishing, *Legislative Assemblies,* paras 532, 533; *see* also May, Twenty-fourth Edn., p. 197.

164. *See* the observations of Lord Ellenborough, C.J. in the Case of *Burden* v. *Abbot* (14 East. 150).

165. S. 67(7) of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935.

166. Government of India Act, 1935, s. 28(3).

Commons of the Parliament of United Kingdom, the power to punish for contempt is expressly conferred on the House in clear and unequivocal terms and therefore it must follow that the exercise of that power is identical with that of the House of Commons.

And further:

...privilege is enjoyed by the House of Commons of committing for contempt, the most important ingredient of that right is of committing and arresting by a general warrant. Therefore, it cannot be contended that if in terms, the powers of the House of Commons are conferred, not by a statute but by the Constitution on a House of Legislature in India, the right to commit by a general warrant is a mere incident of the power to commit of the House of Commons and does not pass to the Legislature on whom the same power is conferred, because when the power is conferred, it is the power of the superior court, namely a Court of Record and the powers of the Court of Record or the superior court to issue a warrant must belong to the House of Commons and therefore it follows that such power to issue the warrant goes with the power[167].

This position was later reiterated by the Assam High Court in 1958:

It is well established now that the House of Commons in England has certain well-defined rights and privileges, honoured and sanctified by tradition and custom, one of the most important of them being the right to commit a person for contempt of its high authority and for breach of its privileges. This power extends not merely to members of the House but even to persons outside it and when the House acts in vindication of these rights and privileges, the courts of the land have no right to interfere. The proper forum is the House itself where the person affected can claim the redress of his rights. By virtue of the Indian Constitution, these powers and privileges are enjoyed by Houses of Parliament in India and the Houses of State Legislature[168].

The power to secure the attendance of persons on matters of privilege, including the power to send for supposed offenders in custody, was exercised by the Uttar Pradesh Vidhan Sabha in 1952.

Homi D. Mistry, the then acting Editor of *Blitz,* a weekly news magazine, was arrested by the police on 11 March 1952[169], at Bombay in pursuance of a warrant issued by the Speaker of the Assembly to enforce the presence of Mistry before the House on 19 March 1952, to answer a charge of breach of privilege. Mistry was kept in custody at Lucknow till 18 March 1952, when he was released in pursuance of an order of the Supreme Court on a *habeas corpus* petition[170] on the ground that Mistry had not been produced before a magistrate within 24 hours of his arrest which contravened the provisions of article 22(2). In a civil suit subsequently filed by Mistry, claiming damages

167. *Homi D. Mistry* v. *Nafisul Hassan,* I.L.R. 1957, Bombay 218.

168. *Narendra Nath Barua* v. *Dev Kanta Barua and Others,* A.I.R. 1958, Assam 160.

169. The warrant was issued by the Speaker in pursuance of resolution adopted by the U.P. Vidhan Sabha on 7 March 1952.

170. *Gunapathi Keshavram Reddy* v. *Nafisul Hassan,* A.I.R. 1954, S.C. 636.

This decision may, however, be deemed to be overruled by the Searchlight Case, A.I.R. 1959 S.C. 395-422, where the Supreme Court observed: "Our decision in *Gunapathi Keshavram Reddy* v. *Nafisul Hassan,* proceeded entirely on a concession of counsel and cannot be regarded as a considered opinion on the subject".

for wrongful arrest and detention, the acting Chief Justice, Coyajee of the Bombay High Court held, *inter alia,* that the House had power to order the supposed offender to be arrested and brought before the Bar of the House to answer a charge of breach of privilege. In this connection, the Court observed:

> ...The Legislative Assembly of Uttar Pradesh was fully entitled to protect its dignity by the exercise of the privilege expressly conferred on it under article 194 and in exercise of that privilege it issued a warrant which on the face of it states that it is for contempt of the House and therefore that warrant being a general warrant is not subject to scrutiny and that it can be validly executed...[171].

The power to commit to prison for contempt or breach of privilege has been exercised by Parliament and State Legislatures in India[172].

If contempt is committed in the immediate presence of the House, the contemner may not be heard. He is taken into custody immediately by the Additional Secretary, Security and detained for the minimum time necessary for interrogation. The contemner may apologize and the House may be pleased to accept it and let him off. If the contemner has to be punished, it can be done by the House only. For this purpose, a motion is moved by the Minister of Parliamentary Affairs. The motion may specify the period of imprisonment and the place or jail where the accused is to be lodged. On the motion being adopted by the House, a warrant of commitment addressed to the Superintendent in-charge of the jail is signed by the Speaker. The accused is, thereafter, taken to the place of imprisonment by the Additional Secretary, Security.

Period of Imprisonment

The period for which the House can commit an offender to custody or prison for contempt is limited by the duration of the session of the House[173]. A prisoner is automatically entitled to release when the House is prorogued. Where, however, the House considers that a prisoner, who has been released on account of prorogation, has not been sufficiently punished, he may be committed again in the next session and detained until the House is satisfied.

Forms of Warrants

No specific form to which warrants issued by the Speaker by order of the House should confirm, is prescribed. In 1957, Coyajee, A.C.J. of the Bombay High Court observed[174]:

> ...the warrant in this case on a reading of it is clearly a general warrant indicating that the party was required in connection with a contempt proceedings and, therefore,

171. *Homi D. Mistry* v. *Nafisul Hassan,* I.L.R, 1957, Bombay 218.

172. *L.S. Deb.,* 15-12-1967, 15-11-1968, 9-4-1969, 13-12-1969, 31-8-1970, 23-7-1973, 21-12-1973, 11-4-1974, 26-7-1974, 6-9-1974, 26-11-1974, 6-3-1975, 14-11-1977, 6-3-1979, 28-8-1981, 17-9-1981, 18-3-1982, 5-4-1982, 28-7-1982, 10-5-1983, 2-3-1984, 7-5-1984, 30-7-1985, 23-7-1987, 23-11-1987; *R.S. Deb.,* 21-12-1967, 30-3-1973, 18-3-1982, 23-3-1982, 26-8-1983, 21-11-1983; *Bihar V.S. Deb.,* 2-3-1973, 22-8-1973; *Gujarat V.S. Deb.,* 15-6-1970; *Kerala L.A. Deb.,* 11-3-1969, 5-8-1969; *M.P.V.S. Deb.,* 2-4-1960, 5-3-1965, 9-9-1968, 7-3-1970, 21-9-1970, 26-3-1973, 28-3-1973; *Maharashtra V.S. Deb.,* 12-6-1972; *Rajasthan V.S. Deb.,* 10-4-1956; *U.P. V.P. Deb.,* 28-10-1965, *U.P. V.S. Deb.,* 19-7-1966, *U.P. Vs. Deb.,* 03.03.2023.

173. *Susant Kumar Chand* v. *Orissa Legislative Assembly,* A.I.R. 1973, Orissa 111.

174. *Homi D. Mistry* v. *Nafisul Hassan,* I.L.R. 1957, Bombay 218.

> no court would be entitled to scrutinize such a warrant and decide whether it was a proper and valid warrant or not.

Powers for the Execution of Warrants

Each House has the power to enforce its orders, including the power for its officers to break open the doors of a House for that purpose, when necessary, and execute its warrants in connection with contempt proceedings[175]. It can also direct the civil authorities to aid and assist in the execution of a warrant issued by its Presiding Officer under the authority of the House. Every branch of the civil government is considered by the House as bound to assist, when required, in executing the warrants and orders of the House.

In the Bombay High Court it was argued that the execution of a warrant issued by the Speaker could be effected only through the machinery of the Legislature and not by employing a police officer or by seeking the aid of other officers of a State Government. Coyajee, A.C.J. observed[176]:

> Use of force for the purpose of enforcing the orders of the Assembly is an absolute ingredient of the privilege to commit and punish for contempt and merely because there are no officers corresponding to that of the Sergeant at Arms, it does not follow that the content of the privilege is thereby lessened or destroyed, but in my opinion.. remains entirely unaffected... it cannot be that because of the lack of such prescribed machinery the Assembly has no power to implement its decision in connection with contempt and punishment...
>
> Even if it is addressed to the Sergeant at Arms by the Speaker of the House of Commons, the Sergeant at Arms would take in aid in execution of the warrant through the police or even any civilian... an officer of the House, whoever he may be, can take other aid.

In the case of Lok Sabha, summons, letters, etc., have been served through the agency of Union or State Governments. When summons are issued to a witness or a person accused of breach of privilege or contempt of the House, to appear before the Committee of Privileges of Lok Sabha, a duplicate copy of the summons is served on him through the agency of the State Government concerned, the original copy of the summons being sent to the person concerned direct by registered post.

> This procedure was adopted by the Committee on the Conduct of a Member in the *Mudgal Case* (1951) for calling witness to appear before the Committee. The procedure was also followed in the *Blitz Case* (1961) while summoning the Editor of the *Blitz,* to appear at the bar of the House to receive the reprimand for committing a breach of privilege and contempt of the House.
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> The agency of the Government of Punjab was utilised for delivering a duplicate copy of a letter to H.L. Sally asking him to submit his written

175. *Haward* v. *Gossett,* 1842, Car & M. 382.
176. *Homi D. Mistry* v. *Nafisul Hassan,* I.L.R. 1957, Bombay 218.

statement to and personally appear before the Committee of Privileges (1966)[177].

When Government officers accused of committing a breach of privilege or contempt of the House are asked to appear before the Committee of Privileges, letters for securing their attendance are sent to the Ministry/ Department concerned, requesting them to direct the officer concerned to present himself before the Committee[178].

Protection to Officers Executing Orders of the House

Warrants for commitment issued by the Speaker by order of the House provide protection to the officers acting thereunder against actions for trespass, assault, or false imprisonment, unless the causes of commitment stated in the warrant appear to be beyond the jurisdiction of the House. If the officer does not exceed his authority, he will be protected by the courts, even if the warrants are not technically formal according to the rules by which the warrants of inferior courts are tested. In this regard, Coyajee, A.C.J. of the Bombay High Court, observed[179]:

> ...all officers or anyone else aiding in the execution of the writ would be protected, because as laid down by May, both Houses consider every branch of the civil Government is bound to assist when required, in executing their warrants and orders, and have repeatedly required such assistance.

Form of Punishment for Breach of Privilege or Contempt

In cases where the offence of breach of privilege or contempt is not so serious as to warrant the imprisonment of the offender by way of punishment, the person concerned may be summoned to the bar of the House and admonished or reprimanded by the Speaker by order of the House. Admonition is the mildest form of punishment, whereas reprimand[180] is the more serious mark of the displeasure of the House. In Lok Sabha, there have been two cases of persons having been summoned to the bar of the House and reprimanded by the Speaker for breach of privilege and contempt of the House, for a libellous despatch appearing in a weekly magazine[181], and the other for contempt of the House in deliberately misrepresenting facts and giving false evidence before a Parliamentary Committee[182]. In another case, two police officers of the State of Maharashtra were summoned to the bar of the House to answer the charge of breach of

177. *Sally's* Case, 1966, 5R(CPR-3LS).

178. 2R, 4R and 8R (CPR-7LS).

179. *Homi D. Mistry* v. *Nafisul Hassan,* I.L.R. 1957 Bombay 218.

180. The punitive power of reprimand was also exercised by the House in a case which though did not involve breach of privilege or contempt of the House but related to misconduct by a member. In the case relating to allegations of misconduct in the implementation of MPLAD Scheme against some members of Lok Sabha, motion moved by the Leader of the House agreeing with the recommendation made by the Committee to Inquire into the matter, reprimanding the members was adopted by the House on 20 March, 2006. [*See* Report of Committee to Inquire into misconduct of members – *L.S. Deb.,* dated 20 March, 2006; P.D. Vol. LII.

181. The *Blitz Case,* 13R (CPR-2*L.S.*); *L.S. Deb.,* 18-8-1961, cc. 3044-53; 19-8-1961, cc. 3318-80; 21-8-1961, c. 3786; 29-8-1961, cc. 5501-02.

182. Case of *S.C Mukherjee. L.S. Deb.,* 6-3-1969, cc. 219-226; Min. (CP), 16-7-1969, para 5; 12R (CPR-4LS); *L.S. Deb.,* 2-12-1970, cc. 393-462; 9-12-1970, cc. 203-05.

privilege and contempt of the House for allegedly assaulting and abusing a member[183]. In one case, a former Secretary-General of Lok Sabha was admonished without being summoned to the bar of the House, through a resolution adopted in the House, for having cast aspersions on the Speaker, Lok Sabha in an interview telecast on a TV News Channel[184]. The two officers expressed apologies to the member concerned and to the House for whatever happened on that day. In view of the apologies tendered by them, the House decided to treat the matter as closed.

In Rajya Sabha also there has been a case where three persons—joint authors of a book—were summoned to the bar of the House and reprimanded by the Chairman for describing in the said book the Finance Bill, 1980 as Finance Act, 1980, before it had received the assent of the President[185].

On 3 March 2023, the Uttar Pradesh Assembly summoned a retired police officer (*former Circle Officer, Babupurva, Kanpur Nagar*) and five serving policemen to the House and passed a resolution awarding them a day's imprisonment for *'breach of privilege'* over misbehavior of police officials with the then BJP MLA Salil Vishnoi based on the recommendations made in the First Report of Committee of Privileges (2005-2006) of the Fourteenth UP Legislative Assembly and further based on the deliberations of Committee of Privileges of Eighteenth UP Legislative Assembly. The Marshal brought the contemnors to the dock (placed near the opposition benches) in the House. The contemnors paid their respect to the Chair as they reached the dock. Pronouncing the decision of the House, Speaker, Uttar Pradesh Assembly directed the Marshal to take the said officers to a lockup room in the Vidhan Sabha Complex and further directed that general facilities including food to be provided to the said contemnors/officers.

Prosecution of Offenders: In the case of a breach of privilege which is also an offence at law, the House may, if it thinks that the punishment which it has the power to inflict would not be adequate to the offence, or where for any other reason, the House feels that a proceeding at law is necessary, either as a substitute for, or in addition to, its own proceeding, direct the prosecution of the offender in a court of law.

Lok Sabha, in the case of a Government Officer, directed that in addition to the reprimand administered to him, the Government should take departmental action against him. Subsequently, on 25 April 1973, the Minister of Steel and Mines informed the House that certain constitutional difficulties had arisen in implementing the second part of the Resolution adopted by the House. The matter was, therefore, reviewed by the Committee on Privileges and upon its recommendations, the House adopted another resolution on 29 November 1973, rescinding the latter part of its earlier resolution of 2 December 1970[186].

In another case, a visitor was punished for shouting slogans in the Public Gallery and for possessing on his person two pistols and a cracker. Besides awarding

183. Case of *K.M. Kaushik L.S. Deb.,* 18-11-1970, cc. 236-58; 3-12-1970, cc. 184-88.

184. *Dr. S.C. Kashyap's Case*, 3R (LPR–14LS).

185. 19R and 20R (CPR-RS); and *R.S. Deb.,* 24-12-1980, cc. 1-2.

186. *L.S. Deb.,* 29-11-1973, cc. 208-20.

punishment of one month's rigorous imprisonment for contempt of the House, the motion adopted by the House provided that the punishment would be without prejudice to any other punishment under the law. The matter was subsequently referred to the police authorities under the orders of the Speaker[187].

In two other cases in Lok Sabha, visitors who were carrying daggers and explosives on their persons were punished with rigorous imprisonment without prejudice to any other action to which they were liable under the law. Written reports were subsequently lodged in Police Station by the Watch and Ward Officer of Lok Sabha with the permission of the Speaker[188].

Punishment of Members: In the case of its own members, two other punishments are also available to the House by which it can express its displeasure more strongly than by admonition or reprimand, namely, suspension from the service of the House and expulsion.

> On 8 June 1951, a motion for appointment of a Committee to investigate the conduct and activities of a member of Lok Sabha was adopted. The Committee held that the conduct of the member was derogatory to the dignity of the House and inconsistent with the standard which Parliament was entitled to expect from its members.
>
> In pursuance of the report of the Committee, a motion was brought before the House on 24 September 1951, to expel the member from the House. The member, after participating in the debate, submitted his resignation to the Deputy Speaker. The House deprecated the attempt of the member to circumvent the effect of the motion and unanimously adopted the following amended motion on 25 September 1951 —
>
> "That this House, having considered the Report of the Committee appointed on the 8th June 1951, to investigate the conduct of Shri H.G. Mudgal, Member of Parliament, accepts the findings of the Committee that the conduct of Shri Mudgal is derogatory to the dignity of the House and inconsistent with the standard which Parliament is entitled to expect from its members, and resolves that Shri Mudgal deserved expulsion from the House and further that the terms of the resignation letter he has given to the Deputy Speaker at the conclusion of his statement constitute a contempt of this House which only aggravates his offence"[189].
>
> On 18 November 1977, a motion was adopted by the House referring to the Committee of Privileges a question of breach of privilege and contempt of

187. *Ibid.,* 11-4-1974, cc. 218-64.

188. *Ibid.,* 26-7-1974, cc. 316-18; 26-11-1974, cc. 300-14.

189. *P. Deb.,* 8-6-1951, cc. 10464-65; 24-9-1951, c. 3202; 25-9-1951, c. 3289. For details *re.* the Committee on the Conduct of a Member *(Mudgal Case), see* Chapter 12-Conduct of Members.

A member of the Maharashtra Legislative Assembly was expelled from the House-*Maharashtra L.A. Deb.,* 13-8-1964, pp. 12-28.

In March, 1966, two members of the Madhya Pradesh Legislative Assembly were expelled, and their seats were declared vacant. On writ petitions by the two ex-M.L.As., the Madhya Pradesh High Court upheld their expulsion.

the House against Indira Gandhi, former Prime Minister, and others regarding obstruction, intimidation, harassment and institution of false cases by Indira Gandhi and others against certain officials who were collecting information for answer to a certain question in the House during the previous Lok Sabha.

The Committee of Privileges were of the view that Indira Gandhi had committed a breach of privilege and contempt of the House by causing obstruction, intimidation, harassment and institution of false cases against the concerned officers who were collecting information for answer to a certain question in the House. The Committee recommended that Indira Gandhi deserved punishment for the serious breach of privilege and contempt of the House committed by her but left it to the collective wisdom of the House to award such punishment as it may deem fit.

On 19 December 1978, the House adopted a motion resolving that Indira Gandhi be committed to jail till the prorogation of the House and also be expelled from the membership of the House for the serious breach of privilege and contempt of the House committed by her[190].

On 7 May 1981, the Seventh Lok Sabha, however, rescinded the motion adopted by the Sixth Lok Sabha on 19 December 1978 by adopting the following resolution[191]:

"Whereas the Sixth Lok Sabha by a Resolution adopted on 19 December 1978, agreed with the ...recommendations and findings of the Committee (of Privileges) and on the basis thereof held Shrimati Indira Gandhi, Shri R.K. Dhawan and Shri D. Sen guilty of breach of privilege of the House and inflicted on them the maximum penalty possible in violation of the principle of natural justice.

Now therefore this House resolves and declares that:

(a) the said proceedings of the Committee and the House shall not constitute a precedent in the law of parliamentary privileges;

(b) the findings of the Committee and the decision of the House are inconsistent with and violative of the well-accepted principles of the law of parliamentary privilege and the basic safeguards assured to all and enshrined in the Constitution; and

(c) Smt. Indira Gandhi, Shri R.K. Dhawan and Shri D. Sen were innocent of the charges levelled against them.

And accordingly this House:

rescinds the resolution adopted by the Sixth Lok Sabha on the 19th December 1978."

After the expulsion of Smt. Indira Gandhi, Shri C.M. Stephen, Leader of the Opposition in Lok Sabha, had raised certain legal and constitutional issues before

190. *L.S. Deb.,* 18-11-1977, cc. 235-37; 3R(CPR-6LS); *L.S. Deb.,* 19-12-1978, cc. 393-94; *P.D.* 1979, Vol. XXIV, 2, pp. 33-43; *see* also Gazette of India, 19-12-1978, Notification No. 21/5/78/T.

191. *L.S. Deb.,* 7-5-1981, cc. 336-441; *P.D.* 1981, Vol. XXVI, 2, pp. 2-5.

the Election Commission who called a public hearing and after hearing the various points of view put before him by the various political parties and individuals, made the following order—

> "Sections 149(1) and 150 of the Representation of the People Act, 1951, deal with filling up of casual vacancies in the House of the People and a State Legislative Assembly, respectively. There are thus three categories mentioned in these sections in which a casual vacancy may arise, namely:—
>
> (1) the seat becoming vacant;
>
> (2) the seat declared vacant; and
>
> (3) the election declared void.

These sections do not specify the circumstances in which a seat may become vacant or be declared vacant or void. Clauses (1) to (3) of article 101 of the Constitution deal with cases of seats becoming vacant, and clause (4) of article 101 deals with cases of seats being declared vacant. [Articles 190 and 191 of the Constitution correspond for State Legislative Assemblies]. It is not correct to say that these articles of the Constitution are exhaustive in their operation and do not admit of any other contingencies in which a seat may be deemed to have become vacant or may be declared vacant. Death is a contingency in which a seat becomes vacant; but it is not specified in this article. In contradiction, article 62(2) of the Constitution specifically mentions death as one of the contingencies in which a vacancy may arise in the office of the President. The election of a returned candidate may be declared void on the grounds other than the grounds of disqualification for membership in the House of the People as envisaged in article 102 of the Constitution. An election can be declared void if: (i) the nomination of a returned candidate has been improperly accepted; (ii) the nomination of a defeated candidate is improperly rejected; (iii) votes have been improperly received, accepted, refused or rejected materially affecting the result of the election; or (iv) if a returned candidate has not taken the oath as required under article 84(a) of the Constitution. If articles 101 and 102 are to be treated as exhaustive and section 149 of the Representation of the People Act, 1951, is to be completely co-related with the provisions of these articles only, the other contingencies which result in the vacation of a seat or the election being declared void as stated above cannot be given effect to under section 149.

Article 105(3) deals with the powers, privileges and immunities of each House of Parliament and of the members and the Committees of each House and provides further that until defined by law, those powers, privileges and immunities shall be those of the House of Commons of the Parliament of the United Kingdom and of its members and Committees at the commencement of the Constitution. The expression "in other respect" used in that article clearly implies the wide scope of the field of its operation. As we have seen earlier, actions of different authorities under the Constitution and the Representation

of the People Act can result in a seat becoming vacant or a seat being declared vacant or void. This being so, article 101 or 102 are not exhaustive and article 105 should be regarded as supplemental to them in the matter of a further contingency in which a seat may become vacant by reason of expulsion."

"Notwithstanding the judgement of the Punjab and Haryana High Court in Shri Hardwari Lal's case, the Lok Sabha has asserted its power to expel a member. The Election Commission is required under section 149 of the Representation of the People Act, 1951, to implement the decision of the House and to give effect to the order of expulsion by Lok Sabha."

"The term 'expulsion' has not been defined in the Constitution, Rules of Procedure and Conduct of Business in Lok Sabha or any law relating to elections. Nevertheless, there are passages in the judgments of both Punjab and Haryana High Court and Madhya Pradesh High Court which clearly indicate that vacation of a seat is an automatic result of expulsion".

The following observations of the Punjab and Haryana and Madhya Pradesh High Courts are significant:

"(431) In the view held by the Majority, we allow this writ petition, hold the resolution of the Haryana Legislative Assembly dated 8 January 1975, expelling the petitioner, to be unconstitutional, illegal and inoperative, and as a *necessary* consequence direct the Election Commission of India not to proceed to fill the vacancy supposedly resulting from the action aforesaid. We leave the parties to bear their own costs."

[ILR (1977) 2 Punjab & Haryana 269 at p. 577].

"It is true that the privilege or right which the House of Commons has is of expelling a member and the vacation of a seat is only the result of expulsion. But the Madhya Pradesh Assembly is not claiming any privilege of creating a vacancy and of expelling a member for that purpose. It is also not claiming the right to issue a direction for filling a seat when a member is expelled. If a member's seat becomes vacant as a result of his expulsion then the seat is filled in accordance with the Representation of the People Act, 1951, by holding a by-election. Section 150 of the Representation of the People Act does not contain anything to rule out the application of that provision to a case where the seat of a member becomes vacant as a result of his expulsion. If the learned counsel by his argument intended to suggest that the Madhya Pradesh Assembly could expel a member but could not make his seat vacant and thus exclude him from the sittings of the House for all time, then the suggestion must be rejected as altogether untenable."

[AIR 1967 Madhya Pradesh 95 at p. 103].

"In our opinion, it cannot be contended with any degree of force that as there is no express provision in the Constitution providing for a member's seat becoming vacant as a result of his expulsion by the State Legislature, the right or privilege of expelling a member cannot be claimed by the Legislature. So far as the exercise of the power of expulsion by the State Legislature is concerned, article 194(3) operates quite independently of articles 190 and 191 or any other article. There is nothing in the Constitution affording any ground or justification for subtracting from the powers, privileges and immunities declared as belonging to the State Legislature and the power

of expelling a member having the result of making vacant the seat of the member expelled. The argument based on articles 190 and 191 cannot therefore be accepted."

"(25) It remains to consider the effect of the absence in the Rules of Procedure and Conduct of Business framed by the Madhya Pradesh Assembly of a rule dealing with expulsion of members. The absence of a rule is in no way indicative of the fact that the Legislature has not the power of expelling a member rendering his seat vacant or of precluding the exercise of the power."

[A.I.R. 1967 Madhya Pradesh 95 at pp. 103-104].

"In the above view, expulsion carries with it the automatic effect of vacation of the seat and there is no need to declare a seat vacant following the expulsion of a member by a separate order of the House."

"Confusion and doubts have arisen from the use of words 'Consequent on' and 'ceases to be a member' in the notification, implying thereby that the notification has declared the seat vacant after expulsion has taken place. This interpretation must be rejected in view of the conclusion reached by me about that expulsion includes vacation of seat simultaneously and there is no interval between the two events. The notification must be read as conveying the information only that the House has taken a decision to expel the member which means conclusively that a seat has become vacant concurrently."

"The form in which information is communicated to the Election Commission that vacancy has arisen under sections 149 or 150 of the Representation of the People Act, 1951, is also important. In this connection, I refer to the communication received from the Madhya Pradesh Vidhan Sabha[192] in which a formal intimation was sent to the Election Commission regarding the vacancy arising from the expulsion of Shri Suresh Seth. The notification of the Lok Sabha Secretariat is a general notification and a copy thereof has been sent by an officer of the Secretariat to the Election Commission, among other officers of Government without any formal request to fill the vacancy. In order to avoid in future, objections and doubts such as were extensively raised in the present case the communication to be sent to the Election Commission should be a formal document as this is the basis on which election process begins. In the present case, I take note of the information contained in the Gazette Notification, dated 19-12-1978 that Lok Sabha has expelled Smt. Indira Gandhi and I hold that expulsion means vacation of the seat simultaneously. I hold further that expulsion falls in the first category of a seat becoming vacant in section 149 of the Representation of People Act, 1951."

192. Letter No. 126421 Legn. 78, dated 8 September 1978, from the Secretary, Madhya Pradesh Vidhan Sabha to the Secretary, Election Commission of India, is worded as follows—

"I am directed to inform you that consequent on adoption of a motion by the Madhya Pradesh Vidhan Sabha on 7 September 1978, expelling from the House, Shri Suresh Seth, a member elected from the Indore-5 Constituency No. 274 of Madhya Pradesh Vidhan Sabha, the said constituency has fallen vacant with effect from the 7 September 1978, afternoon. A copy of this Secretariat Notification No. 125131 Legn. dated the 7 September 1978 is enclosed."

Allegations of Improper Conduct

In 2005, few members of Parliament were accused of misusing their positions[193]. An *adhoc* committee *viz.* Committee to Inquire into Allegations of Improper Conduct, was set up by the Speaker, which presented its report on 21 December 2005. The Committee recommended the expulsion of the members involved. On 23 December 2005, the Leader of the House moved the following motion:

> "That this House having taken note of the Report of the Committee to inquire into allegations of improper conduct on the part of some members, namely Narendra Kumar Kushawaha, Annashab M.K. Patil, Manoj Kumar, Y.G. Mahajan, Pradeep Gandhi, Suresh Chandel, Ramsevak Singh, Lal Chandra Kol, Rajaram Pal and Chandra Pratap Singh was unethical and unbecoming of members of Parliament and their continuance as members of Lok Sabha is untenable and resolves that they may be expelled from the membership of Lok Sabha."

An amendment to the motion moved by a member that the matter may be referred to the Committee of Privileges, Lok Sabha was negatived by voice vote.

The motion was adopted by the voice vote and consequently the ten members stood expelled from the membership of Lok Sabha.

All the expelled members challenged their expulsion in the High Court of Delhi, other than Rajaram Pal who challenged his expulsion in the Supreme Court. All the writ petitions were transferred to the Supreme Court. A five-Judge bench of Supreme Court in their judgement delivered on 10 January 2007 upheld the expulsion of the members.

In the matter of its own privileges, the House is supreme. It combines in itself all the powers of Legislature, Judiciary and Executive, while dealing with a question of its privilege. The House has the power to declare what its privileges are, subject to its own precedents, name the accused who is alleged to have committed a breach of privilege or contempt of the House, act as a court either itself or through its Committee, to try the accused, to send for persons and records, to lay down its own procedure, commit a person held guilty, award the punishment, and execute the punishment under its own orders. The only limitations are — that the Supreme Court in the final analysis must confirm that the House has the privilege which is claimed, and, once confirmed, the matter is entirely in the hands of the House. The House must function within the framework of the Constitution, more particularly within the ambit of fundamental rights; act *bona fide,* observe the norms of natural justice and not only do justice but seem to have done justice which will satisfy public opinion[194].

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193. A television channel made an expose on 12 December 2005, showing members of Parliament accepting money for tabling notices of Parliamentary questions.

194. Determination of guilt and adjudication in disputes are judicial functions. In many countries, therefore, questions of breach of privilege, contempt of the House, etc. and punishment therefor are decided only by courts of law.

Professor S.S. de Smith, in his *Constitutional and Administrative Law,* suggests that "the unhappy combination of uncodified contempts, an unsatisfactory procedure for investigating allegations of contempt and the insistence of the House that it must have the first and last word in matters touching the interests of its members, irrespective of the impact of its decisions on the interests of members of the public, strongly suggests that the House should relinquish its jurisdiction over breaches of privilege and contempts to the courts, as it has in effect relinquished its privilege to determine disputed election returns."

In the Mudgal case, the Committee of the House gave all opportunities to the accused. He was allowed the services of a counsel, to cross-examine the witnesses, to present his own witnesses and to lead his defence through his counsel. The Committee was also assisted by the Attorney-General throughout the examination of the matter by it.

Power of Expulsion

The Punjab and Haryana High Court, in the Hardwari Lal Case (1977), declared that the Houses in India have no power of expulsion[195]. The Madhya Pradesh High Court in 1966 declared that the House has power of expulsion[196].

These two conflicting decisions were finally resolved by the Supreme Court in 2007 through its decision on petitions filed by members expelled by the House in cash for query case.

A five-Judge Constitution bench of the Supreme Court of India which took up the core issue of power of the Houses of Parliament to expel their members, pronounced their judgement[197] in the matter on 10 January 2007. The Supreme Court in their majority judgement comprising judgements given by the then Chief Justice of India Y.K. Sabharwal, Justices K.G. Balakrishnan and D.K. Jain and a separate judgement given by Justice C.K. Thakkar, upheld the powers of the House to expel members and that every legislative body possesses power to regulate its proceedings – power of self protection, self-preservation and maintenance of discipline in exercise of which it can suspend or expel a member. It was further held that the contempt of authority of Parliament can be tried and punished nowhere except before Parliament though the exercise of the Legislatures' contempt power is subject to judicial review. In his dissenting judgement, Justice R.V. Raveendran held that Parliament did not have the power of expulsion.

The Supreme Court in their majority judgement *inter alia* observed:

> "....the power of expulsion can be claimed by Indian legislatures as one of the privileges inherited from the House of Commons through article 105(3),.... contempt of authority of Parliament can be tried and punished nowhere except before it, the judicial review of the manner of exercise of power of contempt or privilege does not mean the said jurisdiction is being usurped by the judicature. As has been noticed, in the context of article 122(1), mere irregularity of the procedure cannot be a ground of challenge to the proceedings in Parliament or effect thereof, and while the same view can be adopted as to the element of irrationality, but in our constitutional scheme, illegality or unconstitutionality will not save the parliamentary proceedings."

Also, Prof. Harry Street, in his *Freedom, the Individual and the Law,* holds that "the House of Commons ought not to treat trials of citizens as one of its functions; disciplining its members is one thing, punishing outsiders is another. It may well be difficult for the House of Commons to behave like a Court; the solution then is for it to relinquish these powers of punishing citizens by imprisonment or otherwise just as it has surrendered its jurisdiction over disputed elections to the judges".

195. I.LR. (1977) 2, Punjab & Haryana 269.

196. A.I.R. 1967, Madhya Pradesh 95.

197. *Rajaram Pal* v. *The Hon'ble Speaker, Lok Sabha and others,* Supreme Court Reports Vol. 1 (2007), 317.

The Supreme Court while upholding the power of the House to expel its members reserved to themselves the power to exercise judicial review to judge for themselves the question as to whether the principles of natural justice have been followed by the House before expelling a member.

During the debate on a Motion of 'No Confidence' in the House from 8 to 10 August, 2023, Shri Adhir Ranjan Chowdhury, MP was found to be creating disturbance in the House and obstructing proceedings, deliberately disregarding repeated requests and warnings from the Chair. Accordingly, on 10 August, 2023 at 1924 hours, the following motion was moved by the Minister of Parliamentary Affairs:–

> "That this House having taken serious note of the gross, deliberate and repeated misconduct of Shri Adhir Ranjan Chowdhury in utter disregard to the House and authority of the Chair, resolve that the matter of the misconduct of Shri Adhir Ranjan Chowdhury be referred to Committee of Privileges of the House for further investigation and report to the House and Shri Adhir Ranjan Chowdhury be suspended from the service of the House till the Committee of Privileges submits its report."

The Motion was put to vote and adopted by the House.

Pursuant to this, Shri Adhir Ranjan Chowdhury was suspended from the service of the House *w.e.f.,* 10 August, 2023 *vide* Table Office (B) Circular No. 33820 dated 10 August, 2023.

Thereafter, the Committee of Privileges, Lok Sabha examined the matter and in their Sixth Report presented to Hon'ble Speaker on 30 August, 2023 *inter alia* observed that the deliberate attempt on the part of Shri Adhir Ranjan Chowdhury, Member of Parliament, Lok Sabha by way of frequently interrupting or disturbing the proceedings of the House during the speech of Hon'ble Prime Minister or other Minister(s) thereof is a clear case of 'Contempt of the House'. Nevertheless, in view of regrets expressed by Shri Adhir Ranjan Chowdhury, Member of Parliament during his oral evidence before the Committee, the Committee recommended that no further punitive action is called for in the matter and the Hon'ble Speaker, Lok Sabha may consider discontinuance/revoking the suspension of Shri Adhir Ranjan Chowdhury, Member of Parliament, Lok Sabha at the earliest.

On the basis of recommendations made by the Committee of Privileges, the Hon'ble Speaker directed that the suspension of Shri Adhir Ranjan Chowdhury be revoked *w.e.f.,* 30 August, 2023. Accordingly, his suspension was revoked with effect from 30 August, 2023 *vide* Para No. 7337 of Bulletin Part-II dated 30 August, 2023.

Similarly, on 18 December 2023, during the proceedings of the House, Dr. K. Jayakumar, Shri Abdul Khaleque and Shri Vijay Kumar *alias* Vijay Vasanth, MPs created grave disorder in the House. Accordingly, on 18 December, 2023 at 1503 hours, the following motion was moved by the Minister of Parliamentary Affairs:–

> "That Dr. K. Jayakumar, Shri Abdul Khaleque and Shri Vijay Kumar *alias* Vijay Vasanth, MPs be suspended till the Report of the Committee of Privileges for creating grave disorder in the House. The behaviour of the above said Members

may kindly be referred to the Privileges Committee and they need to be suspended till the Committee gives its Report."

The motion was put to vote and adopted by the House.

Pursuant to this, Dr. K. Jayakumar, Shri Abdul Khaleque and Shri Vijay Kumar *alias* Vijay Vasanth, MPs were suspended from the service of the House *w.e.f.* 18 December, 2023 *vide* Table Office (B) Circular No. 34042 dated 18 December, 2023.

Thereafter, the Committee of Privileges, Lok Sabha examined the matter and in their Seventh Report presented to Hon'ble Speaker on 30 January, 2024 *inter alia* observed that the deliberate attempt on the part of Dr. K. Jayakumar, Shri Abdul Khaleque and Shri Vijay Kumar *alias* Vijay Vasanth, Member of Parliament by way of creating grave disorder in the House including shouting slogans, displaying placards and advancing towards the 'podium' of the House during the debate on 'Post Office Bill, 2023' was a clear case of 'Contempt of the House'. Nevetheless, in view of the regrets expressed by Dr. K. Jayakumar, Shri Abdul Khaleque and Shri Vijay Kumar *alias* Vijay Vasanth, Members of Parliament during their evidence before the Committee, the Committee were of the considered view that no further punitive action was called for in the matter. The Committee, therefore, recommended that the suspension suffered by Dr. K. Jayakumar, Shri Abdul Khaleque and Shri Vijay Kumar *alias* Vijay Vasanth so far, be regarded as sufficient punishment and the Hon'ble Speaker, Lok Sabha may consider discontinuance/revoking the suspension of these Members at the earliest.

Based on the recommendations made by the Committee of Privileges, the Hon'ble Speaker directed that the suspension of Dr. K. Jayakumar, Shri Abdul Khaleque and Shri Vijay Kumar *alias* Vijay Vasanth be revoked w.e.f. 30 January, 2024. Accordingly, the suspension of Dr. K. Jayakumar, Shri Abdul Khaleque and Shri Vijay Kumar *alias* Vijay Vasanth was revoked w.e.f. 30 January, 2024 *vide* Para No. 7912 of Bulletin Part II dated 30 January, 2024.

Powers of Parliament within the Parliament House Estate

The Speaker is the authority under whose directions order is maintained in the Parliament House Estate. It is contempt of the House if any executive authority issues any notifications or orders which are applicable to the Parliament House Estate or causes any inquiry to be made in any matter inside the Parliament House Estate or brings a charge against any one for any crime inside the Estate.

> Prior to 4 April 1970, orders issued by the District Magistrate, Delhi, under section 144 of the Criminal Procedure Code did not expressly exclude the Parliament House Estate. On the issue of a Direction by the Speaker on that day, the orders issued by the District Magistrate thereafter expressly exclude the Parliament House Estate. Even though an executive authority has powers under section 144 to issue an order which can be made applicable to the Parliament House Estate, executive authorities under the law of privilege are prohibited from exercising this power within the Parliament House Estate. The executive authorities cannot also enter the Parliament House Estate or

apprehend any person for any cognizable offence within the Parliament House Estate without the permission of the Speaker.

The Direction issued by the Speaker on 4 April 1970, reads as follows[198]—

(1) The Additional/Joint Secretary, Security of Lok Sabha shall be responsible for maintaining order within the compound of the Parliament House Estate and shall take all necessary steps to ensure that no obstruction or hindrance is caused to members of Parliament in that area, in coming to, or going from, the Parliament House.

(2) In order to keep the area and passages within the Parliament House Estate free and open for members of Parliament without any obstruction or hindrance, the following activities are prohibited within the area of the Parliament House Estate—

(i) holding of any public meeting; (ii) assembly of five or more persons; (iii) carrying of fire-arms, banners, placards, *lathies,* spears, swords, sticks, brick-bats; (iv) shouting of slogans; (v) making of speeches, etc; (vi) processions or demonstrations; (vii) picketing or *dharna;* and (viii) any other activity or conduct which may cause or tend to cause any obstruction or hindrance to members of Parliament.

(3) The Joint Secretary, Security of Lok Sabha may, subject to the instructions or permission of the Speaker, request the police to assist him in, maintaining order in the Parliament House Estate, as and when considered necessary.

The Additional/Joint Secretary, Security may apprehend any person for any breach of directions given by the Speaker. He shall then report the matter to the Speaker through the Secretary-General. The Speaker may order an inquiry into the matter and pass such orders as he may deem fit. The Speaker may direct that such a person be taken out of the Parliament House Estate to be let off or to be handed over to the police authorities. The police authorities cannot, however, bring a charge against the person for anything said or done by him inside the Parliament House Estate unless the Speaker has authorised them in this behalf[199]. If the Speaker comes to the conclusion *prima facie* that the person concerned has grossly violated the direction, he may report the matter to the House and the House may, on a motion moved in this behalf, punish him for contempt of the House.

Inquiry by Courts into Causes of Commitment by the House

The Supreme Court and the High Courts in India are empowered under the Constitution to issue writs of *habeas corpus* for production before them of persons committed by the House[200]. This power was exercised by the Supreme Court in 1954, in respect of a person who was in custody in pursuance of a warrant issued by

198. Dir. 124-A.

199. *L.S. Deb.,* 15-4-1974—Case of a visitor who was found carrying fire arms on his person.

200. *See* arts. 32(2) and 226.

the Speaker of the Uttar Pradesh Legislative Assembly in connection with contempt proceedings[201].

Summing up the position as it existed in the British House of Commons at the commencement of India's Constitution, *i.e.* on 26 January 1950, Hidayatullah M., C.J. observed:

> The House had the right to commit for breach of its privileges or for conduct amounting to contempt of its authority but the Court acting under the *Habeas Corpus* Acts were bound to entertain the petition for *habeas corpus.* By resolution, the House of Commons accepted the position that the gaoler must make a return and exhibit the warrant. On their part the Courts respected the warrant which was treated as a conclusive answer to the writ *nisi.* There was ordinarily no question of bail before the return but if the return was not filed or was defective the prisoner could be admitted to bail and also released. There was ordinarily no question of taking umbrage if a writ *nisi* issued, as was evident from the debate following *Sheridan's Case.* If the history of the writ of *habeas corpus* is studied, it will be found that the House had long ago abandoned the stand that the Courts offend its dignity when they do their duty and that is why the dualism in England is over[202].

The Courts of Law and Matters of Privilege[203]

The courts of law in India have recognised that a House of Parliament or a State Legislature is the sole authority to judge as to whether or not there has been a breach of privilege in a particular case. It has also been held that the power of the House to commit for contempt is identical with that of the House of Commons and that a court of law would be incompetent to scrutinize the exercise of that power[204].

As regards exclusive control of either House over its internal proceedings, article 105(2) specifically bars the jurisdiction of courts of law in respect of anything said or any vote given by a member in Parliament or any Committee thereof. The Orissa High Court in 1958, held that "no law court can take action against a member of the Legislature for any speech made by him there" even when a member in a speech in the House casts reflection on a High Court[205]. The courts have also held that they have no jurisdiction to interfere in any way with the control of the House over its internal proceedings[206] or call in question the validity of its proceedings on the ground of any

201. *See Gunapathi Keshavram Reddy* v. *Nafisul Hassan and State of U.P.,* A.I.R. 1954 S.C. 636.

    In *Homi D. Mistry v. Nafisul Hassan* (I.L.R. 1957 Bombay 218), Coyajee, A.C.J. observed that in *the State of Punjab* v. *Ajaib Singh* (1953) S.C.R. (254), the Supreme Court had stated, "there is indication in the language of article 22(1) and (2) that it was designed to give protection against the acts of the executive or other non-judicial authority", but held that the warrant issued by the Speaker of the Uttar Pradesh Legislative Assembly in pursuance of a resolution of the House, fell within the category of judicial warrants and could not therefore "draw the protection afforded by article 22".

202. *Hidayatullah, op. cit.,* p. 210.

203. Also *see* Chapter 43, *Supra.*

204. *M.S.M. Sharma v. Sri Krishna Sinha,* A.I.R. 1959 S.C. 395; *Homi D. Mistry v. Nafisul Hassan* I.L.R. 1957, Bombay 218; *Harendranath Barua v. Dev Kanta Barua,* A.I.R. 1958, Assam 160.

    In *Keshav Singh v. Speaker, Legislative Assembly,* U.P., the Allahabad High Court held that the Legislative Assembly has the same power to commit for its contempt as the House of Commons has. A.I.R. 1965, Allahabad 349(354).

205. *Surendra Mohanty v. Nabakrishna Choudhury,* A.I.R. 1958, Orissa 168; I.L.R. 1958, Cuttack 195.

206. *Raj Narain Singh v. Atmaram Govind Kher,* A.I.R. 1954, Allahabad 319; *Hem Chandra Sen Gupta*

alleged irregularity of procedure[207].

When some members of the House, including a former Speaker, were given notice to appear before the Supreme Court in a case relating to *Jagadguru Shankaracharya,* either in person or by an advocate, a question of privilege was raised. The members concerned were directed by the Speaker to ignore the notice and the Attorney-General was asked to bring to the notice of the Court that "what is contained in the case is something which is covered by article 105 of the Constitution"[208].

On some observations having been made by the Court with regard to the stand taken by the House in as much as the members had not been served with a 'summons' but only a 'notice of lodgement' had been sent to them, the matter was again discussed in the House. Thereupon, the Speaker ruled:

> Whether the Court issues a summon or a notice does not make any difference to us. Ultimately, the privileges of the House are involved when members are asked to defend themselves for what they said in the House[209].

When one of the members who had been served with the notice of lodgement of appeal by the Supreme Court expressed a desire to go and defend himself in the Court, the Speaker observed:

> If he appears before the Court, fully knowing article 105, I think we will have to bring a privilege motion against him[210].

Summons were received from the Court, requiring the Chairman, Public Accounts Committee, to appear before the Court to answer all material questions relating to certain observations made in the 71st Report of the Committee (5LS). The Speaker, thereupon, observed:

> As had been the practice of the House, he was asking the Chairman of the Committee to ignore the summons and not to put in any appearance in the Court. However, he was passing on the relevant papers to the Minister of Law for taking such action as he might deem fit to apprise the Court of the correct constitutional position in this regard[211].

On 11 April 1979, a notice was received from the Karnataka High Court requiring the appearance of the Secretary, Lok Sabha, in person or through an Advocate, in that Court in connection with a writ petition challenging the validity of a resolution passed by the Lok Sabha expelling a member from the House. The Speaker, Lok Sabha placed the matter before the House on 12 April 1979 and observed that the Secretary, Lok Sabha had been asked by him not to respond to the notice[212].

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v. Speaker, West Bengal Legislative Assembly, A.I.R. 1956, Calcutta 378; *C. Shrikishen v. State of Hyderabad and Others,* A.I.R. 1956, Hyderabad 186.

207. *State of Bihar v. Kameshwar,* A.I.R. 1952, S.C. 267; *Saradhakar* v. *Orissa Legislative Assembly,* A.I.R. 1952, Orissa 234; *Godavaris Misra v. Nandkishore Das,* A.I.R. 1953, Orissa 111; *Ram Dubey v. Government of Madhya Bharat,* A.I.R. 1952, Madhya Bharat 73.

208. *L.S. Deb.,* 3-4-1970, cc. 218-25; 22-4-1970, cc. 235-59.

209. *Ibid.,* 22-4-1970.

210. *Ibid.*

211. *Ibid.,* 1-8-1975.

212. *L.S. Deb.,* 12-4-1979, c. 268.

Similarly, a notice was received from the Patna High Court requiring the Chairman, Committee on Scheduled Castes and Scheduled Tribes to appear before the Court to show cause why the writ petition praying for the issue of a writ of *mandamus* for recognition of a community of Bihar as Scheduled Tribe be not allowed. The Speaker observed[213]:

> As per past practice of the House, the Chairman, Committee on the Welfare of Scheduled Castes and Scheduled Tribes has been asked not to respond to the notice. The Minister of Law, Justice and Company Affairs is being requested to apprise the Patna High Court of the correct constitutional position in this regard.

On 6 November 1987, the Speaker informed the House that he had received a notice from the Assistant Registrar of the Supreme Court requiring his appearance before that Court in connection with a transfer petition seeking to transfer from the High Court of Delhi to the Supreme Court of India, a civil writ petition. The Speaker observed[214]:

> As per well established practice and convention of Lok Sabha, I have decided not to respond to the notice. I have passed on the relevant papers to the Minister of State in the Ministry of Law and Justice for taking such action as he may deem fit to apprise the court of the correct constitutional position and the well established conventions of the House.

On 27 July 1988, the Speaker informed the House that he had received two notices from the Bombay High Court requiring his appearance before that Court for filing of an affidavit by him or by the Secretary-General, Lok Sabha, in connection with two writ petitions alleging that there was 'a variance between the Bill. (The Central Excise Tariff Bill, 1985), as passed and gazetted with regard to the rate of the excise duty on the goods-cranes Chapter sub-heading No. 8426-00'. The Speaker observed that as per well established practice and convention of the House, he had decided not to respond to the notices and passed on the relevant papers to the Minister of Law and Justice for taking such action as he may deem fit to apprise the Court of the correct constitutional position and the well established conventions of the House[215].

On 27 December 1990, the Speaker informed the House that on 7 December 1990, he had received a notice from the Registrar of the High Court of Delhi requiring him to arrange to show cause in connection with Civil Writ Petition No. 3871 of 1990. The Writ Petition, *inter alia,* sought to challenge the validity and constitutionality of paragraphs 6 and 7 of the Tenth Schedule added by the Constitution (Fifty-second Amendment Act), 1985. The Speaker observed that as per well-established practice and convention of the House, he had decided not to respond to the notice and passed on the relevant papers to the Minister of Law and Justice for taking such action as he may deem fit to apprise the High Court of the correct constitutional position and the well-established conventions of the House[216].

213. *Ibid.,* 5-4-1982, cc. 604-05; *P.D.* Vol. XXVII, 2, P. 1.
214. *Ibid.,* 6-11-1987, c. 203, *P.D.* Vol. XXXIV, 1, pp. 5-6.
215. *Ibid.,* 27-7-1988, c. 247.
216. *L.S. Deb.,* 27-12-1990, c. 581.

On 4 March 1992, a notice was received by Rabi Ray, member and former Speaker of the Lok Sabha, from the Assistant Registrar of the Supreme Court of India in the matter of Writ Petition No. 149 of 1992 requiring him to appear before the Supreme Court in person or through counsel on 10 March 1992 to show cause to the Court as to why rule *nisi* in terms of the prayer of the Writ Petition be not issued. On the same day, the said notice, in original, was forwarded to the Speaker, Lok Sabha, by Rabi Ray for his advice in the matter. On 9 March 1992, the Speaker (Shivraj V. Patil) placed the matter before the House and observed *inter alia* as follows:

> ...we had organised a meeting of the Presiding Officers of India and in that meeting nearly unanimously it was decided that the judgment given by the Supreme Court should be respected until the law is amended. We had also said in that meeting that the hon. Presiding Officers may not subject themselves to the jurisdiction of the Judiciary. We, as a very responsible institution, like to protect the prestige and dignity of Judiciary as well as the prestige and dignity of the Legislature. Now, here we have to strike a balance and that is very very important.
>
> ...I had expressed this point of view to the hon. leaders and to Rabi Ray ji also. And I have said that the Speaker may not appear in the Court. The papers may be given to the Court and Court can decide in whatever fashion they want to. This matter can be brought to the notice of the Law Ministry also and the point of view of the Legislature can be presented to the Judiciary through the Law Ministry if it is necessary.
>
> But on the one hand, we will give the papers and we would accept and respect the decision, but on the other hand, we would not expect the Presiding Officers to go to the Court and subject themselves to the jurisdiction of the Court. That was the view I had expressed. And at the same time, I had said that I would bring this matter to the notice of this august House and with their agreement only we would come to a conclusion. So, I have brought this view to your notice. And, I think, if it is agreeable to us, we will follow this[217].

During the Fourteenth Lok Sabha, the Speaker gave three separate decisions on the petitions given by Rajesh Verma, MP against Mohd. Shahid Aklaque, Ramakant Yadav and Bhalchandra Yadav, MPs under the Tenth Schedule to the Constitution and the Members of Lok Sabha (Disqualification on Ground of Defection) Rules, 1985 disqualifying the said three members from the membership of the House. Mohd. Shahid Aklaque filed a writ petition challenging the decision of the speaker disqualifying him from the membership of the House. Allahabad High Court, passed an order on 20 February 2008 directing that notices be issued, *inter alia* to the Speaker, Lok Sabha, Secretary-General, Lok Sabha and Joint Secretary, Lok Sabha Secretariat who had been named as respondent Nos. 2, 3 & 4 respectively in the petition. After examination of the matter, a view was taken that the Speaker, Lok Sabha, acts as a Tribunal, when he decides a case under the Tenth Schedule. When his decision is challenged in a Court of Law the same would amount to challenging Tribunal's decision. When a Tribunal's decision is reviewed, it is either upheld or overruled. A Tribunal cannot be placed in the position of a respondent as in the case of an ordinary litigation. It was accordingly

217. *L.S. Deb.,* 9-3-1992, c. 483.

decided not to enter appearance before the Court in the matter. The Allahabad High Court *vide* their order dated 31.7.2007 dismissed the petition.

As regards privileges of Parliament *vis-a-vis* fundamental rights guaranteed to the citizen under the Constitution, the Supreme Court, in 1959, in a case involving freedom of speech and expression, held:

> The provisions of cl. (2) of article 194 indicate that the freedom of speech referred to in cl. (1), is different from the freedom of speech and expression guaranteed under article 19(1)(a) and cannot be cut down in any way by any law contemplated by cl. (2) of article 19.

The Supreme Court also held that the provisions of articles 105(3) and 194(3) are constitutional laws and not ordinary laws made by Parliament or State Legislatures and that, therefore, they are as supreme as the provisions of articles relating to fundamental rights[218].

In 1964, however, there arose a case[219] giving rise to "important and complicated questions of law regarding the powers and jurisdiction of the High Court and its Judges in relation to the State Legislature and its officers and regarding the powers, privileges and immunities of the State Legislature and its members in relation to the High Court and its Judges in the discharge of their duties." The questions of law involved were of such public importance and constitutional significance that the President considered it expedient to refer the matter to the Supreme Court for its opinion. The main point of contention was the power claimed by the Legislatures under article 194(3) of the Constitution to commit a citizen for contempt by a general warrant with the consequent deprivation of the jurisdiction of the courts of law in respect of that committal.

The Supreme Court, in its majority opinion[220], held that the powers and privileges conferred on State Legislatures by article 194(3) were subject to the fundamental rights and that the Legislatures did not have the privilege or power to the effect that their general warrants should be held to be conclusive. The Supreme Court held that in the *Case of Sharma* the general issue as to the relevance and applicability of all the fundamental rights guaranteed by Part III was not raised at all. Hence, it would not be correct "to read the majority decision as laying down a general proposition that whenever there is a conflict between the provisions of the latter part of article 194(3) and any of the provisions of the fundamental rights guaranteed by Part III, the latter must yield to the former. The majority decision, therefore, must be taken to have settled that art. 19(1)(a) would not apply, and art. 21 would." The Court further held:

> In dealing with the effect of the provisions contained in clause (3) of art. 194, whenever it appears that there is a conflict between the said provisions and the

218. *See M.S.M. Sharma v. Sri Krishna Sinha (Searchlight Case),* A.I.R. 1959, S.C. 395.

219. The matter arose out of a conflict between the Legislative Assembly of Uttar Pradesh and the Allahabad High Court following the committal to prison of Keshav Singh by the Legislative Assembly of Uttar Pradesh for committing a breach of privilege and contempt of the House and his subsequent release on bail by the Lucknow Bench of the Allahabad High Court on a writ petition under article 226 of the Constitution and section 49J of the Code of Criminal Procedure, 1898.

The Allahabad High Court, however, dismissed the writ petition of Keshav Singh and ordered him to surrender to custody and serve out the remaining portion of the sentence of imprisonment imposed upon him by the Legislative Assembly of Uttar Pradesh, A.I.R. 1965, Allahabad 349.

220. *In the matter of Article* 143, A.I.R. 1965, S.C. 745.

provisions pertaining to fundamental rights, an attempt will have to be made to resolve the said conflict by the adoption of the rule of harmonious construction.

The opinion of the Supreme Court was discussed by the Conference of Presiding Officers of Legislative Bodies in India held at Bombay on 11 and 12 January 1965. The Conference unanimously adopted a resolution expressing its view that suitable amendments to articles 105 and 194 should be made in order to make the intention of the Constitution makers clear beyond doubt so that the powers, privileges and immunities of Legislatures, their members and Committees could not, in any case, be construed as being subject or subordinate to any other articles of the Constitution.

In the meantime, the Allahabad High Court upheld the power of the Legislative Assembly to commit for its contempt. The Government, therefore, decided that an amendment of the Constitution was not necessary. It was of the opinion that the Legislatures and the Judiciary would develop their own conventions in the light of the opinion given by the Supreme Court and the judgment pronounced by the Allahabad High Court[221].

In 1984, an Emergent Conference of the Presiding Officers of the Legislative Bodies was called to consider the issues arising and likely to arise out of two writ petitions filed before the Supreme Court in connection with two privilege cases before two State Legislatures, *viz.,* the Kerala Legislative Assembly and the Andhra Pradesh Legislative Council.

In the Kerala Legislative Assembly case, the Press Gallery pass of a press correspondent was cancelled by the Speaker, Kerala Legislative Assembly, for casting reflections on the Speaker. The press correspondent filed a writ petition in the Kerala High Court challenging the cancellation of his pass which issued notices to the Speaker and Secretary, Kerala Legislature. The Kerala Government filed an appeal against this order of the High Court. The full Bench of the Kerala High Court considered the matter and upheld the order of the single judge observing that no interference was called for in appeal. The Full Bench also observed that the immunity envisaged in article 212(1) of the Constitution is restricted to a case where the complaint is no more than that the procedure was irregular. If the impugned proceedings are challenged as illegal or unconstitutional such proceedings would be open to scrutiny in a court of law[222].

Subsequently, the Kerala Government filed a special leave petition in the Supreme Court against the order and judgement of the Full Bench. On 7 February 1984, the Constitution Bench of the Supreme Court admitted the appeal and stayed all further proceedings in the High Court.

In the Andhra Pradesh Legislative Council case, the Editor of *Eenadu* allegedly cast reflections on the House and its proceedings in his newspaper dated 10 March 1983. The Chairman referred the matter to the Committee of Privileges who, in their report presented to the House on 27 February 1984, reported that the Editor had committed serious breach of privilege and contempt of the House. The Committee recommended that the Editor be summoned to the Bar of the House and admonished. The Report of the Committee was adopted by the House without any discussion on

221. *L.S. Deb.,* 8-3-1966, cc. 4082-83.

222. *State of Kerala v. R. Sudarsan Baku and Others,* I.L.R. (Kerala) 1983, p. 661.

6 March 1984. Before the House could take any action against the Editor, he filed a writ petition before the Supreme Court challenging the finding of the Committee.

On 25 April 1984, an Emergent Conference of Presiding Officers of the Legislative Bodies in India was held at New Delhi to consider the issues arising out of the said cases pending in the Supreme Court. Addressing the Conference, the Chairman (Dr. Bal Ram Jakhar) stated *inter alia* as follows:

> It was only in January this year that we had met in Bombay for our annual deliberations. Since then important developments of considerable constitutional importance involving the Legislature, the Press and the Judiciary have taken place. Two privilege cases relating to the Andhra Pradesh Legislative Council and Kerala Legislative Assembly are now pending before the Supreme Court. We have specially assembled here today to consider the issues arising out of these privilege cases which are likely to vitally affect the effective functioning of our Legislatures.
>
> ...We discussed this matter ...at our recent Conference of Presiding Officers in Bombay and, after a thorough consideration of all the aspects of the matter, adopted a resolution on 3 January 1984, affirming that 'the Legislatures are supreme in their affairs in the conduct of the Business of the House and their powers, privileges and immunities granted by the Constitution of India, and no other authority shall have jurisdiction or power to interfere in that respect'.

After discussing the matter at great length, the Conference adopted the following Resolution unanimously:

> "The Presiding Officers of Legislative Bodies in India assembled in their Emergent Conference in New Delhi on 25th April 1984, while reiterating the supremacy of the Legislature under the Constitution and faith in the independence of the Judiciary and the freedom of the Press, hereby unanimously resolve:
>
> (a) that under article 105/194 of the Constitution, the Legislatures in India had and were intended by the founders of the Constitution to have, exclusive jurisdiction to decide all matters relating to the privileges of the House, their members and Committees without any interference from the courts of law or any other authority;
>
> (b) that rules framed under article 118/208 are not subject to scrutiny by any court of law and the provision regarding their being subject to constitutional provisions refers to only the provisions regarding rules of procedure enshrined in the Constitution and not to all other provisions;
>
> (c) that mutual trust and respect must exist between the Legislatures and courts, each recognizing the independence, dignity and jurisdiction of the other inasmuch as their roles are complementary to each other;
>
> (d) that, if necessary, an amendment might be made in the Constitution so as to place the position beyond all shadow of doubt; and
>
> (e) that the Committee of the Presiding Officers appointed at their Conference in Bombay in January 1984 may continuously monitor further progress in the matter and from time to time make suitable

recommendations to the Chairman of the Conference and finally to the Conference itself at its Calcutta meeting in October 1984.

This Conference authorises the Chairman to take such other steps as he deems fit to achieve the above objectives."

Before, however, the writ petitions could come up for hearing before the Supreme Court, the Kerala Legislative Assembly was dissolved. The Andhra Pradesh Legislative Council was abolished on 1 June 1985, by the Andhra Pradesh Legislative Council (Abolition) Act, 1985[223].

Jharkhand Case

The elections to the Jharkhand Legislative Assembly were held in February, 2005. The electorate gave a fractured mandate. The Governor of Jharkhand after consulting various political parties invited Jharkhand Mukti Morcha and its allies led by Shibu Soren, to form the Government on 2 March 2005. The Soren Government was required to prove its majority on the floor of the House by 21 March 2005 which was subsequently preponed by the Governor to 15 March 2005. The Leader of National Democratic Alliance who claimed to have the support of majority in the 81 member Jharkhand Legislative Assembly, filed a writ petition in the Supreme Court of India challenging the appointment of Shibu Soren as the Chief Minister of Jharkhand.

On 9 March 2005 a three-Judge bench of the Supreme Court of India presided over by the Hon'ble Chief Justice passed an interim order on the Writ Petition (Civil) No. 123/2005, *Arjun Munda v. Governor of Jharkhand and Others* and another Writ Petition (Civil) No. 120/2005, *Anil Kumar Jha v. Union of India and others inter alia* directing that (i) the session of the Jharkhand State Assembly convened for 10 March 2005 may continue on 11 March 2005 *i.e.,* the next day and on that day the vote of confidence be put to test; (ii) the only agenda in the Assembly on 11 March 2005 would be to have a floor test between the contending political alliances; (iii) the proceedings in the Assembly shall be totally peaceful and disturbance, if any, caused therein shall be viewed seriously; (iv) the result of the floor test be announced by the *Pro tem* Speaker faithfully and truthfully.

The interim order of the Supreme Court thus contained directions about fixing of agenda of the House, maintenance of order in the House and video recording of the proceedings of the House, etc., which relate to matters, decision on which, under the rules and by convention fall within the exclusive domain of the Presiding Officer of the House or the House itself.

The matter was discussed at the Emergency Conference of Presiding Officers of Legislative Bodies held at New Delhi on 20 March 2005.

The Speaker, (Fourteenth) Lok Sabha and Chairman of the Conference in his concluding remarks *inter alia* observed as follows:

"As envisioned by our founding fathers, it is the Constitution, which is the supreme law of the land and all branches of governance are subject to the overriding authority and control of the Constitution. If there is any difference of perception, it is

223. Act No. 35 of 1985.

always the spirit of the Constitution, which has to ultimately prevail. The Presiding Officers have also emphasized that the Legislature is the sole guardian and judge in all matters relating to its proceedings and privileges. They have also stressed that as provided for in Articles 122 and 212, no officer or member of Parliament or State Legislature in whom powers are vested for regulating procedure or conduct of business or for maintaining order, shall be subject to the jurisdiction of any court in respect of the exercise of those powers. Some hon. Presiding Officers have been referred to the question whether any Constitutional Amendment may be made.

I am indeed happy that the hon. Presiding Officers have enhanced the prestige of our fraternity by their dignified expostulations on a highly sensitive theme. While stressing the imperative of upholding the constitutional mandate for harmonious relations between the Legislature and the Judiciary, they have also referred to various rulings and judgements of the different courts delivered over the years, particularly by the Apex Court, on the matter of Legislature-Judiciary relations. At the same time, they have also reiterated that the Legislature is the sole guardian and judge in all matters relating to its proceedings and privileges, which has been recognized by the Supreme Court as well along with the reiteration of the supremacy of the Hon. Supreme Court in its own sphere as per the provisions of the Constitution."

The Conference in their unanimous resolution *inter alia* resolved that:

There must exist mutual trust and respect between the Legislature and the Judiciary and also an understanding that they are not acting at cross purposes but striving together to achieve the same goal that is to serve the common man of this country and to make this country strong.

That the success of democratic governance would be greatly facilitated if these two important institutions respect each other's role in the national endeavour and do not transgress into areas assigned to them by the Constitution....

That it is imperative to maintain harmonious relations between the Legislatures and the Judiciary.

Typical Cases of Breach of Privilege and Contempt of the House

The power possessed by each House of Parliament and a House of the Legislature of a State to punish for contempt or breach of privilege is a general power of committing for contempt analogous to that possessed by the superior courts and is in its nature discretionary. It is not possible to enumerate every act which might constitute a contempt of the House. However, some typical cases of breach of privilege and contempt are described below.

Misconduct in the Presence of the House or Committees thereof

Disrespect to the House collectively is the original and fundamental form of breach of privilege and almost all breaches can be reduced to it. Any misconduct in the presence of the House or a Committee thereof, whether by members of Parliament or by members of the public who have been admitted to the galleries of the House or to sittings of Committees as witnesses, will constitute a contempt of the House.

Such misconduct may be defined as a disorderly, contumacious, disrespectful or contemptuous behaviour in the presence of the House.

Some typical instances of misconduct on the part of strangers and witnesses in the presence of the House or Committees thereof, which have been treated as constituting contempt of the House, are—

interrupting or disturbing the proceedings of the House or of Committees thereof;

impersonating as a member of the House and taking the oath[224];

serving or executing a civil or criminal process within the precincts of the House while the House or a Committee thereof is sitting, without obtaining the leave of the House;

refusal by a witness to make an oath or affirmation before a Committee[225];

refusal by a witness to answer questions put by a Committee and refusal to produce documents in his possession;

prevaricating, giving false evidence[226], or willfully suppressing truth or persistently misleading a Committee; and

trifling with a Committee[227], returning insulting answers to a Committee, or appearing in a state of intoxication before a Committee.

Disobedience of Orders of the House or its Committees

Disobedience to the orders of the House, whether such orders are of general application or require a particular individual to do or abstain from doing a particular act is a contempt of the House. Disobedience to the orders of a Committee of the House is treated as a contempt of the House itself, provided the order disobeyed is within the scope of the Committee's authority. To prevent, delay, obstruct or interfere with the execution of the orders of the House or a Committee thereof is also a contempt of the House. Examples of contempt are—

refusal or neglect of a witness or any other person, summoned to attend the House or a Committee thereof, to attend;

neglecting or refusing to withdraw from the House when directed to do so;

any stranger who does not withdraw when strangers are directed to withdraw by the Speaker while the House is sitting, may be removed from the precincts of the House or be taken into custody[228];

disclosure of proceedings or decisions of a secret sitting of the House in any manner[229];

224. *B.K. Majumdar's Case—L.S. Deb.,* 15-7-1957 and 12-8-1957.

225. *Indira Gandhi's Case—P.D.* 1979, Vol. XXIV, 2, pp. 33-44.

226. *S.C. Mukherjee's Case—P.D.* 1971, Vol. XVI, 1, pp. 1-8; *Rajesh Kumar Manjhi's Case* – 2 R (14 *L.S.*) Committee to Inquire into misconduct of member (Lok Sabha); *Babubhai K. Katara 's Case* – 3 R (14 *L.S.*) Committee to Inquire into misconduct of Member of Lok Sabha.

227. *A.P. L.C. Deb.,* 7-2-1975.

228. Rule 387A.

229. Rule 252.

disobedience to orders for the production before Committee, of papers or other documents;

absconding, in order to avoid being served with a summon to attend the House or a Committee thereof;

offering to give money or a situation of profit to a person for him to procure a letter in the possession of another person which the latter had been required to produce before a Committee; and

endeavouring to persuade or induce a person to procure from another person a letter which such person had been required to produce before a Committee.

Presenting False, Forged or Fabricated Documents to the House or its Committees

It is a breach of privilege and contempt of the House to present false, forged or fabricated documents to either House or to a Committee thereof with a view to deceiving them. The necessity of preventing the production before the House of false or fabricated documents was emphasised by Speaker Mavalankar in the *Sinha Case*[230] when he stated in Lok Sabha:

> ...it is necessary, in the first instance, to examine the genuineness or otherwise of the documents laid on the Table of the House by Dr. Sinha; such an examination is necessary to prevent the production before the House of any documents which are not genuine or are fabricated, and to see that no member misleads intentionally or unintentionally any section of the House by referring to or placing on the Table of the House documents which are not genuine and are ultimately found to be forged or fabricated.

Tampering with Documents Presented to the House or its Committees

It is a contempt of the House to abstract any document from the custody of the Secretary-General[231] or to tamper with documents presented to the House or Committees thereof[232].

Speeches or Writings Reflecting on the House, its Committees or Members

It is a breach of privilege and contempt of the House to make speeches, or to print or publish any libels, reflecting on the character or proceedings of the House or its Committees, or any member of the House for or relating to his character or conduct as a member of Parliament[233].

Approaching an outsider against any decision of the House is tantamount to a reflection on the decision of the House and consequently a contempt of the House. If a member is not satisfied with a decision of the House, the proper course for him is to move the House itself to rescind its decision[234].

230. *See* Report of Committee of Privileges in *Sinha Case* (1952); *H.P. Deb.* (H), 23-6-1952, c. 2334.

231. Rule 383.

232. Rule 269(3).

233. For casting aspersions on (i) the House, *see M.O. Mathai Case,* 9R(CPR-2LS); *Mulgaokar Case,* 4R (CPR-4LS); *Pratipaksha Case,* P.D. 1976, Vol. XXI, 2, pp. 34-35; *Jagjit Singh Case* P.D. 1976, Vol. XXI, 2, pp. 38-39; *Thaniniram Case, Kerala LA. Deb.,* 19-8-1971; *Hardwari Lal Case, Haryana V.S. Deb.,* 1-3-1973 and on (ii) a Parliamentary Committee, *see Sally's Case,* 5R (CPR-3LS); *Financial Express Case, L.S. Deb.,* 11-4-1969, cc. 220-22 and 16-4-1969, cc. 113-16, 7R (CPR-4LS); *Dainik Deshbandhu Case,* P.D. 1976, Vol. XXI, 2, p. 42; *P.R. Nayak and S.S. Khera Case,* P.D. 1974, Vol. XIX, 2, pp. 33-35; and *J.R.D. Tata Case,* 1R (CPR-7LS).

234. *Balu's Case,* P.D. 1957, (*L.L.*), p. 19.

Speeches and writings reflecting on the House or its Committees or members are punished by the House as a contempt on the principle that such acts "tend to obstruct the Houses in the performance of their functions by diminishing the respect due to them". The House may punish not only contempts arising out of facts of which the ordinary courts will take cognizance, but those of which they cannot. Thus a libel on a member of Parliament may amount to a breach of privilege without being a libel under the civil or criminal law.

In order to constitute a breach of privilege, however, a libel upon a member of Parliament must concern his character or conduct in his capacity as a member of the House and must be "based on matters arising in the actual transaction of the business of the House". Reflections upon members otherwise than in their capacity as members do not, therefore, involve any breach of privilege or contempt of the House. Similarly, speeches or writings containing vague charges against members or criticising their parliamentary conduct in a strong language, particularly in the heat of a public controversy, without, however, imputing any *mala fides* are not treated by the House as a contempt or breach of privilege[235].

On a similar consideration, defamatory words against a particular section of the House or against a particular party in the House are not treated as constituting a contempt of the House, since the whole House is not affected. Thus, in a case in the Lok Sabha, where one political leader was reported in a newspaper to have said in a public speech that the representatives of a political party in the Legislatures were "people whom any first class magistrate would round up" and were "men without any appreciable means of livelihood", Speaker Ayyangar disallowed the question of privilege[236].

It is considered inconsistent with the dignity of the House to take any serious notice or action in the case of every defamatory statement which may technically constitute a breach of privilege or contempt of the House[237].

Similarly, the House may not necessarily take serious notice of defamatory statements made by irresponsible persons. In deciding such cases of libel, it is recognized that the extent and circumstances of the publication of a libellous statement as also the standing of the person making such a statement should be taken into account in considering whether privilege should be asserted in a particular case.

Examples of speeches and writings which have been held to constitute breach of privilege and contempt of the House may be categorized as under—

Reflections on the House[238].

Reflections on members in the execution of their duties[239].

235. *Parl. Deb.,* (1888) 1323, c. 1312; and (1907) 171, c. 876; *H.C. Deb.,* (1919) 232, c. 2153; 8R (CPR-2LS), pp. 4-5; *L.S. Deb.,* 4-9-1972; and 7-4-1977.

236. *L.S. Deb.,* 20-4-1960, cc. 12729-34.

237. 9R (CPR-2LS).

238. *Case of Hindustan Standard,* 7R (CPR-2LS); M.O. Mathai, 9R (CPR-2LS); *Dhirendra Bhowmick,* 11R (CPR-2LS); *Pratipaksha Case, L.S. Deb.,* 3-9-1974; *Hardwari Lal Case,* P.D. 1975, Vol. XXI., pp. 15-20; *Jyoti Basu's Case,* W.B. *L.A. Deb.,* 29-3-1972.

239. *Case of Daily Pratap, L.S. Deb.,* (II), 30-8-1955, cc. 11463-66; *Hindustan Standard Case,* 7R (CPR-4LS) *Maharashtra Times Case,* 6R (CPR-4LS); *Basumati Case, L.S. Deb.,* 21-3-1969, cc. 220-21,

Reflections on members serving on a Committee of the House[240].

Reflections on the conduct of the Chairman of a Committee of the House[241]

Statements made in Courts or in writ petitions or affidavits filed in Courts are not immune from action for breach of privilege or contempt of the House[242].

Reflections on Speaker in Discharge of his Duties

Office of the Speaker, Lok Sabha, is a constitutional office and enjoys exalted status in our democratic set up. Though it is not necessary for the Speaker under the Constitution or the Rules of Procedure to sever his connections with the political party to which he belongs, once he is elected to the Office, he, while conducting the House nevertheless acts in totally impartial manner. Impartiality is, therefore, an integral attribute *vis-á-vis* the Office of the Speaker. Hence, reflections on the character or impartiality of the Speaker in discharge of his duties as the Speaker of the House had been held to constitute a breach of privilege and contempt of the House[243].

Publication of False or Distorted Report of Debates

Each House has the power to control and, if necessary, to prohibit the publication of its debates and proceedings[244]. Normally, no restrictions are imposed on reporting the proceedings of the House. But when the debates are reported *mala fide,* that is, when a wilful misrepresentation of the debates arises, the offender is liable to punishment for committing a breach of privilege and contempt of the House.

The publication of false or distorted, partial or injurious report of debates or proceedings of the House or its Committees or wilful misrepresentation or suppression of speeches of particular members, is an offence of the same character as the publication of libels upon the House, its Committees or members; and the persons who are responsible for such publication are liable to be punished for a breach of privilege

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9-4-1969, cc. 171-72; *Aryavarta Case, L.S. Deb.,* 24-4-1970, cc. 200-201 and 14-5-1970, cc. 229-30; *Assam Weekly Case, L.S. Deb.,* 23-6-1971 and 5-8-1971; *Nav Bharat Times Case, L.S. Deb.,* 10-8-1971; *Hindustan Case, L.S. Deb.,* 19-4-1973; *J.K. Organisation Case, L.S. Deb.,* 5-9-1973, cc. 44-49 and 19-11-1973, cc. 231-36; *Organiser Case, L.S. Deb.,* 23-4-1974, cc. 231-33 and 10-5-1974, cc. 215-16; *Patriot Case, L.S. Deb.,* 13-3-1974, cc. 227-29; *Hindustan Times Case, L.S. Deb.,* 16-7-1977, cc. 2-3, 18-7-1977, c. 223 and 3-3-1978, 2R (CPR-6LS); *National Herald Case, L.S. Deb.,* 29-8-1973, c. 211; *Illustrated Weekly of India Case, L.S. Deb.,* 22-12-1978, cc. 319-20; *R. Venkataraman Case, L.S. Deb.,* 16-9-1981, cc. 226-30; *Kerala Kaumudi Case, R.S. Deb*., 17-12-1970, cc. 123-26 and 5-4-1971; *T.A. Pai and Walamukhi Case, R.S. Deb.*, 7-4-1972; *Organiser Case, Andhra Pradesh V.S.* Deb., 16-12-1968 and 10-12-1968; *All India Radio Case, Andhra Pradesh V.S. Deb.*, 1-7-1974; *Jansatta Case, Gujarat V.S. Deb.*, 29-3-1969, and *Arya Sandesh Case, Gujarat V.S. Deb.*, 28-11-1969.

240. *Case of Hindustan Standard,* 7R (CPR-2LS); *Dainik Deshbandhu Case,* P.D. 1976, Vol. XXI, 2, pp. 42-44. *See* also *P. Deb.,* (1857-58) 150, cc. 1022, 1063, 1198; *H.C. Deb.,* (1909) 7, c. 235; (1921) 145, c. 831; *Bowles and Huntsman Case,* H.C. 95(1932-33).

241. *France's Case, P. Deb.,* (1874) 219, cc. 752-55; *The Daily Herald Case, H.C.* 98(1924), *H.C. Deb.,* (1924) 174, c. 748; *J.R.D. Tata Case,* 1R (CPR-7LS), *L.S. Deb.,* 2-2-1980, cc. 1-2 and 19-8-1981.

242. *Madhu Limaye Case,* 4R (CPR-3LS), *P.R. Nayak and S.S. Kher Case,* 5R (CPR-5LS).

243. Pioneer Case PD 2005 Vol. L pp 3-5; *Dr. S.C. Kashyap's Case*; L.S. Deb. 23.5.2006; 3R 9CPR-14LS) PD Vol. L1, pp. 2-4; *The Statesman Case;* 4R (CPR 14LS) P.D. Vol. L 1, pp. 4-9, 14; *Free Press Journal & The Business Standard Case,* 13 R (CPR 14 LS) P.D. Vol. LIII, pp. 5-7; *Dawood Mia Khan Case's* 17 R (CPR 14LS) P.D. Vol. LIII pp. 7-11.

244. *M.S.M. Sharma* v. *Sri Krishna Sinha, (Searchlight Case),* A.I.R. 1959, S.C. 395.

or contempt of the House[245].

> On 27 March 1967, the Speaker informed the House that he had received notice of a question of privilege from two members against the *Hindustan Times* on the ground that the report published in its issue of 24 March 1967, was a misrepresentation of the proceedings of the House of the previous day insofar as a statement attributed by the Special Correspondent of the paper to one member cast reflections on one of the signatories to the notice. The Speaker observed that according to the practice he would ask the Editor of the paper to state what he had to say before taking up the matter further[246].
>
> On 29 March 1967, the Speaker read out to the House the letter of apology received from the Editor of the *Hindustan Times* to the effect that the publication of the news-item "was a genuine error". The House accepted the apology and directed that the letter of apology, together with the actual statement made by the member concerned in the House on 23 March 1967, should be published on the front page of the newspaper in its next issue[247]. This was done by the newspaper.

However, the House may decide to refer the matter forthwith to the Committee of Privilege instead of the matter being first referred to the Editor of the newspaper concerned[248].

Thus, the breach of privilege or contempt of the House in this connection would be: (i) wilful misrepresentation of the proceedings in the House, or of the speeches of particular members; and (ii) wilful suppression of speeches of particular members.

It is not consistent with the dignity of the House to take too serious a view of every case of inaccurate reporting or misreporting. In most of the cases when an apology is tendered, investigation into the matter is not pursued but the matter is dropped by accepting the apology and asking the editor concerned to publish the apology in the subsequent issue of the newspaper[249].

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245. *Kalinga Case, L.S. Deb.,* 13-7-1967, cc. 11582-605, 3R (CPR-4LS); *Aryavarta Case, L.S. Deb.,* 26-8-1968, cc. 1645-46, 15-11-1968, cc. 245-47; *Hindustan Times Case, LS. Deb.,* 28-7-1969, 1-8-1969, L.S. Bn. Pt. II, 2-8-1969; *All India Radio Case, L.S. Deb.,* 19-12-1974, cc. 191-208; 20-12-1974, cc. 238-42; *Times of India Case, L.S. Deb.,* 19-7-1978, cc. 245-52; 21-7-1978, cc. 227-28; 1-8-1978, cc. 275-85, 4R (CPR-6LS); *Satish Agarwal Case, L.S. Deb.,* 17-3-1982, cc. 288-90, 5R (CPR-7LS).

246. *L.S. Deb.,* 27-3-1967, cc. 978-79; *see* also, *L.S. Deb.,* 6-7-1967, 10-7-1967, 28-7-1969 and 28-4-1970, c. 189; 10-4-1972, c. 183; and 28-3-1974, cc. 199-203.

247. *Ibid.,* 29-3-1967—For the *Indian Express Case, see L.S. Deb.,* 6-7-1967 and 10-7-1967.

248. *L.S. Deb.,* 13-7-1967.

249. *Sami Sanj Case,* Report of the Privileges Committee, Gujarat Vidhan Sabha (presented to the House on 22-7-1967) and *Guj. V.S. Deb.,* 1-3-1968; *Aryavarta Case, L.S. Deb.,* 26-8-1968, cc. 1645-47 and 15-11-1968, cc. 245-47; *Indian Express Case, L.S. Deb.,* 7-8-1969, cc. 251-53 and 11-8-1969, cc. 209-10; *Janayugom Case,* 3rd Report of the Committee of Privileges. Kerala Legislative Assembly and *Kerala L.A. Deb.,* 11-8-1969; *All India Radio Case, L.S. Deb.,* 22-12-1969, cc. 233-46; *Samachar Bharti Case, L.S. Deb.,* 10-3-1970; *Northern India Patrika Case, L.S. Deb.,* 28-4-1970, c. 189 and 13-5-1970, cc. 194-95; *and Indian Nation Case, L.S. Deb.,* 1-9-1970, cc. 237-38; *Times of India Case, L.S. Deb.,* 10-4-1972 and 21-4-1972; *Indian Express Case, L.S. Deb.,* 3-5-1973, cc. 143-63, 165-70 and 16-5-1973, *see* also *L.S. Deb.,* 8-8-1977, cc. 1-2,/24-4-1978, 22-3-1978, 29-8-1978, c. 211; 4-5-1979, c. 289, 8-7-1980, c. 270; *Atai O Sai Case, R.S. Deb.,* 1-8-1973, cc. 4514-29; *Motherland Case, R.S. Deb.,* 27-3-1973 and 31-3-1973, *see* also, *R.S. Deb.,* 23-8-1973, 10-5-1978, cc. 174-75, 24-7-1980, 18-3-1981, 29-4-1981, 18-8-1981, 19-2-1982; *Navjivan Case, UP. V.S. Deb.,* 31-7-1972 and 1-8-1972; *Statesman Case, R.S. Deb.,* 1-6-1972; *Kanhaiyalal Mishra Case, U.P. V.S. Deb.,* 7-8-1974.

Publication of Expunged Proceedings

It is a breach of privilege and contempt of the House to punish expunged proceedings of the House[250]. In this regard, the Supreme Court has held:

> The effect in law of the order of the Speaker to expunge a portion of the speech of a member may be as if that portion had not been spoken. A report of the whole speech in such circumstances though factually correct, may, in law, be regarded as perverted and unfaithful report and the publication of such a perverted and unfaithful report of a speech, *i.e.* including the expunged portion in derogation to the orders of the Speaker passed in the House may, *prima facie,* be regarded as constituting a breach of the privilege of the House arising out of the publication of the offending news-item[251].

The Editor, publisher, printer or correspondent of a paper, in which the proceedings of the House, which had been expunged by the Speaker, have appeared may tender an unconditional apology and the House, if it accepts the apology, may agree to drop the matter.

The House may require the Editor of the paper in question to publish the correction and the apology in the next issue of the paper and, when he has done so, report the fact to the House through the Speaker[252].

Publication of Proceedings of Secret Sessions

Disclosures of the proceedings of decisions arrived at in a secret sitting of the House by any person in any manner, until the ban of secrecy is lifted by the House, is treated as a gross breach of privilege of the House[253] since the person concerned is purporting to disclose that which the House has ordered not to be disclosed. In such cases, the question whether the report or account is accurate or inaccurate is irrelevant.

Premature Publication of Proceedings, Evidence or Report of a Parliamentary Committee

It is a breach of privilege and contempt of the House to publish any part of the proceedings or evidence given before, or any document presented to a Parliamentary Committee before such proceedings or evidence or documents have been reported to the House[254].

The position was stated thus by the Committee of Privileges of Lok Sabha in the *Sundarayya* Case—

> It is in accordance with the law and practice of the privileges of Parliament that while a Committee of Parliament is holding its sittings from day to day, its proceedings should not be published nor any documents or papers which may have been presented to the Committee or the conclusions to which it may have arrived at referred to in the Press...It is highly desirable that no person, including a member of Parliament or

250. *See* Rules 380 and 381 for the powers of the Speaker to order expunction of words from debates.

251. *M.S.M. Sharma* v. *Sri Krishna Sinha,* A.T.R. 1959 S.C. 395.

252. *Free Press Journal (Bombay) Case, L.S. Deb.,* 21-12-1959, cc. 6264-66; 9-2-1960, cc. 110-11; Bn. (II) 23-12-1959, para 3227; *Hindustan Times Case, L.S. Deb.,* 10-11-1966, cc. 2549-52; 22-11-1966, cc. 4657-59; *Indian Express Case, L.S. Deb.,* 25-3-1982, 31-3-1982; *Indian Express Case, L.S. Deb.,* 24-7-1985.

253. Rule 251 and 252.

254. *Hindustan Standard Case,* 7R (CPR-2LS), *L.A. Deb.,* 6-3-1940, p. 979 and 12-3-1940, pp. 1183-84, *P. Deb.* (II) 27-3-1950, p. 2187; *Sundarayya Case* (CPR-ILS), *see* also 7R (CPR-2LS), *L.S. Deb.,* 2-8-1966, cc. 1941-72, 5-8-1966, cc. 2962-80, and 12-8-1966, cc. 4517-27; Rule and Dir. 55; 23R CPR (14 L.S.).

> Press, should, without proper verification, make or publish a statement or comment about any matter which is under consideration or investigation by a Committee of Parliament[255].

Similarly, any publication of a draft or approved report of a Parliamentary Committee, before such report has been presented to the House, is treated as a breach of privilege of the House.

Reflection on the Report of a Parliamentary Committee

No reflection can be made by anybody on the recommendations of a Parliamentary Committee. The Committees are entitled to the same respect as Parliament. Therefore, if anybody casts reflection on the decisions or conduct of the Committee, it is a breach of privilege of the House[256].

Any person who is affected by the recommendation of a Parliamentary Committee can make a representation to the Committee and submit the true facts, according to him, to the Committee but he cannot ventilate them outside. Similarly, if the Government wishes to say anything and contest any finding or conclusion or recommendation of the Committee, it has a right to put up its own case to the Committee direct, or to the Speaker who forwards it to the Chairman of the Committee for reconsideration of the matter. In a case, where a difference of opinion persists, both the statements are laid on the Table in a further report from the Committee[257].

Circulation of Petitions before Presentation

Circulation of a document purported to be a petition to Parliament before its presentation to the House may be treated as a breach of privilege of the House.

> On 2 August 1966, a question of privilege was raised in the House *inter alia* on the ground that a person had got printed and circulated a pamphlet purporting to be a petition to Lok Sabha before its presentation to the House. It was also mentioned that the printed matter bore no printer's line[258]. On 23 August 1966, the matter was referred to the Committee of Privileges for consideration and report.
>
> The Committee concluded that there was no evidence in support of the allegation that the purported petition had been published and circulated by the person concerned except to the three members whom he had approached in connection with the presentation of the purported petition to Parliament. Though the circumstances of the case were very suspicious, particularly in view of the fact that the name of the printing press was not published in the pamphlet in question, the Committee recommended that in the absence of any proof of actual distribution and also in view of the apology tendered by the person concerned no further action need be taken in the matter[259].

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255. *Sundarayya Case,* (CPR-ILS), pp. 2-3.

256. *Bharat Sewak Samaj Case, L.S. Deb.,* 19-4-1965, cc. 9715-37; *Khadi and Village Industries Commission Case, L.S. Deb.,* 16-8-1965, cc. 95-96; *Financial Express Case, L.S. Deb.,* 11-4-1969, cc. 220-22 and 16-4-1969, cc. 113-16, 7R (CPR-4LS); *Pipelines Inquiry Commission Case, L.S. Deb.,* 7-4-1972, cc. 168-82, 4R (CPR-5LS); *C.R. Das Gupta Case, L.S. Deb.,* 30-4-1974, cc. 237-57 and 2-8-1974, cc. 141-42; *J.R.D. Tata Case, L.S. Deb.,* 2-2-1980, cc. 1-2 1R (CPR-7LS), *L.S. Deb.,* 19-8-1981.

257. *L.S. Deb.,* 19-4-1965, cc. 9713-37; 16-8-1965, cc. 93-96; *P.R. Nayak* and *S.S. Khera Case, P.D.* 1974; Vol. XIX, 2, pp. 33-35; *Dainik Deshbandhu Case, M.P. V.S, Deb.,* 4-3-1974 and 14-8-1974; *C.R. Das Gupta Case, P.D.* 1975, Vol. XX, 1, pp. 1-2; *Deepika Case, P.D.* 1975, Vol. XX, 1, pp. 20-22.

258. *L.S. Deb.,* 2-8-1966, cc. 1959-65.

259. 12R (CPR-3LS).

Premature Publication of various other Matters connected with the Business of the House

According to the parliamentary practice, usage and convention, it is improper, although technically not a breach of privilege or contempt of the House, to give for any reason premature publicity in the Press to notices of questions, adjournment motions, resolutions, answers to questions and other similar matters connected with the business of the House. If this takes place, the Speaker may express his displeasure against the person responsible for it. The following are instances of such improprieties and breaches of conventions—

Publication of questions before they are admitted by the Speaker and before their answers are given in the House or laid on the Table[260].

Publication of answers to questions before they are given in the House or laid on the Table[261].

Publication of notices of adjournment motions or resolutions before they are admitted by the Speaker or mentioned in the House[262].

Premature publicity of notice of motion of no-confidence against the Speaker[263].

Premature publicity of resolution regarding removal of the Speaker[264].

Publication of the report of a Committee or Commission appointed by Government in pursuance of a resolution of the House or an undertaking given in the House[265].

Making of important policy announcements by Ministers outside the House while the House is in Session[266].

Obstructing Members in the Discharge of their Duties

Arrest of Members

Members of Parliament "should not be prevented by trifling interruptions from their attendance" on their parliamentary work. As already noted, except on a criminal charge or under Preventive Detention Act or under Defence of India Act in the interest of public safety, it is a breach of privilege and contempt of the House to arrest or to

260. Rule 334A; *C.A. (Leg.) Deb.,* 6-2-1948, p. 336 and 10-2-1949, p. 511; *L.S. Deb.,* 10-9-1963, cc. 53, 14-20.

261. Rule 53; *see* also the Case of the Press Information Bureau in which apology of P.I.B. was accepted by the House—*L.S. Deb.,* 26-7-1957, cc. 5255-56 and 27-7-1957, cc. 5473-75.

262. *L.A. Deb.,* 27-3-1933, p. 2655; *C.A. (Leg.) Deb.,* 6-2-1948, p. 336; *H.P. Deb.,* 10-12-1952, 1973-81; and 12-12-1952, c. 2123.

263. *L.S. Deb.,* 14-3-1975, cc. 206-8.

264. *Ibid.,* 15-4-1987.

265. *P. Deb.* (II), 5-4-1951, cc. 5981-82; *L.S. Deb.,* (II), 5-9-1955, cc. 12183-85; *Assam Tribune Case, P.O.* 1974, Vol. XIX, 1, p. 16.

266. *H.P. Deb.* (II), 1-9-1953, cc. 1865-66; *L.S. Deb.,* 1-5-1959, cc. 14486-87; 26-11-1959, c. 1919; 4-12-1959, c. 3415; 17-12-1959, c. 5638; 18-3-1960, cc. 6718-22; 22-12-1960, c. 7074; 27-8-1963, cc. 2905-10; 18-12-1963, cc. 5418-21; 19-12-1963, cc. 5792-93; 2-5-1973, cc. 215- 16; 6-4-1977, cc. 121-25; 30-11-1977, cc. 236-37; 7-12-1977, c. 222; 4-3-1974, cc. 223-34; 26-3-1980, 19-6-1980, c. 219; 26-6-1980, cc. 258-59; 2-4-1984, 16-8-1985; *U.S. Deb.,* 10-8-1970, 18-8-1970, cc. 255-56; 19-8-1970, c. 170; 4-3-1974, cc. 77-95; 19-6-1980 and 19-8-1985.

cause the arrest of a member of Parliament, during the Session of the Parliament, or during the forty days preceding, or the forty days following, a Session.

Molestation of Members

It is a breach of privilege and contempt of the House to obstruct or molest a member while in the execution of his duties, that is while he is attending the House or when he is coming to, or going from, the House. Thus, insults offered to members on their way to or from the House have always been deemed high breaches of privilege[267]. Similarly, to molest a member on account of his conduct in Parliament is a breach of Privilege.

In the following instances members and others have been punished for molesting members—

Harassment and ill-treatment of a member while coming to or returning after attending the session of the House or a Committee meeting[268].

Assaulting members within the precincts of the House;

Using insulting or abusive language against members within the precincts of the House;

Challenging members to fight on account of their behaviour in the House or any Committee thereof;

Sending insulting letters to members in reference to their conduct in Parliament;

Threatening to inflict pecuniary loss upon a member on account of his conduct in Parliament;

Intimidating and causing obstruction to a member in the discharge of his duties as a member by an outsider in the precincts of the House[269].

The privilege against assault or molestation is available to a member only when he is obstructed or in any way molested while discharging his duties as member of Parliament. In cases when members were assaulted while they were not performing any parliamentary duty it was held that no breach of privilege or contempt of the House had been committed[270].

Attempts by Improper Means to influence Members in their Parliamentary Conduct

Bribery

Any attempt to influence members by improper means in their parliamentary conduct is a breach of privilege. Thus, the offering to a member of a bribe or payment to influence him in his conduct as a member, or of any fee or reward in connection

267. *Patwans' Union Case, P.D.* 1974, Vol. XIX, 2, pp. 46-47.

268. *Krishnan Manoharun's Case, P.D.* 1975, Vol. XX, 2, pp. 36-37; *Lalji Bhai Case, P.D.* 1976, Vol. XXI, 1, pp. 1-2; *A.K. Saha's Case, P.D.* 1976, Vol. XXI, 2, pp. 28-31.

269. *Rajasthan Vidhan Sabha Deb.,* 28-2-1969 and 11 *Report of the Committee of Privileges,* 26-8-1969.

270. Cases of *Dr. Saradish Roy* and *B.S. Bhaura, L.S. Deb.,* 17-11-1971; *Samar Guha's Case,* 19-11-1973; *Ram Hedaoo's Case,* 1-3-1974 and 16-3-1974; *Niren Ghosh's Case, R.S. Deb.,* 19-2-1974, 14-5-1974 and 14-5-1975 and Cases of assault on Punjab M.L.As, *P.D.,* 1976, Vol. XXI, 1, p. 14.

with the promotion of, or opposition to, any Bill, resolution, matter or thing, submitted or intended to be submitted to the House or any Committee thereof, has been treated as a breach of privilege. Further, it may be a contempt to offer any fee or reward to any member or officer of the House for drafting, advising upon or revising any Bill, resolution, matter or thing, intended to be submitted to the House or any Committee thereof. The offence, it may be emphasized, lies in making an offer of bribe and it has always been considered a breach of privilege even though no money has actually changed hands. Further, any offer of money, whether for payment to an association to which a member belongs or to a chanty, conditional on the member taking up a case or bringing it to a successful conclusion, is objectionable[271].

An offer of money or other advantage to a member in order to induce him to take up a question with a Minister may also constitute a breach of privilege, since it is mainly because a member has the power to put down a question or raise the matter in other ways in the House that such cases are put to him.

It will, however, not constitute a breach of privilege or contempt of the House if the offer or payment of bribe is related to a business other than that of the House. For instance, in the Import Licences case it was alleged that a member of Lok Sabha had taken bribe and forged signatures of the members for furthering the cause of certain applicants. The question of privilege was disallowed since it was considered that the conduct of the member, although improper, was not related to the business of the House. But, at the same time, it was held that as the allegations of bribery and forgery were very serious and unbecoming of a member of Parliament, he could be held guilty of lowering the dignity of the House[272].

Intimidation of Members

Any attempt to influence a member otherwise than by way of argument which has, as its motive, the intention to deter him from performing his duty, constitutes a breach of privilege. Thus, an attempt to intimidate members by threats with a view to influence them in their parliamentary conduct is a breach of privilege.

Officers of Government can see, approach or write to members with a view to explaining to them the Government policies and administrative matters. But bringing pressure on members, obstructing them, impeding them, or using means which might restrict their freedom to work in the House is objectionable and would lead to contempt of the House, depending upon the facts in each case.

In case, the members in their capacity as journalists, editors or practising lawyers are approached for professional work, that would not amount to influencing them in their work as members of Parliament[273].

While there was no evidence to show that the then Chairman of the State Trading Corporation had attempted to influence the conduct of a member as a

271. *Rajasthan Vidhan Sabha, Deb.,* 22-8-1969 and 26-8-1969 (Case *of Panchayat Pradhan*).

272. *L.S. Deb.,* 2-12-1974, cc. 228-29; *P.D.* 1975, Vol. XX, pp. 8-11.

See also the case of alleged attempt at bribing M.L.As in connection with election to Rajya Sabha—*U.P. V.S. Deb.,* 27-3-1974. For a fuller analysis of the Import License Case, *see S.L. Shakdher,* The Import Licenses Case: some important Privilege Issues, *JPI,* Vol. XXI, No. 3.

273. *L.S. Deb.,* 3-4-1968, cc. 1950-57.

member of Parliament, by threats or any other improper means which might constitute a breach of privilege and contempt of the House, the Committee of Privileges felt, however, that the conduct of the Chairman in approaching the member and another with a view to influencing the member to stop writing articles or speaking in Parliament about the alleged irregularities and suspected malpractices of the State Trading Corporation was not proper. While the Committee were satisfied that the Chairman did not employ any improper means which might technically constitute a breach of privilege, they were of the view that as a public servant in a responsible position, he should have acted with more discretion[274].

Obstructing Officers of the House

The freedom from arrest and molestation in coming to, staying in and returning from the House is also extended to officers of the House in personal attendance upon the service of the House. It is consequently a breach of privilege and contempt of the House to arrest or to cause the arrest, except on a criminal charge, of any such person.

Similarly, it is a contempt of the House to obstruct any officer of the House or any other person employed by the House, or entrusted with the execution of the orders of the House, while in the execution of his duty. Following are the examples of this kind of contempt:

Insulting or abusing or assaulting or resisting an officer of the House, or any other person entrusted with or acting in the execution of his duty[275].

Refusal of Civil Officers of the Government to assist Officers of the House when called upon to do so

In 1977, an important question arose as to whether a civil servant who is engaged in collecting information for answering a question in the House is protected by parliamentary privileges and whether any punishment given to him by a Minister will amount to contempt of the House. This question came up for consideration before the Committee of Privileges, Sixth Lok Sabha, pursuant to the adoption by the House on 18 November 1977, of a motion referring to the Committee, a question of privilege against Indira Gandhi, former Prime Minister, for allegedly causing obstruction, intimidation, harassment and institution of false cases against certain officials who were collecting information for answer to a certain question in the House.

The Attorney-General, whose opinion was sought by the Committee was of the view that it was the responsibility of the Minister concerned to collect the required information to answer questions put to him in the House. Any agency employed by the Minister or public servants or persons entrusted with the work could not be regarded as servants or officers of the Lok Sabha. Therefore, the persons who suffered harassment were neither officers and servants of the House nor were they employed by, or entrusted with execution of the orders of either House. There were no orders given by the Lok Sabha; it was the Minister who had asked for material and no execution of any order of either House was involved. However, the question would remain whether the

274. *Patel Case,* 5R (CPR-4LS).

275. Case of *Raj Narain and other members of U.P. Vidhan Sabha* (1959), *P.D.*

orders made by certain persons to carry out raids or arrests obstructed or impeded the Lok Sabha in the performance of its functions.

The Committee of Privileges, in their Third Report presented to the House on 21 November 1978, were of the opinion that although, technically it was the responsibility of a Minister to furnish information to the House, any obstruction or harassment to officials through whom he collects the required information either to deter them from doing their duty or to impair the will or efficiency of others in similar situations, would impede and stifle the functioning of Parliament.

"Such officials should, therefore, be deemed to be in the service of the House, and entrusted with the execution of the orders or the performance of the functions of the House, and any obstruction or harassment caused to them while doing their legitimate duties in collecting such information asked for by Parliament can be treated as a contempt of the House". In a broad sense, "all persons who serve or advance the purpose and functions of Parliament are deemed to be its officers for the limited purpose of the law of contempt".

The Sixth Lok Sabha adopted a motion on 19 December 1978 agreeing with the recommendation and findings of the Committee of Privileges contained in their Third Report.

The Seventh Lok Sabha, however, rescinded[276] the above motion of the Sixth Lok Sabha by a motion on 7 May 1981, holding that the findings contained in the Third Report of the Committee of Privileges of Sixth Lok Sabha were in total contravention of parliamentary rules, precedents and conventions and they unduly extended the immunity enjoyed only by the officers of Parliament in the discharge of their duties to an indeterminate number of persons totally unconnected with Parliament. The House resolved that the findings of the Committee and the decision of the House were inconsistent with and violative of the well-accepted principles of the law of parliamentary privilege and the basic safeguards assured to all and enshrined in the Constitution.

Molestation of Officers of the House

Besides, acts directly tending to obstruct officers of the House in the execution of their duty, any conduct which may have a tendency indirectly to deter them from doing their duty in the future may also be treated by the House as a breach of privilege or contempt. Thus, it is a breach of privilege and contempt of the House to molest an officer of the House for executing its orders or the orders of its Committees or on account of anything done by him in the course of his duty. Similarly, vexation of officers of the House by proceeding against them in the courts for their conduct in obedience to the orders of the House or in conformity with its practice, is a breach of privilege.

The present practice is, however, that when an action is brought by a person in a court of law against an officer or servant of the House for his conduct in obedience to the orders of the House or in confirmity with its practice, the House instructs the Attorney-General to arrange for appearance and representation in the court on behalf of the officer concerned[277].

276. *L.S. Deb.,* 7-5-1981, cc. 440-41.

277. *Blitz Case, L.S. Deb.,* 25-8-1961, cc. 5048-58.

Obstructing and Molestation of Witnesses

It is a contempt of the House to arrest a witness summoned to attend before the House or its Committees. Similarly, it is a contempt of the House to molest any witness during his attendance in the House or any Committee thereof, or later on account of his attendance or evidence as such witness[278]. Examples of this kind of contempt are—

Assaulting a witness in the precincts of the House;

Using threatening, insulting or abusive language to a witness in the precincts of the House;

Calling any person to account or censuring him for evidence given by him before the House or any Committee thereof;

Assaulting persons for having given evidence before Committee or on account of the evidence which they have given before Committees; and

Bringing of legal proceedings against any person on account of any evidence which he may have given in the course of any proceedings in the House or before any Committee thereof.

Tampering with Witnesses

It is a breach of privilege and contempt of the House to tamper with a witness in regard to the evidence to be given before the House or any Committee thereof, or to attempt, directly or indirectly, to deter or hinder any person from appearing or giving evidence before the House or any Committee thereof.

No Protection to Constituents and others from Consequences of Disclosure of Information to Members of Parliament

Unlike witnesses who are protected by the House from the consequences of evidence given by them before the House or any Committee thereof, persons, including constituents, who provide information voluntarily to members of Parliament in their personal capacity, do not enjoy any protection, apart from the qualified privilege available under the ordinary law of the land.

Cases not Amounting to a Breach of Privilege or Contempt of the House

As already stated, giving of premature publicity to various matters connected with the business of the House is an act of impropriety but not a breach of privilege or contempt of the House[279]. There are certain other actions which may be improper but they do not, technically speaking, constitute a breach of privilege or contempt of the House. Some typical cases in this category are described below—

If any statement is made on the floor of the House by a member or Minister which another member believes to be untrue, incomplete or incorrect, it does not constitute a breach of privilege. If an incorrect statement is made, there are other remedies by which the issue can be decided[280]. In order to constitute a breach of privilege or contempt of the House, it has to be proved that the statement was not only wrong or misleading

278. *K. Ravindran Case, L.S. Deb.,* 10-7-1980, cc. 211-12.
279. Rule 334A.
280. *Dir.* 115; *L.S. Deb.,* 13-12-1973, c. 15064.

but it was made deliberately to mislead the House. A breach of privilege can arise only when the member or the Minister makes a false statement or an incorrect statement wilfully, deliberately and knowingly[281].

When two members sought to raise a question of privilege against the Minister of Food and Agriculture on the ground that he had suppressed the truth and misled the Public Accounts Committee, when he appeared before them, the Speaker *inter-alia* ruled:

> Incorrect statements made by a Minister cannot make any basis for a breach of privilege. It is only a deliberate lie, if it can be substantiated, that would certainly bring the offence within the meaning of breach of privilege. Other lapses, other mistakes do not come under this category, because every day we find that Ministers make their statements in which they make mistakes and which they correct afterwards[282].

Leakage of budget proposals or official secrets does not form any basis for a breach of privilege.

On 3 March 1956, when notices of adjournment motions were given by two members in connection with an alleged leakage of budget proposals, another member contended that it constituted an express breach of privilege of the House. In this connection, the Speaker gave the following ruling:

> The precedents of the United Kingdom should guide us in determining whether any breach of privilege was in fact committed in the present case. So far as I can gather, only two cases occurred in which the House of Commons took notice of the leakage of the budget proposals. They are known as the Thomas case and the Dalton case. In neither of these cases was the leakage treated as a breach of privilege of the House nor were the cases sent to the Committee of Privileges for inquiry. The prevailing view in the House of Commons is that until the financial proposals are placed before the House of Commons, they are an official secret. A reference of the present leakage to the Committee of Privileges does not, therefore, arise[283].

Statements made by Ministers at party meetings are not privileged[284].

No privilege of Parliament is involved if statements on matter of public interest are not first made in the House and are made outside. Such actions are against conventions and propriety but do not constitute any basis on which breaches of privilege can be founded[285].

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281. *L.S. Deb.,* 10-3-1964, cc. 4644-46; 18-4-1966, c. 11352; 2-12-1974, cc. 227-28.

282. *Subramanyan Case, L.S. Deb.,* 17-8-1966, cc. 5165-78. *See* also, *L.S. Deb.,* 22-8-1966, cc. 6048-66; 24-8-1966, cc. 6765-84; 5-9-1966, cc. 9221-24; 13-12-1973, cc. 150-64; 2-12-1974, cc. 227-29; 2-2-1980, cc. 2-5; and 7-9-1981, cc. 313-17.

283. *L.S. Deb.,* 19-3-1956, cc. 2912-13. *See* also, *L.S. Deb.,* 10-3-1959; 18-4-1964; 25-7-1974, cc. 171-87; 29-7-1974, cc. 186-99; 30-7-1974, cc. 124-27; 23-2-1981, cc. 288-90; 25-2-1982, cc. 275-77.

284. Similarly, no privilege of Parliament is involved if—important statements regarding the Cabinet decisions are made by a party functionary when the House is in session—*L.S. Deb.,* 14-4-1965, cc. 9200-04; members of a party are allegedly threatened at a party meeting—*L.S. Deb.,* 1-9-1970, cc. 236-37; a directive is issued by a party to its members not to hob-nob with members of other parties—*L.S. Deb.,* 1-8-1973, cc. 4514-29; a member is allegedly intimidated by his party leader—*L.S. Deb.,* 8-8-1974, cc. 158-66; a meeting of parliamentary party is convened to bring about a party decision regarding action taken on a Report of Committee of Privileges–*L.S. Deb.,* 22-12-1978, c. 318.

285. *L.S. Deb.,* 5-9-1955, c. 12194; 19-12-1963, cc. 5792-93; 12-9-1963, cc. 5784-800; 18-12-1963, cc. 5418-21; 19-12-1963, cc. 5792-93; 26-3-1980; 16-8-1985; *R.S. Deb.,* 18-8-1970, cc. 255-56; 19-8-1970, cc. 255-56; 19-8-1985, cc. 250-52.

It is not a breach of privilege if documents intended for members are circulated to the Press and non-members first, but such acts are deprecated.

A summary of the Bank Award Commission Report was laid on the Table. A question of breach of privilege was raised in the House on 22 August 1955. Thereupon, the Speaker observed:

> Whenever a report is to be presented to Parliament, Government have to be very particular to see that a summary of it or information therefrom is not published in the Press before the report is presented to Parliament. What has happened now is a very irregular practice and I do not know who is responsible for it. The Minister has promised to inquire and let us await the results of his inquiry[286].

On 5 September 1955, the Minister expressed his inability in locating how the leakage had occurred. The member who had raised the question of privilege was not satisfied with the statement of the Minister and there was demand for reference of the case to the Committee of Privileges. The Speaker ruled *inter-alia* as follows:

> ...It is equally the duty of the Press to help observance of parliamentary conventions; it is a wrong practice to obtain information in that manner and give publicity to it before a particular matter is placed before Parliament. It was undoubtedly improper for that paper to do so[287].

When the findings and conclusions of the Ganganath Committee which had been appointed by the Government to inquire into the allegations regarding the import of sugar in pursuance of the assurance given by the Prime Minister on the floor of the House on 17 November 1950, were released to the Press before the report was laid on the Table, a question of privilege was raised. On 5 April 1951, the Deputy Speaker ruled:

> ...this was not a Committee appointed by the House and it had no obligation to submit its report to the House...No doubt, if any Committee is appointed by Government in pursuance of any resolution or wishes of the House and not independently, while the House is sitting, naturally the House would expect that such Committee's proceedings should be disclosed to itself first. Subject to this observation, there is absolutely no breach of privilege in the present case[288].

Where the report of a Committee has been presented to the House, its publication by the Press before copies of the report have been made available to members is undesirable, but it is not a breach of privilege of the House[289].

Breaches of rules, conventions and practices are not regarded as breaches of privilege. If breaches of rules, etc., take place, they may invite the displeasure of the Speaker or censure of the House on a proper motion[290].

No breach of privilege is involved if a member's speech has not been covered in full or has been covered in a summary form in the Press or over the Radio or T.V.

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286. *L.S. Deb.,* (II) 22-8-1955, c. 10778.
287. *Ibid.,* 5-9-1955, cc. 12183-85.
288. *P. Deb.,* (II), 5-4-1951, cc. 5981-82.
289. *Parl. Deb.,* (1893-94) 14, c. 812; *H.C. Deb.,* (1947-48) 54., cc. 1125-26.
290. *L.S. Deb.,* 12-8-1966, cc. 4517-27; 15-4-1987, c. 560.

It is also not a breach of privilege if a particular speech is not covered as adequately as other speeches, or is not given prominence.

Seizure of a petition form addressed to the House and intended to be presented to it through a member from a person arrested by the Police on a criminal charge has not been considered a breach of privilege or contempt of the House[291].

Undesirable, undignified and unbecoming behaviour on the part of a member at the time of President's Address to both the Houses of Parliament assembled together under article 85 is not a matter involving a breach of privilege or contempt of the House, but is one of conduct of members and maintaining decorum and dignity by them[292].

Removal of offending members from the House under orders of the Governor at the time of his Address to members of the Legislature under article 176 is not a breach of privilege of the House or its members[293].

A statement reported to have been made by a Chief Minister that appointment of a parliamentary committee to study the situation in a part of his State would amount to interference in the affairs of that State has not been held to constitute a breach of privilege and contempt of Parliament[294]. Similarly, a statement reported to have been made by a Chief Minister opposing a suggestion made in the Lok Sabha for sending a parliamentary delegation to study the situation in his State has been held not to constitute a breach of privilege or contempt of the House[295].

Non-implementation of an assurance given by a Minister on the floor of the House is neither a breach of privilege nor a contempt of the House, for the process of implementation of a policy matter is conditional on a number of factors contributing to such policy[296]. In the *Import Licenses Case,* the Speaker *inter-alia* ruled that the House has various remedies available to it to call the Government to account and secure compliance with its directions, but inadequate compliance of an assurance or delay in its fulfilment will not constitute a breach of privilege[297].

If the Appropriation Accounts are laid on the Table of the Legislative Council before they are so laid on the Table of the Legislative Assembly, there is no breach of privilege, though it would be more appropriate if they were first laid before the Assembly which votes or grants moneys to the Governments[298].

No question of privilege is involved if letters of members are intercepted by censor because censorship is provided under the law. Section 26 of the Post Office

291. 3R (CPR-3LS).

292 *L.S. Deb.,* 20-2-1968, cc. 2185-86, 1 and 2R of the Committee on the Conduct of a Member during President's Address (1971) presented to the House, on 15-11-1971 and 14-4-1972, respectively.

293. *Report of the Committee of Privileges, Rajasthan Legislative Assembly* (Adopted by the Assembly on 24-9-1966).

294. *L.S. Deb.,* 7-4-1969, cc. 241-65.

295. *Ibid.,* 21-4-1969, c. 2469.

296. *P.D.* (1957), Vol. 1, No. 2, Pt. III, pp. 11-19; *L.S. Deb.,* 16-8-1965, cc. 145-55; *P.O.* (1976), Vol. XXI, pt. 1, pp. 14-15.

297. *L.S. Deb.,* 2-12-1974. cc. 225-26, S.L. Shakdher; The Import Licenses Case, *J.P.I.,* Vol. XXI, 3.

298. *P.D* (1962), Vol. VI, 2, Pt. III, pp. 31-32.

Act, 1898, authorises censorship on the occurrence of any public emergency or in the interest of public safety or tranquility[299]. No question of privilege is likewise involved if the telephones of members are tapped[300].

Curtailment of time allotted for discussion of certain business in the House by the Speaker is no breach of privilege. The Speaker is free to fix any time. The Speaker cannot be the subject of any breach of privilege motion since he is the protector of privileges[301].

If the correspondence of a member under detention, addressed to the Speaker, reaches him through the Secretary, Home Department, it does not involve a matter of privilege[302].

No question of privilege arises when a Minister decides not to make a statement in the House giving reasons for his resignation. However, if he releases such a statement to the Press without first making it in the House, it would amount to contempt[303].

Alleged use of forged signatures of certain members on a telegram or by a news agency, not being a reflection on Parliament as a whole, is not a breach of privilege. Though it is a serious matter, the remedy lies not with the House but outside it[304].

Reflection on the conduct of members of a Legislature as members of an electoral college is not a breach of privilege, because the allegations and aspersions have nothing to do with their duties to the House as such[305].

When the draft report of a parliamentary committee has been presented to the House, though not yet available to members in printed form, it is no offence against the House to publish the findings of the committee.

There is no breach of privilege if a member goes on tour and is not received by some official[306].

Refusal by a Government official to show to the members of Parliament, files of his department is not a breach of privilege[307].

Announcing increase in levies by the Government on the eve of the Budget Session has been held not to be a breach of privilege[308].

Procedure for Dealing with Questions of Privilege

The procedure for dealing with questions of privilege is broadly laid down in the Rules[309]. A question of privilege may be raised in the House only after obtaining the

299. *Madras L.A. Deb.,* 1954, Vol. XIX, pp. 578-81; *P.D.* (1960), Vol. IV, No. 3, Pt. III, pp. 65-66.
300. *L.S. Deb.,* 29-4-1960, cc. 14709-11; 28-8-1981. cc. 251-55.
301. *P.D.* (1963), Vol. VIII, Pt. III, pp. 11-12.
302. *Madras L.A. Deb.,* 5-2-1963, cc. 622-24.
303. *U.P. L.A. Deb.,* 21-8-1959, pp. 482-90.
304. *H.C. Deb.,* 19-4-1948, c. 1448, 26-4-1948, c. 32.
305. *J.P.I.* Vol. XVI, No. 3, p. 97.
306. *L.S. Deb.,* 3-3-1969, c. 225.
307. *Ibid.,* 22-8-1973, cc. 226-35.
308. *Ibid.,* 9-6-1980, cc. 275-76, 22-2-1983; *R.S. Deb.,* 19-2-1982, cc. 172-85.
309. Rules 222 to 228 and 313 to 316.

consent of the Speaker[310]; this has been made obligatory so that the time of the House is not taken up by raising a matter which, on the face of it, is not admissible[311]. A member who wishes to raise a question of privilege is, therefore, required to give notice in writing to the Secretary-General by 10.00 hrs. on the day the question is proposed to be raised[312]. If the question of privilege is based on a document, the notice must be accompanied by that document[313]. On receipt of the notice, the matter is considered by the Speaker who may either give or withhold his consent to the raising of the question of privilege in the House. The member concerned is then informed of the Speaker's decision. Where the matter is of an immediate nature and there is no time for a notice being given, the Speaker has permitted a member to raise a question of privilege without previous notice in writing[314].

The question whether a matter complained of is actually a breach of privilege or contempt of the House is entirely for the House to decide, as the House alone is the master of its privileges. The Speaker, in giving his consent to the raising of a matter in the House as a question of privilege, considers only whether the matter is fit for further inquiry and whether it should be brought before the House. In giving his consent, the Speaker is guided by the following conditions prescribed for the admissibility of questions of privilege[315]:

> Not more than one question shall be raised at the same sitting; the question shall be restricted to a specific matter of recent occurrence; and the matter requires the intervention of the House.

A question of privilege should thus be raised by a member at the earliest opportunity and should require the interposition of the House[316]. Even a delay of one day might prove fatal to the notice of privilege, provided the specific matter sought to be raised was of urgent importance at a particular time[317].

A matter which is postponed to suit the convenience of the House or to give the Speaker an opportunity to consider it fully does not lose priority when it is eventually allowed to be raised. It is for the Speaker to decide whether the subject matter of a question of privilege is a specific matter of recent occurrence[318].

The Speaker, before deciding whether the matter proposed to be raised as a question of privilege requires the intervention of the House and whether he should

310. Rule 222.

311. *C.A. (Leg.), Deb. (II),* 20-12-1949, pp. 829 and 847-49; *P. Deb. (II),* 10-3-1950, p. 1338 and 13-11-1950, cc. 937-38; *H.P. Deb. (II),* 13-5-1953, c. 6479; and *L.S. Deb.,* 9-5-1957, cc. 2656- 57; 29-5-1957, cc. 2652-58.

312. Rule 223.

313. *Ibid.*

314. *L.S. Deb.*, 12-9-1956, cc. 6791-92. The member had complained that he had been obstructed by police while entering the Parliament House Estate to attend the sitting of the House that day. *See* also, *L.S. Deb.,* 7-5-1959.

315. Rule 224.

316. *P. Deb.* (II), 30-11-1950, cc. 937-38.

317. *L.S. Deb.,* 17-8-1966, c. 5167. *See* also *P. Deb.* (II), 30-11-1950, cc. 937-38.

318. *M.S.M. Sharma* v. *Sri Krishna Sinha,* A.I.R. 1959 S.C. 395; and *M.S.M. Sharma* v. *Sri Krishna Sinha,* A.I.R 1960 S.C. 1186.

give his consent to the raising of the matter in the House, may give an opportunity to the person incriminated to explain his case to the Speaker[319]. The Speaker may, if he thinks fit, also hear views of members before deciding admissibility of a question of privilege[320]. When a member seeks to raise a question of privilege against another member, the Speaker, before giving his consent to the raising of the matter in the House, always gives an opportunity to the member complained against to place before the Speaker or the House such facts as may be pertinent to the matter[321].

> While seeking to raise a question of privilege, a member should lay before the House all the necessary evidence in support of his contention. Production of further evidence at a subsequent date is not admissible. No privilege issue can, therefore, be raised on a matter that has previously been decided on a question of privilege even though the member might have in his possession fresh material to support his contention. In such a case, the member has recourse to other remedies; he may raise an appropriate debate on the matter.

There has been, however, an occasion where although the Speaker had withheld his consent to the raising of a question of privilege, the members again sought to raise the matter in the House on the next day. The Speaker, thereupon, observed that if there were any documents or evidence, the members were free to adduce the same by way of further notices and he would examine those notices[322].

If a newspaper reports incorrectly the proceedings of the House or comments casting reflection on the House or its members, the Speaker may, in the first instance, give an opportunity to the editor of the newspaper to present his case before giving his consent to the raising of a question of privilege in the House[323]. The Speaker normally withholds his consent to the raising of a question of privilege after the editor or press correspondent of the newspaper concerned has expressed regret or published correction[324].

Occasionally, members have raised as questions of privilege, matters affecting them personally at the hands of the police, *i.e.* for alleged abuses, ill-treatment or obstruction by the police authorities:

> When the Speaker receives any complaint or notice thereof from a member regarding an assault on or misbehaviour with him by the police authorities, the Speaker might, if he is satisfied, permit the member to make a

319. *L.S. Deb.,* 4-4-1961, cc. 9034-38; 2-5-1961, cc. 14904-08; 5-8-1966, cc. 2980-81 and 2983-95; 3-3-1969, cc. 225-26; 18-3-1969, cc. 200-01; 9-4-1969, cc. 171-72; 10-8-1971, 219; 8-5-1973, cc. 186-87; 5-9-1973, c. 49; 23-4-1974, c. 233; 22-12-1978, cc. 314-25.

320. *Ibid.,* 23-9-1958, cc. 8053-84; 27-9-1958, c. 8987; 7-8-1959, c. 1227; 21-4-1965, cc. 10238-75.

321. *Ibid.,* 7-5-1959, cc. 15576-79; 9-5-1959, cc. 16040-42-For *Sheel Bhadra Yajee Case, see R.S. Deb.,* 30-5-1967, 5-6-1967, 19-6-1967.

322. *R. Venkataramam Case, L.S. Deb.,* 7-9-1981, cc. 313-25, 8-9-1981, cc. 278-85.

323. *L.S. Deb.,* 4-4-1961, cc. 9034-38; 2-5-1961, cc. 14904-08; 5-8-1966, cc. 2980-81 and 2983-95; 9-4-1969, cc. 171-72; 10-8-1971, c. 219; 8-5-1973, cc. 186-87; 22-12-1978, 314-15.

324. *Ibid.,* 18-9-1963, cc. 6786-87; 5-8-1966, cc. 2980-81, 2983-85; 3-3-1969, cc. 225-26; 18-3-1969; 25-3-1969; 9-4-1969; cc. 171-72; 14-5-1970, cc. 229-30, 22-11-1971; 15-5-1973, cc. 18-19; 10-5-1974, c. 233; 30-8-1976, cc. 185-87; 22-12-1978, cc. 319-20; *R.S. Deb.,* 29-11-1967; 5-4-1971.

statement in the House under the Rule 377[325]. In such case, the member may be asked to submit to the Speaker in advance a copy of the statement that he would make in the House in this connection. Thereafter, the Speaker might get the Government version on the facts. In the light of the facts given by the two sides, the Speaker might decide whether he should allow the matter to be raised in the House as a question of privilege.

Successive Speakers have, however, held that an assault on or misbehaviour with a member unconnected with his parliamentary work or mere discourtesy by the police or officers of the Government are not matters of privilege, and such complaints should be referred by members to the Ministers directly.

Leave of the House for Raising a Question of Privilege

After the Speaker has given his consent to the raising of a matter in the House as a question of privilege, the member who tabled the notice has, when called by the Speaker, to ask for leave of the House to raise the question of privilege[326]. While asking for such leave, the member concerned is permitted to make only a short statement relevant to the question of privilege[327]. The Speaker has, in his discretion, sometimes permitted other members also to make short statements relevant to the question of privilege[328]. If objection to leave being granted is taken, the Speaker requests those members who are in favour of leave being granted to rise in their places[329]. If not less than twenty-five members rise accordingly, the House is deemed to have granted leave to raise the matter and the Speaker declares that leave is granted; otherwise the Speaker informs the member that he does not have leave of the House to raise the matter.

Leave to raise a question of privilege in the House can be asked for only by the member who has given notice of the question of privilege. He cannot authorise another member to do so on his behalf [330].

A question of privilege is accorded priority over other items in the List of Business. Accordingly, leave to raise a question of privilege is asked for after the question and before other items in the List are taken up[331].

Urgent matters requiring immediate intervention of the House may, however, be allowed by the Speaker to be raised at any time during the course of a sitting after the disposal of questions but such occasions are rare[332].

Consideration of a Question of Privilege

After leave is granted by the House for raising a question of privilege, the matter may either be considered and decided by the House itself, or it may be referred by

325. The Rule deals with raising a matter which is not a point of order. *See Bhogendra Jha Case. L.S. Deb.,* 6-4-1981, cc. 306-08; *Satyanarayan Jatiya Case, L.S. Deb.,* 22-12-1981, cc. 359-64; *Dr. Golam Yuzdam Case, L.S. Deb.,* 5-11-1982, cc. 354-56.

326. Rule 225(1).

327. *Ibid.*

328. *L.S. Deb.,* 11-5-1954, cc. 5999-6000; 12-5-1968, cc. 1046-81; 14-12-1987, c. 27.

329. Rule 225(2). *L.S. Deb.,* 27-9-1958, c. 8991; 10-2-1959, c. 149.

330. *L.S. Deb.,* 25-9-1958, cc. 8350-52.

331. Rule 225(1) and Dir. 2.

332. Rule 225(1), Second Proviso. *See* also *L.S. Deb.,* 12-9-1956, cc. 6791-92; 25-8-1961, c. 5058.

the House, on a motion made by any member, to the Committee of Privileges for examination, investigation and report[333]. The usual practice is to refer the matter of complaint to the Committee of Privileges, and the House defers its judgment until the report of the Committee has been presented[334]. However, in cases where the House finds that the matter is too trivial or that the offender has already tendered an adequate apology, the House itself disposes of the matter by deciding to proceed no further in the matter[335]. Further, in case there is difference of opinion in the House about the alleged breach of privilege, the House may decide the issue on the floor instead of referring the matter to the Committee of Privileges.

> On 5 April 1967, a question of privilege was raised in the House alleging that the Ministers of External Affairs and Commerce and the Prime Minister had misled the House by making misleading and untruthful statements in the House[336]. A motion was moved to refer the matter to the Privileges Committee. The Minister of Parliamentary Affairs moved a counter motion to the effect that Ministers concerned had not committed any breach of privilege of the House.
>
> Thereupon, a point of order was raised that the second motion which had merely the effect of a negative vote, was out of order under Rule 344. Citing Rule 226, the Speaker observed that either one of the two motions or both the motions could be made thereunder, and ruled[337]:
>
> The original motion states that a *prima facie* case of breach of privilege has been made out and the matter should be referred to the Committee of Privileges for investigation. If this motion is voted down, it only means that the matter is not referred to the Committee of Privileges, and the substantive part of the question of privilege, namely, whether a breach of privilege or contempt of the House has been committed remains, and the House has to give a decision on the merits of the case.
>
> Therefore, the Minister of Parliamentary Affairs is within his right to invite the House to come to a decision whether any breach of privilege or contempt of the House has been committed.
>
> I rule that both the motions are in order and they should be put to the vote of the House one after the other.

After a lengthy debate in which the Ministers of External Affairs and Commerce explained the facts of the matter, the original motion was put to vote first and negatived. Thereafter, the second motion was put to vote and adopted by the House.

333. Rule 226. *See* also *Majumdar's Case, L.S. Deb.,* 15-7-1957, cc. 3535-39; *K.M. Koushik's Case, L.S. Deb.,* 18-11-1970. c. 2361; 3-12-1970, cc. 185-86.

334. *Namboodiripad's Case, L.S.* Deb., 27-11-1958, cc. 1669-1756; *Mathai's Case, L.S. Deb.,* 10-2-1959, cc. 140-72; *Bhowmick's Case, L.S. Deb.,* 30-8-1960, cc. 5652-54; *Blitz Case, L.S. Deb.,* 20-4-1961, cc. 12659-70.

335. *Shibban Lal Saksena's Case, P. Deb.,* 1-3-1940, pp. 1019-45; *Press Information Bureau's Case, L.S. Deb.,* 26-7-1957, cc. 5255-56 and 27-7-1957, cc. 5473-75; *Liladhar Kotoki's Case, L.S. Deb.,* 19-12-1958, c. 6394; *Free Press Journal's Case, L.S. Deb.*, 21-12-1959, cc. 6264-66; 9-2-1960, cc. 110-11; and *the Time's Case, L.S. Deb.,* 17-11-1960, cc. 855-58. *See* also *L.S. Deb.,* 5-8-1966, cc. 2983-95; 14-5-1970, cc. 229-30; 30-8-1976, cc. 185-87 and 22-12-1978, cc. 319-20.

336. *L.S. Deb.,* 5-4-1967, cc. 2914-3001.

337. *Ibid.,* 5-4-1967, cc. 2934-36; *See* also *L.S. Deb.,* 5-9-1974.

Complaints against Members

When a complaint of an alleged breach of privilege or contempt of the House is made by a member, the proceedings in the House dealing with that complaint differ depending upon whether the person implicated is a member or a stranger. The main point of difference in the two cases is that before making a complaint against a member, a notice is given to him beforehand as a matter of courtesy. Further, when a member seeks to raise question of privilege against another member, the Speaker, as already stated, before giving his consent to the raising of the matter in the House, gives an opportunity to the member complained against, to place before the Speaker or the House such facts as he may have on the question. Where a complaint of an alleged breach of privilege or contempt of the House was based on a newspaper report of an alleged statement made by a member outside the House, which the member concerned denied having made, the Speaker accepted the statement of that member in preference to what had appeared in the newspaper and withheld his consent to the raising of the question of privilege[338].

Where a question of alleged breach of privilege was raised against a member for having cast aspersions on another member in a press interview, the Speaker allowed the member on whom aspersions were cast and the member who was alleged to have cast aspersions, to make personal explanations and thereafter, treated the matter as closed[339].

When a complaint against a member is brought before the House, it is essential that the member concerned should be present in the House; in case he is not present, the making of the complaint is deferred until the following sitting. Where the member complained against is present in the House when the complaint is made, he is heard in explanation and then directed to withdraw from the House by the Speaker.

In other respects, the procedure for dealing with a complaint of alleged breach of privilege or contempt of the House against a member is the same as that for dealing with a complaint against a stranger.

Complaint against Members or Officers of the Other House

Neither House of Parliament can claim or exercise any authority over a member of the other House. Consequently, neither House can take upon itself to punish any breach of privilege or contempt offered to it by a member or officer of the other House.

No case of a breach of privilege or contempt of the House can be founded on a speech made by a member in the other House or in any State Legislature in India, because the proceedings of each House of Parliament and all Legislatures are privileged and no action can be taken in one House for anything that is said in another House.

> On 26 March 1959, a member drew the attention of the House to a news-item appearing in *Samaj,* an Oriya daily of Bhubaneshwar in its issue of 18 March 1959, wherein the Chief Minister of Orissa was alleged to have cast sweeping and general remarks against members of Parliament. The member

338. *Ibid.,* 7-5-1959, cc. 15576-79 and 9-5-1959, cc. 16040-42.

339. *Ibid.,* 4-12-1981, cc. 326-27 and 17-12-1981, cc. 316-17.

said that the Chief Minister of Orissa and the Editor of *Samaj* might be called to the bar of the House to explain their conduct or, in the alternative, the matter might be referred to the Committee of Privileges for investigation and report.

While refusing his consent for the reason that each House is supreme as far as its own proceedings are concerned, the Speaker ruled:

If really the hon. Chief Minister has said what he is alleged to have said, it is regrettable... if it is really true, this ought not to be continued. I hope and trust that this wholesome principle will be followed everywhere—no House will cast any aspersion and no member will cast any aspersion on any member of the other House or any other House in this way[340].

On 30 March 1970, during the course of a debate in Rajya Sabha, a member of that House made certain allegations against a member of Lok Sabha. After some discussion in the House, the Speaker addressed a letter to the Chairman, Rajya Sabha inviting his attention to the matter and observing, *inter alia,* as follows:

"You will agree that it is not desirable for members of one House to make allegations or cast reflections on the floor of the House on the members of the other House."

In his reply, the Chairman, Rajya Sabha, expressing his agreement with the Speaker, stated that the Deputy Chairman, Rajya Sabha had already expressed his disapproval of the member's speech[341].

However, notice of the breach of privilege or contempt of the House can be taken if the member of the other House or any other State Legislature has committed it outside the House to which he belongs.

On 11 May 1954, a member raised a question of privilege in Rajya Sabha alleging that a member of Lok Sabha had, at the Thirty-first Session of the All India Hindu Mahasabha, cast reflection on the proceedings of Rajya Sabha and requested that steps might be taken to investigate the matter.

On the following day, the member incriminated against, raised a question of privilege in Lok Sabha that on the previous night he was served with a notice issued by the Secretary of Rajya Sabha. The Prime Minister argued that there was nothing objectionable in the letter and pointed out that in the *Sundarayya's Case* in 1952, a member of Rajya Sabha had helped an investigation being conducted by Lok Sabha.

On 15 May 1954, the Chairman informed Rajya Sabha that he had received a communication from the Speaker enclosing a statement by the member concerned. In his covering note, the Speaker referred to the suggestion

340. *Samaj Case, L.S. Deb.,* 26-3-1959, cc. 7968-69.

341. *L.S. Deb.,* 1-9-1970, cc. 234-37; *P.C.* 1971, Vol. XVI, 2, p. 49. *See* also *Hindustan* Case-Reported Speech of Bibhuti Mishra, *P.O.* 1973, Vol. XVIII, 2, pp. 24-26; *R.S. Deb.,* 19-6-1967, 22-6-1967 and 24-12-1969; and *Goa, Daman and Diu V.S. Deb.,* 24-3-1975.

which he had made in the House that the Privileges Committees of both the Houses should evolve an agreed common procedure for such matters. This was agreed to by the Rajya Sabha.

The Report of the Joint Sitting of the Committees of Privileges of Lok Sabha and Rajya Sabha was presented to both the Houses on 23 August 1954, in which a procedure was laid down for cases where a member of one House committed a breach of privilege of the other. The Report was adopted by Lok Sabha on 2 December 1954[342].

Accordingly, when a question of breach of privilege or contempt of the House is raised in either House in which a member, officer or servant of the other House is involved, the procedure followed is that the Presiding Officer of the House in which the question of privilege is raised, refers the case to the Presiding Officer of the other House, only if he is satisfied on hearing the member who raises the question or on perusing any document where the complaint is based on document that a breach of privilege has been committed[343]. Upon the case being so referred, it is the duty of the Presiding Officer of the other House to deal with the matter in the same way as if it were a case of breach of privilege of that House or of a member thereof. Thereafter, that Presiding Officer communicates to the Presiding Officer of the House where the question of privilege was originally raised, a report about the inquiry, if any, and the action taken on the reference.

If the offending member, officer or servant tenders an apology to the Presiding Officer of the House in which the question of privilege is raised or to the Presiding Officer of the other House to which the reference is made, usually no further action in the matter is taken after such apology has been tendered[344].

At a meeting of the Congress Parliamentary Party, a member had made some allegation against two Ministers. On 20 June 1967, the Prime Minister made a statement in the House that the allegations had not been substantiated on the basis of the material furnished by the member[345].

On 21 June 1967, a question of privilege was raised in the House that since the allegations against the two Ministers who were members of the House had not been substantiated, the entire House had been brought into disrepute. A motion was moved that the question of privilege be referred to the Chairman, Rajya Sabha, for action in accordance with the procedure evolved by the Joint Report of the Privileges Committees of both Houses.

The Minister of Law, participating in the debate, observed that "the statement was not made in public but at a party meeting and made to the leader of the party...by a person who is a member of the party, and, therefore, subject to the party discipline by the leader of the party, Prime Minister." He opposed

342. For details of discussions in the two Houses, *see R.S. Deb.,* 11-5-1954, cc. 5999-6000; 14-5-1954, cc. 6424-33; 15-5-1954, cc. 6539-41; *H.P. Deb.* (II), 12-5-1954, cc. 7161-69; 13-5-1954, cc. 7275-83.

343. Report of the Joint Sitting of Committees of Privileges of Lok Sabha and Rajya Sabha and 32nd Report of the Committee of Privileges, Rajya Sabha.

344. *N.C. Chatterjee's Case, R.S. Deb.,* 8-12-1954, c. 1134.

345. *Arjun Arora's Case, L.S. Deb.,* 30-5-1967 and 20-6-1967.

the motion for two reasons: "first, because this is an internal matter of the Congress Party, and secondly, because if (such matters) are treated as breaches of privilege, party functioning will become impossible in the country."

After a lengthy debate, the motion was put to vote and negatived by the House[346].

On 17 August 1987, the Speaker informed the House that he had received a notice of question of privilege against the Minister of State in the Department of Defence Research and Development (who was a member of the other House) for allegedly deliberately and knowingly misleading the House by making a statement in the House on 15 April 1987. The Speaker also informed the House that after going through the comments received from the Minister and a further notice of question of privilege received from the member to whom a copy of the Minister's comments was given, he proposed to refer the matter to the Deputy Chairman, Rajya Sabha, for such action as she may consider necessary and proper in view of the fact that the Minister was a member of the other House and a question of privilege can, therefore, be dealt with only by that House in accordance with the procedure laid down in the Report of the Joint Sittings of the Committees of Privileges of Lok Sabha and Rajya Sabha. On 25 March 1988, the Chairman, Rajya Sabha, disallowed the question of privilege and forwarded a copy of the ruling to the Speaker, Lok Sabha[347].

Where a contempt or a breach of privilege has been committed by a member of Parliament against a State Legislature or by a member of a State Legislature against Parliament or the Legislature of another State, a convention is being developed to the effect that when a question of breach of privilege is raised in any Legislature in which a member of another Legislature is involved, the Presiding Officer refers the case to the Presiding Officer of the Legislature to which that member belongs and the latter deals with the matter in the same way as if it were a breach of privilege of that House, unless on hearing the member who raises the question or perusing any document, where the complaint is based on a document, the Presiding Officer is satisfied that no breach of privilege has been committed or the matter is too trivial to be taken notice of, in which case he may disallow the motion for breach of privilege. This procedure is being followed by those Legislatures which have adopted a resolution to this effect.

On 4 October 1982, a question of privilege was sought to be raised in the House regarding reported proposed summoning of a member before a Legislative Assembly in connection with a question of alleged breach of privilege and contempt of that House by the member for alleging in a press statement that the candidate belonging to his party for election to Rajya Sabha had been defeated because 'some Opposition MLAs had been purchased'.

Similarly, on 22 August 1984, the Speaker informed the House that a question of privilege was sought to be raised regarding reference of a question of privilege against a member of the House (who was also the Union Law Minister) by a Legislative Assembly to their Committee of Privileges for allegedly turning down the resolution passed by the Assembly, proposing abolition of the Legislative Council of that State.

346. *L.S. Deb.,* 21-6-1967.

347. *L.S. Deb.,* 17-8-1987; *R.S. Deb.,* 24-8-1987, 25-3-1988; *P.D.* Vol. XXXIII, 1, pp. 1-5.

The Speaker, while informing the House that he had not received any communication in that regard either from the Legislative Assembly or the member concerned, observed that it was a well established convention that if a *prima facie* case of breach of privilege or contempt of the House was made out against a member who belonged to another Legislature, the matter was reported to the Presiding Officer of that Legislature for taking such action as he considered necessary.

The Speaker hoped that all concerned would take the relevant facts into account while dealing with this sensitive and important issue[348].

Reference of Questions of Privilege to Committee of Privileges by Speaker

The Speaker is empowered to refer, *suo motu,* any question of privilege or contempt to the Committee of Privileges for examination, investigation and report[349]. In doing so, the Speaker need not bring the matter before the House for consideration and decision as to whether the matter be so referred to the Committee.

> As stated earlier, in as much as the House alone is the master of its privileges, normally all questions of privilege should be considered by the House. Speaker's power basically is to see whether, on the face of it, a matter is such as deserves to be allowed to be raised as a matter of privilege, giving it priority over other business. Once the Speaker has given his consent for the raising of a matter as a privilege issue, it is entirely for the House to decide whether the matter actually involves a breach of privilege or contempt of the House and whether the House should itself take a decision in that regard or refer it to the Committee of Privileges. Although, in some cases, the Speaker has permitted the matter to be raised in the House by a member and then declared that he was referring the matter to the Committee in exercise of his discretionary power[350], successive Speakers have interpreted this discretionary power to mean that the Speaker may on his own refer only such a matter to the Committee on which there is substantial agreement in the House, that the Speaker's power is not concurrent with or a substitute for the power of the House itself and that the only purpose of the rule is to save the time of the House and cut short the formal procedure in cases where discussion reveals that there is general agreement, on referring the matter to the Committee.
>
> In a number of cases, however, the Speaker referred the matter direct to the Committee without first bringing the same before the House[351].
>
> When a question of privileges is referred to the Committee of Privileges by the Speaker in exercise of his discretionary powers, the Committee usually

348. *Ibid.,* 22-8-1984; *P.O.* Vol. XXIX, 2, pp. 6-7.

349. Rule 227.

350. *Deshpande Case* (1LS-1952); *Dasaratha Deb Case* (1LS-1952); *Sinha Case* (1LS-1952); *and Sundarayya Case* (1LS-1952).

In the Deshpande Case, Speaker Mavalankar observed that he preferred to refer the matter to the Committee of Privileges in exercise of his authority under rule 314 (present Rule 227) so that the House might not have to go through the "long procedure that is prescribed in the Rules of Procedure"—*H.P. Deb.* (I), 27-5-1952, p. 621.

351. 1R to 7R, 10R (CPR-2LS), 1R (CPR-8LS), 2R (CPR-9LS).

present their report to the Speaker[352]. The Speaker may, thereafter, either close the matter or direct that the report of the Committee be laid on the Table[353]. Further action in the matter is then taken in accordance with the decision of the House.

Power of Speaker to give Directions

The Speaker may issue such directions as may be necessary for regulating the procedure in connection with all matters connected with the consideration of the question of privilege either in the Committee of Privileges or in the House[354].

Attendance of a Member as Witness Before the Other House or a House of State Legislature or Committee thereof

Neither House of Parliament has any authority whatever, on any occasion, to summon, much less to compel, the attendance of a member of the other House. If the attendance of a member of one House to give evidence before the other House or a Committee thereof is desired, it is necessary not only to obtain the leave of the House to which such member belongs but also the consent of that member. In other words, a member of one House is not bound to attend the other House or its Committees to give evidence, and even if he is willing to give evidence, he cannot do so without the leave of the House of which he is a member[355]. This position would hold good, irrespective of whether the House is or is not in session[356].

This principle would be applicable between a House of Parliament and a House of State Legislature or between Houses of different State Legislatures and their members *inter se* in the same way as it is applicable between the two Houses of Parliament and their members[357].

In accordance with this principle, Lok Sabha would not permit any of its members to give evidence before the other House of Parliament or a Committee thereof or before a House of State Legislature or a Committee thereof without a request desiring his attendance and without the consent of the member whose attendance is required. It is essential that such requests from the other House of Parliament or a Committee thereof or from a House of State Legislature or a Committee thereof should express clearly the cause and purpose for which the attendance of the member is desired[358].

352. In the *Deshpande Case* (1LS-1952), *Dasaratha Deb Case* (1LS-1952), *Sinha Case* (1LS-1952), and *Sundarayya Case* (1LS-1952), however, the Committees presented their reports to the House.
353. In some cases, the Committee themselves recommended to the Speaker that the report be laid on the Table—*see* 6R, 7R and 10R (CPR-2LS).
354. Rule 228. For procedure regarding consideration of the report of the Committee of Privileges by the House, *see* Chapter 30–Parliamentary Committees, under the heading 'Committee of Privileges'.
355. *See* 6R (CPR-2LS)
356. *Ibid*.
357. *Ibid*.
358. The practice and procedure were laid down by the Committee of Privileges of Second Lok Sabha in their Sixth Report, adopted by the House on 17 December 1958.

It is also the duty of a member that he should not give evidence before the other House or a Committee thereof or before a House of State Legislature or a Committee thereof, without the leave of the House being first obtained. Any neglect or breach of this duty by a member would be regarded by the House as a contempt of the House[359].

> When a request is received, seeking leave of the House to a member to give evidence before the other House or a Committee thereof or before a House, of State Legislature or a Committee thereof, the matter is referred by the Speaker to the Committee of Privileges[360]. On a report from the Committee, a motion is moved in the House by the Chairman or a member of the Committee to the effect that the House agrees with the report and further action is then taken in accordance with the decision of the House[361].

Declaration of Assets and Liabilities by Members of Lok Sabha

In a civil appeal[362], the important question put before the Supreme Court was whether before casting votes, the voters have a right to know relevant particulars of their candidates. Reliance was placed upon the recommendations made by the Law Commission of India in its 170th Report which *inter alia* called for true and correct disclosure of a statement of assets owned by the candidate, his spouse and dependant relations. The Supreme Court *inter alia* placing reliance on the International Covenant of Civil and Political Rights observed that the right to get information in democracy is recognized all throughout and it is a natural right flowing from the concept of democracy. Accordingly, the Court directed the Election Commission to call for information *inter alia* on affidavit by issuing necessary order in exercise of its power under article 324 of the Constitution from each candidate seeking election to Parliament or the State Legislature, to furnish information about his assets (immovable, moveable, bank balances, etc.) and of spouse and that of dependants along with the liabilities if any, particularly whether there are any overdues of any public financial institutions or Government dues.

In pursuance thereto, the Government held a meeting of the political parties on the 8 July 2002 with a view to evolving consensus regarding amendments required in the Representation of the People Act, 1951. The representatives of the various political parties unanimously expressed the view that there was a need to curb criminalization of politics and suggested that a draft Bill be circulated. Accordingly, a draft bill was prepared and discussed in the meeting of political parties held on 2 August 2002. In furtherance thereto, Representation of People (Amendment) Bill, 2002 was passed by the Parliament which inserted Section 75A in the Representation of People Act, 1951 providing for furnishing of information regarding assets and liabilities by members.

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359. Liladhar Kotoki's Case, *L.S. Deb.*, 19-12-1958, c. 6394.
360. *See* 3R (CPR-2LS).
361. *L.S. Deb.*, 25-4-1958, cc. 11497-98.
362. Civil Appeal No. 7178 of 2001 (*Union of India v. Association for Democratic Reforms & Anr.*)

In exercise of the powers conferred upon the Speaker, Lok Sabha by sub-section (3) of Section 75 (A) of the Representation of the People Act, 1951, Members of Lok Sabha (Declaration of Assets and Liabilities) Rules, 2004 was enacted in 2004. As per Rule 3 of Assets and Liabilities Rules, every elected candidate for the House of the People shall, within ninety days from the date on which he makes and subscribes an oath or affirmation for taking his seat, furnish as in Form I the following information as required to be furnished by him to the Speaker in pursuance of sub-section (1) of section 75A, namely:—

(i) the movable and immovable property of which he, his spouse and his dependent children are jointly or severally owners or beneficiaries;

(ii) his liabilities to any public financial institution; and

(iii) his liabilities to the Central Government or to the State Governments.

Any willful contravention of the Assets and Liabilities Rules, 2004 including suppression of information about the assets and liabilities by any member will amount to breach of privilege of the House. Any citizen of India or any other member may make a complaint in writing to the Speaker accompanied by an affidavit and copies of documentary evidence, if any, on which the complainant relies upon, that a member has willfully contravened the provision(s) of Assets and Liabilities Rules. Such a complaint shall also have to be signed and verified in the manner laid down in Code of Civil Procedure 1908. If the complaint complies with the procedural requirements of Rules, then the complaint along with annexures are forwarded to such member seeking his comments in writing thereon to the Speaker. After receiving and considering the comments, the Speaker may reject the complaint on being satisfied that there has not been any willful contravention of the Rules. If, however, the Speaker is satisfied that it is necessary or expedient so to do, having regard to the nature, and circumstances of the case, may refer the complaint to the Committee of Privileges for making an inquiry and submitting a report.

Committee on Violation of Protocol Norms and Contemptuous Behaviour of Government Officers with Members of Lok Sabha

On 2 August 2012, Speaker constituted[363] an a*d-hoc* 'Committee on Violation of Protocol Norms and Contemptuous Behaviour of Government officers with members of Lok Sabha' to deal with complaints of protocol violation which may not amount to breach of privilege.

The terms of reference of the Committee shall be to–

(a) examine every compliant referred to by the Speaker relating to–

(i) violation of protocol norms laid down from time to time regarding official dealings with members of Parliament;

(ii) violation of instructions or guidelines issued by the Government regarding official dealings between Administration and members of Parliament; and

363. Bn. (II), 2-8-2012, paras 4274-78.

(iii) discourteous behaviour by Government servants with a member during official dealings; and

(b) make such recommendations as it may deem fit.

The Committee was also constituted during the 16th Lok Sabha to deal with alleged discourteous behaviour on the part of government officials with the members of Lok Sabha.

CHAPTER 12

Conduct of Members

In order to maintain the highest traditions in parliamentary life, members of Parliament are expected to observe a certain standard of conduct, both inside the House as well as outside it. Their behaviour should be such as to enhance the dignity of Parliament and its members in general. The conduct of members should not be contrary to the usage, or derogatory to the dignity of the House or in any way inconsistent with the standards which Parliament is entitled to expect of its members[1].

Apart from the Committee of Privileges which is there to inquire into cases of breaches of privilege of the House and its members, *ad hoc* committees of the House may also be appointed from time to time to consider and investigate the conduct of a member of the House and to find out whether such conduct was derogatory to the

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1. Some illustrations which bear on the conduct of members and the standard that Parliament expects of them are given below—

   Information given to members in confidence, or by virtue of their being members of Committees of Parliament, should not be divulged to anyone nor used by them directly or indirectly in the profession in which they are engaged, such as in their capacity as editors or correspondents of newspapers or proprietors of business firms and so on.

   A member should not try to secure business from Government for a firm, company or organization with which he is directly or indirectly concerned.

   A member should not give certificates which are not based on facts.

   A member should not make profit out of a Government residence allotted to him by sub-letting the premises.

   A member should not unduly influence Government officials or Ministers in a case in which he is interested financially, either directly or indirectly.

   A member should not receive hospitality of any kind for any work that he desires or proposes to do from a person or organization on whose behalf the work is to be done by him.

   A member should not in his capacity as a lawyer or a legal adviser or a counsel or a solicitor appear before a Minister or an executive officer exercising quasi-judicial powers.

   A member should not proceed to take action on behalf of his constituents on some insufficient or baseless facts.

   A member should not permit himself to be used as a ready supporter of anybody's grievances or complaints.

   A member should not endorse incorrect certificates on bills claiming amounts due to him.

   A member should not elicit information from Government in an unauthorized manner by inducing an official to give information, which in the course of his normal functions the official should not do, nor encourage any such person to speak to him against his senior officials on matters of public importance and policy.

   A member should not write recommendatory letters or speak to Government officials for employment or business contacts for any of his relations or other persons in whom he is directly or indirectly interested. *Bn.(II),* 17-5-1952, para 57.

dignity of the House and inconsistent with the standards expected of members[2].

In 1951, when the question of appointment of a committee to inquire into the conduct of H.G. Mudgal, a member of the Provisional Parliament, was before the House, members expressed doubt as to the need for appointment of a special committee to go into this question when there already was in existence a Committee of Privileges of the House. Speaker Mavalankar then observed:

> (Even though) there is a Committee of Privileges constituted under the rules, yet it is within the powers of the House to constitute other special committees if there are any special circumstances and inquiries to be made. There is nothing inconsistent in that. Moreover, it is a moot question to be considered whether any such conduct as alleged is really in a sense a breach of privilege of the House or something different. A member may behave in a manner in which the House would not like him to behave and yet it may be argued that it is not a breach of privilege. In all such circumstances, the practice in the House of Commons has been to constitute a special committee and the procedure of making a motion is the procedure that is usually adopted in the House of Commons even though there is a Committee of Privileges[3].

The extent and amplitude of the words "conduct of a member" have not been defined exhaustively, and it is within the powers of the House in each case to determine whether a member has acted in an unbecoming manner or has acted in a manner unworthy of a member of Parliament. Thus, even though the facts of a particular case do not come within any of the recognized heads of breach of privilege or contempt of the House, the conduct of a member may be considered by the House as unbecoming and derogatory to the dignity of the House[4].

The House has the right to punish its members for their misconduct. It exercises its jurisdiction of scrutiny over its members for their conduct whether it takes place inside or outside the House. It also has the power to punish its members for disorderly

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2. (i) For instance, a Committee on the Conduct of a Member (The *Mudgal Case)* was appointed in 1951 and two Committees on the Conduct of Certain Members during President's Address were appointed in 1963 and 1971. (ii) On the report of a Committee to enquire into the allegations of improper conduct on the part of some members constituted on 12 December, 2005, Lok Sabha passed a resolution accepting the findings of the Committee that the conduct of ten members was unethical and unbecoming of members of Parliament and expelled them from the membership of Lok Sabha on 23 December, 2005. (iii) Jaya Bachchan, MP (RS) was disqualified from the membership of Rajya Sabha for holding office of profit *vide* order of the President dated 16 March, 2006. Similarly, Krishna Murari Moghe, MP (LS), was disqualified from the membership of Lok Sabha for holding office of profit by the President on 10 July, 2007. (iv) Based on the recommendations made by the Committee to Inquire into Misconduct of Members of Lok Sabha (constituted on 16 May, 2007), in their Third Report, Lok Sabha adopted a motion on 20 August 2008 expelling a member (Babubhai K. Katara) from the membership of the House. (v) On 18 May 2007 a case relating to allegations against Rajesh Kumar Majhi was referred to the Committee to inquire into the Misconduct of Members. In their First Report recommended that he be susupended for 30 sittings of the House. (vi) On 22 July, 2008, a Committee was appointed to inquire into the complaint made by some members regarding alleged offer of money to them in connection with voting on the motion of Confidence (Fourteen Lok Sabha, December 2008). The report of the Committee was laid on the Table of the House on 15 December, 2008. The Committee in their report after taking into account their findings and conclusions, particularly the roles of three witnesses, recommended that the matter may be probed further by an appropriate investigating agency. Delhi Police is further probing the matter and a case is *sub-judice*. (vii) On 25 July, 2016 a Nine Member Committee to Inquire into the Improper Conduct of a Member was constituted to probe the incident of video recording done by Shri Bhagwant Mann, MP on 21 July, 2016 on the security arrangements in Parliament House Estate. In their report, the Inquiry Committee recommended that Shri Bhagwant Mann may be suspended for the remaining period of the Tenth Session of 16th Lok Sabha. When the report of the Committee was laid on the Table of the House on 08 December, 2016, Lok Sabha passed a resolution on 09 December, 2016 accepting the findings of the Committee that Shri Bhagwant Mann be suspended from the sittings of the House for the remaining period of the Session. (viii) Based on the recommendations made by the Committee on Ethics in their First Report, Lok Sabha adopted a motion on 8 December, 2023 expelling a member (Ms. Mahua Moitra) from the membership of the House.
3. *P. Deb.* (*II*), 6-6-1951, cc. 10264-65.
4. *See* Report of the Committee on the Conduct of Certain Members, *op. cit.,* 1963, pp. 7-8.

conduct and other contempts, whether committed within the House or beyond its walls[5].

In the case of misconduct or contempts committed by its members, the House can impose these punishments: admonition, reprimand, withdrawal from the House, suspension from the service of the House, imprisonment, and expulsion from the House[6].

If at any stage, the Chair is of the opinion that the conduct of a member is grossly disorderly, the member may be directed to withdraw immediately from the House[7]. A member, who disregards the authority of the Chair or abuses the rules of the House by persistent and wilful obstruction of the business before the House, may be named by the Chair and later suspended from the service of the House on a motion moved by a member and adopted by the House. Further, in the event of grave disorder occasioned by a member coming into the well of the House or abusing the Rules of the House, persistently and wilfully obstructing its business by shouting slogans or otherwise, such member shall, on being named by the Speaker, stand automatically suspended from the service of the House for five consecutive sittings or the remainder of the session, whichever is less[8]. The purpose of 'expulsion' is to rid the House of persons who are unfit for its membership.

The various aspects of Standards/Code of Conduct were gone into in detail by the Committee of Privileges (Eleventh Lok Sabha) in their Report on 'Ethics, Standards in Public Life, Privileges, Facilities to Members and Other Related Matters'[9].

5. *Ibid*.

6. In a judgment delivered on 29 August, 1966, the Madhya Pradesh High Court upheld the expulsion of Yeshwant Rao Meghawale and Pandhari Rao Kridutta from the membership of the Madhya Pradesh Legislative Assembly and observed that since the Legislative Assembly had the power and privilege of expelling a member resulting in the vacation of his seat, the correctness, legality or propriety of the two resolutions adopted by the Legislative Assembly on 17 March, 1966, expelling the aforesaid two members could not be challenged in courts of law—*Yeshwant Rao Meghawale v. Madhya Pradesh Legislative Assembly,* A.I.R. 1967, Madhya Pradesh 95.

   However, in a judgment delivered on 18 April, 1977, the Punjab and Haryana High Court, by a 3-2 majority, held that a State Legislature is not clothed with any power to expel duly elected members as a measure of punishment for contempt of the House. The judgment *inter alia* said that the punishment for contempt of the House was "known and well-settled as being reprimand, suspension from the House for the duration of the session, fine and lastly, the keystone in this context being the power to commit the contemptor to *prison"–Hardwari Lal Case, Hindustan Times,* 9-4-1977.

   V. Kishore Chandra S. Deo was suspended from the service of the House for one day on a motion moved by the Minister of Parliamentary Affairs on 15 April 1987 and adopted by the House; Ajay Biswas was suspended from the service of the House for the remaining part of the Eighth Session of Eighth Lok Sabha on a motion moved by the Minister of Parliamentary Affairs on 29 July, 1987 and adopted by the House. The suspension was revoked with immediate effect on 30 July, 1987 on a motion moved by the Minister of Parliamentary Affairs and adopted by the House.

   Dr. Datta Samant was directed to withdraw from the House on 11 May 1988, for persistently interrupting the proceedings.

7. Rule 373.

8. Rules 374 and 374A.
   During the XIV Session of the 17th Lok Sabha, 97 members were suspended from the service of the House on the basis of adoption of motions under Rule 374 of the Rules of Procedure and Conduct of Business of Lok Sabha for disregarding the authority of the House and the Chair. *See L.S. Deb.*, 14-12-2023, c. 773; 18-12-2023, cc. 957-58; 19-12-2023, cc. 756-58; 20-12-2023, c. 672 and 21-12-2023, c. 788.
   During the XIV Session of the 17th Lok Sabha, on 18 December, 2023, three members, *viz.* Dr. K. Jayakumar, Shri Abdul Khaleque and Shri Vijaykumar *alias* Vijay Vasanth were suspended till the presentation of the Report of the Committee of Privileges for creating grave disorder in the House. *See L.S. Deb.*, 18-12-2023, c. 959.
   However, consequent upon presentation of the Seventh Report of the Committee of Privileges (17th LS) on 30-01-2024, the said suspension of the three members was revoked with effect from 30-01-2024.

9. The Report was presented to Speaker (11 LS) on 27 November 1997. On 4 December 1997, the House was dissolved. Later, the Report was laid on the Table of the House by the Secretary- General on 28 March, 1998, during the Twelfth Lok Sabha. *See* this Chapter under the sub-heading 'Ethical Principles'.

Rules to be Observed by Members while Present in the House

While the House is sitting, members are expected to observe certain rules which are technically known as the rules of parliamentary etiquette. These are based on the Rules of Procedure and Conduct of Business in Lok Sabha and the rulings given by the Speaker from time to time. The following are some of the important rules of parliamentary etiquette, which have to be generally observed by the members in Lok Sabha while the House is sitting:

> When the Speaker enters the Chamber, members are to stop all conversation, return to their seats and rise in their places. Members who enter the House at that time are required to stand silently in the gangway, till the Speaker takes the Chair[10].

A member is not to read in the House any book, newspaper or letter except in connection with, or necessary for, the business of the House[11].

A member is not to interrupt any member who is speaking, by disorderly expression, hissing, making running commentaries, or other interruptions or noises or in any other disorderly manner[12]. Occasional interruptions are allowed to clear a point or seek information to follow the tenor of a speech or to challenge mildly a statement, but frequent interruptions have been deprecated by the Chair[13]. Continuous interruptions mar the proceedings and dignity of the House as a whole[14].

While the House is sitting, every member should enter and leave the Chamber with decorum[15].

A member is to bow to the Chair while entering or leaving the Chamber, and also when taking or leaving his seat[16]. This respect is for the whole House, not for an individual occupying the Chair[17].

A member is not to pass between the Chair and any member who is speaking. Breach of this rule has been strongly taken notice of by the Chair[18].

Every member has to resume his seat as soon as the Speaker rises to speak, or calls out 'order' and addresses the House. Members are not to cross the floor, walk, stand, enter or leave the Chamber when the Speaker is on his feet[19].

A member addressing the House has to resume his seat when any other member has interposed in the course of the debate to raise a point of order, or to offer a personal explanation with the permission of the Chair.

A member is always to address the Chair[20]. The practice of exchanging arguments by members between themselves has been deprecated by the Speaker.

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10. Handbook for Members of Lok Sabha. *Seventeenth edition*, Lok Sabha Sectt**.** 2019**,** para 43(1).
11. Rule 349 (i); *L.S. Deb.,* 12-2-1959, c. 667; 5-3-1963, cc. 2304-05.
12. Rule 349 (ii) and (ix).
13. *L.S. Deb.,* 25-4-1956, cc. 6309-10; *see* also *P. Deb.(II),* 17-11-1950, cc. 250-51.
14. *H.P. Deb. (II)*, 22-7-1952, c. 4324.
15. Handbook *op. cit.* para 43(27).
16. Rule 349(iii).
17. *L.S. Deb.* 27-8-1956, cc. 4546-47; 2-3-1961, cc. 2686-88.
18. Rule 349 (iv). *See* also *LS. Deb.,* 11-9-1957, c. 13321; 1-4-1958, c. 7768; 28-4-1958, c. 12020; 3-9-1965, c. 3591; 29-8-1968, cc. 2681-82. Handbook, *op. cit.* para 43(24).
19. Rule 361 and Handbook, *op. cit.,* para 43(31); *see* also *P. Deb, (II)*, 17-11-1950, c. 249; 19-3-1951, cc. 4761-62; *H.P. Deb. (I)*, 19-5-1952, c. 1.
20. Rule 349 (vi) and Handbook, *op. cit.,* para 43(29-xii).

A member is to keep to his place while addressing the House. Whenever a member, not occupying his usual seat, rises to ask a supplementary question or to make a speech, the Speaker does not call him[21]. However, if a member speaking from his place is inaudible to the reporters or the interpreters, he may be asked to speak from a seat near the microphone.

A member is to maintain silence when not speaking in the House. Members should not converse between themselves in the Chamber but, if it becomes absolutely necessary, they may do so in a very low voice, so as not to disturb the proceedings. Members are also not to talk or crack jokes with each other[22].

A member is not to applaud when a distinguished visitor enters any of the Galleries, or the Special Box[23].

But, in appropriate cases, the Speaker might make references to the presence of distinguished foreign visitors in the Special Box of the House and on such occasions, members can cheer those visitors by thumping their desks[24].

No member should speak to the gallery from inside the House nor should he make any reference or appeal to it. However, in certain cases, where, for instance, a Minister while making a statement in the House appeals to the striking persons to resume duty or call off agitation, this is not regarded as speaking to the gallery or making any appeal to outsiders[25].

References to the presence of strangers in the Visitor's Gallery have been held to be out of order[26].

A member is not to resort to hunger-strike, dharna or any demonstration or perform any religious function in the precincts of the Parliament House and the Parliament House Estate[27].

A member can remain within the precincts of the House only for an hour after the House is adjourned for the day. After that he cannot remain in any part of the Parliament House Estate unless specific permission of the Speaker has been obtained[28].

A member is not to take shelter within the precincts of Parliament House if he knows that he is wanted by the police authorities in connection with some case against him. To do so, is against his dignity. Parliament House is not to be made a sanctuary or place of protection[29].

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21. Rule 349 (vii); *see P. Deb.* (I), 21-3-1950, pp. 955-56; *see* also *L.S. Deb.,* 26-9-1955, c. 15234; 19-12-1960, c. 6334.

22. Rule 349 (viii); *see* also *H.P. Deb.,* 4/(II)/19-5-1952, c. 116.

23. Rule 349 (x).

24. For instances, *see L.S. Deb.,* 20-2-1969, c. 1; 26-2-1969, c.l; 16-11-1970, c. 203; 23-11-1970, cc. 1-2; 28-3-1972, c. 1; 16-8-1972, c. 1; 13-11-1972, c. 1; 4-12-1972, c. 1; 29-3-1979, cc. 1-2; 6-8-1985, c. 1; 10-8-1986, cc. 1-2; 3-12-1987, cc. 2-3; 28-3-1988, cc. 2-3; 16-8-1989, cc. 1-2; 2-1-1991, cc. 8-9; 7-1-1991, cc. 1-2; 21-2-1991, cc. 1-2; 30-11-1992, cc. 1-2; 1-12-1992, cc. 1-2; 25-12-1993, cc. 425-26; 22-4-1993, c. 1; 10-5-1993; 28-2-1994, cc. 1-2.

25. Rule 349 (x). Handbook *op. cit.,* para 43(36).

26. Rule 352 (ix). *L.A. Deb.,* 1-2-1922, p. 2095.

27. *L.S. Deb.,* 28-4-1965, cc. 1172-76; 12-5-1972, cc. 296-98; 31-7-1972, cc. 21-48.

28. *Ibid.,* 28-4-1960, cc. 11572-76.

29. *Ibid.,* 18-3-1964, cc. 6092-94.

Besides, in keeping with parliamentary conventions and etiquettes, members are forbidden:

to enter the Chamber with a coat hanging on the arm[30].

to place their hats on the desk in the House[31].

to carry walking sticks into the Chamber unless permitted by the Speaker under such exceptional circumstances as old age or physical infirmity[32].

to smoke in the Chamber[33].

to raise slogans in the House[34].

to display flags or emblems or any exhibits in the House[35].

to bring a tape recorder into the House or play it there[36].

to stand in the passage of the Chamber and talk to other members[37].

to produce exhibits during debate or make demonstrations in the House[38].

to distribute within the precincts of the Parliament House, any literature, questionnaire or pamphlets, etc. not connected with the business of the House, unless permission has been obtained from the Speaker in writing in advance[39].

to approach the Chair personally in the House[40].

to leave the Chamber immediately after delivering their speeches[41]; and

to indulge during debate in any frivolity or in jokes with a barb or sarcasm in them.

In the interest of decorum and dignity of the House, members are required not to indulge in any flippancy, including knitting by women members[42].

Questions to be asked through the Chair

If a member desires to make an observation on a matter before the House or to ask a question of another member who is speaking, either to obtain clarification or for the purpose of any explanation about a matter which is under consideration of the

30. Rule 349 (xix); Handbook, *op. cit.,* para 43 (18); and *see* also *L.S. Deb.,* 25-4-1960, cc. 13633-4.

31. Rule 349 (xix); *Ibid,* para 43 (18); and *P. Deb. (II)*, 6-2-1950, p. 227.

32. Rule 349 (xx); *Ibid,* para 43 (19).

33. Rule 349 (xix); *Ibid,* para 43 (18).

34. Rule 349 (xi); Handbook. *op. cit.,* para 43(10); and *L.S. Deb.,* 13-11-1962, c. 1446.

35. Rule 349 (xvi); *L.A. Deb.,* 2-4-1937, p. 2553.

36. Rule 349 (xxii); *L.S. Deb.,* 12-3-1975, c. 249.

37. Handbook, *op. cit.,* para 43(23); *L.S, Deb.,* 5-4-1958, c. 8473; 28-2-1963, c. 1425.

38. Rule 349 (xvi); *L.S. Deb.,* 5-4-1958, c. 8468; 4-3-1960, c. 4307; 24-4-1960, c. 7921; 16-3-1965, cc. 460-64; 26-7-1966, c. 252; 14-5-1970, c. 36; 8-7-1971, cc. 153-55; and Handbook, *op. cit.,* para 43(15).

39. Rule 349 (xviii); *H.P. Deb. (II)*, 14-11-1952, c. 512; and Handbook, *op. cit.,* para 43(17).

40. Rule 349 (xiii); *H.P. Deb. (II)*, 5-4-1954, c. 4057; *L.S. Deb.,* 21-3-1963, c. 5265; 31-3-1967, c. 2238; 28-7-1980, c. 294. They may send chits, if necessary.

41. Rule 349 (xvii); *L.S. Deb.,* 23-3-1961, cc. 6831-32; and Handbook, *op. cit.,* para 43(16).

42. *L.S. Deb.,* 9-11-1962, c. 265.

House, he has to address the question through the Chair[43]. When speaking, members are to speak from their seats and rise while speaking. A member disabled by sickness or infirmity is, however, permitted to speak while sitting.

A member must not address individual members of the House while speaking, but he is always to address the Chair and make all remarks to other members through the Chair. It has been ruled that members should address each other in third person[44]. Similarly, Ministers have to be referred to by their official designation and not by name[45].

Irrelevance or Repetition

If the Speaker feels that a member while speaking is persistently irrelevant or is indulging in tedious repetition of his own arguments or those advanced by other members who had preceded him, he directs that member to discontinue his speech[46]. If a member continues to speak in defiance of the Speaker's observation, his remarks would not form part of record[47]. It has been ruled quite often that while speaking members should not repeat arguments[48]. Repetition of the arguments is to be avoided, except when it is absolutely necessary to give emphasis to a point.

Rules to be Observed While Speaking

In their speeches, members cannot refer to any matters which are *sub judice*[49]. Where a member insists on referring to a matter which is *sub judice* in spite of the Chair asking him not to do so, the Chair may ask him to discontinue his speech forthwith. The Chair may also observe that the member should not have referred to a matter which was *sub judice*. Both statements are recorded and the Chair does not order expunction of the words already spoken by the member[50].

The rule of *sub judice*, however, does not apply to matters of privilege or where disciplinary jurisdiction of the House with respect to its own members is concerned. In such cases, the Chair and the House consider each case on its merits[51].

Members are not allowed to make personal charges against other members[52].

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43. Rule 355.

44. *H.P. Deb. (II)*, 22-5-1952, cc. 374-5; 23-5-1952, c. 485; *L.S. Deb.,* 6-4-1961, c. 972; also *see* Rule349 (vi).

45. *H.P. Deb. (II)*, 29-4-1954, c. 6107.

46. Rule 356.

47. *L.S. Deb.,* 2-8-1972, cc. 26 and 165-72.

48. *L.A. Deb.,* 19-2-1923, p. 2541; *P. Deb.* (II), 29-2-1952, c. 1626.

49. Rule 352 (i).

50. *L.S. Deb.,* 27-6-1967. cc. 7829-45, 28-6-1967, cc. 8116-19; 11-8-1971, cc. 281-86.

51. In *Import Licence Case*, it was complained that a member had allegedly received bribe for furthering the cause of some import licence applicants with the Government and had also allegedly forged the signatures of some members of Parliament. The member concerned wrote to the Speaker pleading that since the matter had become *sub judice,* it should not be discussed in the House. The Speaker giving his ruling *inter alia* observed that in the present case, the allegations of bribery and forgery, which had been *prima facie* established against the member by the CBI enquiry, were very serious and unbecoming of a member of Parliament and the member might beheld guilty of lowering the dignity of the House. The House was, therefore, free to discuss any motion relating to the conduct of the member and the rule of *sub judice* would not come in the way—*L.S. Deb.,* 2-12-1974, cc. 228-29.

52. Rule 352 (ii), *L.S. Deb.,* 26-3-1968, cc. 3349-51; 14-11-1968, cc. 254-55; 11-12-1968, cc. 147-48 and 197-98; 16-12-1968, cc. 259-60 and 23-12-1977, cc. 407-21.

No member is expected to use offensive expressions about the conduct or proceedings of Parliament or any State Legislature. They are not expected to cast reflections on any decision of the House except on a motion for rescinding such decision[53].

Members are also not expected to make allegations against or cast aspersions on persons in high authority[54]. They are barred from bringing in the name of the President during a debate for the purpose of influencing it[55]. The language which the members may use should be parliamentary. The words and expressions must not be treasonable, seditious or defamatory. Although there is no bar to criticism of the Government, yet the members are expected not to use this right for the purpose of obstructing the business of the House[56].

Members should not make use of expressions which are offensive, or attribute motives to the Chair[57].

Members are not allowed to make allegations of a defamatory or incriminatory nature against any person unless previous intimation has been given to the Speaker and also the Minister concerned[58].

If a member wants to level charges against another member, he should give it in writing to the Speaker in advance[59].

If a member makes an allegation against a Minister by name without giving any notice, name so mentioned may be expunged[60].

Files or papers in the custody of a member cannot be demanded for inspection, unless the member concerned has quoted from them[61].

If a Minister gives in his own words a summary or gist of a document or State paper, it is not necessary for him to lay relevant papers on the Table[62]. However, the Speaker may, on demand in the House, require the Minister to produce the original document or paper for his perusal, so that he may satisfy himself that the summary or gist given was in fact fair and adequate.

A member can point out any mistake or inaccuracy in a statement made by a Minister or any other member after seeking Speaker's permission and make a statement in reply thereto[63].

Before referring to the matter in the House, the member should write to the Speaker pointing out the particulars of the mistake or inaccuracy. He should also place

53. Rule 352 (iii) and (iv). For expunction of unparliamentary expressions *see* Chapter 38.

54. Rule 352 (v).

55. Rule 352 (vi).

56. Rule 352 (vii) and (viii).

57. *L.S. Deb.,* 14-11-1972, cc. 261-62; 8-8-1980, cc. 269-70; 17-12-1980, c. 277; 29-4-1981,cc. 366-67.

58. Rule 353. For details, *see* Chapter 32—General Rules of Procedure.

59. *L.S. Deb.,* 22-12-1972, cc. 252-57; 24-8-1981, cc. 474-75.

60. *Ibid.,* 24-11-1972, cc. 340-41; 15-10-1982, cc. 330-38.

61. *Ibid.,* 30-5-1972, cc. 332-40.

62. Rule 368, Proviso 2.

63. Dir. 115. Also *see* Chapter 18—'Arrangement of Business and List of Business.'

before the Speaker such evidence as he might be having in his possession in support of his allegation. The Speaker may, if he thinks fit, bring the matter to the notice of the Minister or the member concerned for the purpose of ascertaining the factual position in regard thereto. The Speaker may then, if he thinks it necessary, permit the member who made the allegation to raise the matter in the House.

In granting permission to a member to raise the matter in the House, a distinction is made between: (i) statements which are *prima facie* inaccurate in the light of the evidence produced by the member; and (ii) statements which according to member's own interpretation or argument are incorrect. In the latter case, permission to raise the matter is not accorded. The item regarding statement to be made by the member and the statement to be made by the Minister in reply thereto, is not put down in the list of business unless copies thereof have been submitted in writing to the Speaker sufficiently in advance and the Speaker has approved them. Words, phrases and expressions which are not in the statements, as approved by the Speaker, if spoken, do not form part of proceedings of the House. After the two statements have been made on the floor of the House, the matter is normally treated as closed. However, if the member wants to pursue the matter further, he may table notice of a motion for discussion of the matter. Members are not allowed to raise matters pertaining to Lok Sabha Secretariat and the functions of the Speaker on the Floor of the House[64].

A member should not read the speech of another member[65].

A member is not allowed to raise in the House subject matter of a notice or a communication sent by him to the Speaker or Lok Sabha Secretariat, unless he is specifically permitted by the Speaker. He should not read a written speech though notes may be referred to[66].

Procedure when Speaker Rises

Whenever the Speaker rises to address the House, members are enjoined to hear him in silence and any member who is then speaking or offering to speak is required to sit down[67]. Members are also not to leave their seats when the Speaker is addressing the House[68].

It is a well-recognized parliamentary convention that every member should resume his seat as soon as the Speaker enters the Chamber to preside or rises to speak or calls out 'order'[69]. Members should not rise on a point of order when the Speaker is addressing the House[70].

Code of Conduct

While there is no definitive code of conduct for members of Lok Sabha, there are various provisions in the Rules of Procedure and Conduct of Business in Lok Sabha for

64. *See,* Subhash C. Kashyap: *Parliament of India - Myths and Realities,* National New Delhi, 1988, p. 80.
65. *Ibid.*
66. Handbook, *op. cit.,* para 43(30).
67. Rule 361(1).
68. Rule 361(2).
69. Handbook, *op. cit.,* para 43(31); *P. Deb. (II)*, 17-11-1950, c. 249; *H.P. Deb.,* 3-6-1952, c. 1048; *L.S. Deb.,* 11-8-1959, c. 1721.
70. *P. Deb.,* 19-3-1951, cc. 4761-62; *H.P. Deb. (I)*, 19-5-1952, c. 1; *L.S. Deb.,* 13-5-1957, c. 66.

ensuring decorous and dignified conduct of members. Over the years, certain norms established in respect of Code of Conduct for Legislators. The Committee on Ethics now has been entrusted with the responsibility of formulating Code of Conduct for Members[71].

The issue of maintenance of discipline and decorum has, however, been coming up, now and then, for discussion at the Annual Conference of Presiding Officers of Legislative Bodies in India. The Presiding Officers' Conference, held at Gandhinagar in Gujarat in May 1992, suggested the convening of an All-India Conference where all those concerned with the business of the House should be invited to deliberate on the issue of discipline and decorum in the Legislatures.

As a sequel to this, a two-day All-India Conference of Presiding Officers, Leaders of Parties, Ministers of Parliamentary Affairs, Whips, Parliamentarians, Legislators and senior officers of Parliament and State Legislatures was held in the Central Hall of Parliament House on 23 and 24 September, 1992. During the Conference, the delegates deliberated on many related aspects of the functioning of parliamentary institutions.

Based on the well established norms and the provisions in the Rules, a Code of Conduct was drafted and included in a paper entitled 'Discipline and Decorum in Parliament and State Legislatures' which was brought out by the Lok Sabha Secretariat for reference and use of delegates at this special Conference.

After detailed deliberations, the Conference adopted unanimously a Resolution *inter alia* reiterating the responsibilities and duties of Legislators and suggesting that the political parties should evolve a Code of Conduct for their Legislators and ensure its observance by them.

The matter also came up for deliberation during the Golden Jubilee Commemorative Session of Lok Sabha held from 26 August to 1 September 1997.

During the Session, the House unanimously adopted a Resolution which *inter alia* provided:

> "That the prestige of the Parliament be preserved and enhanced, also by conscious and dignified conformity to the entire regime of Rules of Procedure and Conduct of Business of the House and Directions of the Presiding Officers relating to orderly conduct of business, more especially by–
>
> - maintaining the inviolability of the Question Hour,
> - refraining from transgressing into the official areas of the House, or from shouting of any slogans, and
> - invariably desisting from any efforts at interruptions or interference with the Address of the President of the Republic."

The Report of the Committee of Privileges (Eleventh Lok Sabha) on "*Ethics, Standards in Public Life, Privileges, Facilities to Members and Other Related Matters*"dwelt in detail upon the various aspects of parliamentary privileges, obligation of members to the electorate and need for laying down Code of Conduct and standards for members. Broadly speaking, this Report contained recommendations

71. Rule 360B (a).

regarding disclosure of interest by members, Code of Conduct for members[72], Anti-Defection Law, Criminalisation of Politics and broad parameters of procedure for dealing with these complaints.

During the *Sixty-Fourth Conference of Presiding officers of Legislative Bodies in India* held in Chandigarh in June 2001, it was unanimously decided to convene a high level Conference of Presiding Officers, Chief Ministers, Ministers of Parliamentary Affairs, Leaders of the Opposition, other Leaders and Whips of Parties to discuss measures to effectively ensure discipline and decorum in the Legislatures. Accordingly, an All India Conference of Presiding Officers, Chief Ministers, Ministers of Parliamentary Affairs, Leaders and Whips of Parties on "*Discipline and Decorum in Parliament and Legislatures of States and Union Territories*" was convened on 25 November 2001 in the Central Hall of the Parliament House.

The Conference unanimously resolved that a Code of Conduct be adopted for Legislators, necessary changes be incorporated in the Rules of Procedure of all the Legislatures for its implementation and punishment be provided for its violations or breaches. It also called for constitution of Ethics Committees in all the Legislatures for enforcing the Code of Conduct. The Resolution urged that immediate steps be taken to ensure a minimum of 110 days of sittings of the Parliament and 90 and 50 days of sittings of the Legislatures for the big and small States, respectively. It also resolved that earnest endeavours be made by all the political parties to lay down parameters with emphasis on proven standards in public life for selection of the candidates for elections; a more responsible and effective role in maintaining decorum in the House be played by the Leader of the House, the Leader of the Opposition and Leaders of political and legislature parties by ensuring disciplined behaviour on the part of their members; the Treasury and the Opposition benches in the House should be more tolerant, accommodative and understanding towards each other; and Presiding Officers and leadership of political and legislature parties should ensure that the members, especially the new members are given proper training and orientation in parliamentary procedure, processes, discipline and decorum.

Automatic Suspension of Members who come to the well of the House and Create Disorder

To ensure orderly conduct in the House, Rule 374A was incorporated in the Rules of Procedure and Conduct of Business in Lok Sabha with effect from 5 December 2001. The rule provides that in the event of grave disorder occasioned by a member coming into the well of the House or abusing the Rules of the House persistently and wilfully obstructing its business by shouting slogans or otherwise, such member shall, on being named by the Speaker, stand automatically suspended from the service of the House for five consecutive sittings or the remainder of the Session, whichever is less. The House may, however, at any time, on a motion being made, resolve that such suspension be terminated. On the Speaker announcing the suspension under this rule, the member shall forthwith withdraw from the precincts of the House.

This rule primarily aims at doing away with the requirement of moving a motion and its adoption for securing suspension of a member from the service of the House.

72. Report of CPR (11 LS) on Ethics, Standards in Public Life, Privileges, Facilities to Members and other related Matters, pp. 66-67.

Under this rule, merely naming the member by the Speaker is enough to secure his suspension for five consecutive sittings or remainder of the session, whichever is less.

Constitution of Ethics Committee in Lok Sabha

During the Thirteenth Lok Sabha, on 16 May, 2000, the Speaker constituted a fifteen-member *ad hoc* Committee on Ethics in Lok Sabha.

The functions of the Committee were to — (a) oversee the moral and ethical conduct of members; (b) examine every complaint relating to unethical conduct of a member or connected with his parliamentary conduct referred to it and make such recommendations as it may deem fit; and (c) frame rules specifying acts which constitute unethical conduct. The Committee could also *suo motu* take up for consideration and investigation matters relating to ethics, including matters relating to unethical conduct by members wherever felt necessary and make such recommendations as deemed fit.

The Committee, in their First Report presented to the Speaker, on 31 August, 2001, laid on the Table of the House on 22 November 2001 and adopted by the House on 16 May, 2002, *inter alia* noted that the norms of ethical behaviour for members have been adequately provided for in the Rules of Procedure and Conduct of Business in Lok Sabha, Directions by the Speaker and in the conventions, which have evolved over the years on the basis of recommendations made by various Committees in their reports. The Committee recommended *inter alia* that members should abide by the following general ethical principles, which are not based on any provisions in Rules/ Directions/Conventions–

- Members must utilize their position to advance general well-being of the people.
- In case of conflict between their personal interest and public interest, they must resolve the conflict so that personal interests are subordinate to the duty of their public office.
- Conflict between private financial/family interest should be resolved in a manner that the public interest is not jeopardized.
- Members holding public offices should use public resources in such a manner as may lead to public good.
- Members should keep uppermost in their mind the fundamental duties listed in Part-IV A of the Constitution.
- Members should maintain high standards of morality, dignity, decency and values in public life.

The Committee recommended that it may be made mandatory for each member of Lok Sabha to disclose his income, assets and liabilities. For this purpose, members may be required to file a financial disclosure statement immediately after their election to the Lok Sabha. A "Register of Members' Interests" may be maintained in the Lok Sabha Secretariat on the basis of information furnished by members. The Register should be made available to any complainant only with the permission of the Speaker, Lok Sabha.

In their Second Report presented to Lok Sabha on 20 November, 2002, the Committee felt that there was no necessity for any further action on the

recommendations made by them in their First Report with regard to financial disclosures and declaration of interests by members as that requirement had been fully met with the promulgation of the Representation of the People (Amendment) Ordinance, 2002[73].

The Committee recommended that the Code of Conduct for Legislators which was unanimously adopted by the All India Conference of Presiding Officers, Chief Ministers, Leaders etc. on 25 November 2001 at New Delhi may be suitably incorporated in the Rules of Procedure and Conduct of Business in Lok Sabha.

The Committee also recommended that appropriate rules may be incorporated in the Rules of Procedure, laying down the procedure for making complaints relating to unethical conduct of a member.

The *ad hoc* Committee on Ethics has been made a permanent Standing Committee on 12 August 2015.The Committee shall now consist of not more than fifteen members and the functions shall be to — (a) examine every complaint relating to unethical conduct of a member of Lok Sabha referred to it by the Speaker and make such recommendations as it may deem fit; and (b) formulate a Code of Conduct for members and suggest amendments or additions to the Code of Conduct from time to time.[74]

The Committee to inquire into Misconduct of Members of Lok Sabha, in their Second Report, recommended a broad framework of a code of conduct. The Committee, however, recommended that before adopting the Code, opinion of leaders of political and legislature parties and also others, if considered necessary, might be obtained.

The subject of indiscipline, including disregard of Presiding Officers, disturbances, disruptions and other serious acts of misconduct in Legislatures and future strategies to improve the situation was again discussed in the 72nd Presiding Officers' Conference held at Thiruvananthapuram from 25 to 26 May 2007. The delegates were of the view that the tendency to show disrespect to the Chair and to violate the rules and conventions, indulging in undignified behaviour, forcing adjournments of the House and not permitting the Question Hour and debates and discussions, were matters of serious concern warranting deep introspection. It was also emphasized that orderly and dignified conduct of the Legislators, both inside and outside the Chambers is a pre-requisite for the smooth and effective functioning of parliamentary system. The Conference adopted a Resolution expressing its deep anguish and grave concern over the disturbing trend of disorderly conduct by Legislators, which is systematically undermining the credibility of the Legislative Bodies.

Members having Personal, Pecuniary or Direct Interest in Matters before the House or a Committee

A member having a personal, pecuniary or direct interest in a matter before the House is required, while taking part in the proceedings on that matter, to declare the nature of that interest[75]. It is expected of him, as a matter of propriety, to decide for

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73. Later enacted as the Representation of the People (Third amendment) Act, 2002.

74. The Committee on Ethics become a permanent Standing Committee with the recommendations of First Report of Committee on Ethics (*adhoc* Committee - 16th Lok Sabha), which was further examined by the Rules Committee, which recommended (in the Second Report of the Committee during the 16th Lok Sabha) for the constitution of the Committee as a permanent Standing Committee. The Rules of Procedure and Conduct of Business in Lok Sabha was suitably amended to insert new Rules 233A and 233B under new Chapter 22A - *ETHICS*, new Rules 316A, 316B, 316C, 316D, 316E and 316F. The Standing Committee on Ethics shall now consist of not more than fifteen members and the Committee shall be nominated by the Speaker and shall hold office for a term not exceeding one year.

75. Handbook *op. cit.,* para 43(40); *LA. Deb.,* 2-6-1924, pp. 2469-85.

himself whether by casting his vote in a division in the House on that matter, his judgement is likely to be deflected from the straight line of public policy by that interest[76]. The vote of such a member can be challenged immediately after the division is over and before the result is announced by the Speaker, and when it is so challenged, the Speaker may, if he considers it necessary, call upon the member making the challenge to state precisely the grounds of his objection and the member whose vote has been challenged to state his case. Thereafter, the Speaker decides whether the vote of the member should be disallowed or not, and his decision is final[77].

Objection can also be taken to the inclusion of a member in a Parliamentary Committee on the ground that the member has a personal, pecuniary or direct interest of such an intimate character that it may prejudicially affect the consideration of any matters to be considered by the Committee[78].

When the objection is so taken, the member taking objection precisely states the ground of his objection and the nature of the alleged interest. The member against whom objection has been taken is given by the Speaker an opportunity to state his position. In case there is dispute on facts, the Speaker asks both of them to produce documentary or other evidence in support of their respective cases. Having considered the evidence produced before him, the Speaker gives his decision, which is final[79].

During the pendency of the dispute, the member against whose appointment on the Committee objection has been taken continues to be a member thereof, if elected or nominated. He can take part in discussion at the sittings of the Committee but is not entitled to vote[80].

If the Speaker holds that the member in question has a personal, pecuniary or direct interest in the matter before the Committee, he ceases to be a member thereof forthwith, provided the proceedings of the sitting of the Committee at which such member was present are not in any way affected by the decision of the Speaker[81].

Hence, where a member of a Committee has a personal, pecuniary or direct interest in any matter which is to be considered by the Committee, it is required of him to state his interest therein to the Speaker through the Chairman of the Committee. Having considered the matter, the Speaker gives his decision, which is binding[82].

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76. *L.A. Deb.,* 26-1-1925, pp. 250-51.

77. Rule 371. For the purposes of this Rule the interest of the member should be direct, personal or pecuniary and separately belong to the person whose vote is questioned and not in common with the public in general or with any class or section thereof or on a matter of State Policy.

78. Rule 255.

79. *Ibid.*

80. Rule 255(e).

81. Rule 255(f).

82. Dir. 52A.

    In 1978, a member of the Committee on Public Undertakings wrote to the Speaker that he was the Chairman and Managing Director of a private company that had dealings from time to time with some public undertakings that were under examination by the Committee. The Speaker directed that the member should be asked to keep out of the deliberations of the Committee at all stages of examination of those public undertakings. He also directed that papers and material relating to those undertakings should not be circulated to the member.

    During the Seventh Lok Sabha, a question of privilege regarding alleged assault on a member was referred to the Committee of Privileges of which he himself was a member. When this fact was pointed out at a sitting of the Committee, the Speaker directed that the member should be kept out of the deliberations of the Committee at all stages of the examination of the matter and that papers and material relating to the matter should not be circulated to him.

> Besides the present stipulation in the Rules, the Committee of Privileges (Eleventh Lok Sabha) in their Report on Ethics related matters made certain recommendations[83] on financial disclosures and declaration of interests by members.

The Committee to Inquire into Misconduct of Members of Lok Sabha in their Second Report on 'Various Facets of Misconduct and Basic Attributes of Standards of Conduct/Behaviour Expected of Members' while recommending code of conduct for members of Lok Sabha also dwelt upon the issue of 'Registrable interest', 'conflict of interest' and 'private interest' of members.

During the Fifteenth Lok Sabha, the Committee of Ethics in their Second Report on Maintenance of Register of Interests of Members of Lok Sabha and Declaration of Interests in the House or a Committee thereof, presented to the Speaker on 13 December, 2012 and laid on the Table on 18 December 2012, recommended for a Register of Members' Interest wherein every member of the House shall, within ninety days from the date on which he makes and subscribes an oath or affirmation for taking his seat, furnish information regarding his interests in a form prescribed for the purpose. Further, the Committee recommended that five pecuniary interests, namely, Remunerative Directorship, Regular Remunerated Activity, Shareholding of Controlling Nature, Paid Consultancy and Professional Engagement along with the components of each of these interests as specified may be furnished by the members of Lok Sabha for registration in the Register of Interest. The declaration of these interests, as recommended by the Ethics Committee, are in line with declaration of such interests already being done by members of the Rajya Sabha in terms of provisions made in this regard in the Rules of Procedure of Rajya Sabha.

Involvement in Cases of Corruption

Conduct of members involving corruption in the execution of their office as members is treated by the House as a breach of privilege. Thus, the acceptance by any member of a bribe to influence him in his conduct as such member or of any fee, compensation or reward in connection with the promotion of, or opposition to any Bill, resolution, matter or thing submitted or intended to be submitted to the House or any Committee thereof is a breach of privilege. It would also be a breach of privilege or misconduct on the part of a member to enter into an agreement with another person, for a sum of money, to advocate and prosecute in the House the claims of such person[84].

> An *ad hoc* Committee of the House was appointed by the Provisional Parliament in 1951, to investigate the conduct and activities of a member, H.G. Mudgal, in connection with some of his dealings with a business association which included canvassing support and making propaganda in Parliament on certain problems on behalf of that association in return for alleged financial and other business advantages. The Committee was directed

83. The Committee took a view that transparency in respect of members' assets, private holdings, interests and acceptance of gift and hospitality by members could go a long way in enhancing members' dignity and dispelling false public perceptions, and hence, the imperativeness of financial disclosures by members. For achieving this objective, the Committee made several recommendations, the most important among them being a mandatory requirement for each member of Lok Sabha to disclose his income, assets and liabilities.

84. Report of Committee on the Conduct of a Member *(The Mudgal Case,* 1951).

by the House to consider whether the conduct of the member concerned was derogatory to the dignity of the House and inconsistent with the standards which Parliament is entitled to expect from members[85].

A motion for the appointment of the Committee was adopted[86] in the House on 8 June 1951. The motion was moved by the Prime Minister (Leader of the House). It was drawn up in comprehensive terms and provided for the whole apparatus of the working of the Committee. The residuary powers were delegated to the Speaker so that the work of the Committee might not be delayed for any technical, nevertheless, important requirements.

The Committee consisted of five members[87]. The quorum of the Committee was fixed at three. The Committee was empowered to hear and/or to receive evidence, oral or documentary, connected with the matters referred to it, or relevant to the subject-matter of the inquiry. The Committee was further empowered to hear or receive evidence in Bombay or any other place in India as the Speaker might decide. The Committee was given the discretion to treat any evidence tendered before it as secret or confidential. The member concerned was given leave to be heard before the Committee by himself or by counsel, if he thought fit, and the Committee could hear a counsel to such extent as thought fit, on behalf of any other person.

The Speaker was authorised to issue, from time to time, such directions to the Chairman of the Committee, as he thought necessary, for regulating the procedure and organisation of the work of the Committee. (Several directives were issued by the Speaker to the Chairman in this connection.)

All these matters were provided for in the motion itself.

The case before the Committee was opened by the Attorney-General. He summarised the material which had already been presented to the Committee. The Attorney-General gave an impartial picture of the whole case. He formulated finally the question to which the Committee might address itself.

After the evidence was completed, a draft report of the Committee was prepared by the Secretariat of the Committee on the basis of the evidence and the decisions arrived at. After approval by the Chairman, the draft report was considered and adopted by the Committee. The report was then submitted to the Speaker by the Chairman and thereafter presented to the House on the scheduled date mentioned in the motion appointing the Committee. The Committee found the member guilty of receiving monetary benefits for 'putting of Question in Parliament, moving amendments to the Forward Contracts (Regulation) Bill and arranging interviews with Ministers, etc.[88]'. In its report, the Committee held that the conduct of H.G. Mudgal was derogatory to the dignity of the House and inconsistent with the standards which Parliament was entitled to expect of its members.

85. *P. Deb. (II)*, 8-6-1951, cc. 10464-65.

86. *Ibid*.

87. The names of the Chairman and members of the Committee were mentioned in the motion itself. The members, known for their judicial temperament and possessing legal or parliamentary experience, were drawn from all sections of opinion in the House.

88. *See* Subhash C. Kashyap: *The Ministers and the Legislators,* Metropolitan, New Delhi, 1982, pp. 46-47.

The report was then considered by the House on a motion moved by the Prime Minister on 24 September 1951. The Committee had recommended the expulsion of the member from the House. The member, after participating in the debate, submitted his resignation from the membership of the House. In a resolution, the House accepted the findings of the Committee and deprecated the attempt of the member to circumvent the effects of the motion expelling him from the House, by his resignation, which constituted contempt of the House and aggravated his offence[89].

In another case, a question was raised in the House about the alleged sale, by some members, of cars allotted to them from the Union Government quota in contravention of the statutory orders governing such allotment, with a demand that a committee of inquiry be set up to investigate the matter. The Prime Minister made a statement in the House to the effect that one member had pleaded guilty before the court which imposed a fine on him. The member did not file any appeal against his conviction and also apologised to the House for his departure from standards of rectitude expected of him as a member of Parliament. He was exonerated by the House. As the matter in the other cases was pending decision in the court, the House decided to await the verdict of the Court[90].

In this case, since the member had admitted his guilt, no need was felt to go into the matter further. In the *Mudgal Case*, the member had pleaded not guilty to the alleged charge and a Committee of the House was appointed to investigate the matter.

The acceptance by a member of a fee, compensation, gift or reward for drafting, advising upon any Bill, petition or other document submitted or intended to be submitted to the House or any Committee thereof would also be a breach of privilege.

The acceptance of payment by members for the disclosure of confidential information relating to proceedings of private party meetings, while not held to be a breach of privilege or contempt, has been held to be a dishonourable conduct deserving to be severely punished, as tending to lower the dignity of the House in the estimation of the people.

Any undesirable, undignified and unbecoming conduct on the part of the member, and neglect or breaches of duty by members in the execution of their office as members, and cognate offences may also be treated by the House as misconduct.

> On 18 February 1963, five members of Parliament created disorder at the time of the President's Address to both Houses of Parliament assembled together under article 87. The same day, when Lok Sabha met separately, it was decided to appoint an *ad hoc* Committee to investigate the conduct of these five members "in connection with the disorder created by them" and "to consider and report whether such conduct of the said members was contrary to the usage or derogatory to the dignity of the occasion or inconsistent with the standards which Parliament is entitled to expect from its members and to make such recommendations as the Committee may deem fit." The Committee was appointed by the Speaker in terms of an announcement made by him in the House on 19 February 1963[91].

89. *P. Deb.,* 24-9-1951, c. 3202; 25-9-1951, c. 3298.

90. *L.S. Deb.,* 25-3-1968, cc. 3027-29.

91. *Ibid.,* 18-2-1963, cc. 2-10; 19-2-1963, cc. 173-74.

See in this connection Chapter 10–*President's Address, Messages and Communications to the House.*

The Committee consisted of 15 members nominated by the Speaker. The Deputy Speaker, who was a member of the Committee, was appointed the Chairman of the Committee. The Committee was required to make a report to the House by a fixed date[92]. In other respects, the Rules of Procedure of the House relating to Parliamentary Committees were made applicable to the Committee with such variations and modifications as the Speaker might make.

The Committee desired that the correspondence between the members involved in the incident and the President and the Prime Minister be made available for its perusal. Copies of the relevant correspondence were accordingly furnished by the President's Secretariat and the Prime Minister's Secretariat and perused by the Committee.

The Committee provided an opportunity to the members involved in the incident to appear before it to explain their position. Written statements were also submitted by three of the members involved. A verbatim record of the evidence taken before the Committee was kept and appended to the report of the Committee.

A memorandum setting out the facts of the case, the constitutional position and the practice and precedents, including those relating to the House of Commons, U.K., was prepared and circulated to the members of the Committee for consideration.

After the evidence was completed and the Committee had arrived at their conclusions, a draft report of the Committee was prepared by the Secretariat of the Committee and considered and adopted by the Committee.

The report was considered by the House on a motion moved by the Chairman of the Committee for agreeing with the recommendations of the Committee in regard to the action to be taken against the members involved in the incident. The motion was adopted by the House after the members involved in the incident had made statements before the House in their defence. The Speaker then reprimanded three of the members involved in the incident, as recommended by the Committee[93].

During the Fourteenth Lok Sabha in the wake of some incidents of misconduct by members, even though Committee on Ethics was in existence, the Speaker constituted

92. The time for the presentation of the report was extended by the Speaker on a request made by the Committee – *L.S. Deb.,* 2-3-1963.

93. *L.S. Deb.,* 19-3-1964, cc. 4701-90. The Committee had taken a lenient view about the action of the other two members and had only expressed disapproval of their conduct.

On 28 February 1968, two members were reprimanded by the Speaker for having created obstruction and shown disrespect to the President at the time of his address to both the Houses of Parliament assembled together under article 87 on 12 February 1968—*L.S. Deb.,* 28-2-1968, cc. 482-88. On 2 April 1971, the House decided to constitute a Committee to go into the matter of alleged creation of obstruction and showing disrespect to the President by a member of the House, on the occasion of the President's Address to both the Houses of Parliament assembled together under article 87—*L.S. Deb.,* 2-4-1971, cc. 188-233, 239-46 and 271-72. The Committee constituted by the Speaker on 5 April 1971, in pursuance of the aforesaid decision, presented its first report to the House on 15 November 1971.

On 14 April 1972, the Committee presented its second report on the guidelines for maintenance of order, dignity and decorum on the occasion of the President's Address to members of Parliament under articles 86 and 87 of the Constitution.

separate *ad hoc* Inquiry Committees to inquire into the matters and submit their Reports to the Speaker within a stipulated timeframe.

On 12 December 2005, a private television channel in its news bulletin carried video footage showing some members of Parliament allegedly accepting money for tabling questions and raising other matters in the House.

On the same day, the Speaker made an observation requesting the members whose names had appeared in the video footage not to attend the session of the House until the matter was looked into and a decision was taken and appointed a five member Inquiry Committee with the direction to give its report by 21 December 2005. The Committee was authorized to follow its own procedure.

After taking the evidence of all the ten members and considering their written statements and also viewing the video footage, the Committee in their Report[94] recommended that the House might consider expulsion of all ten members from the membership of the Fourteenth Lok Sabha. A motion moved by the Leader of the House was adopted by the House on 23 December 2005 expelling the ten members from the membership of Lok Sabha.

On 19 December 2005, another private channel, in a programme showed some members of Lok Sabha allegedly indulging in improper conduct in the matter of implementation of Members of Parliament Local Area Development Scheme. On 20 December 2005, when the House met, the Speaker made an observation in the House requesting the members who were alleged to be involved in the matter not to attend the sittings of the House until the matter was looked into and a decision taken. On the same day, the Speaker made another observation in the House constituting an Inquiry Committee to probe the matter. A seven member Committee was accordingly constituted by the Speaker. The Committee was required to give its report by 31 January 2006.

After taking the evidence of all the five concerned members and considering their written statements and also viewing the video footage, the Committee in their Report[95] observed that improper conduct, on the part of four members (one of the five members already having been expelled from the House) did not strictly speaking relate to their parliamentary duties and none of them was actually shown as accepting money. The Committee recommended that the members be reprimanded and that the period of abstention from the sittings of the House and the Committees by all the four members from 20 December 2005 till 22 March 2006 may be deemed to be their suspension from the membership of the House. The Report was adopted by the House on a motion moved by the leader of the House on 20 March 2006.

In a matter pertaining to a complaint against a member for unethical behaviour involving misuse of Car Parking Label issued to him, the Committee on Ethics in their Second Report which was laid on the Table of the House on 25 August 2006,

94. Report of *Committee to Inquire into Allegations of Improper Conduct on the Part of Some Members of Lok Sabha*.

95. Report of *Committee to Inquire into Allegations of Improper Conduct on the Part of Some Members in the matter of Implementation of MPLAD scheme*.

recommended that in view of the fact that there was no *mala-fide* intent on the part of the member and considering the clarification given by him and apology tendered by him, the matter may be treated as closed.

In yet another instance in the wake of arrest of a member for trying to illegally take two persons (one woman and a boy) abroad on the passport of his wife and his son, Speaker Lok Sabha on 16 May 2007 constituted a Committee to Inquire into Misconduct of Members of Lok Sabha. The Committee had a broad remit to look into all aspects of the misconduct of the members.

On 21 May 2007, the Speaker, Lok Sabha, while referring the matter of the Committee to Inquire into Misconduct of Members of Lok Sabha, passed the following order–

> "The matter arising out of the arrest of Shri Babulal K. Katara, MP for alleged offences under the provisions of the Indian Penal Code and the Passport Act is referred to the Committee, subject to the result of the pending investigation and proceedings, if any, arising thereon in any competent Court of Law and the decision given by such Court. The Committee is requested to please take note of the fact that the Lok Sabha cannot interfere with the pending investigations and proceedings and may not take a decision which will impinge on the pending investigation and proceedings, if any. Further, it may be taken note of that the concerned MP is now in custody and obviously cannot take part in any proceedings before the Committee. In view of the above, the Committee may please take such decision as it may think fit and proper, subject to the observations made in the House on 16 May 2007 regarding the procedure to be adopted."

The Inquiry Committee accordingly decided to take up the matter if and when the member is released on bail.

The Inquiry Committee took up the matter after the member was released on bail in May 2008. The Committee after due consideration in their Third Report, which was presented to the Speaker on 10 September 2008 and Laid on the Table of the House on 20 October 2008, held that the member had committed a grave act of misconduct as well as contempt of the Committee and of the House which had threatened to erode the credibility of Parliament as an institution. The Committee accordingly recommended that he be expelled from the membership of the House. On 21 October 2008, the House adopted a motion expelling the member.

In between, a case relating to allegations against another member (Rajesh Kumar Manjhi) was referred to the Inquiry Committee on 18 May 2007. The Committee in their First Report[96], which was presented to the House on 23 August 2007, found that a member had taken another woman on official tour by personating her as his wife. The Committee recommended that the member may be reprimanded by the House and also be suspended for thirty sittings of the House. The Committee also recommended that the said member might be restrained from taking his spouse or companion on official tours till the conclusion of Fourteenth Lok Sabha. The Report of the Committee was adopted by the House on 30 August 2007.

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96. First Report of *Committee to Inquire into Misconduct of Members of Lok Sabha.*

In yet another incident, on 22 July 2008, during the debate on the Motion of Confidence in the Council of Ministers, three members (Ashok Argal, Faggan Singh Kulaste and Mahavir Bhagora) came to the well of the House with two bags. The members took out wads of currency notes from the bags with them and started placing the same on the Table of the House. Amidst pandemonium, the Deputy Speaker, who was in the Chair, adjourned the House. In a meeting of Leaders of Political Parties held immediately thereafter in the Speaker's Chamber, the Speaker directed the three members to give a written statement, so that, appropriate action could be initiated. Thereafter, when the House met at 18:00 hours, Speaker made the following observation—

> "Hon. Members..... some time back, when my distinguished colleague, hon. Deputy Speaker was presiding over the proceedings of the House, certain incidents have taken place, which according to me, are most unfortunate. It is a very sad day in the history of Parliament that such a situation has happened. Thereafter, I called a meeting of the hon. Leaders. I am grateful to the hon. Leader of Opposition. He was very kindly present also.
>
> We have heard the three hon. members of the House. They had some complaints to make. I had requested them to put their complaints in writing to me. I assured them, I assured the leader and I assure the House that all possible steps that are required in that connection will be taken by me as a custodian of this House. It is my duty to do that and I seek the cooperation of all sections of the House.
>
> Please allow me to apply my judgement, look into the matter, and I can assure you, nobody will be spared if found guilty."

On 25 July 2008, the members gave their joint written complaint in the matter. On 26 July 2008, the Speaker, Lok Sabha appointed an Inquiry Committee to inquire into the matter. Accordingly, on 26 July 2008, the Speaker constituted a seven member Inquiry Committee *viz.* the Committee to Inquire into the Complaint Made by Some Members Regarding Alleged Offer of Money to them in Connection with Voting on the Motion of Confidence. The Committee presented their report to the Speaker on 12 November 2008. The report of the Committee was laid on the Table of the House on 15 December 2008. The Committee in their report after taking into account their findings and conclusions, particularly the roles of three witnesses, recommended[97]

97. On 16 December 2008, Speaker, Lok Sabha, made an observation in the House referring the matter to the Minister of Home Affairs for initiating appropriate action in the light of recommendation made by the Committee. He *inter alia* observed "the currency notes which were brought to and displayed in the House by the three members are presently kept in the custody of the Secretary-General.... As this money may be required for the purpose of investigation, if any, as suggested by the Committee, it will be retained by the Secretary-General for one month, afterwhich if no request is received for the purpose of investigation, it will be deposited with the Government as unclaimed money." (*L.S. Deb.,* 16.12.2008.). On 17 December 2008, A D.O. letter from Secretary-General, Lok Sabha was sent to Secretary, Ministry of Home Affairs with the request that the matter may be placed before the Minister of Home Affairs for such action as might be appropriate in the matter. A copy each of draft report and relevant extracts from Lok Sabha Debates dated 16 December 2008, comprising observations made by the Speaker were enclosed with the D.O. Letter. Subsequently, a communication dated 20 January 2009 addressed to Secretary-General by the Home Secretary, Ministry of Home Affairs was received wherein it was intimated that it had been decided with the approval of Minister of Home Affairs that the matter may be entrusted to Delhi Police for further probe. As regards the currency notes, a request had been made that the same may be retained for some more time and that the Commissioner of Police, Delhi would get in touch with Lok Sabha Secretariat in this regard. Eventually the currency notes and relevant material were handed over to concerned ACP/Inter-State Cell, Crime Branch, Delhi Police on 29 January 2009.

that the matter may be probed further by an appropriate investigating agency[98]. The Committee further recommended that the procedure for requiring appearance of member of one House before other House or Committee thereof, as recommended by the Committee of Privileges (Second Lok Sabha) in their Sixth Report in 1958, needs to be reviewed to bring at par with the position as is obtaining now in Parliament of United Kingdom.

Other instances of this type of misconduct are: (i) giving of evidence by a member in a court of law in relation to any debates or proceedings in the House or any Committee thereof, without the leave of the House of which he is a member[99]; and (ii) attending as a witness before the other House or any Committee thereof without the leave of the House of which he is a member[100].

In another case, Dr. Nishikant Dubey, Member of Parliament *vide* his complaint dated 15 October, 2023 alleged 'unethical conduct', 'breach of privilege' and contempt of the House against Shrimati Mahua Moitra, Member of Parliament. The matter along with supporting documents was referred by Speaker, Lok Sabha, to Committee on Ethics for detailed examination, investigation and report.

The Committee on Ethics which examined and investigated the above matter presented their first report to Hon'ble Speaker on 15 November 2023 which was laid on the Table of the House on 8 December 2023.

The Committee also recommended that Kunwar Danish Ali, MP and Member of the Committee on Ethics should be 'admonished' for unruly conduct during the Committee sitting on 2 November, 2023 and for misrepresenting the Committee proceedings in public in violation of Rule 275(2) contained in the Rules of Procedure and Conduct of Business in Lok Sabha.

On 8 December 2023, when the House after a short discussion took up the First Report of Committee on Ethics (17 LS) for adoption, Shri Pralhad Joshi, Minister for Parliamentary Affairs moved the following motion:–

> "That this House do agree with the recommendations contained in the First Report of the Committee on Ethics on complaint dated 15 October, 2023 given by Dr. Nishikant Dubey, MP against Shrimati Mahua Moitra, MP for

98. A Public Interest Litigation (PIL) was filed before the Supreme Court by J.M. Lyngdoh and 13 others in 2011 alleging tardy investigation in the matter. The Supreme Court after going through the status report filed by Delhi Police observed that the matter shall proceed in accordance with law and disposed of the PIL.

    To speed up the investigation, the Delhi Police sought permission of the Speaker, Lok Sabha to access original documents pertaining to the report of the Committee to Inquire into the Complaint Made by Some Members Regarding Alleged Offer of Money To Them In Connection With Voting On The Motion of Confidence' for the purpose of filing of charge sheet in the Court. The Speaker, in terms of the recommendations made by the Committee of Privileges, Fourteenth Lok Sabha, in their Twelfth Report, laid on the Table of the House on 30 April, 2008 and adopted by the House on 23 October 2008, permitted Delhi Police to have the photographs of the requisite documents in connection with the filing of the charge-sheet, without parting with the original documents. Further, one of the accused was also sought to be prosecuted *inter alia* for violation of Prevention of Corruption Act, 1998. The Speaker, Lok Sabha, granted sanctioned to prosecute the member in accordance with the law laid down by the Supreme Court in *Jharkhand Mukti Morcha* case.

99. *L.S. Deb.,* 13-9-1957, cc. 13760-63.

100. 3R (CPR-2LS); *L.S. Deb.,* 25-4-1958, cc. 11497-98; 6R (CPR-2LS); *L.S. Deb.,*17-12-1958, cc. 5696-5700; and *Case of Liladhar Kotoki, L.S. Deb.,* 19-12-1958, c. 6394.

> the direct involvement in the cash for query in Parliament with reference to examination/investigation of alleged unethical conduct of Shrimati Mahua Moitra, MP laid on the Table of the House on 08 December, 2023."

Hon'ble Speaker put the motion to the vote of the House

The question is:–

> "That this House do agree with the recommendations contained in the First Report of the Committee on Ethics on complaint dated 15 October, 2023 given by Dr. Nishikant Dubey, MP against Shrimati Mahua Moitra, MP for the direct involvement in the cash for query in Parliament with reference to examination/investigation of alleged unethical conduct of Shrimati Mahua Moitra, MP laid on the Table of the House on 08 December, 2023."

The motion was adopted

Thereafter, Shri Pralhad Joshi, Minister for Parliamentary Affairs moved a specific motion for expulsion of Shrimati Mahua Moitra as under:–

> "That this House having taken note of the First Report of the Committee on Ethics on the complaint given by Dr. Nishikant Dubey, MP against Shrimati Mahua Moitra, MP;
>
> wherein she has been found to be guilty of 'unethical conduct' and 'contempt of the House' for sharing her Lok Sabha credentials, *i.e.*, user ID and password of Lok Sabha 'Members Portal' to unauthorized person and its irrepressible impact on the national security; wherein her conduct has further been found to be unbecoming of a Member of Parliament for accepting illegal gratification through gifts and other facilities from a businessman to further his interests which is a serious misdemeanour and highly deplorable conduct on her part; accepts the above recommendation/findings of the Committee and resolves that the continuance of Shrimati Mahua Moitra as Member of Lok Sabha is untenable and she may be expelled from the Membership of the Lok Sabha."

Hon'ble Speaker put the motion to the vote of the House. The motion was adopted.

On 8 December 2023, the following notification was published in the Gazette of India, Extraordinary, Part-II-Section 3-Sub-section (ii):—

S.O. 5227(E). — Consequent on the adoption of a Motion by the Lok Sabha on 8th December, 2023 expelling Shrimati Mahua Moitra, an elected Member from the Krishnanagar Parliamentary Constituency of West Bengal from the Membership of Lok Sabha, Shrimati Mahua Moitra has ceased to be a Member of Lok Sabha with effect from the 08th December, 2023, afternoon.

Complaints made by a person against members of Parliament in regard to their conduct as private individuals or complaints which allege professional misconduct are looked into and disposed of by the Speaker[101].

101. Dir. 95. The Speaker disposes of such complaints by either discussing the matter with the member concerned or by requiring him to finish facts in regard to the complaints.

Procedure for Inquiry into Conduct of a Member

Anyone who has a reasonable belief that a member has acted in a manner which, in his opinion, is inconsistent with the dignity of the House or the standard expected of a member of Parliament, may inform the Speaker or the Leader of the House about it. The person making such an allegation is required first to make sure of his facts and base them on such authentic evidence, documentary or circumstantial, as he may have. He has to be careful in sifting and arranging facts because, if the allegations are proved to be frivolous, worthless or based on personal jealousy or animosity, directly or indirectly, he will himself be liable to a charge of breach of privilege of the House. Therefore, it is of the utmost importance that allegations are based on solid, tested and checked facts.

When information regarding the alleged misconduct on the part of a member is received, the usual practice is that the Prime Minister examines the statement of charges and such further information as the Prime Minister may call for and if he is satisfied that the matter should be proceeded with, he gives a full and fair opportunity to the member to state his own version of the case to disprove the allegations against him and to place before the Prime Minister such information as may assist him to come to a conclusion. After the member's explanation, oral or written, is received by the Prime Minister, he sifts the evidence critically. If the member has given adequate explanation and it is found that there is nothing improper in his conduct and he has cleared all the doubts, the matter may be dropped and the member exonerated. If the Prime Minister considers that a statement to that effect should be made in the House, he may do so. If, however, on the basis of the explanation given by the member and the evidence, it is proposed by the Prime Minister and held by the Speaker that there is a *prima facie* case for further investigation, the matter is brought before the House on a motion for the appointment of a Parliamentary Committee to investigate the specific matter and to report to the House by the specified date.

However, if in the course of preliminary investigation it is found that the person making the allegations has supplied incorrect facts or tried to bring discredit to the name of the member willfully or through carelessness, he is deemed to be guilty of a breach of privilege of the House[102].

The Committee on Ethics, which is a permanent Standing Committee now, is now responsible for overseeing the moral and ethical conduct of members in Lok Sabha. Formulating a Code of Conduct for members is also one of the functions of the Committee[103].

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102. Speaker's Ruling, *L.S. Deb.,* 31-5-1967.

    For the Prime Minister's statements on Arjun Arora's allegations against two Ministers, *see L.S.Deb.,* 30-5-1967 and 20-6-1967.

103. The First Committee on Ethics was constituted on 16 May 2000 as an *ad hoc* temporary Committee. Since then, Committee on Ethics was also constituted during the 14th, 15th and initial part of 16th Lok Sabha. The Committee on Ethics become a permanent Standing Committee with effect from 12 August 2015, with the recommendations of First Report of Committee on Ethics (*ad hoc* Committee - 16th Lok Sabha), which was further examined by the Rules Committee, which recommended (in the Second Report of the Committee during the 16th Lok Sabha) for the constitution of the Committee as a permanent Standing Committee. The Rules of Procedure and Conduct of Business in Lok Sabha was suitably amended to insert new Rules 233A and 233B under new Chapter 20A - *ETHICS*, new Rules 316A, 316B, 316C, 316D, 316E and 316F. The Standing Committee on Ethics shall now consist of not more than fifteen members and the Committee shall be nominated by the Speaker and shall hold office for a term not exceeding one year.

    While the *ad hoc* Committee had the power to *suo motu* take up matters relating to ethics and unethical conduct of members for consideration and investigation, the power to take up matters *suo motu* has been done away with since the Committee became a permanent Standing Committee of Lok Sabha.

Ethical Principles

The Committee of Privileges (Eleventh Lok Sabha), in their Report on ethics related matters, took a considered view[104] that ethical principles are well applicable to elections to Legislatures which are pivotal in any democracy.

The Committee, in their Report, also made various recommendations on matters pertaining to members' involvement in the Members of Parliament Local Area Development Scheme and other welfare schemes and official dealings between the members and the administration and the guidelines issued in this respect.

Procedure for Ethics Complaints

A Procedure for Ethics complaints has also been laid down in the Rules of Procedure *vide* Chapter 20A. Some salient points regarding the 'procedure for making ethics complaints' are as follows:–

(a) Any person or member may make a complaint relating to unethical conduct of a member of Lok Sabha, provided that if a complaint is made by any person, it shall be forwarded by a member.

(b) A complaint shall be made in writing and addressed to the Speaker, who may refer it to the Chairperson, Committee on Ethics, for examination, investigation and report.

(c) The complainant must declare the identity and submit supporting evidence, documentary or otherwise to substantiate the allegations.

(d) It shall be incumbent upon any person who has made the complaint to ensure that the complaint is not false, frivolous or vexatious and is made in good faith.

(e) An affidavit to this effect shall accompany the complaint.

(f) In case, the complaint is made by a member, it shall be incumbent upon such member to ensure that the complaint is not false, frivolous or vexatious and is made in good faith.

(g) An affidavit shall not be required in case the complaint is made by a member.

(h) Every complaint shall be couched in respectful and temperate language.

(i) Every complaint shall be either in Hindi or English. If any complaint in any other Indian language is made, it shall be accompanied by a translation either in Hindi or English and signed by the complainant.

104. The Committee were of the view that as stakes are high at all elections to Legislatures, the determination or rather the desperation of the candidates as well as the political parties sponsoring their candidature, has, of late, led to electoral malpractices, as for instance, misuse of money power during elections and criminalisation of politics. Such a state of affairs tends to negate the very credibility of democratic institutions which hinges by and large upon free and fair elections to the Legislatures. The Committee, therefore, accordingly touched upon these aspects and came up with certain recommendations on electoral expenses, criminalisation of politics and the Anti-Defection Law.

(j) Every complaint made by any person shall be countersigned by the member forwarding the complaint to the Speaker. The identity of the complainant would be kept secret, if a request to that effect is made by the complainant.

(k) A complaint based merely on unsubstantiated media reports shall not be entertained.

(l) The Committee on Ethics shall not take up any matter which is *sub-judice* and the decision of the Committee as to whether such matter is or is not *sub-judice* shall for the purposes of these rules be treated as final.

CHAPTER 13

Salaries, Allowances, Other Entitlements, Amenities and Facilities

I. Salaries and Allowances of Officers of Parliament

The 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 are governed by the Salaries and Allowances of Officers of Parliament Act, 1953. The Chairman of the Rajya Sabha is paid a salary of four lakh rupees per mensem[1]. The Speaker, the Deputy Speaker, Lok Sabha and the Deputy Chairman, Rajya Sabha each receive a salary of one lakh rupees per mensem[2] and constituency allowance at the rate of seventy thousand rupees per mensem[3]. In addition, they are each entitled to Daily Allowance at the rate of two thousand rupees for each day during the whole of their term as such officers per day[4]**.** The Chairman, Rajya Sabha and the Speaker, Lok Sabha get a sumptuary allowance of two thousand rupees per mensem, and the Deputy Chairman, Rajya Sabha and the Deputy Speaker, Lok Sabha, a sumptuary allowance of one thousand rupees per mensem[5].

In the early 1920s, the elected Speaker of the Central Legislative Assembly was paid a salary calculated at the rate of four thousand rupees per mensem[6]. He was not permitted during the tenure of his office to practice any profession or engage himself in any employment other than his duties as Speaker of the Legislative Assembly[7]. From January 1948 to April 1953, the Speaker was paid a salary of three thousand rupees per mensem and a sumptuary allowance of five hundred rupees per mensem[8].

In addition to all the usual allowances admissible to the members of the Assembly under the Travelling and Daily Allowances Rules applicable to them, the Deputy Speaker of the Central Legislative Assembly was paid, in respect of any period during which he was engaged in work connected with the business of the Assembly, salary calculated at the rate of one thousand rupees per mensem; the salary of the

1. The Salaries and Allowances of Officers of Parliament Act, 1953, s. 3, as amended, *vide* Act 13 of 2018, effective from 1 January, 2016.
2. The Salary, Allowances and Pension of Members of Parliament Act, 1954 and rules made thereunder, Section - 3 (sub-section - 1), as amended by Act 17 of 2018, effective from 1 April, 2018.
3. Substituted by G.S.R. 302 (E), published in the Gazette of India, Extraordinary, Part-II, Section 3, sub-section (i), 28 March, 2018.
4. Members of Parliament (Travelling and Daily Allowances) Amendment Rules, 2010*,* Sec. 3, as amended, effective from 1 October, 2010.
5. *Ibid.,* s. 5. The Salaries and Allowances of Officers of Parliament Act, 1953.
6. The Legislative Assembly (President's Salary) Act, 1925.
7. *Ibid.,* s. 2(2).
8. Government of India, Ministry of Law (Reforms) Notification No. S.O. 2, 28-2-1948.

Deputy Speaker of the Constituent Assembly (Legislative) was for identical purposes fixed at one thousand five hundred rupees per mensem[9].

> If any question arose whether during any period the Deputy Speaker was engaged in work connected with the business of the Legislative Assembly, or the Constituent Assembly (Legislative), the question was referred for decision to the Speaker and his decision was final.

On assumption and relinquishment of Office, the Speaker is entitled to such travelling allowances for himself and the members of his family and for the transport of his and his family's effects as are admissible to a Minister.

As per the Salaries and Allowances of Officers of Parliament Act, 1953, an Officer of Parliament shall be entitled to[10]:

(a) travelling allowances for himself and the members of his family and for the transport of his and his family's effects:—

  (i) in respect of the journey to Delhi from his usual place of residence outside Delhi for assuming office, and

  (ii) in respect of the journey from Delhi to his usual place of residence outside Delhi on relinquishing office; and

(b) travelling and daily allowances in respect of tours undertaken by him in the discharge of his official duties, whether by sea, land or air. [11]

The Speaker is treated as State guest throughout the country. A copy of the programme is sent to the Speaker and the Secretary of the State Legislature concerned who move the State machinery for according normal courtesy extended to a visiting dignitary. The facilities extended to him include free board, lodging and transport.

The Deputy Speaker, as an Officer of Parliament, is also entitled to travelling and daily allowances for similar purposes at rates which are admissible to a Minister.

> In addition, the Speaker and the Deputy Speaker are provided, like any other member of Parliament, with a free non-transferable pass for first class air-conditioned or executive class on any train which entitles them to travel at

9. The Legislative Assembly (Deputy President's Salary) Act, 1921, s. 2; and Legislative Assembly Department Sanction No. 83/49-Adm. (E) 1, 27-4-1949.

10. The entitlement of an Officer of Parliament as per the Salaries and Allowances of Officers of Parliament Act, 1953, is subject to any rules made in this behalf under the Section 11 of the Act which empowers the Central Government, in consultation with the Chairman and Speaker, to make rules for this purpose and the rules made under the Act shall be laid before both the Houses of Parliament.

11. As per the Section (1A) of the Salaries and Allowances of Officers of Parliament Act, 1953, 'On and from the commencement of the Salaries and Allowances of Officers of Parliament and Leaders of Opposition in Parliament (Second Amendment) Act, 2002, an Officer of Parliament and his family, whether travelling together or separately, shall be entitled to travelling allowance at the same rates and for the same number of return journeys as admissible to a Minister and his family under sub-section (1A) of Section 6 of the Salaries and Allowances of Ministers Act, 1952'.

Explanation.—For the purposes of this sub-section, "return journey" means a journey from one place to another place and the return journey from such other place to the first mentioned place.

any time by any railway in India[12]. This does not, however, preclude them from claiming allowances under the rules applicable to them.

In respect of travelling and other allowances, the Speaker of the Central Legislative Assembly was entitled—

to engage a reserved first class compartment for the journeys performed by him on duty between the headquarters of his constituency and Simla or Delhi, or between Simla and Delhi, and to recover his actual travelling expenses up to a maximum of one first class fare for each journey;

to the haulage of a motor car at owner's risk from the headquarters of his constituency to Delhi and back and a single third class fare each way for a chauffeur, as many times as there were sessions in a year;

to a halting allowance of fifteen rupees per day whenever he proceeded to a place other than Simla or Delhi or the headquarters of his constituency.

The Deputy Speaker was entitled to the travelling and daily allowances admissible to members of the Legislative Assembly under the travelling and daily allowances rules applicable to them.

The Speaker and the Deputy Speaker determine themselves as to when they should travel and they certify their own Bills.

Other Facilities

The Speaker and the Deputy Speaker are each entitled, without payment of rent, to the use of a furnished residence throughout their term of office and for a period of one month immediately thereafter, and no charge falls on them personally in respect of the maintenance of such residence[13]. In the event of the death of an Officer of Parliament, his family is entitled to the use of furnished residence occupied by the Officer of Parliament for a period of one month immediately after his death, without payment of rent, and no charge would fall on his family in respect of the maintenance of such residence; his family could retain the residence for a further period of one month on payment of a prescribed rent and also charges in respect of electricity and water consumed in that residence during such further period.

'Maintenance' in relation to a residence includes the payment of local rates and taxes and the provision of electricity and water and 'residence' includes the staff quarters and other buildings appurtenant thereto and the garden thereof[14].

The Speaker and the Deputy Speaker and the members of their families are entitled, free of charge, to accommodation in hospitals maintained by the Government and also to medical treatment.

12. The Salary, Allowances and Pension of Members of Parliament Act, 1954, section 6, as amended.

13. Bungalow at 20, Akbar Road, New Delhi, was constructed specially for the use of the first Speaker of the Central Legislative Assembly and since 1921, it has been reserved as the official residence of the Speaker.

14. The Salaries and Allowances of Officers of Parliament Act, 1953, s. 4.

Both the Speaker and the Deputy Speaker are entitled to draw a repayable advance such some of money as may be determined by rules made in this behalf for the purchase of a motor-car in order that they may be able to discharge conveniently and efficiently the duties of their offices.[15]

The Speaker or the Deputy Speaker vacates his Office if he ceases to be a member of the Lok Sabha[16]. Whenever the Lok Sabha is dissolved, the Speaker does not vacate his Office until immediately before the first meeting of the Lok Sabha after the dissolution[17]. In view of this, the Speaker continues to draw the salary and allowances of his Office until the date of vacation of his Office. The Deputy Speaker, however, ceases to draw his salary and allowances of his Office on the dissolution of the Lok Sabha.

When both the Offices of Speaker and Deputy Speaker fall vacant, a Speaker *pro tem* is appointed by the President, and he continues in Office till the election of the Speaker[18], but the Speaker *pro tem* does not receive, for the period he performs the duties of the Office of the Speaker, the salary and allowances admissible to the Speaker.

The Speaker and the Deputy Speaker, who receive their salaries and allowances under the Salaries and Allowances of Officers of Parliament Act, 1953, as amended, are not entitled to receive, by virtue of their membership of the Lok Sabha, any sum out of funds provided for by Parliament by way of salary and allowances of members.

> The date on which any person became or ceased to be an officer of Parliament shall be published in the official Gazette and any such notification shall be conclusive evidence of the fact that he became, or ceased to be, an officer of Parliament on that date for all the purposes of this Act.

All expenditure incurred on the salaries and allowances, etc., of the Chairman and the Deputy Chairman, Rajya Sabha and the Speaker and the Deputy Speaker, Lok Sabha is charged on the Consolidated Fund of India[19].

With effect from the commencement of the Salaries and Allowances of Officers of Parliament (Second Amendment) Act, 2002, there shall be paid a family pension, to the spouse of the Speaker of the House of the People who dies while holding such office at the rate of fifty per cent of the salary last drawn by him for the remainder of life of such spouse from the date of death of the Speaker[20].

The officers of Parliament are also exempted from the liability of paying income tax on certain allowances and perquisites under the Income Tax Act, 1961.

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15. The Officers of Parliament (Advances of Motor Cars) Rules, 1953.
16. Art. 94(a).
17. Art. 94, Second Proviso.
18. *See* Art. 95(1).
19. Art. 112(3)(b).
20. The Salaries and Allowances of Officers of Parliament Act, 1953, Section 7a, as amended.

For example, while computing the total income of the previous year of the Chairman of the Council of States, any income by way of daily allowances shall not be included. Similarly, the value of rent free furnished residence (including maintenance thereof) provided to an officer of Parliament shall not be included in the computation of his income chargeable under the head "Salaries"[21].

II. Salaries, Allowances and Other Entitlements of Members

Salary and Daily Allowances

Each member of the Lok Sabha and the Rajya Sabha, other than a Minister or Officer of the House, is entitled to receive a salary at the rate of one lakh rupees per mensem during the whole of his term of office[22]. The term of office of a member begins with the date of publication of the notification of the Election Commission and ends with the date on which his seat becomes vacant. The salary is subject to income-tax.

In addition to the salary, an allowance is paid to each member of the Lok Sabha and the Rajya Sabha at the rate of two thousand rupees[23], only for each day during any period of residence on duty[24], irrespective of the time of arrival or departure:

Provided that no member shall be entitled to the aforesaid allowance unless he signs the register maintained for this purpose by the Secretariat of the House of the People or, as the case may be, the Council of States, on all the days (except intervening holidays for which no such signing is required) of the session of the House for which the allowance is claimed[25].

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21. Substituted by Act 17 of 1990, effective from 1 April 1988.

22. The Salary, Allowances and Pension of Members of Parliament Act, 1954, s. 3, as amended by Act of 13 of 2018 *w.e.f.* 1 April, 2018. As per the Gazette of India, Part II, Section I, dated 7 April, 2020, the Salary, Allowances and Pension of Members of Parliament Act, 1954 has been amended *vide* the Salary, Allowances and Pension of Members of Parliament (Amendment) Ordinance, 2020 (3 of 2020). *Vide* the amendment, in section 3 of the Act, after subsection (1), the following sub-section has been inserted:- "(1A) Notwithstanding anything contained in Sub-section (1), the salary payable to Members of Parliament under Sub-section (1) shall be reduced by thirty per cent for a period of one year commencing from the 1st April, 2020, to meet the exigencies arising out of Corona Virus (COVID-19) pandemic."

23. *Ibid.,* as amended *w.e.f.* 1 October, 2010.

24. The Salary, Allowances and Pension of Members of Parliament Act., 1954, s. 3, as amended.

    The term 'Period of residence on duty' means the period during which a member resides at a place where a session of a House of Parliament or a sitting of a Committee is held or where any other business connected with his duties as such member, is transacted, for the purpose of attending such session or sitting or for the purpose of attending to such other business, and includes:

    (i) in the case of a session of the House, a period of such residence, not exceeding three days, immediately preceding the commencement of the Session and a period of such residence, not exceeding three days immediately succeeding the date on which the House of Parliament is adjourned *sine die* or for a period exceeding seven days; and

    (ii) in the case of a sitting of a Committee or any other business, a period of such residence, not exceeding two days, immediately preceding the commencement of the sitting of the Committee or other business and a period of such residence, not exceeding two days immediately succeeding the conclusion of the business of the Committee or other business.

25. *Ibid.,* as amended, effective from 9-6-1993 (Act 48 of 1993).

The Salary & Daily Allowance and Monetary ceiling of furniture, Constituency Allowance and Office Expense Allowance of members of Parliament shall increase after every five years on the basis of Cost Inflation Index[26].

A member is also entitled to receive constituency allowance at the rate of seventy thousand rupees per mensem[27] and office expense allowance at the rate of sixty thousand rupees per mensem.[28]

In the pre-Independence period, the expense of maintaining members during their attendance upon the Legislature was regulated by orders issued by the Government of India from time to time in the form of notifications or rules which generally provided for the regulation of daily and travelling allowances, etc. of members.

Members of the Central Legislative Assembly were entitled to an allowance of fifteen rupees *per diem* for each day of residence at the place where the Assembly met[29], and in March 1921, this allowance was raised to twenty rupees *per diem*[30]. In October 1928, the provision of the daily allowance was extended to cover any period of residence on duty[31].

A proposal for the payment of salary to the non-official members of the Assembly was made for the first time in 1933 by the Speaker Shanmukham Chetty which was considered by a Special Committee. The proposal was, however, given up in view of the difficulties in the matter of income-tax.

With effect from the beginning of the Budget Session, 1945, the non-official members became entitled to draw daily allowance and conveyance allowance at the rate of thirty and fifteen rupees *per diem*, respectively, for the duration of the War. These enhanced rates remained in force up to the end of the Budget Session, 1946-47.

When the Constituent Assembly met to discharge its legislative functions, members became entitled to draw allowances at such rates and upon such conditions as were in force immediately before the date of establishment of the Dominion.[32] In April 1948, it was decided that the two allowances, *viz.* daily allowance and conveyance allowance, be merged into a consolidated daily allowance of forty-five rupees *per diem*, free of income-tax, applicable to all

26. The Finance Act, 2018 (no. 13 of 2018) dated 28.03.2018.

27. The Members of Parliament (Constituency Allowance) Rules, 1986, rule 2, as amended, effective from 1 April, 2018. As per the *Gazette of India* Extraordinary, Part II, S.3 (i) dated 7 April, 2020, the constituency allowance has been reduced to rupees forty nine thousand per mensem for the period from 1 April, 2020 to 31 March, 2021 on account of Corona Pandemic.

28. The Members of Parliament (Office Expense Allowance) Rules, 1988, rule 3, as amended, effective from 1 April, 2018. During the Corona pandemic, the office expense allowance was reduced to rupees fifty four thousand per mensem for the period from 1 April, 2020 to 31 March, 2021, of which rupees fourteen thousand for meeting expenses on stationary items, and rupees forty thousand for the secretarial assistance. *Gazette of India* Extraordinary, Part II, S.3 (i) dated 7 April, 2020.

29. Fin. Deptt. Res. No. 2441-E.B., 13-12-1920.

30. *Ibid.,* No. 529-E.B., 22-3-1921.

31. Leg. Deptt. Res. No. F. 159/28-E, 4-10-1928.

32. Government of India Act, 1935, s. 29, as adapted by the Indian (Provisional Constitution) Order, 1947.

members, irrespective of the fact whether the Assembly met as a constitution-making body or legislative body.

In 1949, the Constituent Assembly passed a resolution[33] imposing a voluntary cut of five rupees *per diem*, thus reducing the consolidated daily allowance to forty rupees *per diem*, with effect from October 1949. This rate continued to be in force for members of the Provisional Parliament and the First Lok Sabha.

Pursuant to the provision in the Constitution for providing salaries and allowances to the members[34], Speaker Mavalankar announced on 6 June, 1952, the appointment of a Joint Committee of the two Houses to consider whether payment to the members of Parliament should be wholly by salaries or partly by salaries and partly by allowances[35].

The Committee submitted its report on 4 August, 1952, recommending that members be paid thirty-five rupees as daily allowance. The report was discussed in the House on 27 March, 1954, when the House passed a resolution referring the question back to the Joint Committee[36]. In its second report submitted on 20 April 1954, the Committee recommended that either a salary of three hundred rupees *per mensem* plus a daily allowance of twenty rupees or in the alternative, a daily allowance of forty rupees be paid. Acting in pursuance of the constitutional provision, Parliament passed the Salaries and Allowances of Members of Parliament Act, 1954, under which the salary of a member was fixed at four hundred rupees *per mensem* plus a daily allowance of twenty-one rupees, in place of the daily allowance of forty rupees[37].

In the face of the high cost of living and considerable expenses which the members had to incur on account of the various demands of public life, their emoluments were considered to be inadequate and accordingly, daily allowance was raised to thirty-one rupees per day in 1964; fifty-one rupees in 1969; seventy-five rupees per day in 1983; one hundred and fifty rupees per day in 1988; and two hundred rupees per day in 1993, subject to signing of Attendance Register; to four hundred rupees per day from 20 August, 1998; to one thousand rupees per day from 14 September, 2006; and now to two thousand rupees per day from 1 October, 2010.

No daily allowance is admissible to a member who is granted leave of absence from the House under the Constitution[38]. A member suspended from the service of the

33. *C.A. Deb.,* Vol. X, 17-10-1949, pp. 385-88.

34. Art. 106.

35. *L.S. Deb.,* 6-6-1952, cc. 1245-47.

36. *H.P. Deb. (II)*, 27-3-1954, cc. 3360-90.

37. *Ibid.,* 14-5-1954, cc. 1790-94.

38. *See* Art. 101(4) and Chapter 16 Leave of Absence of Members. A member who remains absent from the House due to illness after taking leave of the House and continues staying at the place of session, is entitled to daily allowance, unless it is manifest that his continued residence during the period of his leave is for medical treatment mainly.

See decisions of the Joint Committee on Salaries and Allowances of Members of Parliament, 13-8-1960 and 18-12-1963.

House for a specific period during a session is entitled to daily allowance for each day of his 'residence on duty' whereas a member suspended from the service of the House for the remainder of the session is not entitled to daily allowance[39].

A member is also not entitled to daily allowance during the period of his detention as his residence during detention at the place of session cannot be regarded as residence for the purpose of attending the session.

The salary of members of Parliament was increased from time to time – *vide* amendments to the Salary, Allowances and Pension of Members of Parliament Act, 1954. It was first increased to five hundred rupees per month from 1 June, 1964; to seven hundred and fifty rupees per month from 30 August, 1983; to one thousand rupees from 26 December, 1985; to one thousand five hundred rupees per month from 1 April, 1988; to four thousand rupees per month from 20 August, 1998; to twelve thousand rupees per month from September, 2001 to sixteen thousand rupees per month from 16 September, 2006; to fifty thousand rupees from 18 May, 2009; and now to one lakh rupees *per mensem* from 01 April 2018[40].

During the spread of Covid-19 pandemic, a decision was taken by the Government to reduce the salary of the Members of Parliament by thirty per cent for the period from 01.04.2020 to 31.03.2021[41].

A meeting of the Joint Committee on Salaries and Allowances of Members of Parliament was held through online mode in which the Members unanimously decided for thirty per cent reduction of Constituency Allowance and Office Expense Allowance for the period from 01.04.2020 to 31.03.2021[42].

Travelling Allowance[43]

Travelling Allowance is paid to each member of the Lok Sabha and the Rajya Sabha in respect of every journey performed by him in India for the purpose of attending a session of the House or a meeting of a Committee or for the purpose of attending to any other business connected with his duties as a member, from his usual place of residence to the place where the session or the meeting is held or the other business is transacted and for the return journey from such place to his usual place of residence–

(a) (* * *)

(b) if the journey is performed by air, an amount equal to one of the air fare for each such journey;

39. *Bn.* (II), 29-11-1965, para 1504.

40. Substituted by Act 13 of 2018 from 1 April, 2018.

41. Inserted by Act 19 of 2020 – effective from 01-04-2020.

42. Gazette of India No. 184 dated 07-04-2020.

43. The Salary, Allowances and Pension of Members of Parliament Act, 1954, Substituted by Act 13 of 2018 effective from 1 April, 2018.

(c) if the journey or any part thereof cannot be performed by rail or air–

(i) where the journey or any part thereof is performed by steamer, an amount equal to one fare (without diet) for the highest class in the steamer for each such journey or part thereof; or, if there is not regular steamer service, such amount for each such journey or part thereof as may be prescribed by rules made under section 9;

(ii) where the journey or any part thereof is performed by road, a road mileage at the rate of sixteen rupees per kilometre[44] for each such journey or part thereof. The member is paid a minimum amount of three hundred and twenty rupees for the journey he performs by road in Delhi from and to an aerodrome.

(d) A member is entitled to road mileage allowance when performing a journey by road between places connected by rail or steamer either wholly or in parts.

Where a member absents himself for less than fifteen days during the session of the House or a sitting of a Committee for visiting any place in India, he is entitled to receive travelling allowances in respect of such journeys to such a place and for the return journey–

(a) if the journey is performed by rail, equal to one first class fare for each such journey, irrespective of the class in which the member actually travels;

(b) if the journey, being a journey during a sitting of the Committee, is performed by air, equal to one fare by air for each such journey:

Provided that such travelling allowance does not exceed the total amount of daily allowance admissible to such member for the days of absence if he had not remained absent:

Provided further that nothing in the first proviso shall apply, if the member performs the journey by air for visiting any place in India not more than once during a sitting of the Committee.

A special provision was made from 31 March, 1995 to enable members to attend the sittings of the Departmentally Related Standing Committees during the consideration of Demands for Grants. A member shall be entitled for travelling allowances in respect of every journey performed by air for visiting any place in India during the interval, not exceeding five[45] days between two sittings of a Departmentally Related Standing Committee when a House of Parliament is adjourned for a fixed period during the Budget Session:

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44. The Salary, Allowances and Pension of Members of Parliament Act, 1954, s. 4, effective from 1 October, 2010.

45. *Ibid,* s. 5, effective from 15 September, 2006.

Provided that such travelling allowances, excluding air fare, shall not exceed the total amount of daily allowances which would have been admissible to such member for the days of absence if he had not remained absent.[46]

Every member has been given the facility of thirty-four single air journeys to visit any place in India throughout the year either alone or along with spouse or any number of companions or relatives. The journeys performed by the spouse, companion or relatives shall be taken into account of 34 air journeys. Further, where the number of journeys performed by any member by air in a year is less than thirty-four**,** the balance number of journeys, not performed by him, shall be carried over to the following year[47]:

Provided that no member shall be entitled to any payment in respect of any journeys in excess of thirty-four performed by him during the year. The ceiling imposed restricting the claim to the amount of daily allowance which would have been admissible for the days of absence if the member had not so remained absent would not apply in this case.

For the purposes of air journeys, the year shall be counted beginning with the commencement of the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1985, *i.e.* 26 December, 1985 and each of the subsequent years. In the case of a person who becomes a member after such commencement, the year beginning with the date on which his term of office as such member commences and each of the subsequent years[48].

Every member who has his ordinary place of residence in the Ladakh area is entitled to an amount equal to the fare by air for each single journey by air performed by him along with spouse or one person who accompanied such member from any airport in Ladakh to the airport in Delhi and back at any time[49].

Where the interval between the adjournment of one session of the House, or as the case may be, one sitting of a Committee and the re-assembly of the House or the next sitting of the Committee at the same place does not exceed five[50] days and the member concerned elects to remain at such place during the interval, he is entitled to draw for each day of residence at such place the prescribed daily allowance.

Free Transit by Railway

Every member is provided with one free non-transferable first class

46. *Ibid.,* s. 5(1A) effective from 31 March, 1995.

47. *Ibid*., effective from 15 September, 2006.

48. The Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1985, effective from 26 December, 1985.

49. The Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1988, (Act 30 of 1988) Effective from 1 April, 1988.

50. The Salary, Allowances and Pension of Members of Parliament (Amendment) (Act 40), 2006, effective from 15 September, 2006.

air-conditioned or executive class[51] railway pass which entitles him to travel at any time by any railway in India. In the case of a member until he is provided with a free rail pass or who on ceasing to be a member surrenders his pass, he shall be entitled to receive one first class air-conditioned or executive class rail fare for the journeys performed by rail as referred under the relevant Act[52]. Each member is also entitled to one free 'air-conditioned two-tier'[53] railway pass for one person to accompany the member when he travels by rail. The spouse of the member, if any, is entitled to free travel by any railway in India in first class air-conditioned or executive class in all trains from any place in India to any other place in India, with the member[54].

In the case of members representing the Union territory of the Andaman and Nicobar Islands or the Union territory of Lakshadweep, each member is provided with one free non-transferable pass which entitles him to travel at any time by the highest class by steamer *to and fro* any part of his constituency and any other part of his constituency or the nearest port in the mainland of India. Each member of Parliament representing Islands as such is also entitled to an amount equal to the fare by air from his usual place of residence to the nearest airport in the mainland of India[55] and back.

Besides, the member representing the Union territory of the Andaman and Nicobar Islands or the Union territory of Lakshadweep is entitled to a free pass for one person to accompany the member and travel by the highest class (without diet) by steamer *to and fro* any part of his constituency or the nearest port in the mainland of India or one free non-transferable pass for the spouse, if any, of the member to travel by the highest class (without diet) by steamer *to and fro* the usual place of the residence of the member in his constituency and the nearest port in the mainland of India. Each such member is also entitled to an amount equal to the fare by air for the spouse, if any, of the member, or for one person to accompany him from the usual place of residence in the island to the nearest airport in the mainland of India[56] and back.

Facilities to Blind and Physically Incapacitated Members[57]

A member who is blind or physically incapacitated is entitled to one additional air fare for the accompanying person; if by rail, one free railway pass in the same class in which the member travels *in lieu* of one free air-conditioned and two tier class railway pass; and where the member cannot perform the journey by rail or air he is entitled to an amount equal to one road mileage[58].

51. The Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1999, effective from 22 March, 1999.
52. The Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1954, s. 4(1).
53. The Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1993, effective from 22 March, 1999.
54. The Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1999, effective from 22 March, 1999.
55. *Ibid.*
56. *Ibid.*
57. Substituted by Act 17 of 2000, effective from 7 June, 2000.
58. Inserted by Act 40 of 2006, effective retrospectively from 17 May, 2004.

Allowances in respect of Journeys Abroad

Where a member performs a journey outside India in discharge of his duties as such member, he is entitled to free return air-cum-rail-cum-sea passage and daily allowance as admissible to a Grade I Officer of the Government of India[59].

Members are also entitled to the reimbursement of expenses incurred on boarding and lodging at enforced halts *en route* where the air companies do not provide the same, subject to the maximum daily allowance admissible at the place of halt, actual expenses incurred on passport fees and vaccination and inoculation and incidental expenses such as tips, taxi hires and cab fare incurred on duty, on production of necessary vouchers. Where vouchers are not available, the expenditure is reimbursable on the basis of the certificate that it was actually incurred.

If any question arises whether a journey performed by a member outside India was for parliamentary business or not, the question is referred in the case of a member belonging to the Lok Sabha, to the Speaker and in the case of a member belonging to the Rajya Sabha, to the Chairman, and their decision in the matter is final.

A member is eligible to a quota of foreign exchange amounting to one lakh rupees during the term of his membership.

Besides, a member and the spouse of the member is eligible for the issue of Diplomatic Passport for going abroad on study tour on his own.

Mode of Payment to the Members

The payment of salary and allowances to the members is made by the Pay and Accounts Offices, Lok Sabha and Rajya Sabha, as the case may be. For the facility of members, there is a Pay Office of the State Bank of India in the Parliament House, where members can cash their cheques throughout the year[60].

Pension

(*a*) Pension to Ex-members of Parliament[61]

There shall be paid a pension of twenty five thousand rupees[62] *per mensem* to every person who has served for any period[63] as a member of Provisional Parliament or either House of Parliament:

59. *See* the Members of Parliament (Allowances for Journeys Abroad) Rules, 1960, rules 2(l)(ii) and (II)(i).

60. For details regarding Pay and Accounts Office, *see* Chapter 40—'Secretariat and Budget of the Lok Sabha'.

61. The Salary, Allowances and Pension of Members of Parliament Act, 1954 substituted by Act 13 of 2018 Effective from 1.4.2018.

62. The Salary, Allowances and Pension of Members of Parliament Act, 1954, s. 8A, effective from 1st October, 2010 and further amended *w.e.f.* 01-04-2018.

63. *Ibid.*

Provided that where a person has served as a member of the Provisional Parliament or either House of Parliament for a period exceeding five years, there shall be paid to him an additional pension of two thousand rupees per mensem for every year served in excess of five years[64].

In computing the number of years, for the purposes of sub-section (*1*), the period during which a person has served as a Minister as defined in Salaries and Allowances of Ministers Act, 1952 or as an Officer of Parliament as defined in the Salaries and Allowances of Officers of Parliament Act, 1953, (other than the Chairman of the Council of States), or as a Leader of the Opposition as defined in the Salary and Allowances of Leader of Opposition in Parliament Act, 1977, or has served in all or any two of such capacities by virtue of his membership in the House of the People or in the Council of States shall also be taken into account.

Where the period for which the pension is payable contains a part of a year, then, if such part is nine months or more, it shall be reckoned equivalent to complete one year for the purpose of payment of additional pension and if such part is less than nine months, it shall be ignored[65].

Where any person entitled to ex-MP pension –

(i) is elected to the Office of the President or Vice-President or is appointed to the Office of the Governor of any State or the Administrator of any Union territory; or

(ii) becomes a member of the Council of States or the House of the People or any Legislative Assembly of a State or Union territory or any Legislative Council of a State; or

(iii) is employed on a salary under the Central Government or any State Government or any corporation owned or controlled by the Central Government or any State Government, or any local authority or becomes otherwise entitled to any remuneration from such Government, corporation or local authority;

such person shall not be entitled to ex-MP pension for the period during which he continues to hold such office or as such member, or is so employed or continued to be entitled to such remuneration:

Provided that where the salary payable to such person for holding such office or being such member or so employed, or where the remuneration referred to in clause (iii) payable to such person, is, in either case, less than the pension payable to him, such person shall be entitled only to receive the balance as pension.

64. The Salary, Allowances and Pension of Members of Parliament Act, 1954, s. 8A, as amended by Act 17 of 2018– effective from 01 April 2018.

65. The Salary, Allowances and Pension of Members of Parliament Act, 1954, s. 8AB, as amended on 9 January 2004.

Where any person entitled to ex-MP pension is also entitled[66] to any other pension, such person shall be entitled to receive the ex-MP pension in addition to such other pension. The grant of pension to an ex-Member of Parliament shall, however, be governed by the conditions laid down in Section 8A and Section 8AB of the Salary, Allowances and Pension of Members of Parliament Act.

(*b*) Family Pension to Spouse/Eligible Dependant of Deceased Members/ Ex-members of Parliament

The spouse or dependant of a deceased member is entitled[67] to receive family pension equal to 50 per cent of the pension otherwise admissible to the deceased member at the time of his death for the remainder period of life of the spouse. The dependant will get family pension subject to fulfillment of conditions as stipulated in section 2(aa) of the Salary, Allowances and Pension of Members of Parliament Act. The spouse/dependant of those deceased ex-MPs who had served either House of Parliament prior to 15 September 2006 shall also be entitled to family pension on the same terms and conditions as are applicable to the spouse/dependant of a deceased member of Parliament.

If the spouse/dependant is entitled to any pension under the Salary, Allowances and Pension of Members of Parliament Act, he will not be entitled to receive family pension.

No person shall be entitled to claim arrears of family pension for the period prior to 15 September 2006.

The grant of family pension to spouse/eligible dependant of an ex-member of Parliament shall, however, be governed by the conditions laid down in Section 8AC of the Salary, Allowances and Pension of Members of Parliament Act, 1954.

Allowances, etc. given to Members serving on Government Committees

Members are appointed or nominated on Committees, Commissions, etc. set up by the Government from time to time. The terms of salary, honorarium, allowances, sitting fee, etc. payable and perquisites or facilities provided to the members serving on a non-statutory body are usually laid down in the Government notification or resolution constituting it, and in the case of statutory body, the information in respect of the same is provided in the rules framed under the provisions of the relevant Act. The payment of allowances, etc. is made to the members by the concerned Ministries of the Government of India or the Departments of the State Governments.

66. The Salary, Allowances and Pension of Members of Parliament Act, 1954, s. 8A(3), as amended on 9 June 1993.

67. The Salary, Allowances and Pension of Members of Parliament Act, 1954, s. 8AC, as amended on 15 September 2006.

It was recommended by the Joint Committee on Offices of Profit that in order to obviate the danger of members incurring disqualification, the Government should issue instructions to all the public undertakings, whether fully or partially owned by them, to provide in their rules that members serving on them should not be entitled to any sum of money other than 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959[68]. Similar recommendation was also made in the case of non-statutory bodies set up by the Government[69].

The Government of India accordingly issued comprehensive instructions[70] regarding payment of remuneration such as travelling allowance, daily allowance, etc. to members serving on Committees, Commissions, Boards of Inquiry, etc., set up by the Government.

According to these instructions, members of Parliament are usually entitled to the following allowances–

(a) Travelling Allowance

A member of Parliament is entitled to travelling allowance in respect of journeys performed by rail, road, air and steamer in connection with the work of Committees/Commissions, etc. set up by the Union Government on the same scale as is admissible to him under section 4 of the Salary, Allowances and Pension of Members of Parliament Act, 1954, as amended[71].

(b) Daily Allowance

A member of Parliament is entitled to daily allowance at the same scale as is admissible to him under section 3 of the Salary, Allowances and Pension of Members of Parliament Act, 1954, *i.e.* two thousand rupees per day. He will also be entitled to daily allowance for two days preceding and two days following the meeting if the member of Parliament actually stays at the place of meeting[72].

During a session of Parliament or during the period when a Parliamentary Committee of which he is a member, is in session, the member is not entitled to draw any daily allowance in connection with his assignment on the Government

68. *See* 1R(JCOP-2LS), para 17.

'Compensatory Allowances' has been defined as follows—

Compensatory allowance means any sum of money payable to the holder of any office by way of daily allowance (such allowance not exceeding the amount of daily amount to which a member of Parliament is entitled under the Salaries and Allowances of Members of Parliament Act, 1954), any conveyance allowance, house rent allowance or travelling allowance for the purpose of enabling him to recoup any expenditure incurred by him in performing the function of that office.

69. *Ibid.,* para 18.

70. Min. of Fin., (Deptt. of Expenditure), O.M. No. F. 6(26) EIV/59, dt. 5-9-1960, as amended from time to time—*see* U.S.Q. No. 3717, *L.S. Deb.,* 9-12-1968.

71. Lok Sabha Secretariat O.M. No. F. 11/5/MSA/86, 30-1-1989.

72. *Ibid.* As amended, effective from 1 October 2010.

Committee, Commission, etc. as he will be drawing his daily allowance from the Secretariat. However, if he certifies that he was prevented from attending the session of Parliament or the concerned Parliamentary Committee, because of his work connected with the Government Committee, etc., and did not draw any daily allowance from the Secretariat, he will be entitled to draw daily allowance as indicated above.

Bill Tracking System

- An online Bill Tracking System (BTS) to track the status of Bills sent to MSA Branch by Members and various Branches is operational in MSA Branch. Before sending Bills in physical form or through online mode to MSA Branch, Members have to login to the Members' Portal and thereafter go to the link "Reimbursement claim-BTS" using the Members' Portal login ID and password and register the Bill online. In case of Members, who do not register with BTS, the receiver in MSA Branch would register the Bill with BTS at the time of submission of physical copies of the Bills.
- On registering the Bill online, a Unique Reference Number (URN) is generated and an instant SMS alert is sent to Members' mobile numbers. Thereafter, the movement of the Bill can be tracked till the payment is finally sent to the members' bank account.

Medical Facilities

Members of Parliament are entitled to same medical facilities as are available to the Officers of Central Civil Service, Class-I under Central Government Health Scheme (CGHS)[73].

There was no regular arrangement for providing medical facilities to members prior to 16 November 1959, when the Contributory Health Service Scheme (since renamed Central Government Health Scheme) was extended to them in pursuance of the Medical Facilities (Members of Parliament) Rules, 1959. Wellness Centres cater mainly to the medical needs of members and their families. In addition, consultation in Ayurvedic, Unani and Homoeopathic systems of medicines is also available to members.

A First Aid Post under a senior medical officer functions throughout the year to attend to emergent cases arising within the precincts of the Parliament House and in Vithalbhai Patel House at fixed hours for the convenience of members.

A well-equipped medical examination centre has also been set up in Parliament House Annexe with a medical specialists, and facilities such as X-ray, Ultrasound,

73. *See* the Medical Facilities (Members of Parliament) Rules, 1959. A compulsory monthly contribution is levied on every member on the basis of his salary at the same rate as would be payable by a Government servant drawing pay equal to the salary of the member and such contribution is recoverable from the monthly salary bill of the member.

E.C.G., Physiotherapy, Cardiac and laboratory testing. The other specialists such as Dental, Eye, ENT, Surgeon, Orthopaedic Surgeon, Gynaecologist, Skin Specialist, Paediatrician, Psychiatrist and Endocrinologist besides a dietician also visit the centre on specified days in a week for consultation by members. The Medical Centre which was renovated and refurbished with modern amenities in 2023 maintains a record of each Member of Parliament.

These facilities are admissible upto a month after a member ceases to be a member of Parliament.

The medical facilities under the Central Government Health Scheme have been extended to ex-members of Parliament with effect from 6 July 1976 by the Ministry of Health and Family Welfare.

The facility of CGHS is now available to its beneficiaries in many important cities of the country.

The Welfare Branch of the Secretariat facilitates prompt medical aid to Members of Lok Sabha and their family members. The Welfare Branch also provides assistance in the preparation of CGHS Cards of Members of Lok Sabha.

An online dashboard has been developed to address the welfare related issues of Members of Lok Sabha.

Initiatives taken during Covid-19 pandemic period

During the Covid-19 pandemic period, the Welfare Branch rendered 24x7 medical assistance to Members of Lok Sabha and their family members.

Over 20,000 RTPCR/RAT testing & 10,500 Covid-19 vaccinations were facilitated by the Welfare Branch for Members of Parliament, their family members etc. Besides, health awareness talks and health checkup camps were also organized for Members of Parliament.

A publication 'Members of Lok Sabha Standing with the Citizens – Innovation and Best Practices during the Covid-19 Pandemic (2020-2021)' was brought out by the Lok Sabha Secretariat to catalogue initiatives taken by the MPs in managing the pandemic.

Housing Facilities

Members of Parliament are entitled without payment of licence fee[74] to housing accommodation[75] in the form of flat (including hostel accommodation) throughout

74. After every General Election for Lok Sabha, arrangements are made for stay of members temporarily in New Delhi. Such accommodation is treated as transit accommodation. During their stay in transit accommodation, members are provided single suite free of licence fee till such time as regular accommodation is made available. However, members will be liable to pay charges for food and other additional services during their stay in transit accommodation.

75. The Salary, Allowances and Pension of Members of Parliament Act, 1954, as amended, s. 8 and the Housing and Telephone Facilities (Members of Parliament) Rules, 1956, as amended, rule 2.

"Licence fee" includes the licence fee of furniture, table and pedestal fans, table lamps, floor standard lamps, boilers, refrigerators, desert coolers and air-conditioning units and includes also charges in respect of additional services. "Improvement" or "addition" means the provision of

his term of office. Members are also allotted housing accommodation in the form of bungalow as per criteria laid down by the House Committee[76], keeping in view the status of the member, for which they are required to pay normal licence fee.

A member, who is provided any accommodation as per his entitlement under the Housing and Telephone Facilities (Members of Parliament) Rules, 1956, as amended[77], is liable to pay licence fee on account of any improvement or addition made to it or any additional services provided thereto; it shall be twenty-five per cent less than the normal rent payable in respect of such improvement, addition or additional service. The furniture shall be made available free of charge to the members within the existing monetary ceiling of eighty thousand rupees in respect of durable furniture and twenty thousand rupees for non-durable furniture effective from 1 April 2018. Members are liable to pay additional rent based on the depreciation value of furniture for the Extra furniture made available to them beyond the ceiling of one lakh rupees as desired by the members in their residences. Further additional provisions such as tiles in bathroom and kitchen, as demanded, and washing of sofa covers and curtains after every three months shall be provided free of cost.

Every member shall in respect of any accommodation allotted to him or in respect of any private accommodation in Delhi in which he is residing also be entitled, without payment of charges, to the supply of electricity and water upto a maximum of 50,000 units of electricity per annum (25,000 units each of light/power meters or pooled together) and 4,000 kilolitres of water per annum free of charge beginning first January of every year[78].

Before the commencement of the first session of a new Lok Sabha, a circular is issued to all members by the Secretariat inviting applications for residential accommodation. In allotting the accommodation, efforts are made, as far as possible, to allot the type of accommodation desired by a member in accordance with the criteria laid down by the House Committee.

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additional accommodation, furniture, table and pedestal fans, table lamps, floor standard lamps, boilers, refrigerators, desert coolers and air-conditioning units.

"Furniture" means such items of furniture as are admissible to a member for a residence allotted to him and includes any additional items taken on rent by a member in his residence.

"Charges in respect of additional services" means charges in respect of—

the provision of Sweepers and Jamadars and the staff attached to members' residences with dusters and brooms;

the supply of electric bulbs at the residences of members;

the maintenance of flowers beds;

the maintenance of any place (like an Enquiry Office) intended for the common benefit of members; and

any other amenities provided for the common benefit of members.

76. For House Committee, *See* Chapter 30 'Parliamentary Committees'.

77. The Housing and Telephone Facilities (Members of Parliament) Rules, 1956, rule 2(3), effective from 12 December 2006.

78. *Ibid,* rule 2(2), effective from 12 December, 2006.

A member is not allowed to sublet the accommodation to or share it with, any person, including a member of Parliament, without obtaining the prior permission in writing from the Chairman of the House Committee of the Lok Sabha or of the Rajya Sabha, as the case may be. Members can retain the residential accommodation for a maximum period of one month after their retirement, resignation or removal on payment of the same rent which they were paying before the occurrence of any of these events.

In the case of the death of a member, however, the members of his family can retain the accommodation on the same rate of licence fee as was payable by the member immediately before his death, for a maximum period of six months after which the allotment shall be deemed cancelled. The Deductions on account of licence fee in respect of accommodation and telephone charges, etc. are made from the salary bill of a member, as assessed by the Directorate of Estates and the Telephone Department.

As far as possible, accommodation for short periods is also allotted to members on payment of licence fee as prescribed from time to time for the use of their guests.

All questions relating to allotment of residences to members and the facilities and other amenities to be provided therein are dealt with by the respective House Committees.

In order to meet the growing needs of residences for members, under the aegis of House Committee, the construction of 36 duplex flats at North Avenue and 76 multi-storied flats (Ganga, Yamuna and Saraswati towers) at Dr. B. D. Marg after demolition of existing flats/bungalows has been completed and allotted to members of 17th Lok Sabha. Besides, construction of 184 multistoried flats at B.K.S. Marg has also been taken up.

A few rooms are made available to members in the Parliament House where they can do their parliamentary work.

The Central Public Works Department looks after the lawns and maintenance of buildings allotted to members. In addition to furniture, electrical appliances like room heaters, geysers, refrigerators, table and pedestal fans, air cooling units, etc. are issued to members by the Department on payment of prescribed rent.

Telephone Facilities

During the term of office, a member is entitled to two free telephones, one at his residence or office in Delhi or New Delhi and the other at his usual place of residence or a place selected by him in his constituency or within the State in which he resides. The installation charges, monthly rental and local call charges to the extent of fifty thousand[79] local calls per year for each of these telephones are borne

79. *Ibid,* rule 4.

by the Government. In addition to this, the Chairman of a Parliamentary Committee, excluding a Select or Joint Committee on a Bill or any other *ad hoc* Committee, shall be exempted from payment of any charges for calls made from the telephone installed at his residence in Delhi or New Delhi[80]. In addition, the following facilities are also provided:

(i) Each member is also entitled to have one additional telephone without payment of installation and rental charges either at his residence in Delhi/ New Delhi or at his usual place of residence or at the place selected by him within the State in which his constituency is or in the State in which he resides and 50,000 free local calls during a year are allowed on the telephone and for Internet connectivity purposes.

(ii) The above mentioned 50,000 free local calls admissible on each telephone can be clubbed together which comes to 1,50,000 local calls in a year.

(iii) A member may use any number of telephones for availing the above mentioned 1,50,000 free local calls subject to the condition that the telephones are in the name of member and the installation and rental charges of additional telephones are borne by the member himself.

(iv) Every member is also entitled to one mobile phone connection of MTNL and another mobile phone connection of MTNL/BSNL or any private mobile operator, in case MTNL/BSNL services are not available, with national roaming facility for utilization in the constituency and the calls made from these telephones may be adjusted from the above mentioned 1,50,000 calls available to him on two telephones. However, the registration and rental charges for private mobile phone connection are borne by the member himself.

(v) In case a member makes calls in excess of admissible free local calls in a year, the excess calls can be adjusted from the calls available to him on two telephones for the next year. Further, the unutilized telephone calls of a year are carried over to the subsequent years till the seat of a member becomes vacant.

(vi) A member is also entitled to avail broadband facility from MTNL/BSNL on any one of the above mentioned two telephones subject to the condition that the Government may pay upto Rs. 1,500 per month towards the charges of this facility directly to MTNL/BSNL.

Further shifting of telephones necessitated by change of allotment or surrender of an officially allotted residence is allowed free of charge. Once

80. The Salary, Allowances and Pension of Members of Parliament Act, 1954, (as amended) s. 8; *see* also the Housing and Telephone Facilities (Members of Parliament) Rules, 1956, as amended and U.S.Q. No. 674, *L.S. Deb.,* 24-7-1969.

a particular telephone number is opened for a member, the same number is, as far as possible, re-opened (after having been closed at the termination of session, etc.) for him, whenever so requested.

(vii) The members can also avail:—

(a) Mobile chip and connection for iPod (unlimited free data download) *in lieu* of local calls equivalent to Rs. 999/- per month, to be adjusted from the quota of calls admissible to the MP.

(b) Additional broadband facility with download speed one mbps unlimited *in lieu* of 10,000 surrendered calls out of 1,50,000 free quota provided to members per annum.

(c) With effect from the 1 January, 2017, a Member may avail high speed broadband on the Fibre to the Home (FTTH) with wi-fi services at his residence in Delhi from the MTNL and shall not be liable to make payment up to a maximum of rupees two thousand two hundred per mensem, which shall be paid directly to the MTNL towards charges for this facility[81].

Where a member dies during the term of his office, his family shall, for a period not exceeding two months from the date of death of the member, be entitled to retain the telephone and avail of such facilities as were available to the said member immediately before his death.

Facilities to Members of Pre-maturely Dissolved Lok Sabha

If a Lok Sabha is dissolved pre-maturely, the members of the dissolved Lok Sabha are entitled to avail the unutilized telephone calls from the date of dissolution of the Lok Sabha to the constitution of subsequent Lok Sabha. Further, if a member is re-elected in subsequent Lok Sabha, he is entitled to adjust the excess telephone calls, availed during the intervening period from the quota for the first year of the subsequent Lok Sabha.

Information and Communication Centre (I&CC)

An Information and Communication Centre (I&CC) has been set up *w.e.f.* 14 November, 2019 to provide Members of Lok Sabha information connected with the business of the House and other events. Members can seek information on various issues through the Information and Communication Centre helpline numbers.

Stenographic Assistance

Members are provided with limited stenographic assistance in both English and Hindi so that they can dispose of their urgent parliamentary work promptly and methodically.

81. Gazette of India, Ex. Part (II) , s. 3 (i) dated 28 March, 2018.

Advance for the Purchase of Conveyance

Every member is entitled to an advance not exceeding rupees four lakh or the actual price of the conveyance which is intended to be purchased, whichever is less, subject to such conditions as have been laid down in this behalf. Simple interest at the rate fixed by the Union Government in relation to the advance for the purchase of conveyance by the Government servants shall be charged on the said advance[82].

Income-tax Relief

For the purpose of income-tax, the monthly remuneration received by member is described as "income from other sources" and consequently, no income-tax is deducted at source. The daily allowance and travelling allowance are exempt from income-tax.

Facilities provided by Parliament Library and Reference, Research, Documentation and Information Service

The primary objective of what is functionally known as the Parliament Library and Reference, Research, Documentation and Information Service (LARRDIS) of the Lok Sabha Secretariat is to keep members of both Houses of Parliament well informed of varied development by furnishing them with non-partisan, objective, authentic and timely information on a regular basis. The Service also provides reference material on legislative measures and other business coming up for discussion before the two Houses so as to enable members to participate effectively in the debates.

The various facilities and services provided by the Divisions/Wings in the LARRDIS, in brief, are as under:

Parliament Library

The Parliament Library is located in the Parliament Library Building (*Sansadiya Gyanpeeth*)[83]. The principal functions of the Library Division are acquisition, processing, preservation and issue and return of books, periodicals, reports and other published material received from various sources.

Parliament Library at present acquires 365 journals and 91 newspapers for reference use of members of Parliament. The newspapers include 30 in English; 18 in Hindi and 40 in Indian regional languages; and the journals include 285 in English, 48 in Hindi and Indian regional languages. Parliament Library also subscribe 09 e-papers and 08 e-journals. Periodicals and newspapers in English, Hindi and various

82. The Members of Parliament (Advance for the purchase of Conveyance) Rules, 1986 as amended effective from 1 October, 2010.

83. Till 2002, the collections of the Parliament Library were housed in the Parliament House. The new Parliament Library Building in the Parliament Complex was inaugurated by President K.R. Narayanan on 7 May, 2002.

other Indian languages are displayed in the 'A' Block on the Ground Floor of the Parliament Library Building as well as in the Reading Hall on the Ground Floor of Parliament House. The present holding of about 1.9 million volumes of books, reports of Parliamentary Committees, law reports, Reports of Central, State and Foreign Governments, publications of the United Nations and its allied agencies and other reference publications are stacked in the First and Second Basements of the Parliament Library Building. The Indian Regional Language books collection comprises approximately 40,709 volumes. Books on a wide range of subjects are arranged according to the Dewey Decimal System of Classification Scheme. Reading rooms are provided on both the Ground Floor and the First Floor of the Parliament Library in the Parliament Library Building.

Parliament Library brings out a Parliament Library Bulletin, which contains the bibliographical details of new acquisitions in the Parliament Library and Children's Corner during the month. This monthly Bulletin is available on the Parliament Library Website under e-Resources at Digital Sansad. The online Library catalogue where books can be searched according to author, title, subject and keywords is available on 'Parliament of India Home Page' and can be accessed at *http://eg4.nic.in/PHI/OPAC/*

The Debates of the Central Legislative Assembly, the Constituent Assembly, the Provisional Parliament, the Lok Sabha, the Rajya Sabha, the State Legislatures in India and select foreign Parliaments; Gazettes of India and of all the States, Central Acts since 1836, Bills, and Statements Laid on the Table of the two Houses are stacked in the First and Second Basement of the Parliament Library Building. All Debates from 1854 till date have been digitized and are available on the portal- *www.eparlib.nic.in.*

The issue of books and other publications to members is regulated by the Library Rules which are framed on the recommendations of the Library Committee.

The Library has a number of specialized collections of books on Mahatma Gandhi, Pandit Jawaharlal Nehru, Dr. B. R. Ambedkar, national poet of India – Shri Ramdhari Singh Dinkar etc. It also has sections on Books written by sitting Members of Parliament, and books on and by High Dignitaries of India.

Rare and Art Books

The Parliament Library possesses a rich collection of rare books on politics, law, history, art, painting, sculpture and architecture. Books on Indian art cover a broad canvas of Indian history as well depicting different stages of its evolution. These include the paintings of the Mughal, Rajput, Kangra, Garhwal and other Schools of Art. The

foreign art collections comprise the creations of celebrated artists like Michaelangelo, Leonardo Da Vinci and Raphael as also works on Chinese and Japanese art, Russian, German, French, American and Arabian paintings. The book titled, '*History on Late Revolution of the Great Mogol,* by Mons. F. Bernier*,* published in 1671, is one of the oldest books available in the Parliament Library.

Original Constitution of India

The most important document in the possession of the Parliament Library is the original calligraphed Constitution of India (in Hindi and English). It has been preserved in two Nitrogen gas filled glass receptacles. The related technology for preservation is being provided by the National Physical Laboratory, New Delhi in collaboration with the Getty Conservation Institute, USA.

Parliament Library gets the replica of the Constitution of India printed in English and Hindi and makes them available for sale at the Sales Counter of Lok Sabha Secretariat and outlets of Khadi and Village Industries Commission (KVIC) and Tribal Co-operative Marketing Development Federation of India Limited (TRIFED).

E-Resources

In order to enrich and strengthen its e-resource base, the Parliament Library subscribes to the JSTOR, an electronic archives of leading journals, e-books and Magzter, an online paltform for newspaper and magazines. The Parliament Library provides access to 99 journals and 73 e-newspapers through Knowledge Centre, *https://sansad.in/ls* and several premium editions of Newspapers. Five legal databases are also subscribed by Parliament Library namely SCC ONLINE, AIR ONLINE, Bar and Bench, Live Law and Manupatra.

Special Library Facilities for the Members

Members' Portal: An interface of the Library has been initiated on the Members' Portal, wherein MPs can send their requests/suggestions regarding books and other documents online.

Home Delivery of Books: This initiative was taken to deliver books on demand at the residences of Members of Parliament in Delhi National Capital Region.

Parliament Library's Outreach and Media

Parliament Library is active on social media platforms like Facebook, Instagram, and X (formally Twitter) where information related to its acquisition, exhibitions and activities are regularly shared. Being one of the largest repositories of documents in the country, it is frequented by research scholars from India and abroad.

Online Application portal for Entry:

The e-portal for permission to visit the Library has been operational since August,2022.

Facility for visually impaired/print disabled persons:

Library is equipped with digital access information system for the visually challenged users.

Children's Corner

Children's Corner, established as a branch Library of the main Parliament Library, is a unique arrangement in so far as Legislature Libraries are concerned. Such kind of arrangement for children exists in the National Diet Library of Japan also. Setting up of Children's Corner in Parliament Library is a step forward to fulfil the United Nation's[84] Convention on the Rights of the Child .

The Children's Corner was inaugurated by the Speaker Somnath Chatterjee on 21 August, 2007. His concept to establish a "Children's Corner" in Parliament Library is an initiative towards easy access of knowledge to the children, specially children of under privileged sections of the society, who do not have access to good and resourceful Library. It has been designed to inculcate the reading habits amongst children.

The Children's Corner comprises of more than 4000 books, magazines, old classics, contemporary fiction, encyclopaedia, science project books, e-literature *i.e.* CDs and DVDs. From time to time, children can watch movies, plays and other informative programmes on computers and plasma screen. Children are encouraged to use the computer as an educational tool and are rendered assistance in using the technology for gaining knowledge.

The children in the age group of 8 to 17 are eligible to be members of the Children's Corner. Membership is also extended to (a) Children/grand children of Members of Parliament and Ex-MPs; (b) Children of the permanent employees of the Secretariats of both Lok Sabha and Rajya Sabha and also of the Ministry of Parliamentary Affairs; (c) Children of the Journalists accredited to the Press Gallery of the Lok Sabha and the Rajya Sabha; and (d) Children sponsored by the Member of Parliament. Membership form can be downloaded from the Parliament Library Website. The member children can avail the facility of issue/return of the books and periodicals from the collection of the Children's Corner.

Special activities such as drawing competition, and essay writing are organized among the member children from time to time to make the Children's Corner an interactive hub of activities.

84. The United Nations Convention on the Rights of the child to the development of his or her full potential, the right to free and open access to information, materials and programmes under equal conditions for all children irrespective of age, race, sex, language, social status and cultural background.

Documentation Service

The Documentation Service of Parliament Library, which was set up in 1975, is primarily responsible for indexing of articles published in periodicals/journals and newspapers, received in the Parliament Library that may be of interest to the members of Parliament. The Indexed entries of selected articles contain bibliographic details such as name of the author, title, date and year of publication, suitable annotation and subject headings as per the specially devised scheme of classification. The Indexed entries of articles for a fortnight are fed into the Library software e- Granthalaya. The bibliographic details of selected articles were published with the title, Documentation Fortnightly (from January 1975 to December 1988). However, from January 1989 to June 2022, it was being published as 'Parliamentary Documentation'.

From August 2008 to June 2022, the Service also brought out publication in Hindi titled 'Sansadiya Pralekhan' to cater to the information needs of all users who intend to take bibliographical details of articles appearing in Hindi periodicals/Journals being received in the Parliament Library.

The electronic versions of 'Parliamentary Documentation' and 'Sansadiya Pralekhan' are being sent to Members of Parliament, Officers of the Lok Sabha and the Rajya Sabha Secretariats at their e-mail addresses. The Publication is also available at the web address: *https://sansad.in/ls/library/parliamentaryDocumentation (in English), https://sansad.in/ls/hi/library/parliamentaryDocumentation (Sansdiya Pralekhan in Hindi)*

The indexed articles are available online with full text in PDF format, since January 2017. The indexed entries may be searched online using name of the author, title of the article, name and year of the publication, subject of the article, etc. through "Catalogue Search" on Parliament Library Homepage. Important articles on current topics both in English and Hindi are also being uploaded weekly on the websites. Bound volumes of 'Documentation Fortnightly' (1975-1988), 'Parliamentary Documentation' (1989-2022) and the '*Sansadiya Pralekhan*' (August 2008-2022) are available in Parliament Library for reference.

Press Clipping Service

The Press Clipping Service was started on a modest scale in the year 1956 with the objective of speedy disposal of references on current topics received from Members of Parliament and other users of Parliament Library. The Service collects all important, relevant and up-to-date news items, editorial comments and articles on developments in the legislative, political, economic, socio-cultural, scientific and technological fields, taken from Newspapers in Hindi and English published from various parts of the country.

Press clippings are used extensively by Members, Research and Reference staff and also by different Branches of both the Lok Sabha and the Rajya Sabha Secretariats, research scholars visiting the Parliament Library and accredited press correspondents.

In line with the on-going process of computerization of various activities of the Parliament Library, the digitization of the Press Clipping Service was initiated in June 2011 and since 2016, the Service has been fully computerised. The Service maintains a well-classified collection of news clippings on important, relevant and up to date news items, editorial comments and articles on legislative, political, economic, socio-cultural, scientific and technological fields selected from 29 daily (English and Hindi) e-newspapers which are uploaded on the NewsNiC server. The pdf files of selected news items from e-newspapers are uploaded on a specially designed software developed by NIC. These press clippings can be accessed and retrieved subject-wise, date-wise, newspaper-wise and classification number-wise through the link *i.e.* Press Clipping (LARRDIS) placed on Lok Sabha Intranet Page. The section also places ' Articles Written by Members of Parliament' on Lok Sabha Intranet Homepage since November 2023. Hon'ble Members can also access these Services on Members' Portal from the computer connected in the Local Area Nertwork in Parliament House Complex.

The press clippings belonging to the pre-2016 phase are maintained chronologically in subject folders and stacked in a proper sequence according to a specially devised classification scheme based on the Dewey Decimal Classification System. These folders are not issued out but can be consulted in the Reading Rooms of the Parliament Library and the Press Clipping Section.

Press clippings are retained for five years. However, important clippings of archival value and those having a bearing on constitutional, parliamentary and legal developments are retained permanently.

Microfilming Unit

The Microfilming Unit of Parliament Library was set up in 1987 to provide for Computer-Assisted Retrieval (CAR) of information from the microfilmed documents. There are over 1673 microfilm rolls containing more than 33 lakhs exposures prepared till 2010 and are being preserved in specified environmental condition.

The documents microfilmed and preserved include: The Indian Legislative Council Debates (1858-1920), Central Legislative Assembly Debates (3 February, 1921 to 12 April, 1947), Council of States Debates (3 February, 1921 to 19 May, 1954), Constituent Assembly Debates (Legislation) and also Draft making in Hindi as well as English (9 December, 1946 to 24 January, 1950), Parliamentary Debates (Provisional Parliament and House of the People) (28 January 1950 to 13 May 1954), Lok Sabha and Rajya Sabha Debates (Hindi and English), Constitution of India (calligraphed

copy), proceedings of the Presiding Officers Conference, Papers Laid on the Table of Lok Sabha, Information relating to Parliamentary Committees, Reports of Departmentally Related Standing Committees, O&M Records, Library Records, Bills, Rare Books, Decisions from the Chair, Observations from the Chair, Directions by the Speaker and a few Lok Sabha Secretariat Publications. Apart from these, microfilming has been done of some documents of historical importance also *viz.*, Indian Round Table Conference Proceedings (1930-1932), Constituent Assembly of India–Constitutional Precedents (1947), Indian Statutory Commission–Memoranda (1930), Sardar Patel's Correspondence (1945-1950)–Vols. I to X, Indian Historical Records Commission–Proceedings (1920-1960), Partition Proceedings–Expert Committee No. 1 (1947-1949) and Indian Record Series–Fort William–India House Correspondence: Vols. II to IV and other contemporary, papers, and VI to XXI and also papers of archival value.

Parliament Digital Library

Parliament Digital Library (PDL) provides information relating to parliamentary documents of Lok Sabha through the portal, hosted at *https://eparlib.nic.in/ and https://sansad.in/ls/knowledge-centre/collection*. It provides the users a single window open access information retrieval system. Parliament Digital Library portal was opened to public on 11.12.2018.

As on date more than 12 lakh digitized PDF files of various valuable documents comprising Historical Debates from 1854 to 1952, Lok Sabha Debates from 1952 to 2023, Budget Speeches from 1947onward, Parliamentary Committee Reports since inception, PM Speeches and many other documents have been made accessible on PDL with searchable options. A recent ongoing project of digitization of books and valuable documents of library and files of LSS amounting to approximately 1.5 crore pages will further enrich PDL.

Digitization of video recordings of Lok Sabha and Rajya Sabha Proceedings, Parliamentary events and other records of importance

The Lok Sabha Secretariat has embarked on a mission to digitize the video recordings of Lok Sabha proceedings, parliamentary events, and other important records. This monumental initiative aims to ensure the preservation of historical records that were once stored on video cassettes/tapes while making them easily accessible.

Televising of select parliamentary proceedings was initiated on 20 December, 1989 with the live telecast of the Address by the President to the members of both Houses of Parliament. From 7 December, 1994 onwards, the proceedings of the Question Hour of both Houses were being telecast live on alternate weeks throughout the country on Doordarshan from 1100 to 1200 hrs. Two separate dedicated satellite channels were set up on 14 December, 2004 for telecasting 'Live' proceedings of both the houses of Parliament. These records, including the footage of parliamentary events

are meticulously archived in the Audio-Visual Unit of the Lok Sabha Secretariat. However, with the rapid advancements in technology, the magnetic tape-based storage method became outdated.

Recognizing the urgency for preservation of audio-visual resources, the task of digitizing these historical records have been undertaken. The first phase of this ambitious project commenced in February 2023 with the primary goal of digitizing and creating a comprehensive catalog of 10,000 hours (approx.) of video recordings of Lok Sabha proceedings and parliamentary events. The digitized content will be ingested into the Media Asset Management System installed in Sansad TV, which offers a powerful tool for searching and retrieval. Once the digitized records are successfully integrated into the Media Asset Management System, users can effortlessly locate these records through user friendly search otpions.

The second phase of the project is in the process of digitizing additional 8,000 hours of recordings, primarily encompassing legacy recordings of Rajya Sabha proceedings.

Under the project, the audio-video recordings of Parliament proceeding will be done in a way to allow search using any word/phrase in the content.

Reprography Service

This Service, set up in 1975, caters to the urgent requirements of Members/ ex-members, officers and branches of the Lok Sabha Secretariat, research scholars and media persons accredited to Lok Sabha and Rajya Sabha Galleries for photocopying of debates, and extracts from books and other documents. It provides free typing/ photocopying facilities to Members of Parliament. The Service also provides facilities for computerised typing in Hindi and English of personal correspondences and documents of members/ex-members, Reprography Service has three distinct Units:

(a) Members' Reprography and Typing Unit, Room No. 79, New Parliament Building, provides photocopying and typing facilities in Hindi & English for personal correspondence/documents of members/ex-members of Parliament and party offices on free of cost basis;

(b) Members' Reprography Unit at G-037, Parliament Library Building: It provides photocopy service to members/ex-members of Parliament on free of cost basis. Re. 1/- per copy is charged from research scholars, journalists & others for the service; and

(c) Research/Reference Reprography Unit at FB-54 & 54A, Parliament Library Building: It exclusively meets the photocopying needs of officers, branches of the Secretariat & offices of the Chairperson of Committees.

Members' Reference Service

The Members' Reference Service arranges the dissemination of factual, objective and latest information to Presiding Officers, Members of Parliament and Chairmen of Parliamentary Committees on important legislative matters and other subjects of economic, social, political, constitutional and legal interest. The scope of material to be provided in response to Members' Reference requests is normally limited to subjects connected with the immediate business before the two Houses of Parliament. The information needs of Members are met both in English and in Hindi languages. Members have the option to send their Reference requests online and receive the desired information/material online through Members' Portal. With a view to enable the Members to have a better understanding of the subject matter, efforts are made to provide brief, single page, analytical notes/bullet points alongwith the desired reference material *viz.* press clippings, articles, Parliamentary questions, press releases, extracts from publications, reports, etc.

The Members' Reference Service broadly performs the following functions:

(i) Supply of on-the-spot Reference to Members from published documents and other sources;

(ii) Collection and dissemination of the latest relevant material, factual data, statistics, etc. in response to Members' Reference requests;

(iii) Preparation of Information Folders/Bibliographies on important subjects including Bills; and

(iv) Preparation of Reference Notes, Legislative Notes, Brochures, Background Notes, Fact Sheets, Information Bulletins, etc. on topical issues as part of anticipatory referencing work.

A large number of these occasional papers/publications are available on Parliament of India website and on Intranet in digital format for on-line retrieval by Members of Parliament and for use in the Secretariat. A software for keeping the records of Reference requisitions made by Members of Parliament is in place.

In addition, the revision and updating of the following *ad hoc* publications are undertaken from time to time:

(a) Parliament of India: A Study (brought out at the end of term of each Lok Sabha);

(b) President's Rule in the States and Union Territories;

(c) Union Council of Ministers since 1947;

(d) Presidential Ordinances since 1950;

(e) Time spent on various kinds of Business in Lok Sabha – An Analysis; and

(f) India: Some Facts.

When the Parliament is not in Session, the Members' Reference Service prepares papers on topics of contemporary interest which are supplied to Members during the Session period. Besides, the Reference Service, in close association with the Parliament Library, sets up a Reference Desk during Parliamentary Conferences and Seminars hosted by the Indian Parliament to meet the information requirements of the delegates. Selected Parliamentary publications and reference books are put on display at the Reference Desk.

A new initiative to organize Briefing Sessions for Members of Parliament on important Legislative Business was taken up since winter Session of 2019 with the assistance of Senior Officers of the Ministries and experts. The Briefing Sessions are also webcast for Members.

As part of efforts towards curtailing usage of paper, emphasis is on providing maximum references to Members of Parliament online. During the Covid-19 pandemic when the social distancing norms were in place, the facility of Online Reference Service was of immense help in fulfilling Members' reference requirements.

Research and Information Division

Research and Information Division brings out, in English and Hindi, specialized publications in the form of Books, Brochures, Information Bulletins, Monographs, etc. for the use of Members. It prepares Background notes, Fact Sheets, articles, and Research Notes, on issues of topical interest. The Research and Information Division also brings out— the *Journal of Parliamentary Information* (quarterly) and Who's Who/Handbook on Members upon constitution of new Lok Sabha.

To provide research support to Members, following initiatives are noteworthy:

- PRISM: Parliamentary Research and Information Support for Members of Parliament (PRISM) was introduced on 23 January, 2021 as a 24x7 dedicated service to fulfill research requirements of Members of Parliament on policy issues.
- Research Support to Committees: The R&I Division provides background notes to Departmentally Related Standing Committees (DRSCs) and Financial Committee on the subjects taken up by such committees.
- Inputs from Premier Research Institutes: To strengthen the Research and information Division, MoUs have been signed with institution which include Manohar Parrikar Institute for Defence Studies and Analyses (MP-IDSA), Arun Jaitley National Institute of Financial Management (AJNIFM), Research

and Information System for Developing Countries (RIS), Institute of Rural Management, Anand (IRMA), Wildlife Institute of India (WII), and Invest India for subject matter papers which are shared with MPs through the portal.

- Research and Information Division: Research Associate Programme (R&I-RAP) seeks to provide a unique opportunity to persons below the age of 32 years with a passion for research and analysis work in the Parliament of India.

E-Facilities available to Members of Parliament

Like other Parliaments in the world, the Indian Parliament augmented the use of ICT to bring about greater efficiency and transparency in its functioning. A modest beginning was made in the year 1985 with the Parliament Library Information System (PARLIS). In recent years, Computer Management Branch (Software Unit) of the Lok Sabha Secretariat, caters to the ICT needs of the Parliament.

Digital Sansad Project

Under Digital Sansad project, multiple websites of the Parliament of India (both houses of Parliament) have been integrated in a single website. Digital Sansad Website has been designed to provide seamless access to President of India website, Rajya Sabha website and Lok Sabha website through a single link at "*sansad.in*". The Lok Sabha Homepage provides detailed information about parliamentary business, various functionaries, Members of Parliament, Rules of Procedure, Manuals and instructions, committees, PRIDE, Parliament Library, Publications, Media Gallery. Members can also access the Members' Portal through the website.

Digital Sansad Mobile App: Aims to provide a single App for all users to access member-related information, session proceedings, daily agenda, questions, debates, bills, committee reports etc. related to Parliament and State Assemblies at one place.

The app allows Members of Parliament to log-in to Member App for online submission and tracking of e-notices, parliamentary questions, Bills, claims, etc. Members can also access parliamentary data, documents, notifications and communications.

Users can also access media gallery, press release, RTI queries, and latest updates. The Constituency connect feature available lets access to dashboard of each Member of Parliament. Debate search feature in the Digital Sansad App lets users search current and historical debates.

The first phase of the project has already gone live on 9 March 2023 as part of the Digital Sansad Project Phase-I. Digital Sansad Mobile App is part of the phase-I of Project. Digital Sansad App is available both in Android and iOS app store.

Sansad TV: Sansad TV has launched a refurbished website on 15 September 2021 to telecast live proceedings of Rajya Sabha and Lok Sabha and contains new features such as 'President's Corner', 'Vice-President's Corner', Speaker's Corner' 'Special Moments', etc.

A mobile app has been developed to help citizen's access information on programmes and proceedings of the House with the help of hand held devices. The social media platforms for Sansad TV *viz.*, Twitter, Facebook, Instagram, Youtube and Koo are also on this website.

Lok Sabha Intranet: Lok Sabha Internet is an automated interface for use of employees in Lok Sabha Secretariat. All Circulars/Office Orders/Memoranda/ Documents are being uploaded on the intranet for information of employees

e-Office System: An e-Office system has been implemented in the Lok Sabha Secretariat for electronic File Tracking System, electronic File Management System, electronic Leave Management System, etc. In addition, Smart Performance Appraisal Report Recording Online Window (SPARROW) has also been implemented. The e-Office functionalities are being managed and maintained by NIC. For working in the e-Office application, each and every employee of the Lok Sabha Secretariat has been provided an email ID on the Sansad Server.

Intranet and e-mail Services

To facilitate sharing of data and access Internet, a high-speed Local Area Network (LAN) has been laid using optical fiber cables. The connectivity to outside world is being provided through National Informatics Centre Network. A dedicated e-Mail Messaging Service with the domain name (sansad.nic.in) is available to all members of Parliament and officers/Sections of the Secretariat.

AI based Localization

Currently the parliamentary resources are available in Hindi & English languages. Parliament has undertaken an initiative to make the parliamentary information resources such as the website, House business documents such as debates, questions, List of Business etc. available in multiple regional languages.

Scheme of Financial Entitlement to Members of Lok Sabha for purchase of Computer Equipment

The Committee on Provision of Computers to members of Lok Sabha headed by the Deputy Speaker (or any other member of Lok Sabha nominated by the Speaker) is constituted to recommend computer hardware requirements of members of Lok Sabha[85].Members of Parliament (Lok Sabha) have been provided facility to procure computer and other peripherals under the 'Scheme of Financial Entitlement to

85. During the 16th Lok Sabha, Shri P. Kumar was nominated as the Chairperson of the Committee.

Members of Lok Sabha for purchase of Computer Equipment' which came into effect from 31 July 2009. The financial entitlement of a member for purchasing equipment and software under the scheme during a term as member of Lok Sabha has been enhanced to three lakhs which is credited lump sum into the Bank Account of Members.

Computer Hardware to Political Parties

As per provision of Computer Equipment (Legislature Party in Lok Sabha and Officers) Rules, 2009, as amended upto 07.03.2021, political parties with offices in Parliament House Complex are entitled to get one desktop, one UPS, one printer and internet connection by the Secretariat.

Computer Hardware to Chairpersons of Parliamentary Committees of Lok Sabha

The Chairperson of Parliamentary Committees of Lok Sabha are provided with Computer, Multi-Functional Printer, Colour Printer and consumable items for their official use in their offices.

Training

Training programmes are organized periodically at the Parliamentary Research and Training Institute for Democracies (PRIDE) for the benefit of MPs/ Officials. For details, see Chapter 47.

Parliamentary Museum and Archives Division (PMA)

The history and evolution of PMA dates back to 1976 when the Archives of Photographs and Films was set up in the secretariat to preserve an authentic and comprehensive pictorial record of the history of the Parliament of India. Over a period, as the archival collection grew in number, a proposal for setting up Parliamentary Museum & Archives (PMA) was made and its broad outlines were approved by the General Purposes Committee of the Lok Sabha on 1 August, 1984. The Parliamentary Museum and Archives was thereafter formalised by the then Speaker of Lok Sabha Shri Rabi Ray, on 29 December, 1989.

In the year 2004, Shri Somnath Chatterjee, the then Speaker took a decision to set up a Museum in Parliament Library Building. The Museum was designed by Dr. Saroj Ghose, an eminent Museologist. On 14 August 2006, the Parliament Museum was inaugurated by Dr. A.P.J. Abdul Kalam, the then Hon'ble President of India. The Museum was opened to public viewing from 5 September, 2006. Shri Somnath Chatterjee, the then Speaker of Lok Sabha launched the Parliament Museum website (www.parliamentmuseum.org) on 19 December, 2007. On 3 December 2013, Smt. Meira Kumar, the then Speaker inaugurated Braille facility in the Museum for visually challenged persons.

In 2018, Smt. Sumitra Mahajan, the then Speaker created 'Parliament Museum Service' (PMS) as an organized service in the Lok Sabha Secretariat. Subsequently, on

the direction of Speaker, Shri Om Birla, the 'Parliamentary Museum and Archives' and the 'Parliament Museum' were merged under one common umbrella called Parliament Museum and Archives (PMA).

In 2021, a decision was taken by Speaker Shri Om Birla to upgrade and modernize the Museum in accordance with international standards. Accordingly, the Parliament Museum was closed for visitors for undertaking its up-gradation and modernization.

Earlier the Museum was located in Hall No. G-118 of Parliament Library Building and was spread over an area of 1515 square meters on two floors - Ground Floor and Mezzanine Floor.

Functions and Activities of Parliament Museum and Archives (PMA)

(i) Collection and Preservation of Rare Artefacts, Portraits and Gifts: PMA is entrusted with the task of acquisition and preservation of rare objects, artefacts, art work, models, portraits, antiques and other objects connected with the evolution and functioning of Parliamentary institutions in India and abroad. Among its collection are impressive models and enlarged photographs of legislature buildings of States and Union Territories of India and foreign parliaments, gifts, mementos and souvenirs received by the Indian Parliament from foreign Parliaments, visiting dignitaries and delegations, State legislatures etc. There are framed photographs of the Members of the Central Legislative Assembly, the Council of States, large sized photographs of former Presidents of the erstwhile Central Legislative Assembly, leaders, freedom fighters and parliamentarians. At present, many art objects and artefacts are on display in the showcases of the Central Hall of *Samvidhan Sadan* and in the Speaker's Chamber (room no. 201) in the extension building of the Parliament House Annexe.

(ii) Collection and Preservation of Historical Records, Stamps and Other Archival Documents: PMA also looks after the work of acquisition, systematic cataloguing and preservation of records and historical documents connected with the framing of Indian Constitution, parliamentary institutions and private papers/correspondence, notes, photographs and other documents of eminent parliamentarians. Members wishing to hold their papers confidential for a specific number of years are provided with such facility. In addition, there are about 1332 stamps and 164 First day covers issued by the Department of Posts on freedom fighters, distinguished parliamentarians and parliamentary conferences from time to time. Stamps of various countries of the world also form the part of collection.

(iii) Collection and Preservation of Important Photograph: PMA also acquires, classifies and preserves a comprehensive and pictorial record of the history of the Indian Parliament, its events and activities, including those related to Indian parliamentary delegations and Foreign Parliamentary delegations. It has collected

and systematically maintained around 20,000 photographs relating to parliamentary events and eminent parliamentarians. The digitization process of photographs has been simultaneously undertaken with a view to ensuring better preservation and easy retrieval of photographs. The Section also provides photographs to various branches of the Lok Sabha and Rajya Sabha Secretariats for inclusion in different publications.

(iv) Organising Exhibitions: One of the most important functions of PMA is to organize Exhibitions in cooperation with various official agencies and State Legislature Secretariats for Members of the Parliament and the general public.

Supply of Publications to Members

All periodicals brought out by LARRDIS are available to members of Parliament on request from the Parliament Library counters. Members who are interested in receiving any or all of these publications on a regular basis make specific written requests to this effect and their names are placed on the mailing lists.

Periodicals brought out by other Branches of the Lok Sabha Secretariat

Apart from the periodicals brought out by LARRDIS, the Legislative Branch (Privileges) of the Lok Sabha Secretariat brings out annually a periodical titled *Privileges Digest,* which carries summaries of privileges cases in Parliament and State Legislatures and other write-ups on privileges.

Other Facilities

Office accommodation in Parliament House complex is made available to recognised political parties and groups in the Parliament. This facility is, however, not available to individual members.

For the purpose of refreshment, Sangam I, Sangam II and MP Dining Rooms have been provided in the Parliament House. Similar facilities are available for members in the Parliament House Annexe as well as the Parliament Library Building.

In addition, the Tea Board and the Coffee Board operate their own sales counters for the benefit of members. There are similar outlets in *Samvidhan Sadan* and Parliament House Annexe.

There are two Publication Counters on the ground floor of the Parliament House, one each for the members of the Lok Sabha and the Rajya Sabha. Stationery, greeting cards, etc. can be printed on demand and sold at these counters.

The branches of the State Bank of India at the Parliament House as well as the Parliament House Annexe provide banking facilities. Besides providing Safe Deposit Lockers, the Bank has installed two ATMs in Annexe *i.e.* one at Old Reception Office, another in Basement near Lift No. 1 & 2. One ATM is available for members and staff of Parliament in Library Building. Internet Banking as well as Loan facility is also being provided by both the Branches of SBI for the convenience of the members.

Two sub-Post Offices—one in *Samvidhan Sadan* and the other in Parliament House Annexe—function throughout the year. The Railway and Air Booking Offices function all the year round in the Parliament House Complex. Arrangements for special vehicles on nominal payment basis have been made to carry members from their residences to the Parliament House and back, both during the session and inter-session periods.

A full-fledged liaison office of the New Delhi Municipal Corporation (NDMC) functions in Parliament House Annexe throughout the year to look into the complaints of the members with regard to meters installed at their residences and all other matters connected with the NDMC, including electricity and water bills of members.

Lockers have been provided for Members of Lok Sabha on first come first serve basis in the *Samvidhan Sadan* for safe keeping of Parliamentary papers, books etc. Members find these convenient for keeping their Parliamentary papers, books etc.

Besides, an Income Tax Section is also set up by the Ministry of Finance (Department of Revenue) in the Parliament House Annexe throughout the year in order to assist members in filing their tax returns, etc.

During the period when the Parliament is in session, the traffic around the Parliament House and the Annexe is regulated to avoid congestion and noise. Members are also issued special motor car labels each year.

In order to acquaint members with the social, cultural and political life of the Capital city and also to enable them to carry on other activities, a club called the Constitution Club has been provided with modern facilities. The Club is located inside the Vithalbhai Patel House Complex, hardly a distance of two furlongs from the Parliament House. One of the biggest auditoriums in the Capital is also attached to the Club, besides a modern swimming pool. The auditorium called, the 'Mavalankar Auditorium' is named after Speaker, G.V. Mavalankar, who was the Speaker of the First and the Second Lok Sabha. The Club and the auditorium are also made available to all the parliamentary parties for their political activities. Apart from these, facilities for indoor and outdoor games such as badminton, etc. are provided in the Club premises. Talks, discussions and other cultural activities are organised on suitable occasions under the auspices of the Club management.

In addition to the main Club, there are two Community Centres, well equipped with facilities for indoor games, one each in the North Avenue and the South Avenue, where the majority of members reside.

In 1997, the Committee of Privileges (11 LS) among various other things also considered the facilities aspect of the members and felt that facilities provided to the members of Parliament in India compared too unfavourably with those provided to their counterparts in some other Parliaments. The Committee in their Report on 'Ethics, Standards in Public Life, Privileges, Facilities to Members and other Related Matters' made certain recommendations with respect to provision of certain additional facilities to Members.

Members of Parliament Local Area Development Scheme (MPLADS)

"Members of Parliament Local Area Development Scheme (MPLADS)" was introduced by Government of India with effect from 23 December 1993 whereby members could suggest to the District Collector the development works to be done within his or her constituency. In 1993-94, when the Scheme was launched, an amount of Rs. 5 lakh per annum per Member of Parliament was allotted, which was increased to Rs. 1 crore from 1994-95. This was stepped up to Rs.2 crore in 1998-99, and further raised to Rs.5 crore per annum per MP from the financial year 2011-12[86].

Detailed guidelines covering concept, implementation, monitoring were first issued by the Ministry of Rural Areas and Development in February 1994. Later in October 1994, the entire work relating to release of funds and monitoring of the Scheme was transferred to the Ministry of Planning and Programme Implementation (Department of Statistics and Programme Implementation), now the Ministry of Statistics and Programme Implementation. The guidelines were subsequently revised in December 1994, February 1997, September 1999, April 2002, November 2005, August 2012, May 2014, June 2016 and lastly in April 2023[87].

An *ad hoc* Committee on MPLADS (Lok Sabha) consisting of 20 members was constituted for the first time during Fourth Session of 12th Lok Sabha to monitor the Scheme and to consider the complaints of members of Lok Sabha. Subsequently, the membership of the Committee was increased to 24[88].

III. Salaries, Allowances and other Entitlements of Ministers

The Salaries and Allowances to be paid to the members of the Union Council of Ministers are governed by the Salaries and Allowances of Ministers Act, 1952, as amended from time to time.[89] According to the provisions of the Act, each Minister shall be entitled to receive a salary per mensem and an allowance for each day during the whole of his term as such Minister at the same rates as are specified in section 3 of the Salaries, Allowances and Pension of Members of Parliament Act, 1954 with respect to members of Parliament. Each Minister shall also be entitled to receive a constituency allowance at the same rate as is specified under section 8 of the said Act with respect to Members of Parliament.

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86. Also *see* Chapter 30—'Parliamentary Committees'. In April 2020, the Government of India decided to suspend the operation of the MPLAD Scheme for the year 2020-21 and 2021-22 to strengthen government's efforts in managing the challenges and adverse impact of COVID-19 in the country. Thereafter, the Union Cabinet on 10 November, 2021 had approved the restoration and continuation of MPLAD Scheme during the remaining part of Financial Year 2021-22 and upto Financial Year, 2025-26.

87. For details, *see* "Guidelines on Members of Parliament Local Area Development Scheme". Ministry of Statistics and Programme Implementation, Government of India at *https://mplads.nic.in* .

88. This Committee is reconstituted every year. However, it has not been constituted since the constitution of 17th Lok Sabha. For details, *see* Chapter 30, *Supra*.

89. The Salaries and Allowances of Ministers (Amendment) Ordinance, 2020 promulgated on 9 April 2020 amended the Salaries and Allowances of Ministers Act, 1952 reducing the sumptuary allowances by 30 per cent for a period of one year with effect from 1 April 2020. This is to raise resources to meet the urgent needs arising out of the COVID-19 pandemic.

In addition to the salaries and allowances as provided under the Act, there shall be paid a sumptuary allowance to each Minister at specified rates[90]—*viz.*

(a) the Prime Minister — three thousand rupees *per mensem;*

(b) every other Minister who is a member of Cabinet — two thousand rupees *per mensem;*

(c) Minister of State — two thousand rupees *per mensem*; and

(d) Deputy Minister — six hundred rupees *per mensem*.

No person in receipt of a salary or allowance under the relevant Act shall be entitled to receive any sum out of funds provided by Parliament by way of salary or allowances in respect of his membership of either House of Parliament.

Travelling and Daily Allowances

A Minister is entitled to (a) travelling allowances for himself and the members of his family and for transport of his and his family's effects: (i) in respect of the journey to Delhi from his usual place of residence outside Delhi for assuming offices, and (ii) in respect of the journey from Delhi to his usual place of residence outside Delhi on relinquishing office; and (b) travelling and daily allowances in respect of tours undertaken by him in the discharge of his official duties, whether by sea, land or air. In addition to this, a Minister is entitled to an amount equal to the fare for a single journey performed by him, during each year, within India, either alone or along with spouse or legitimate or step children, residing with and wholly dependent on him, or any number of companions or relatives, at the same rates at which travelling allowance is payable to such Minister, subject to a maximum of forty-eight such fares per year[91].

Housing Facilities

A Minister is entitled without payment of rent to the use of a furnished residence throughout his term of office and for a period of one month immediately thereafter and no charge will fall on the Minister personally in respect of the maintenance of such residence[92].

In the event of the death of the Minister, his family shall be entitled to the use of the furnished residence occupied by the Minister and the maintenance thereof, without payment, for one month immediately after his death; and for a further period of one

90. The Salaries and Allowances of Ministers Act, 1952, Act 76 of 1985 *w.e.f.* 26-12-1985, section 51, as amended by Act of 2 of 2010 with effect from 05 February 2010.

91. "Family" means a Minister's wife residing with him and legitimate children and step children residing with and wholly dependent on him. Not more than one wife is included in a family for the purpose of these rules. If the Minister is a married woman, "family" will include her husband residing with and wholly dependent upon her.

92. 'Residence' includes the staff quarters and other buildings appurtenant thereto, and the gardens thereof, and 'maintenance' in relation to a residence includes the payment of local rates and taxes and the provision of electricity and water.

month on payment of rent at such rates as may be prescribed by rules made in this behalf by the Central Government and also charges in respect of electricity and water consumed in that residence during such further period.

Medical Facilities

A Minister and the members of his family are entitled to free of charge accommodation in hospitals maintained by the Government and also to medical treatment.

Advance for the Purchase of Conveyance

There may be paid to any Minister by way of a repayable advance sum of money as may be determined by rules made in this behalf for the purchase of a motor-car in order that he may be able to discharge conveniently and efficiently the duties of his office.

IV. Abbreviations for Members of Parliament

Members can use the abbreviation 'M.P.' after their names.

In 1952, a mild dissatisfaction was expressed by some members of the Rajya Sabha for appending 'M.C.' after their names. As both the Houses together formed Parliament, a reference was made by Speaker Mavalankar to the Joint Committee on Payment of Salaries and Allowances to make its recommendation about the abbreviations that could be used by members of the Lok Sabha and the Rajya Sabha. The Committee recommended that members of both the Houses should be called members of Parliament or M.P.s[93].

93. Report of the Joint Committee on Payment of Salaries and Allowances to, and Abbreviations for, Members of Parliament, July 1952, p. 8.

CHAPTER 14

Recognition of Political Parties in Parliament

Party system is an integral part of any system of democratic governance more so, in a parliamentary form of government. Barring a few members who may not be attached to any party, most members of Parliament have a dual capacity: they represent a constituency and a party. There is always a party or coalition of parties in power and party or parties in Opposition.

In the Central Legislative Assembly, there was nothing correspond to party system as the expression is understood in a parliamentary democracy where the party in power is responsible to the House. The parties were to be found only in Opposition: there was no party in power as such.

Though the Moderates were returned to the first Assembly in 'prepondering numbers', they did not form any 'permanent party division'[1]. After the second elections in 1923, a 'compact, disciplined and well-organized' Swarajist Party was formed in the Assembly by two Congressmen, C.R. Dass and Motilal Nehru. The Swarajists and the Independent Group, however, did not include between them the whole of the elected members. It was in 1927 that there developed in the third Assembly, for the first time, something like the distribution of the greater part of the elected members into organized groups[2]. The Swarajists, the Independents[3], the Nationalists[4], the Central Moslem Party[5], and the European Group.

In 1932, in obedience to the Congress mandate, the Swarajist Party boycotted the Legislature. In 1934, however, the Party revised its Constitution under which it was to act as a part of the Congress organization except in its internal administration, in regard to which it had a free hand[6].

The year 1934 was significant not only because of the resuscitation of the old Swarajist Party but also for the formation of the new Congress National Party[7]. In spite of the wide area from which its members were drawn representing varying shades of interests, the Congress Party in the Assembly acted like a machine once the party decision on a question had been taken and working with consummate skill**,** it functioned as an effective parliamentary Opposition[8].

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1. Simon Report, pp. 250 and 257. Political opinion at that time was divided into Moderates and Extremists. To the latter, the Montague-Chelmsford Reforms were wholly unacceptable: they did not, therefore, contest the elections.
2. *Ibid.,* p. 257.
3. The Independent Party was led by M.A. Jinnah.
4. The Nationalist Party was a new party under an old name, consisting of the Responsive Co-operators and the Hindu Mahasabhaites, led by M.R. Jayakar and N.C. Kelkar - *Simon Report,* pp. 256-57.
5. The Central Moslem Party functioned under the leadership of Sir Zulfiquar Ali Khan.
6. *See* Pattabhi Sitaramayya, *History of the Indian National Congress,* 1935, Vol. 1, pp. 570-71.
7. This party was formed at a Conference of Congressmen and others at Calcutta in August 1934 under the leadership of Pandit Madan Mohan Malaviya with the object *inter alia* of carrying on agitation against the Communal Award – *Simon Report,* p. 577.
8. *Indian Review, June 1935,* p. 409.

Members of the Congress Party boycotted the proceedings of the Central Assembly in 1939 in response to a resolution passed by the Working Committee of the Congress Party. It was only in 1943 that the Congress members returned to their seats in the Assembly.

An important event in the evolution of the party system in the Central Legislature was an understanding between the Congress and the Muslim League in 1945, born out of a common dislike for the Government. With the lobby balance tilting in favour of the Opposition, the Government suffered a series of defeats at the hands of the Congress-League combination[9].

When the election, so long delayed owing to the War, were held in 1945, the newly elected Legislature was a transformed Assembly altogether and party alignments became clearer and well-defined. The Opposition had the majority and could and did defeat the Government on many issues, so long as the Congress and the Muslim League could combine.

It was only when India became independent that there came into being the parliamentary form of Government with the Cabinet responsible to the Legislature, a party in power and a number of political groups in Opposition.

One of the characteristic features of Indian polity is the predominance of political pluralism. A large number of political parties participate in the elections to the Lok Sabha and the State Legislatures. The strength of the political parties which secured representation in the Lok Sabha after each General Election, from the First to the Seventeenth is given in Table I.

9. In the course of 43 sittings of the Budget Session (1945), the Opposition defeated the Government on 21 issues and caused a tie on another, only to be saved by the casting vote of the Chair. Against this, the Opposition lost only two divisions. On four items, inclusive of a Censure Motion, the Government did not press for a division and suffered defeat silently–*Indian Year Book,* 1945-46, p. 958.

Table - I : Party Strength in Lok Sabha

(At the first sitting of the House after General Elections in 1952, 1957, 1962, 1967, 1971, 1977, 1980, 1984, 1989, 1991, 1996, 1998, 1999, 2004, 2009, 2014 and 2019)

Year	No. of directly elected members	Congress/ Congress(I)	Janata	BJP	Communist Party	Socialist Party	Kisan Mazdoor Party	Jan Sangh	Swatantra Party	D.M.K.	Telugu Desam	Other Parties	Indepen-dents/ Others
1952	489	366	–	–	27	12	10	3	–	–	–	–	71
1957	494[10]	365	–	–	27	19(PSP)	–	4	–	–	–	–	73
1962	494[11]	364	–	–	34	6	–	14	25	7	–	–	37
						13(PSP)							
1967	520[12]	283	–	–	24(CPI)	23(SSP)	–	31	45	24	–	–	56
					19[CPI(ML)]	14(PSP)							
		349			25[CPI(M)]	3(SSP)							
1971	518[13]	15[Cong.(O)]	–	–	23(CPI)	3(RSP)	–	22	8	23	–	17[14]	23
					22[CPI(M)]					19			
1977	542[15]	153	306	–	7(CPI)	–	–	–	–	(AIADMK)	–	–	32
		351	31							16			
1980	524[16]	13[Cong.(U)]	4[Janata(S)]	–	35[CPI(M)]	4(RSP)	–	–	–	2(AIADMK)	–	14[17]	6

10. 6 seats were vacant on 13 May 1957.
11. Out of 509 seats, 494 were directly elected; 9 seats were vacant on 24 April 1962.
12. Out of 523 seats, 520 were directly elected; 3 seats were vacant on 26 July 1967. The number of Congress Party's seats 283 excluding the seat of the Speaker who on election to that office resigned from the Congress Party.
13. 518 were directly elected; 5 seats were vacant on 19 May 1971.
14. As on 19 May 1971: Telangana Praja Samiti – 10, Muslim League – 4, Kerala Congress – 3.
15. Directly elected seats; 3 seats were vacant on 23 March 1977.
16. 18 seats were vacant on 10 January 1980.
17. Jharkhand Party – 1, National Conference – 2, Muslim League – 3, Kerala Congress (I) – 1, Kerala Congress (Mani) – 1, Akali Dal – 1, Sikkim Janata Parishad – 1, Forward Bloc – 3, Maharashtrawadi Gomantak Party – 1.

Year	No. of directly elected members	Congress/ Congress(I)	Janata	BJP	Communist Party	Socialist Party	Kisan Mazdoor Party	Jan Sangh	Swatantra Party	D.M.K.	Telugu Desam	Other Parties	Independents/ Others
1984	508[18]	399 4[Cong.(S)]	10	–	22[CPI(M)] 6(CPI)	3(RSP)	–	–	–	12 (AIADMK)	28	14[19]	10
1989	524[20]	195 1(Cong.(SCS)]	141(JD)	85	32[CPI(M)] 12(CPI)	4(RSP)	–	–	–	11 (AIADMK)	2	33[21]	12
1991	508[22]		56(ID)	117[23]									
		226[24] 1[Cong.(SCS)]			35[CPI(M)] 13(CPI)	4(RSP)	–	–	–	11 (AIADMK)	13	30[25]	1
1996	533[26]	135	43(JD)	160	32[CPI(M)] 11(CPI)	5(RSP)	–	–	–	17	16	105[27]	9
1998	537[28]	141	6	179	32[CPI(M)] 9(CPI)	5(RSP)	–	–	–	24 (18 AIADMK)	12	123[29]	6
1999	535[30]	111		182	32[CPI(M)]	3(RSP)	–	–	–	12(DMK)	29	120[31]	5

18. 36 seats were vacant on 31 December 1984.
19. National Conference – 3, Bharatiya Janata Party – 2, Muslim League – 2, Lok Dal – 3, Forward Bloc – 2, Kerala Congress (I) – 2.
20. Figures as on 8 May 1990 – 19 seats were vacant.
21. AIMIM – 1, JMM – 3, IPF – 1, MC– 1, MGP – 1, J&K(NC) – 3, Muslim League – 2, KC(M) – 1, Shiv Sena – 3, SAD(M) – 6, BSP – 3, SSP– 1, ABMS – 1, FB – 3, GNLF – 1.
22. 41 seats were vacant on 20 June 1991.
23. Including two seats each of L.K. Advani and Atal Bihari Vajpayee who contested elections from two constituencies.
24. Including one seat of Amethi constituency declaring late Rajiv Gandhi as elected.
25. AIMIM – 1, ASDC – 1, AGP – 1, JMM – 6, JD(G) – 1, HVP – 1, Janata Party – 5, Muslim League – 2, KC(M) – 1, BSP – 1, Shiv Sena – 4, MPP – 1, NPC– 1, SSP – 1, AIFB – 3.
26. 10 seats were vacant on 22 May 1996.
27. TMC(M) – 20, SP – 17, Shiv Sena – 15, BSP – 11, SMP – 8, SAD – 8, AGP – 5, AIIC(T) – 4, AIFB – 3, HVP – 3, ML-2, AIMIM-1, ASDC – 1, JMM –1, MPVC – 1, MGP – 1, KC(M) – 1, SDF – 1 and UGDP – 1.
28. 4 seats were vacant on 10 March 1998.
29. SP – 20, RJD – 17, SMP – 12, BJD – 9, SAD – 8, WBTC – 7, Shiv Sena – 6, BSP – 5, RPI – 4, PMK – 4, INLD – 4, MDMK – 3, LSP – 3, TMC(M) – 3, AIFB-2, ML – 2, AC – 2, JP – 1, HVP – 1, AIRJP – 1, KC(M) – 1, SJP(R) – 1, SDF – 1, PWP – 1, AIIC(S) – 1, ASDC – 1, AIMIM-1, UMF – 1 and MSCP– 1.
30. Elections were to be held in 6 constituencies and 2 seats vacant as on 20 October 1999 (Date of first sitting of 13th LS).
31. SP – 25, Shiv Sena – 15, BSP – 14, BJD – 10, AITC – 8, RJD – 7, NCP – 7, INLD – 5, PMK - 5, J&KNC – 4, ALLTC – 2, AIFB – 2, MLKSC – 2, RLD – 2, SAD – 2, AIMIM-1, BBM – 1, HVC – 1, KC – 1, KC(M) – 1, MSCP – 1, PWP – 1, SAD (S.S. MANN) – 1, SDF – 1, SJP(R) – 1.

Year	No. of directly elected members	Congress/ Congress(I)/ INC	Janata	BJP	Communist Party	Socialist Party	Kisan Mazdoor Party	Jan Sangh	Swatantra Party	D.M.K.	Telugu Desam	Other Parties	Independents/ Others
			20[JD(U)] 1[JD(S)]		4(CPI) 1[CPI(M-L)L]					10(AIADMK) 4(MDMK) 1(MGRAIADMK)			
2004	541[32]	145	8 (JD(U)] 3 (JD(S)]	138	43 (CPI(M)] 10(CPI)	3(RSP)	–	–	–	16(DMK) 4(MDMK)	5	161[33]	5
2009	543[34]	206	20[JD(U)] 3[JD(S)]	116	16[CPI(M)] 4(CPI)	2(RSP)	–	–	–	18(DMK) 9(AIADMK) 1(MDMK)	6	133[35]	9
2014	543[36]	44	2[JD(U)] 2[JD(S)]	282[37]	9[CPI(M)] 1(CPI)	1(RSP)	–	–	–	37(AIADMK) 1(PMK)	16	145 [38]	3
2019	542 [39]	52	16[JD(U)] 1[JD(S)]	303	3[CPI(M)] 2 (CPI)	1(RSP)	–	–	–	23(DMK) 1 (AIADMK)	3	133 [40]	4
2024	543	99[41]	12[JD(U)] 2[JD(S)]	240	4[CPI(M)] 2(CPI)(ML) 2(CPI)	1(RSP)	-	-	-	22(DMK) 1 (MDMK)	16	135[42]	7

32. 2 seats vacant as on 2 June 2004 (Date of first sitting of 14th LS)
33. SP – 35, RJD – 23, BSP – 19, Shiv Sena – 12, BJD – 11, NCP – 9, SAD – 8, PMK – 6, JMM – 5, TRS – 5, LJSP – 4, AIFB – 3, RLD – 3, AITC– 2, AGP– 2, J&KNC – 2, AIMIM-1, BNP–1, IFDP – 1, J&KPDP – 1, KC – 1, MLKSC – 1, NPF – 1, MNF – 1, NLP – 1, RPI(A) – 1, SJP(R) - 1, SDF - 1.
34. Party Position as on 18 May 2009 *i*.e., date of constitution of the Fifteenth Lok Sabha.
35. SP – 23 (Includes Akhilesh Yadav who has been elected from two constituencies); BSP – 21, AITC – 19, BJD – 14, Shiv Sena – 11, NCP – 9, RLD – 5, SAD – 4, RJD – 4, J&KNC – 3, AIFB– 2, JMM – 2, MLKSC – 2, TRS – 2, AIMIM-1, AGP – 1, AUDF – 1, BVA – 1, BPF – 1, HJC(BL) – 1, JVM(P) – 1, KC(M) – 1, NPF – 1, SDF – 1, Swabhimani Paksha – 1, VCK – 1.
36. Party Position as on 18 May 2014 *i.e*., date of constitution of the Sixteenth Lok Sabha.
37. Includes Shri Narendra Modi who was elected from two constituencies.
38. AITC- 34, BJD – 20, SS – 18, TRS – 11, YSRCP – 9, LJSP – 6, NCP – 6, SP – 5 (includes Shri Mulayam Singh Yadav who was elected from two constituencies), AAP–4, RJD – 4, SAD – 4, AIUDF – 3, J&KPDP – 3, RLSP – 3, AD – 2, INLD – 2, IUML – 2, JMM - 2, AINRC – 1, KC (M) – 1, NPF – 1, NPP – 1, SDF – 1, AIMIM – 1 and Sw.P– 1.
39. Party Position as on 25 May 2019 *i.e*., date of constitution of the Seventeenth Lok Sabha Vellore (Tamil Nadu) election countermanded.
40. AITC- 22, YSRCP – 22, SS – 18, BJD – 12, BSP – 10, TRS – 9, LJSP – 6, NCP – 5, SP – 5, IUML – 3, J&KNC – 3, AD(S) – 2, AIMIM – 2, SAD– 2, AAP-1, AIUDF-1, AJSU- 1, NPF- 1, MNF - 1, JMM - 1, VCK - 1, SKM - 1, KC (M) - 1, NDPP - 1, NPP - 1 and RLP - 1.
41. Includes Shri Rahul Gandhi who was elected from two constituencies.
42. SP-37, AITC-29, SHSUBT-9, NCPSP-8, SHS-7, LJPRV-5, YSRCP-4, RJD-4, IUML-3, AAP-3, JMM-3, JnP-2, VCP-2, RLD-2, J&KNC-2, VPPL-1, AGP-1, HAMS-1, KEC-1, NCP-1, VOTPP-1, ZPM-1, SAD-1, RLP-1, BHRTADVISP-1, SKM-1, ASPKR-1, AD(S)-1, AJSU-1 and AIMIM-1

Recognition of Political Parties in Parliament

AAP	Aam Admi Party
ABHMS	Akhil Bharatiya Hindu Maha Sabha
ABLTC	Akhil Bharatiya Lokatantrik Congress
AD	Apna Dal
AD(S)	Apna Dal (Soneylal)
AIFB	All India Forward Bloc
AIIC(T)	All India Indira Congress (Tiwari)
AIIC(S)	All India Indira Congress (Secular)
AIMIM	All India Majlis-E-Ittehadul Muslimeen
AINRC	All India N. R. Congress
AIRJP	All India Rashtriya Janata Party
AITC	All India Trinamool Congress
AIUDF	All India United Democratic Front
AJSU	All Jharkhand Students Union
AGP	Asom Gana Parishad
AC	Arunachal Congress
ASDC	Autonomous State Demand Committee
ASPKR	Azad Samaj Party (Kanshi Ram)
AUDF	Assam United Democratic Front
BHRTADVSIP	Bharat Adivasi Party
BJD	Biju Janata Dal
BJP	Bharatiya Janata Party
BNP	Bharatiya Navshakti Party
BPF	Bodoland Peoples Front
BRS	Bharat Rashtra Samithi
BSP	Bahujan Samaj Party
BVA	Bahujan Vikas Aaghadi
CPI	Communist Party of India
CPI(M)	Communist Party of India (Marxist)
CPI(ML)	Communist Party of India (Marxist-Leninist)
CPI (M-L) L	Communist Party of India (Marxist-Leninist) Liberation
Cong. (S)	Congress (Socialist)
Cong. (U)	Congress (Urs)
Cong. (O)	Congress (Organisation)
DMK	Dravida Munnetra Kazhagam
GNLF	Gorkha National Liberation Front
HAMS	Hindustani Awam Morcha (Secular)
HVC	Himachal Vikas Congress
HVP	Haryana Vikas Party
HJC(BL)	Haryana Janhit Congress (Bhajan Lal)
IC (SCS)	Indian Congress (Socialist-Sarat Chandra Sinha)

INC	Indian National Congress
INLD	Indian National Lok Dal
IPF	Indian People's Front
IUML	Indian Union Muslim League
J&KNC	Jammu & Kashmir National Conference
J&KPDP	Jammu & Kashmir Peoples Democratic Party
JP	Janata Party
JD(G)	Janata Dal (Gujarat)
JD(S)	Janata Dal (Secular)
JD(U)	Janata Dal (United)
JMM	Jharkhand Mukti Morcha
JnP	Janasena Party
JVM(P)	Jharkhand Vikas Morcha (Prajatantrik)
KC(M)	Kerala Congress (M)
KEC	Kerala Congress
LSP	Lok Shakti Party
LJSP	Lok Jan Shakti Party
LJPRV	Lok Janshakti Party (Ram Vilas)
MPVC	Madhya Pradesh Vikas Congress
MGP	Maharashtrawadi Gomantak Party
MPP	Manipur People's Party
MSCP	Manipur State Congress Party
MDMK	Marumalarchi Dravida Munnetra Kazhagam
MC	Marxist Co-ordination
MNF	Mizo National Front
ML	Muslim League
MLKSC	Muslim League Kerala State Committee[43]
NCP	Nationalist Congress Party
NCPSP	Nationalist Congress Party- Sharadchandra Pawar
NDPP	Nationalist Democratic Progressive Party
NPC	Nagaland People's Council
NPF	Nagaland Peoples Front
NPP	National People's Party
NLP	National Loktantrik Party
PMK	Pattali Makkal Katchi
PNP	Peasants and Workers Party
PSP	Praja Socialist Party
RJD	Rashtriya Janata Dal
RLD	Rashtriya Lok Dal
RLP	Rashtriya Loktantrik Party

43. The merger of the Party with the Indian Union Muslim League has been recognized by the Speaker *w.e.f.* 22.06.2012.

RLSP	Rashtriya Lok Samta Party
RPI	Republican Party of India
RSP	Revolutionary Socialist Party
SAD	Shiromani Akali Dal
SAD (A) (SSM)	Shiromani Akali Dal (Amritsar) (Simranjit Singh Mann)
SDF	Sikkim Democratic Front
SJP(R)	Samajwadi Janata Party (Rashtriya)
SKM	Sikkim Krantikari Morcha
SMP	Samata Party
SP	Samajvadi Party
SS	Shiv Sena
SHSUBT	Shiv Sena (Uddhav Balasaheb Thackrey)
SSP	Sikkim Sangram Parishad
SSP	Samyukta Socialist Party
Sw. P	Swabhimani Paksha
TDP	Telugu Desam Party
TMC	Tamil Maanila Congress (Moopanar)
TRS	Telangana Rashtra Samithi[44]
UGDP	United Goa Democratic Party
UMF	United Minorities Front
UPPL	United Peoples' Party (Liberal)
VCK	Vidhuthalai Chiruthaigal Katchi
VOTPP	Voice of the People Party
WBTC	West Bengal Trinamool Congress
YSRCP	Yuvajana Sramika Rythu Congress Party
ZPM	Zoram People's Movement

Speaker Mavalankar once remarked that democracy will never grow on proper lines unless there are the fewest number of parties, possibly not more than two major parties which can almost balance each other as the Government and the Opposition[45]. During the First Lok Sabha, on requests from leaders of parties, the matter regarding recognition of Parliamentary Parties/Groups and allotment of seats was discussed by Speaker Mavalankar with leading members of the House. With a view to discouraging multiplication of parties and growth of splinter groups, he laid down general principles based on which recognition can be given to political parties for their parliamentary work in the Lok Sabha[46]. These principles were later embodied in the Directions from the Speaker.

Conditions of Recognition

The above principles as enunciated in the Directions by the Speaker provide that an association of members who propose to form a parliamentary party in the Lok Sabha must satisfy the following requisite conditions for recognition[47].

44. The name of party-TRS-Telangana Rashtra Samithi has been changed as BRS *w.e.f.* 13.6.2023.
45. G.V. Mavalankar, *Speeches and Writings,* p. 47.
46. History of Directions.
47. *See* Dir. 12l(i).

(i) They should have a distinct ideology and programme of work whether in the political, economic or social field, which was announced by them at the time of General Elections and on which they have been returned to the House. They should form a homogenous unit capable of developing into a well knit entity;

(ii) They should have an organisation, both inside and outside the House, which is in touch with public opinion on all important issues before the country; and

(iii) They should at least be able to command a strength which would enable them to keep the House, *i.e.* their number should not be less than the quorum fixed to constitute a sitting of the House, which is one-tenth of the total membership[48].

It is further provided that a political party, having representation in the Lok Sabha, which satisfies the first two conditions but fails to command the required minimum strength, *viz.* one-tenth of the total membership of the House, is recognized as a parliamentary group, provided its membership is atleast thirty[49].

In the First Lok Sabha, the Communist Party was recognized as a parliamentary group in the House. In August 1954, however, the Group lost recognition when its membership dropped to 29. In the Second Lok Sabha, no group of members was recognised as a parliamentary group in the House. The Communist Party, consisting of 34 members, was recognized in the Third Lok Sabha as a parliamentary group in the House. The Group, however, lost its recognition in September 1964 due to split in the Communist Party of India as a result of which the Group in the House also split into two. In the Fourth Lok Sabha, as constituted after the General Elections in 1967, the Swatantra Party (45 members) and the Jan Sangh (31 members) were recognised as parliamentary groups. After the Congress split in November 1969, certain members dissociating themselves with the ruling Congress Party, formed a separate party called the Congress Party (Opposition). Since it had a strength of 60 members in the House and satisfied all the conditions prescribed for recognition as a parliamentary party, it was for the first time recognised as an Opposition Party and its leader, Dr. Ram Subhag Singh, was recognised as the Leader of the Opposition. The recognition lasted till the dissolution of the Lok Sabha in December 1970[50]. In the General Elections held in 1971, the ruling Congress Party received 348 seats in a House of 515 and none of the Opposition parties secured the minimum strength needed for recognition. In the Fifth Lok Sabha, therefore, no group of members was recognised as a parliamentary group in the House.

48. The minimum number of members required to form a party in the former Central Legislative Assembly (which consisted of 141 members from 1937 to 1945) was ten. In 1941, it was reduced by Speaker Abdur Rahim, after consulting leaders of various parties, to nine in order to afford recognition as a party to the European Group whose membership had been reduced from ten to nine.

49. Dir. 121(ii).

In the Central Legislative Assembly, the number of members for recognition as a group was prescribed by Speaker Mavalankar as ten. This number has since been raised to 30 but so far as selection of speakers for participation in the deliberations of the House is concerned, groups whose membership is ten or more are given time to speak during various discussions.

L.S. Deb., 16-3-1964, cc. 5595-96

In 1971, in order to accommodate members to speak in a balanced way, the Speaker grouped the parties into major parties (*i.e.* parties with more than 15 members), medium parties, and small parties (*i.e.* parties with only 3 or 4 members)—*L.S. Deb.,* 31-3-1971.

50. *Bn. Part* I, 17-12-1969, *L.S. Deb.,* 17-12-1969, cc. 366-67.

After the General Elections held in 1977, the Janata Party with 306 seats in the House emerged as the Ruling Party and the erstwhile ruling Congress Party with 153 seats as the Opposition Party. Since both the Janata and the Congress Parties satisfied all the conditions for recognition as parliamentary parties, they were recognised as such. No group of members fulfilled the requisite conditions for recognition as a parliamentary group in the Sixth Lok Sabha.

Consequent upon the split in the Congress Party on 9 March 1978 into Congress and Congress (I), Congress Party (I) having a strength of 58 members was recognised as parliamentary party. Similarly, after the split in the Janata Party into Janata and Janata (S), Janata Party (S) having a strength of 68 members was recognised as parliamentary party with effect from 16 July 1979.

In the Seventh Lok Sabha, only Congress (I) Party was recognised as a parliamentary party. The Janata Party (S), consisting of 41 members, Communist Party of India (M) consisting of 35 members and Janata Party consisting of 31 members were recognised as parliamentary groups in the House. In March 1980, Janata Group lost its recognition as a parliamentary group due to disassociation of three members from the Group and the consequent reduction of their strength from 31 to 28 members.

In the Eighth Lok Sabha constituted on 31 December 1984, Congress (I) Party with 398 members emerged as the largest party and was recognised as a parliamentary party. Telugu Desam consisting of 30 members was recognised as a parliamentary group. No other group of members fulfilled the requisite conditions for recognition as a parliamentary group in the Lok Sabha. However, on 3 March 1988, Telugu Desam Group also lost its recognition as a parliamentary group due to resignation of one of its members from the Lok Sabha resulting in the reduction of their strength from 30 to 29 members.

In the Ninth Lok Sabha, constituted on 2 December 1989, Congress (I) consisting of 194 members, Janata Dal consisting of 141 members and Bharatiya Janata Party consisting of 86 members—were recognised as parliamentary parties. Communist Party of India (M) consisting of 32 members was recognised as a parliamentary group in the House.

In the Tenth Lok Sabha, constituted on 20 June 1991, Congress (I) consisting of 224 members, Bharatiya Janata Party consisting of 119 members and Janata Dal consisting of 51 members were recognised as parliamentary parties. Communist Party of India (M) consisting of 35 members was recognised as a parliamentary group in the House.

However, in certain cases, even where the membership of an association of members is less than 30, under the orders of the Speaker, it was given the nomenclature of a Group for the sake of convenience without according formal recognition as such[51].

51. (*i*) *In the First Lok Sabha,* associations of members accorded such a nomenclature were:

National Democratic Group, P.S.P. Group, Union of Socialists and Progressives, Ganatantra Parishad, Socialists Group and Lok Sevak Sangh.

(*ii*) *In the Second Lok Sabha,* members of Communist Party, Praja Socialist Party, Socialist Party, Scheduled Caste Federation (later the name was changed to Republican Group), Swatantra Party, Ganatantra Parishad, Bharatiya Jan Sangh, Hindu Mahasabha and D.M.K. were given the nomenclature of a Group.

(*iii*) *In the Third Lok Sabha,* in addition to those mentioned at (*ii*) above, Muslim League and *Nirdaliya Dal* were also given this nomenclature.

For functional purposes in the House, it had been the practice to accord the nomenclature of parliamentary party or group to the constituent groups forming a party, having a common programme of parliamentary work, a common organisation, a common leader and a Whip to speak on their behalf on the floor of the House. This condition was made applicable equally to both the Government and the Opposition parties and no distinction was made between a Government Party consisting of various constituent groups and an Opposition party similarly formed.

Members of different parties having different ideologies and unattached members who form an *ad hoc* group with distinctive designation were also termed as such for the purpose of functioning in the House[52].

(*iv*) *In the Fourth Lok Sabha,* members of Dravida Munnetra Kazhagham, Communist Party of India, Samyukta Socialist Party, Communist Party of India (Marxist), Praja Socialist Party, Progressive Group, Independent Parliamentary Group and Nirdaliya Sangathan were given the nomenclature of a Group.

(*v*) *In the Fifth Lok Sabha,* members of Communist Party of India (Marxist), Communist Party of India, Dravida Munnetra Kazhagham, Jan Sangh and Congress Party (Opposition) were given the nomenclature of a Group.

(*vi*) *In the Sixth Lok Sabha,* members of Communist Party of India (Marxist) and All India Anna Dravida Munnetra Kazhagham were given the nomenclature of a Group.

(*vii*) *In the Seventh Lok Sabha,* members of Janata (S), Communist Party of India (Marxist), Janata and Dravida Munnetra Kazhagham were given the nomenclature of a Group.

(*viii*) *In the Eighth Lok Sabha,* members of Telugu Desam and Communist Party of India (Marxist) were given the nomenclature of a Group.

(*ix*) *In the Ninth Lok Sabha,* members of Communist Party of India (Marxist) were given the nomenclature of a Group.

(*x*) *In the Tenth Lok Sabha,* members of the Communist Party of India (Marxist) were given the nomenclature of a Group.

In the list of members of the Fifth, Sixth and Seventh Lok Sabha, party affiliation of members belonging to a group having a strength of less than 15 (*i.e.* less than half of the members required for recognition as a group) and upto 2 was shown as "Other party". In case where there was only one member belonging to a party, he was treated as an unattached member.

The party affiliation of such members and of independents was shown as "Unattached".

The party affiliation of members belonging to groups having strength of 15 and above, was shown by the name of the Group to which they belonged.

In the Eighth Lok Sabha, the practice of showing 'independents' and 'lone members of legislature parties' as 'Unattached' was done away with consequent on the coming into force of the Constitution (Fifty-second Amendment) Act, 1985, which provides that "an elected member of a House shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member". Accordingly, only those members who contested and won the election as independent candidates were shown as independents in the List of Members with effect from 7 August 1987. Nominated members were shown as such (instead of being clubbed with unattached members). Likewise, lone members elected on party tickets were shown as belonging to the respective parties to which they belonged. Only those members who were elected to the House on a party ticket but were subsequently expelled from the party were treated and shown as "Unattached" in the List of Members.

The issue was examined afresh during the Tenth Lok Sabha. It was decided not to treat the expellees as unattached members and instead, seat them separately in the Lok Sabha outside the block of seats of the parties from which they had been expelled without any change in the party affiliations in the party position in the Lok Sabha and other records. This is now the prevailing practice. As a matter of fact, this practice has come to be established consequent upon the following observation made by Speaker (Shivraj V. Patil), Tenth Lok Sabha regarding expulsion from political parties and status of expelled members, in his decision in the Janata Dal case under the Tenth Schedule to the Constitution given on 1 June 1993.

"In this respect, Explanation (a) to para 2(1) is relevant:

an elected member of a House shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member.

This is a constitutional status given to the member which cannot be taken away from him by expulsion." [*Bn. Pt. II,* dated 1-6-1993].

The Directions also provided that the recognition of an association of members as a parliamentary party or group, for the purpose of functioning in the House, would be accorded only by the Speaker and his decision in the matter would be final[53]. The Speaker, on his own initiative, did not accord this recognition but a formal request had to be made to him in this regard by the members concerned[54]. In submitting a written communication to him, the association of members in question had to show that they satisfied all the conditions formulated for the purpose of recognition either as a Party or a Group. The signatures of all the members concerned had to be appended to the request[55].

Position after coming into force of the Tenth Schedule

After the coming into force of the Tenth Schedule to the Constitution with effect from 3 March 1985, and the Representation of the People (Amendment) Act, 1988 (which introduced section 29A providing for compulsory registration of all political parties), the concept of recognition of parliamentary parties/groups has materially changed *vis a vis* the recognition of parliamentary party/group by the Speaker on the basis of the numerical strength of a party in the House.

For the purpose of the Tenth Schedule, all the members of the House belonging to a particular political party would be deemed to belong to the 'Legislature Party' of that party in the House irrespective of the numerical strength of that 'Legislature Party'. Even a lone member of a political party in the House would, therefore, have a Legislature Party by that name. However, those members who contested and won elections to the Lok Sabha as independent candidates and those who have been nominated are shown as per their status, *i.e.* independent or nominated members, as the case may be.

52. Independent Parliamentary Group in the First, Second and Third Lok Sabha; United Progressive Parliamentary Group in the Second and Third Lok Sabha.

    On 24 November 1967, in the Fourth Lok Sabha, the Speaker announced that in future members who had been elected to the Lok Sabha as independents would continue to be unattached and no group formed by them would be recognised. Accordingly, members of independent Parliamentary Group, Progressive Group and Nirdaliya Sangathan were, thereafter, treated as unattached members. *L.S. Deb.,* 24-11-1967, c. 2685.

    The practice of giving recognition to groups formed by independent members was revived during the Eighth Session of the Fourth Lok Sabha and United Independent Parliamentary Group (UPIG) and BKD were recognised for the purpose of selection of speakers in debates and allotment of contiguous seats. Similar recognition was given to the UPIG in the Fifth Lok Sabha.

    In the Eleventh Lok Sabha, a member (G.G. Swell) intimated the Speaker about formation of an 'United Parliamentary Group' comprising of independent members and members belonging to single member parties and made a request for accord of recognition to this Group. After examination of the matter in the light of provisions in the Tenth Schedule to the Constitution and prevalent position in the Lok Sabha *vis-a-vis* Parliamentary Parties and Groups, it was decided that it would not be feasible to accede to G.G. Swell's request. The member was accordingly informed. (F. No. 28/1/96/T).

53. Dir. 120.

54. In the Second Lok Sabha, the Communist Party which consisted of 30 members and conformed to the other conditions laid down in this regard was not formally recognized as a group as no formal request for its recognition had been made to the Speaker.

55. In the absence of signature of any member, the leader of the Group is asked to obtain the same: The onus of confirmation of membership rests on the leader of the Party or Group.

    There were exceptions to this procedure when in the case of 'Union of Socialists and Progressives', which was formed in 1952, individual members were addressed by the Secretariat to confirm their membership of the Group instead of the leader being asked to obtain it. Likewise, in the Second Lok Sabha, four members of the Independent Parliamentary Group were asked to confirm their membership of the Group in writing.

The provisions of Directions relating to recognition by the Speaker to parliamentary parties/groups accordingly required interpretation from entirely a different point of view. Ever since the coming into force of the Tenth Schedule to the Constitution, the application of Directions is now mainly limited to their functional utility, *viz.* selection of speakers in the House from the Parties/Groups; considering nominations to various parliamentary committees; contiguous allotment of seats in the House; supply of parliamentary papers, etc.

Nevertheless, recognition to political parties/groups, albeit in their functional context in the House, continued till mid of the Tenth Lok Sabha.

However, during the deliberations in the *Janata Dal case* under the Tenth Schedule to the Constitution, the provisions of the Tenth Schedule to the Constitution came in for in-depth scrutiny.

In the context of the breakaway groups that emerged due to splits in the Legislature Parties in the Lok Sabha, a view[56] came to be established that accord of recognition to political parties came within the sole domain of the Election Commission of India.

Consequently, from the Eleventh Lok Sabha onwards, while Legislature Parties continue to enjoy certain functional facilities on the basis of their numerical strength in the House, the practice of according recognition by the Speaker in terms of Directions 120 and 121 was done away with.

Facilities to Legislature Parties

Though the recognition of parliamentary parties and groups has now been done away with, the old norms are still being followed for granting certain facilities by the Speaker to the Legislature Parties on the basis of their numerical strength. A parliamentary party carries with it certain facilities which the Speaker may grant to that party. To a parliamentary group, he may grant such of these facilities as he may deem fit or feasible. An association of members may also be granted some facilities if such a course, in the opinion of the Speaker, facilitates the conduct of business in the House. In all cases, the Speaker's decision to grant facilities is final[57].

A Parliamentary Party is generally granted the following facilities[58].

(i) Allotment of blocks of seats in the House in proportion to the strength of the party and the total number of seats available in the Chamber[59].

(ii) Allotment of a furnished room with telephone and internet facility in the Parliament House for the purpose of parliamentary work of the party.

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56. During the Tenth Lok Sabha, in the Samata Party case, the breakaway group of members which came into existence consequent upon a split in the Janata Dal in 1994 was not accorded any formal recognition.

    In the Eleventh Lok Sabha, the breakway groups of Samajwadi Party (Rashtriya) and Rashtriya Janata Dal came into being consequent upon splits in the Samata Party and the Janata Party, respectively; no formal recognition was accorded to these Groups by the Speaker—*L.S. Deb.,* 12-9-1996 and F. No. 46/4/97/T.

57. *See* Dir. 122 and 123.

58. Dir. 122.

59. For details regarding allotment of seats to members of Party or Groups, *see* Chapter 15 'Oath, Affirmation, Seating of Members in the House', under sub-heading *Seating of Members.*

Up to the Fifth Lok Sabha, the Congress Party, which was the party in power, was allotted two furnished rooms in the Parliament House. Opposition 'Groups' were provided with a furnished room and a few lounges in the Lobby of the Central Hall. In the Sixth Lok Sabha, four furnished rooms in the Parliament House were provided each to the Janata Party which was the party in power, and to the Congress Party which was in the Opposition. A furnished room was also allotted to AIADMK 'Group'. In the Seventh Lok Sabha, the Congress Party, which was the party in power, was provided four rooms. All other political parties with a strength of at least eight members in both the Houses were allotted a furnished room each. The same facility continued in the Eighth, the Ninth, the Tenth, the Eleventh, the Twelfth, the Thirteenth, the Fourteenth Lok Sabha as well as the Fifteenth Lok Sabha. Combined strength of eight members was taken as base for allotment of office room to Parliamentary parties during the Sixteenth and Seventeenth Lok Sabha in the *Samvidhan Sadan*. Stenographic assistance is rendered to members by the Secretariat and a telephone is also provided for them.

(iii) Allotment of Committee rooms or other available accommodation for holding party meetings.

On written requests from parties or groups, the Central Hall and Committee rooms are made available to them for holding party meetings connected with parliamentary work. Each request is examined on its merits.

The following kinds of requests have been complied with:

For holding a meeting of members to consider the question of forming a new party or group in Parliament.

For holding a meeting of a party or group in Parliament.

For holding meetings of members from certain States to discuss cooperation of parliamentarians in resolving certain national problems.

For holding meetings of members and Ministers from a particular State to consider problems relating to that State.

For holding a meeting of members drawn from all parties.

No standing allotment of a Committee Room is, however, made to any party or group[60].

(iv) Supply of Parliamentary or Government papers or publications which the Speaker may determine from time to time.

Parliamentary papers or publications are supplied to a party or group on specific request made by them to the Speaker in that behalf.

(v) Nomination to a Parliamentary Committee in proportion to the strength of the Party.

With a view to nominating members on Parliamentary Committees, the

60. On 17 June 1952, the Congress Party requested that, as a standing arrangement, a particular room might be allotted to them on every Friday during the sessions for holding meetings of the General Council of the Party. The request was not acceded to.

Leaders of the parties or groups in the House are requested to suggest the names of members of their respective party/group as per the proportionate allocation of seats approved by the Speaker. Normally, the recommendations made by the party or group concerned are accepted by the Speaker[61]. However, when it is deemed necessary, the Speaker in his/her discretion may nominate any member to a Committee other than the name(s) of the member(s) recommended by the Leaders[62]. The representation of all parties and groups on a Committee where members are to be nominated is more or less in proportion to their respective strength in the House[63]. For filling up a casual vacancy in a Committee, the Leader of the Party/Group to which the seat was allocated is consulted for suggesting the name of the member.

Apart from the parliamentary committees, there are also Committees, Councils, Boards, etc. generally called Government Committees, which are constituted by the Government. Members of either House are also represented on them. These committees neither work under the direction of the Speaker nor present their reports to the House or the Speaker. Members of the House are, however, nominated to these Government Committees by the Speaker in consultation with the Leaders of parties and groups in the Lok Sabha on request from the Minister concerned in accordance with the provisions contained in the Government notifications, resolutions, etc. regarding the composition and functions of such committees, councils, boards, etc.

Members of the Lok Sabha who are to form part of a delegation going abroad are selected by the Speaker in consultation with the Minister of Parliamentary Affairs and the Leaders of the Opposition Parties and Groups in the Lok Sabha. While making selection of members for inclusion in the delegation, the Speaker takes into consideration the party affiliations of the member, his suitability *vis-a-vis* the country to be visited and the object of the visit, etc. Since all the members cannot be sent abroad at the same time, the Speaker selects them for inclusion in the delegation in rotation[64].

(vi) Submission to the Speaker of a panel of names for selection of members to be called to speak in debates.

Leaders of Parties and Groups are usually given preference in the selection of speakers to participate in the deliberations of the House and are generally given more time than is given to other members.

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61. In 1988 (Eighth Lok Sabha), while nominating members to BAC and Committee of Privileges, Speaker interchanged the nominees of Janata Party in the Lok Sabha to these Committees.

62. On 26.10.2021, the Minister of Parliamentary Affairs in a letter to Speaker requested *inter alia* for nomination of Shri Rattan Lal Kataria and Shri Sanjay Shamrao Dhotre, Members (BJP) to the Committee on Subordinate Legislation (2021-22) against the available vacancies. However, Speaker nominated Dr. Amar Singh (INC) to the said Committee.

63. On 8th August, 1960, the Deputy Leader of Swatantra Group, in a letter addressed to the Speaker, requested *inter alia* that his Group might be given representation on certain other parliamentary committees as well. While rejecting the request, the member was informed that the representation of all parties and groups on parliamentary committees (nominated by the Speaker) as a whole was more or less in proportion to their respective strength in the House.

64. Members of Parliament are also included in the delegations to the UN General Assembly sessions, where they function as representatives, alternate representatives as well as parliamentary advisers. Selection is made at the discretion of the Government of India and many factors are taken into account, including the consideration that the chosen delegates are in agreement with the policies of the Government, their ability to project these policies properly and to support them fully in the General Assembly, etc.—*S.Q.* 1263, *L.S. Deb.,* 17-4-1968; *U.S.Q.* 1405, 26-11-1969; *U.S.Q.* 3541, 10-12-1969.

(vii) Consultation, where necessary, in the matter of allocation of time to various Government legislative and financial business or any other matter coming up before the House.

The Speaker nominates members of political parties in Lok Sabha to the Business Advisory Committee which allots time to various items of government legislative and financial business to be transacted by the House. The strength of the Committee is limited to fifteen members. As the number of political parties in Lok Sabha has considerably increased over the years, in order to ensure the representative character of the Committee, a convention has evolved where-under leaders of parties not represented on the Committee are invited as Special Invitees to the sittings of the Committee. During the Fourteenth, Fifteenth and Sixteenth Lok Sabha, leaders of parties having a strength of five and above, which were not represented on the Business Advisory Committee were invited to the meetings of the Committee as Special Invitees. Groups Representatives of Political Parties/ Groups may also be consulted on a matter of procedure in the House[65].

65. For instance, on 9 September 1958, the Speaker held a meeting with the representatives of various Opposition groups. After discussion, procedure relating to the moving of adjournment motions in the House was laid down.

On 21 April 1962, the Speaker held an informal meeting with the Party and Group leaders or their representatives in connection with the procedure to be observed for the disposal of adjournment motions—*see L.S. Deb.,* 23-4-1962, c. 475.

An informal meeting was held by the Speaker with the Party and Group leaders or their representatives on 7 November 1962, in connection with the simplification of procedure necessitated by the emergency caused by the Chinese aggression—*L.S. Deb.,* 8-11-1962, cc. 89-92.

On 27 November and 11 December 1962 similar meetings of the Speaker with Party and Group leaders were held to discuss matters of procedure.

A meeting of the Speaker with Party and Group leaders was held on 6 September 1963, to discuss matters *re:* Calling Attention Notices, Short Notice Questions, Half-an-Hour Discussions, etc., and on 26 November 1963, to discuss the question of language of speeches in the House.

During the Fourth Lok Sabha (1967-70), fifteen meetings of the Speaker with Party and Group leaders were held to discuss various matters concerning the business of the House.

During the period between the Fifth and the Seventh Lok Sabha (1971-1984), seventy-one meetings of the Speaker with Party and Group leaders were held to discuss various important matters concerning the business of the House.

During the Eighth Lok Sabha, sixteen meetings of Speaker with Party and Group leaders were held to discuss various subjects concerning the business of the House.

During the Ninth, Tenth, Eleventh, Twelfth and Thirteenth Lok Sabha, the Speaker held eighteen, seventy, twenty-two, ten and sixty meetings, respectively, with Party and Group leaders to discuss various subjects concerning the business of the House.

During the Fourteenth Lok Sabha, 151 meetings were held by the Speaker with Party and Group leaders out of which eighteen meetings were held on the eve of the Session.

During the Fifteenth Lok Sabha twenty-four meetings were held by the Speaker with Leaders of Political Parties out of which sixteen meetings were held on the eve of the Session to discuss various subjects concerning the business of the House.

During the Sixteenth Lok Sabha, twenty meetings were held by the Speaker with Leaders of Political Parties out of which seventeen meetings were held on the eve of the Session to discuss various subjects concerning the business of the House.

During the Seventeenth Lok Sabha, thirteen meetings were held by the Speaker with Leaders of Political Parties out of which six meetings were held on the eve of the Session to discuss various subjects concerning the business of the House.

(viii) Allotment of a seat in the front row in the Central Hall on the occasion of the President's Address and other important functions.

Leaders of all recognised Opposition Parties and Groups and leaders of Parties having strength of eight members in Lok Sabha and five members in Rajya Sabha are allotted seats in the front rows on the occasion of the President's Address to both the Houses of Parliament assembled together and during similar parliamentary functions in the Central Hall. The principle followed in allotment of these seats is that one seat is allotted to the leader of a party/group having the maximum strength in the Lok Sabha and the next seat is allotted to the leader of party/group having the maximum strength in the Rajya Sabha and so on. However, depending upon the circumstances, the matter is reviewed from time to time and seats are reserved in the front row even for the leaders of smaller Groups having strength less than that mentioned above[66].

In addition, certain other facilities are provided, *e.g.* library facilities to the parties and groups. Residential accommodation is sometimes provided for leaders of groups from the general pool on the recommendation of the Leader of the House.

66. During the 17th Lok Sabha, some senior leaders of parties who did not otherwise qualify for front row seats, were allotted seats in the front rows. Senior Members *viz.*, Shri Sharad Pawar (NCP), Late Shri Mulayam Singh Yadav (SP) and Late Shri P.A. Sangma (NPP) were allotted seats in the second/third row in every President's Address held in the Central Hall of *Samvidhan Sadan* till 2023. This practice continued during President's Address made on 31.1.2024 in Lok Sabha Chamber of Parliament of India.

CHAPTER 15

Oath, Affirmation and Seating of Members in the House

Oath or Affirmation

Every member, before taking his seat, is required to make and subscribe before the President or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule to the Constitution, as amended by the Constitution (Sixteenth Amendment) Act, 1963[1]. As per practice, Speaker *Pro tem*[2] presides over the first meeting of the newly-elected Lok Sabha.

For the sake of simplicity and formality of the proceedings and in order to conform to the normal parliamentary practice, the person appointed by the President as Speaker *Pro tem* is also designated by him as the person under article 99 before whom members may make and subscribe the oath or affirmation[3].

The Speaker *Pro tem* to whom the oath is administered by the President himself in the Rashtrapati Bhawan, signs the Roll of Members[4] in the House whereupon he is deemed to have taken seat in the House. The Speaker *Pro tem* then calls other members to make and subscribe oath or affirmation in the House. On a member having made and subscribed the oath or affirmation, the Speaker *Pro tem* accords the Member permission to take seat in the House after signing the Roll of Members kept on the Table of the House.

Before members are called to make and subscribe the oath or affirmation on the first sitting of a newly constituted House, a book containing the list of members elected to the Lok Sabha, presented to the Speaker by the Chief Election Commissioner, is laid on the Table by the Secretary-General[5].

On the election of the Speaker, the Office of the Speaker *Pro tem* automatically ceases to exist. Such of the members as did not make and subscribe the oath or affirmation till the election of the Speaker do so before the Speaker, Deputy Speaker or

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1. Art. 99.

2. In accordance with the second proviso to article 94, the Speaker of the dissolved Lok Sabha vacates his office immediately before the first meeting of the new Lok Sabha is constituted after the General Elections; there being thus neither Speaker nor Deputy Speaker, the President, under article 95(1), appoints a member to preside over the first sitting of the new Lok Sabha till the election of the Speaker. The member so appointed is known as the Speaker *Pro tem.* Also *see,* Chapter 7 on 'Presiding Officers of Lok Sabha', *ante.*

3. Along with the Speaker *Pro tem,* two or three other senior members of the House are also appointed as the persons before any of whom, newly-elected members may make and subscribe the oath or affirmation. *See* order issued by the Vice-President acting as the President on 24 March 1977 - *Gaz. Ex.* (1-1), 24-3-1977. At the commencement of the first sitting of the new Lok Sabha, these other members are appointed by the Speaker *Pro tem* on the Panel of Chairmen to enable them to preside over the House in the absence of the Speaker *Pro tem* during a sitting—*L.S. Deb.,* 25-3-1977, c. 3 and *L.S. Bn.* (II), 16-1-1980, para 30; 7-1-1985, para 41.

4. The Roll of Members is a Register which is kept on the Table during a session and remains in the custody of an officer of the House during the inter-session period.

5. *L.S. Deb.,* 16-3-1967, c. 2; 19-3-1971, c. 3; 25-3-1977, c. 1; 21-1-1980, c. 1; 15-1-1985, c. 1; 18-12-1989, c. 2; 9-7-1991, c. 2; 22-5-1996, c. 1; 23-3-1998, c. 2; 20-10-1999, c. 2; 2-6-2004, c. 2; 1-6-2009, *c*. 2.

a member of the Panel of Chairpersons, presiding over the House[6], as the case may be.

Making and subscribing the oath or affirmation is not a proceeding of the House if the person administering the oath is other than a Presiding Officer of the House and the oath is taken outside the House; but if the oath is administered at a sitting of the House, it forms part of the proceedings and the Speaker's decision over the manner in which the oath is to be administered is final.

The issue of the language in which oath is administered in a State Legislature can be raised in the Lok Sabha, as it affects the working of the Constitution. The matter is also justiciable, because the oath has to be administered under article 99 and a member can go to a court of law for any contravention of the constitutional provision[7].

If a member sits or votes in the House without making and subscribing the oath or affirmation, he is liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Union[8].

As soon as may be after the result of an election has been declared, the Returning Officer reports the result to the Union Government, the Election Commission and the Secretary-General of the Lok Sabha[9]. After the declaration of the result, the Returning Officer also grants to the successful candidate a certificate of election[10] and obtains from the member an acknowledgement of its receipt duly signed by him and sends the acknowledgement by registered post to the Secretary-General[11].

In the case of a member nominated by the President, the Ministry of Law issues to the member concerned a letter of nomination for being presented at the Table of the House at the time of making and subscribing the oath or affirmation.

Sufficiently in advance of the date fixed for taking of oath/making affirmation members are requested to bring without fail the certificate of their election granted to them by the Returning Officer when they come to make and subscribe the oath or affirmation and take seat in the House and to contact an officer of the House[12].

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6. By a general order issued by the President, they are the persons appointed for the purpose. The general order was issued on 24 February 1954, *See Gaz. Ex.* (1-I), 24-2-1954.

   Members returned in by-elections make and subscribe *oath* or *affirmation* before the Speaker, Deputy Speaker, or a member of the Panel of Chairmen.

7. *L.S. Deb.,* 20-3-1969, cc. 193-213.

8. Art. 104.

9. *See* R.P. Act, 1951, s. 67.

10. For the form of certificate of election, *see* the Conduct of Election Rules, 1961, Form 22.

11. *Ibid.,* Rule 66. This provision was made on 13 August 1958, *vide* Note fn. No. G.S.R. 700A of the same date, at the instance of the Lok Sabha Secretariat as a safeguard against impersonation.

    On 16 July 1957, a person posing as an elected member, made an oath, signed the Roll of Members and took his seat in the House. As soon as it was discovered that the person had not been duly elected, his signature was expunged from the Roll of Members. No action was, however, taken against that person as the Medical Board had reported that the person was of an unsound mind, his being a case of schizophrenic reaction, a type of insanity. To prevent the possibility of such an incident happening in future, the Rules Committee were of the view (*vide* Third Report of Rules Committee laid on the Table on 30 April 1958) that members should present a formal return of election from the Returning Officer so as to eliminate the danger of impersonation. The Ministry of Law accordingly made the provision in the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956.

12. A paragraph to this effect is published in the Bulletin. Members are asked therein to intimate by a specified date whether they will take oath or make the affirmation and the language in which they will do so. *See* for instance, Bn.(II), 24-3-1977, para 4.

When certificates are shown by members to an officer of the House, he, where necessary, verifies the signature of the member with his signature in the acknowledgement received from the Returning Officer. After verifying the identity of the member-elect, the officer concerned signs on the back of the certificate in token of such verification and returns the certificate to the member who is advised to bring it with him when he comes to make and subscribe the oath or affirmation. Before making and subscribing an oath or affirmation and taking their seats in the House, members are required to deposit with the Secretary-General their election certificates or, as the case may be, certified copy of the notification nominating them as members[13]. The acknowledgements are also kept at the Table for the purpose of verification, if necessary.

Rights of Members prior to making Oath or Affirmation

A person becomes a member of the House from the date on which he is declared elected by the Returning Officer[14] but he is not entitled to sit and vote in the House until he has made and subscribed the prescribed oath or affirmation and taken his seat in the House. He is, however, entitled to receive his salary as a member[15] from the date of publication of the notification of the Election Commission constituting the House[16]. He is also entitled to other rights of a member. He can be elected to the Office of the Speaker or Deputy Speaker[17] or nominated and elected as a member of a Select or other Committee of the House but he cannot function as a member of such Committee until he has made and subscribed the oath or affirmation and taken seat in the House[18].

He can also attend the Address by the President to the members of both Houses of Parliament[19].

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13. Rule 4(2) of the Members of Lok Sabha (Disqualification on Ground of Defection) Rules, 1985.

    Prior to the coming into force of the Constitution (Fifty-second Amendment) Act, 1985, the procedure followed for verification of certificates of election of members was that before making and subscribing the oath or affirmation, members, excepting those whose identity was well-known to the officers at the Table, were required to show their certificates of election. In case a member is not able to produce the certificate at the time, he was permitted to make and subscribe the oath or affirmation on the basis of acknowledgement received by the Secretary-General from the Returning Officer, if he had been a member of the previous House; and on being introduced by another sitting member and on verification of his signature in the aforesaid acknowledgement if he had been returned for the first time.

14. The R.P. Act, 1951, s. 67A.

15. The Salary, Allowances and Pension of Members of Parliament Act, 1954, s. 3 read with s. 2(c) and subsequent amendments to the Act.

16. The R.P. Act, 1951, s. 73.

17. Notice of a motion to be moved on 11 May 1957, proposing the name of M. Ananthasayanam Ayyangar for the Speakership of the Second Lok Sabha was received at 9.30 a.m. on 10 May 1957, *i.e.,* before Ayyangar took oath on that day after 11 a.m.

18. *See L.A. Deb.,* 20-1-1937, p. 87; 30-1-1946, p. 239; 7-11-1946, p. 857.

19. The following paragraph is issued in the Bulletin a few days before the date of Address by the President for the information of those members who have not taken oath:

    Members who have not already made and subscribed the oath or affirmation will be admitted to the Central Hall on the occasion of the Address on production of the certificate of election granted to them by the Returning Officer or introduction by a member who has made and subscribed the oath or affirmation or on production of summons.

    Necessary modifications were made in the paragraphs on 1977, as the Bulletin was issued before the first sitting of the Sixth Lok Sabha—*L.S., Bn. (II),* 24-3-1977, para 24.

A member who has not taken seat in the House can give notice of a question or a resolution and these can be admitted but neither he nor any other member on his behalf is entitled to ask the question or move the resolution. Speaker Whyte observed in 1924[20]:

> A member who has not taken the oath of the office cannot discharge his functions on the floor of this House...As a matter of convenience, I have consented to receive notices of questions and resolutions before the oath was taken merely in order that the stage of admission might be gone through before business opened here. But when it comes to the asking of questions or the performance of any other function on the floor of this House, that cannot be done until the oath is taken.

A member who has not made and subscribed the oath or affirmation or taken seat in the House is entitled to ask for leave of absence from the sittings of the House in order to guard against vacation of his seat[21]. A member can also resign his seat before making and subscribing the oath or affirmation and taking seat in the House[22].

Procedure regarding making and Subscribing Oath or Affirmation

The first sitting of a newly elected House is usually devoted to oath or affirmation by members. On that day, the members assemble in the House but take their seats in the House only after making and subscribing the oath or affirmation.

A convention has developed that before the business commences, the Speaker *Pro tem* calls upon the members to stand in silence for two minutes to mark the solemnity of the occasion[23]. The Speaker *Pro tem* then signs the Roll of Members. He also announces the names of persons appointed by him on the Panel of Chairpersons to preside in his absence[24].

Members make and subscribe the oath or affirmation in a particular order. The names of members are called by the Secretary-General for the purpose of

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20. *See L.A. Deb.,* 1-2-1924, p. 32.

21. *See* Art. 101(4).

22. U. Muthtiramalinga Thevar and Ram Karan Joshi, who were elected to the Lok Sabha in the first general elections held in 1952, resigned their seats in the Lok Sabha with effect from 5 and 23 February 1952, respectively, before taking oath and taking seat in the House. R.Venkataraman, (elected to the Second Lok Sabha) M. V. Krishnappa (elected to the Third Lok Sabha), Vijaya Raje Scindia and G. Latchanna and also Jashvant Mehta (elected to the Fourth Lok Sabha) and Bhagirathi Gomango and Manmohan Tudu (elected to the Fifth Lok Sabha), Prem Singh Lalpura (elected to the Twelfth Lok Sabha) and Mulayam Singh Yadav (elected to the Fourteenth Lok Sabha) resigned their seats before making oath and taking their seats in the House.

23. A few days before the first sitting, the Prime Minister is informed about the practice regarding observance of silence. The Speaker *Pro tem,* while calling upon members to stand in silence, makes the following observation:

    "We meet today on a solemn occasion. A new House has been constituted under the Constitution charged with great and heavy responsibilities for the welfare of the country and our people. It is fit and proper that we all stand in silence for two minutes before we begin our proceedings." *L.S. Deb.,* 10-5-1957, c.1; See also *L.S. Deb.,* 19-3-1971, c. 1; 25-3-1977, c. 1; 21.1.1980, c. 1; 15-1-1985, c. 1; 18-12-1989, c. 1; 9-7-1991, c. 1; 22-5-1996, c. 1; 23-3-1998, c. 1; 20-10-1999, c. 1; 2-6-2004, c. 1.; 1-6-2009, c. 2.

    On 10 May 1957, the Speaker *Pro tem* also made a reference to the centenary of the First War of Independence of 1857, which had coincided with the first sitting of the Second Lok Sabha.

24. In 1962, the Speaker *Pro tem* (Seth Govind Das) did not nominate the Panel of Chairmen.

making and subscribing oath or affirmation. The Prime Minister or Leader of House, as the case may be, is called first, followed by the Leader of Oppostion, the Panel of Chairpersons, Council of Ministers [Cabinet Ministers, Ministers of State (Independent Charge) and Ministers of State] and other members are called State/UT-Wise (in alphabetical order of State/UT)[25]. The names of the members who are not able to make and subscribe the oath or affirmation are called again at the end.

Members make and subscribe the oath or affirmation in English or in any of the twenty-two languages specified in the Eighth Schedule to the Constitution[26]. The form of oath or affirmation given in the Third Schedule to the Constitution is adhered to in the case of the English version. Likewise, the forms used in the Third Schedule of the translations of the Constitution in various languages are adhered to, with some modification in certain cases[27].

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25. In 1977, members of the Sixth Lok Sabha were called to make and subscribe oath or affirmation in the following order—

    (i) Prime Minister,
    (ii) Leader of the Opposition,
    (iii) Members of Panel of Chairmen, and
    (iv) Other members State-wise.

    In 2009, members of the Fifteenth Lok Sabha were called to make and subscribe oath or affirmation in the following order—

    (i) Leader of the House,
    (ii) Leader of the Opposition,
    (iii) Senior Member,
    (iv) Panel of Chairpersons,
    (v) Council of Ministers, and
    (vi) Other Members (State/UT-wise).

    In 2014, members of the Sixteenth Lok Sabha were called to make and subscribe oath or affirmation in the following order—

    (i) Prime Minister/Leader of the House,
    (ii) Senior Member,
    (iii) Panel of Chairpersons,
    (iv) Council of Ministers, and
    (v) Other Members (State/UT-wise).

    In 2019 and 2024 members of the Seventeenth and Eighteenth Lok Sabha were called to make and subscribe oath or affirmation in the following order—

    (i) Prime Minister/Leader of the House,
    (ii) Panel of Chairpersons,
    (iii) Council of Ministers, and
    (iv) Other members (State/UT-wise).

26. *Vide* the Constitution (Ninety-Second Amendment) Act, 2003.

27. The form of oath/affirmation in Hindi was slightly amended by Speaker Mavalankar in 1952. The form of oath/affirmation in Urdu was amended by Maulana Abul Kalam Azad in 1952.

    In the case of Assamese, Kannada, Sanskrit and Odia, the version given in the Third Schedule in the translations of the Constitution in these languages is used.

    In Gujarati, Bengali, Punjabi, Malayalam, Tamil and Telugu, the form follows versions different from those given in the translations of the Constitution in the respective languages.

    The translated version of the form in Kashmiri (both in Devnagri and Persian scripts) was prepared by the Lok Sabha Secretariat.

    When Sindhi was added to the languages specified in the Eighth Schedule to the Constitution, the translation of the form into Sindhi was got done by a member of the Rajya Sabha.

    In the case of Konkani, Manipuri and Nepali, the Official Language Wing supplied copies of forms of oath/affirmation (of these three languages) as set out in the Third Schedule of the Constitution.

    In the case of Bodo, Maithili, Santhali and Dogri, the Official Language Wing supplied copies of the forms of oath/affirmation

The oath or affirmation is made and subscribed by members individually in accordance with a set procedure. On the name of a member being called by the Secretary-General, the member proceeds from the place he is occupying to one of the podiums kept on either side of the Hon'ble Speaker's Chair where a copy of the form of oath or affirmation, as the case may be, in the language in which the member desires to make the oath or affirmation, is handed over to the member. The member after making the oath or affirmation[28] shakes hands with, or wishes the Chair, who then gives the member permission to take his seat in the House. Thereafter, member proceeds to the Table of the House to sign the Roll of members and takes his seat in the House.

In the case of a member who is ill and is unable to move from his place, the oath or affirmation may be made by him at the place he is occupying in the House, if he so desires. In such a case, the officer at the Table takes the relevant oath or affirmation card to the member. After the oath or affirmation has been made by the member, the Roll of Members is given to him at his seat where he signs it[29].

However, on request, a member has been allowed to take oath in the Speaker's Chamber[30].

While making and subscribing the oath or affirmation in the House, members are required to read the same style of their name as given in the declaration regarding their election received from the Returning Officer.

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28. On 25 March 1977, as a member could not read the oath form due to blindness, another member read out the oath which was repeated by the former.

29. Hari Saran Prasad Shrivastava, who was unwell, was allowed to take oath from his seat—*L.A. Deb.,* 6-3-1940, p. 979.

    Manno Lal Dwivedi from Uttar Pradesh, who was unwell, was allowed to take oath out of turn along with the members from Bihar. *L.S. Deb.,* 16-4-1962, cc. 5-6.

    Hifzul Rehman, who was ill, was allowed to take oath out of turn and sign the Roll of Members at his seat, *L.S. Deb.,* 16-4-1962, c. 3.

    Jamilur Rehman who was ill, was allowed to take oath from his seat and sign the Roll of Members at his seat. *L.S. Deb.,* 13-3-1985, c. 1.

    Bir Singh Mahato, who had his leg fractured, was brought in a wheel chair in the House and was allowed to take affirmation from the wheel chair he also signed Roll of Members from the wheel chair. *L.S. Deb.,* 26.3.1998, c. 5.

    A.B.A. Ghani Khan Choudhary, who was not well, took the oath from his seat, L.S. Deb. ,3.6.2004. c. 6.

    Baliram Kashyap, whose health was not so good, took the oath from his seat, L.S. Deb. , 3.6.2009, c. 2.

    Mulayam Singh Yadav, whose health was not so well, took the oath from his seat, L.S. Deb.,18.6.2019, c. 10.

30. Sardar Simranjit Singh Mann, who was elected in bye-election in 17th Lok Sabha, took oath in Punjabi and signed the Roll of Members in the Speaker's Chamber.

    During first session of the 18th Lok Sabha, Shri Afzal Ansari, an elected member from Ghazipur Parliamentary Constituency of Uttar Pradesh made affirmation on 01.07.2024 in Hindi and signed the Roll of Members in Speaker's Conference Room, as the Supreme Court of India vide its order dated 14.12.2023 imposed certain conditions including a direction not to participate in the proceedings of the House.

    Two members of the 18th Lok Sabha, Shri Abdul Rashid Sheikh, an elected member from Baramulla Parliamentary Constituency of Jammu and Kashmir and Shri Amritpal Singh, an elected member from Khadoor Sahib Parliamentary Constituency of Punjab could not make oath/affirmation during the first session as they were under custody/detention, took oath in Kashmiri and Punjabi respectively and signed the Roll of Members in Hon'ble Speaker Conference Room on 05.07.2024 during inter-Session.

The decision of the person, before whom oath or affirmation is made as to whether the oath or affirmation has been properly made or not is final[31].

Members who do not make and subscribe the oath or affirmation on the first day, do so on any subsequent day in the same session or a later session at the commencement of a sitting of the House[32]. However, on request, a member has been allowed to take oath during the inter-session period[33].

Where a person ceases to be a member as a result of an order of Court in an election petition and another is declared elected in his place and the latter takes his seat in the House, the former has to make and subscribe the oath or affirmation again, if the order declaring his election void is subsequently reversed by the higher Court. In such cases, the membership of the other member automatically stands cancelled.

A member elected to the Third Lok Sabha in the 1962 general elections had made and subscribed the oath or affirmation and taken his seat in the House. His election was held void by the Election Tribunal and in the same order another candidate was declared duly elected in his place, who consequently made and subscribed the oath and took his seat in the House on 7 September 1964.

On 19 December 1966, the Allahabad High Court set aside the order of the Election Tribunal. It was decided, in consultation with the Ministry of Law, that the member became a member de novo with effect from the date the order of the Tribunal was reversed by the High Court. He was, therefore, required to make and subscribe the oath or affirmation again but he could not do so because no further session of the House was held and the Lok Sabha was dissolved on 3 March 1967.

A member is not entitled to make any observation in the House before making and subscribing the oath or affirmation, signing the Roll of Members and taking his seat in the House[34].

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31. *Raj. L.A. Deb.,* 13-12-1956, *M.P. L.A. Deb.,* 8-7-1957.

32. (i) One member of the Ninth Lok Sabha could not make/subscribe oath or affirmation during the First Session as he was under detention. He took oath during the Second Session on orders passed by a court on a petition filed by him.

(ii) One member of the Thirteenth Lok Sabha could not make/subscribe oath or affirmation during the first two session as he was under judicial custody. He took oath on the first day of the Third Session as per order of the Supreme Court.

(iii) One member of the Fourteenth Lok Sabha could not make/subscribe oath or affirmation during the first three sessions as he was under judicial custody. He took oath during the Fourth Session as per the order of the Supreme Court.

(iv) One member of the Seventeenth Lok Sabha could not make/subscribe oath or affirmation during the first two sessions as he was under judicial custody. He took affirmation on the first day of the Third Session as per the order of the Supreme Court.

33. A member (Vijaya Raje Scindia) of the Twelfth Lok Sabha could not make/subscribe oath or affirmation during the First Session as she was ill.—Thereafter, she sought the permission of the Speaker to take oath in his Chamber since she had not fully recovered from her illness. Her request having been acceded to, necessary arrangements were made in the Speaker's Chamber. The member then took oath in Hindi and signed the Roll of Members in the Speaker's Chamber and that too, during an inter-session period, in presence of the Prime Minister, the Minister of Parliamentary Affairs and some guests of the member.

34. *L.S. Deb.,* 13-8-1963, c. 2; 23-4-1973, cc. 1-4; 18-2-1975, c. 1.

For instance, where certain observations made by a member before making and subscribing the oath were recorded in the Debates, *see L.S. Deb.,* 16-3-1967, c. 14.

Oath or Affirmation by a Member returned in a By-election

A member returned in a by-election during the inter-session period makes and subscribes the oath or affirmation in the House on the commencement of a session. Although a member may make and subscribe oath or affirmation under article 99 before the President or any person appointed in that behalf by him at any time outside the House, the practice in the Lok Sabha has been for members to do so in the House itself.

As soon as the declaration regarding the election of a member in a by-election is received from the Returning Officer, the member is informed about the duration of the current session or the date of commencement of the next session as the case may be, and is asked to intimate the date on which he would like to make and subscribe the oath or affirmation. He is also requested to bring with him the certificate of his election and contact the officer at the Table through a sitting member at least an hour before the commencement of the sitting so that the necessary formalities may be completed before the sitting commences.

There have, however, been instances where the Speaker has granted permission to members to make and subscribe the oath or affirmation even when prior notice had not been given or the complete election papers had not been received[35].

The oath or affirmation is made and subscribed by such a member immediately at the commencement of a sitting of the House[36]. This enables him to take part in the proceedings at the earliest opportunity. He can ask questions on the same day in case he has been elected during the inter-session period and has given notices of questions for the day. Even if he has not given notice of a question for the day, he can ask supplementaries on questions of other members.

If a member arrives after the sitting has commenced, he makes and subscribes the oath or affirmation at any convenient time during the sitting of the House as the Speaker may direct, but till then he is not allowed to sit in the House and is required to wait in the Lobby.

There have been several occasions when members were allowed by the Speaker to make and subscribe the oath or affirmation after the business of the day had been taken up[37]. But on certain other occasions the Speaker has not given such concession.

Seating of Members

Members sit in the House in such order as is determined by the Speaker[38]. All recognized Parties and Groups are allotted blocks of seats in proportion to the strength

35. *See L.S. Deb.,* 19-4-1960.

36. Rule 5 and Dir. 2.

37. *See L.S. Deb.,* 18-5-1954, c. 7734; 1-10-1955, c. 1607; *L.S. Deb.,* 17-5-1957, c. 767; 24-8-1957, c. 9747; 21-12-1963, cc. 6249-50; 30-3-1967, c. 310; 26-3-1971, c. 21; 22-12-1973, c. 47.

38. *See* Rule 4. In the Central Legislative Assembly also, members used to sit in such order as the Speaker determined (*See* S.O. 26).

The Provisional Parliament as well as the Lok Sabha carried over the rule of the Central Legislative Assembly in this regard, with slight change. Rule 4 is almost similar to S.O. 26.

of the Party or Group and the total number of seats available in the House. Individual allotment of seats within a block of seats is made by the Party or Group itself and intimated to the Speaker. Blocks of seats are not allotted to small Groups or independent members. Seats to individual members of such Groups and to independent members are allotted by the Speaker. Members of such Groups who express a desire to sit together are, as far as possible, allotted contiguous seats.

Senior members of the House who have earned a distinctive position by virtue of their long and devoted service to the House may be allotted prominent seats and, in appropriate cases, in the front rows, without consideration of Party or Groups to which they belong[39]. The Deputy Speaker is allotted the first seat in the front row on the left of the Chair[40]. The Leader of the Opposition, if any, is allotted a seat in the front row next to the Deputy Speaker[41]. In case of Cabinet Ministers, Ministers of State and

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39. At the beginning of the Second Lok Sabha, the following members were allotted seats in the front row of the Opposition block:

    Frank Anthony, a nominated member representing the Anglo-Indian community and a member of the Independent Parliamentary Group.

    Shibban Lal Saxena (India), elected from the Maharajganj Constituency (U.P.).

    J.B. Kripalani, Leader of the P.S.P. Group. On resignation from the P.S.P. in November 1960, he became an unattached member but in view of his position in public life, no change was made in the seat allotted to him. In accordance with the establishment principle *viz.,* their standing in Parliament and prominence in public life, the following members were also allotted seats in the front row other than the Government side in the Lok Sabha Chamber on the basis of their distinctive position without consideration of party to which they belonged:

    Third Lok Sabha: Seat No. 352 Frank Anthony for being leader of Independent Parliamentary Group and a senior member.

    Fourth Lok Sabha: Seat No. 266 to Dr. Govind Das, Father of the House. Seat No. 351 to Frank Anthony (Unattached Member) for being a senior member.

    Fifth Lok Sabha: Seat No. 266 and later 181 to Dr. Govind Das, Father of the House. Seat No. 352 to Frank Anthony for being a senior member.

    Seventh Lok Sabha: Seat No. 351 to Frank Anthony (Unattached Member) for being senior member.

    Eighth Lok Sabha: Seat No. 352 to Frank Anthony (Unattached Member) for being a senior member.

    Tenth Lok Sabha: Seat No. 181 to Chandra Shekhar (J.P.) for being senior member, Seat No. 266 to K.P. Unnikrishnan Cong. (S) for being a senior member.

    Eleventh Lok Sabha: Seat No. 366 to Chandra Shekhar (J.P.) for being former Prime Minister.

    Twelfth Lok Sabha: Seat No. 99 to Chandra Shekhar (SJP-R); Seat No. 187 to I.K. Gujral (JD); and Seat No. 188 to H.D. Deve Gowda (JD) for being former Prime Ministers; and seat No. 276 to Indrajit Gupta (CPI) for being Father of the House.

    Thirteenth Lok Sabha: Seat No. 277 to Chandra Shekhar (SJP-R) for being former Prime Minister and Seat No. 454 to Indrajit Gupta (CPI) for being Father of the House.

    Fourteenth Lok Sabha: Seat No. 99 (released by Minister of Parliamentary Affairs) to H.D. Deve Gowda (JD-S) and Seat No. 187 to Chandra Shekhar (SJP-R) for being former Prime Ministers.

    Fifteenth Lok Sabha Seat No. 99 to T.R. Baalu (DMK) for being a senior member; Seat No. 187 to H.D. Devagowda [JS(S)] for being former Prime Minister and Seat No. 188 to Lalu Prasad (RJD) for being a senior member. All these seats were allotted on the recommendation of Minister of Parliamentary Affairs.

    Sixteenth Lok Sabha: Seat No. 455 to H.D. Devegowda [JD(S)] for being former Prime Minister and Seat No. 456 to Mulayam Singh Yadav (SP) for being a senior Member.

    Seventeenth Lok Sabha: Seat No. 455 to Mulayam Singh Yadav (SP) for being senior Member.

40. The convention that the Deputy Speaker should occupy the first seat to the left of the Speaker was established in 1927, when Speaker Patel directed that the then Deputy Speaker be allotted the first seat to his left.—see also *L.S. Deb.,* 16-3-1970, c. 250.

41. There was no Leader of the Opposition as such in the First, Second, Third and Fifth Lok Sabha as no party in Opposition was recognized as a Parliamentary Party under Direction 121. In the First Lok Sabha, Communist Party was recognized as Party Group. The Leader of the Communist Group was allotted a seat next to the Deputy Speaker and other members of his Group were allotted contiguous seats behind his seat. In August 1954, however, the Group lost recognition when its membership dropped to 29.

Deputy Ministers, seats are allotted by the Speaker in the front rows on the right side of the Chair in the order of their seniority as intimated by the Minister of Parliamentary Affairs.

The seating arrangement in the Lok Sabha Chamber has undergone several changes from time to time. While in the days of the Central Legislative Assembly, the Chamber had only 148 seats, the number was increased to 300 after the Chamber was re-modelled in 1947 to accommodate the members of the Constituent Assembly (Legislative) which met in the Assembly Chamber to function as a distinct body in the capacity of the Dominion Legislature. In 1952, following the first general elections, the

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In the Fourth Lok Sabha, with a split in the ruling Congress Party in November 1969 certain dissociating members thereof formed a separate party called the Congress Party (Opposition) and its leader was recognized as the Leader of the Opposition and allotted a seat next to the Deputy Speaker.

On the constitution of the Sixth Lok Sabha in March 1977, the Congress Party being the only Party in Opposition eligible for recognition as a Parliamentary Party under Direction 121, its leader was recognized as the Leader of the Opposition and allotted a seat next to the Deputy Speaker. Also *see* Chapter 8 —'Parliamentary Functionaries', under the heading *Leader of the Opposition.*

On the constitution of the Seventh Lok Sabha in February 1980, no party in the Opposition was recognized as Parliamentary Party in terms of Direction 121. The Leaders of Janata (S), CPI(M), Janata, DMK, Congress (U) and CPI were allotted seats in the first row. Frank Anthony, a nominated member representing the Anglo-Indian community, was allotted seat in the first row.

The Eighth Lok Sabha was constituted on 31 December 1984 and no party in Opposition was recognized as a Parliamentary Party in terms of Direction 121. The Leaders of Telugu Desam, CPI (M), Janata, CPI and AIADMK were allotted seats in the first row.

Frank Anthony, a nominated member representing the Anglo-Indian community, was allotted seat in the first row.

On the constitution of the Ninth Lok Sabha in December 1989, Indian National Congress (INC) being the largest party in Opposition, its leader Rajiv Gandhi was recognised as the Leader of the Opposition and allotted a seat next to the Deputy Speaker's seat in the Lok Sabha Chamber. Due to the split in the United Front, the Government headed by V.P. Singh stepped down and on 10 November 1990, the INC extended its support to Chandra Shekhar to form the new Government. Consequently, the BJP being the largest party in the Lok Sabha, next to the INC at that time, became the largest Opposition party and its leader, L.K. Advani was recognised as the Leader of the Opposition and allotted the above-mentioned seat.

In June 1991, when the Tenth Lok Sabha was constituted, L.K. Advani was recognised as the Leader of the Opposition and was allotted the seat adjacent to the Deputy Speaker's seat in the Lok Sabha Chamber. After two years, in July 1993, A.B. Vajpayee was elected as the Leader of the BJP and consequently, he was sworn in as the Leader of the Opposition and occupied the same seat mentioned above.

Similarly in May 1996, when the Eleventh Lok Sabha was constituted, P.V. Narasimha Rao was recognised as the Leader of the Opposition and was allotted the seat next to the Deputy Speaker's seat in the Lok Sabha Chamber. Consequent upon the resignation of the BJP Government in May 1996, A.B. Vajpayee became the Leader of the Opposition and was allotted the seat next to the Deputy Speaker's seat in the Lok Sabha Chamber.

In March 1998, when the Twelfth Lok Sabha was constituted, Sharad Pawar was recognised as the Leader of the Opposition and was allotted the seat next to the Deputy Speaker's seat in the Lok Sabha Chamber.

On the constitution of Thirteenth Lok Sabha in October 1999, Sonia Gandhi was recognized as the Leader of the Opposition and was allotted the seat next to the Deputy Speaker's seat in the Lok Sabha Chamber.

Similarly, on the constitution of Fourteenth Lok Sabha in May 2004, L.K. Advani was recognized as the Leader of the Opposition and was allotted the seat next to the Deputy Speaker's seat in the Lok Sabha Chamber.

On the Constitution of the Fifteenth Lok Sabha in May 2009, L.K. Advani was recognized as the Leader of the Opposition and was allotted the seat next to the Deputy Speaker's seat in the Lok Sabha Chamber. On 21 December 2009, consequent upon Sushma Swaraj being recognized as the Leader of the Opposition, she was allotted the seat adjacent to the seat of Deputy Speaker.

During the Sixteenth and Seventeenth Lok Sabhas, there was no Leader of Opposition in the House.

On the constitution of the Eighteenth Lok Sabha, Rahul Gandhi was recognised as the Leader of the Opposition.

number of seats was raised to 466 which was less than the number of members returned. The number was further increased in 1957 to accommodate up to 530 members, each one being provided with a seat.

In 1975, twenty additional seats were provided and the Chamber can now accommodate up to 550 members.

At the beginning of the Second Lok Sabha, the installation of the Automatic Vote Recording Equipment for taking votes in a division made it imperative that each member should be allotted a specific seat in the Chamber and that he should occupy the allotted seat. Subsequently, during Tenth Lok Sabha, in March 1995, a computerized, integrated system on Microphone Management, Simultaneous Interpretation and Automatic Vote recording was installed in the Lok Sabha Chamber for recording votes during the time of Division in the House. Each member is now allotted a fixed seat from where he has to address the House[42] unless otherwise directed by the Chair[43] and at the time of a division, he has to record his vote by operating the switches/push buttons provided for as fixed to his seat only[44].

In the Central Legislative Assembly, once the seats were allotted to Parties at the beginning of a session, no further alterations in the seats were normally made during the same session unless the changes proposed in the seating arrangements were few and did not upset the seating arrangement for the session. Where members of a Party to whom seats were allotted abstained totally from attending the sittings of the House for the entire period of the session and formal notice had been given by the Party to that effect, their seats were allotted to members of other Groups[45]. Once a seat was occupied by a member he had to stick to it and was not to occupy any seat lying vacant without the permission of the Chair[46].

When the Provisional Parliament came into existence in 1950 and the number of seats in the Chamber was less than the number of members, no formal allotment of seats was made by the Speaker and a member occupied a seat in a block as he

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42. Rule 349(vii)—*see* also *L.S. Deb.,* 8-3-1960, cc. 4696-98; 19-12-1960, c. 6334. The matter relating to the observance of rules by members while speaking in the House was discussed in the Business Advisory Committee meeting held on 9 March 2005, wherein the Speaker directed that members, except the Ministers, shall speak from their own seats unless permitted by the Chair to speak from another seat.

    From 2005 onwards a para in Bulletin – Part II is also issued during the session routinely drawing the attention of the members to the provisions of rules 349 (vii) and 351 of the Rules of Procedure and Conduct of Business in Lok Sabha, which, *inter alia* provide that whilst the House is sitting, a member shall keep to his usual seat and shall speak from his place while addressing the House.

43. The Chair often permits members who are inaudible when speaking from their seats, to come to the bench which is closer to the microphone and address the House—*see L.S. Deb.,* 21-12-1955, c. 3515; 31-3-1960, c. 9016; 26-8-1960, c. 5120; 22-12-1960, c. 7144.

44. At the time of division, each member has to press the vote initiation switch with one hand and then operate one of the three push buttons with the other hand simultaneously. Only then, the light will flash in the corresponding set of LEDs pertaining to the seat of the member in the Individual Result Display Panels installed on the wall on either side of the Speaker's Chair in the Chamber. Otherwise, the particulars of voting of each member will not present a true picture.

45. *See L.S. Deb.,* 28-10-1941, pp. 147-50; 29-10-1941, pp. 209-210; *Indian Annual Register,* 1939 (II), pp. 15 and 21.

46. *L.A. Deb.,* 8-3-1926, p. 2144; 27-2-1929, pp. 1320-21.

chose. Having selected a seat, it was expected of a member to sit in the block in which he had been sitting and to address the House from that position[47].

In the first general elections, the total number of members returned to the Lok Sabha was 499. But as the number of seats in the Chamber was only 466, the various Opposition Groups were allotted blocks of seats on a *pro rata* basis[48]. The remaining seats were thereafter assigned to the Party commanding a majority, leaving it the freedom of allotting the various seats to its individual members[49].

The Parliament of India (the New Building of Parliament) was inaugurated on 28th May, 2023. Lok Sabha Chamber of Parliament of India comprises of 8 Blocks of 12 Rows each. The First Session in the Parliament of India *i.e.* the 13th Session of 17th Lok Sabha was held for 4 days from 18.9.2023 to 21.09.2023 in the new building. Sitting on 18th September, 2023 was held in the old Lok Sabha Chamber (*Samvidhan Sadan*) and sitting from 19th to 21st September, 2023 were held in the Parliament of India (New Building of Parliament) on free sitting pattern. During the 14th Session of 17th Lok Sabha held in the Parliament of India (New Building of Parliament), the Members were allotted new division/seat numbers as per convention/procedure

The first blocks to the right of the Chair, is reserved for the Ministers and few members to whom seats are allotted in the order of their seniority[50]. Ministers who are not members of the Lok Sabha are not allotted fixed seats[51]. A few seats in these rows are, however, kept vacant to be occupied by them. The first seat in the front row to the right of the Chair is always earmarked for the Prime Minister, whether he is a member of the House or not. Leaders of political parties, members who were former Prime Ministers, and very senior members, are also given seats in the front row. So far as allotment of seats to members belonging to smaller parties having strength of less than 5 members is concerned, they are treated at par with independent members. Members belonging to these parties are allotted seats by the Speaker at his discretion in accordance with the established principle, *viz.* their standing in Parliament, prominence in public life, etc.

Individual allotment of the remaining seats within the blocks reserved for the Government Party/Ruling Alliance is recommended by the Government Chief Whip Minister of Parliamentary Affairs in accordance with the general principles laid down

47. *H.P. Deb.,* (I), 21-3-1950. pp. 955-56.

48. This allotment on *pro rata* basis was done a few days after the first sitting of the newly elected House. Till then, members were asked to occupy the same seats which they had occupied during the Question Hour. *See H.P. Deb.,* (I), 19-5-1952, 6-11-1952, cc. 65-66; *see* also *L.S. Deb.*, 7-12-1954, c. 1071.

49. *See H.P. Deb.,* (II), 18-6-1952, cc. 2035-36.

50. Ministers to whom seats have been allotted in the second row are permitted by the Speaker to take their seats (at least during the Question Hour) in the first row if they are vacant, to answer questions. If the Ministers to whom the front seats have been allotted happen to come at that time, they take their seats for the time being in the second row.

    At other times, when voting is not taking place, the Minister in-charge of a Bill may sit on another seat—*see L.S. Deb.*, 11-12-1958, cc. 4535-37.

51. An exception was, however, made in case of Govind Ballabh Pant, Minister of Home Affairs, who was a member of the Rajya Sabha. He was allotted a fixed seat in the Chamber.

by the Speaker in regard thereto[52]. All subsequent requests for allotment of seats by members returned in by-elections proposed for changes in the allocation of seats already made are dealt with by him and any changes decided/proposed by him are forthwith submitted for the approval of the Speaker.

When additional seats are required in the front rows consequent upon the appointment of new Ministers, the Government Chief Whip makes available the requisite number of seats for being allotted to them. Private members who are affected by the release of such seats are allotted seats elsewhere by the Speaker on the recommendation of the Government Chief Whip within the blocks reserved for the Party.

Parties and Groups in the Opposition, recognized by the Speaker, are allotted blocks of contiguous seats proportionate to their strength, starting from the left of the Chair. The Party Group having the largest membership is allotted seats to the extreme left, the Party Group having the next largest membership to the right of that Party Group and so on. Where the membership of the Parties or Groups undergoes changes, the Speaker may re-allot seats to them in accordance with their numbers. The seats among the members of a Party or Group are allotted to them by the leader of the Party or Group concerned with the approval of the Speaker. In allotting seats to individual members, the same principles are normally followed as are applicable in the case of the Government Party Alliance.

Individual members of smaller Groups are allotted seats by the Speaker. Such members may, in the discretion of the Speaker, be allotted contiguous seats. The Speaker may, on a request made in that behalf, permit the members of a Group to change their seats *inter se*.

When a member returned in a bye-election comes to make and subscribe the oath or affirmation, he is seated in one of the back rows of the first block on the right of the Chair. In the case of a member of an Opposition Party or Group, he may be permitted to sit in the respective block, if he so desires. After a member makes and subscribes the oath or affirmation, he is allotted a regular seat.

In the case of a member returned in a bye-election and affiliated to a Party or Group, an additional seat is placed at the disposal of the Party or the Group concerned after the new member has made and subscribed the oath or affirmation for being allotted to him, if necessary, by making suitable adjustment in the allotment made to other members of that Party or Group under intimation to the Speaker. In the case of a member belonging to a small Group or an independent member returned in a bye-election, the seat is allotted by the Speaker.

When any new Party or Group is formed due to merger in terms of paragraphs of the Tenth Schedule to the Constitution during the life of the House, its members may be

52. Generally, the following considerations are kept in view—

As far as possible, members who are re-elected are allotted the original seats or seats nearby; some ex-Ministers of the Government of India and the State Governments elected to the House are given preference in allotment in the front rows or behind the seats of the Ministers;

Prominent members who frequently take part in the debates are given seats in the front rows; and

New members are allotted seats on the merits of each case according to their prominence in public life, individual standing, etc. as far as these factors are known.

allotted contiguous seats or seats as near as possible to one another without dislocating seats allotted to other members.

Whenever any change takes place in the leadership of a Party or Group, the Speaker may, keeping in view its membership and prominence in public life and individual standing of the new leader of the Party or Group, re-allot him a better seat, and in an appropriate case a seat in the front row[53].

If during a session of the House any Party or Group gains or loses membership and thereby becomes eligible for a new block of seats, the seating arrangement is not usually disturbed until the session is over. Necessary reallocation may take place at the commencement of the succeeding session[54].

Due to Covid-19 protocols, Members were seated in the Chambers and Galleries of Lok Sabha and Rajya Sabha in *Samvidhan Sadan* during the 4th, 5th (First Part and First day of Second Part) and 8th Session (First Part) in the 17th Lok Sabha. However, during the 5th Session (Second day of Second Part onwards), 6th, 7th, 8th (Second Part) and 9th Sessions, Members of Lok Sabha were seated in the Lok Sabha Chamber and its Galleries due to abatement in the Covid-19 situation by then. Seats at each venue were allotted to the Alliance/Parties in proportion to their strength in the House. Seat No.1 in the Lok Sabha Chamber was reserved for Prime Minister. Other seats in the front row were reserved for senior Ministers and Leaders of the major parties in Oppositions. Leaders of all parties in the House were accommodated in the Lok Sabha Chamber. Other Members were allotted seats by their Leaders from among free seats. While allocating seats to Members in the Lok Sabha Chamber, Leaders were advised to accord priority to Members directly concerned with the business of the House on a given day.

Further, arrangements like integration of the audio and video systems of the two Houses, Divisions through Slips, mobile App for marking daily attendance, special counter for receipt of notices and restricted access to Parliament House were put in place to facilitate the sittings. Polycarbonate sheets between seats in the Lok Sabha Chamber, sensor based sanitizer and water dispensers were also installed for the safety of Members. Disposable paper glasses replaced the conventional glasses to minimize the risk of infection.

53. At the beginning of the Second Lok Sabha, the leader of the P.S.P. Group was J.B. Kripalani who was allotted a seat in the front row. He resigned from the Group in November 1960. Thereupon, Asoka Mehta became the leader of the Group. He was allotted a vacant seat in the front row.

    At the commencement of the Third Lok Sabha, the Leader of the Communist Group, which functioned as a recognized Group, was allotted a seat next to the Deputy Speaker. In 1964, the Communist Group split into two Groups and it lost recognition as a Parliamentary Group. The seat next to the Deputy Speaker was then allotted to the Leader of the Swatantra Group which commanded the largest membership amongst the unrecognized Groups in the House.

    Consequent upon the change of leadership of the AIADMK Group on 16 March 1988, during the Tenth Session of the Eighth Lok Sabha, the leader of the AIADMK was allotted seat in the front row.

    Information was received on 13.6.2021 that Pashu Pati Kumar Paras, MP has been elected as the Leader of LJSP in the 17th Lok Sabha replacing Shri Chirag Paswan, then Leader of LJSP. Accordingly, Shri Pashu Pati Kumar Paras, MP was re-allocated seat in the first row.

    Information was received on 18.7.2022 that Shri Rahul Ramesh Shewale, MP was the new Leader of Shiv Sena in 17th Lok Sabha replacing Shri Vinayak Raut, then Leader of Shiv Sena in Lok Sabha. Accordingly, the new Leader of Shiv Sena was re-allocated seat in the second row.

54. During Twelfth Session of the Fifteenth Lok Sabha, seating arrangement was revised when All India Trinamool Congress, a constituent party of the ruling United Progressive Alliance, demanded separate seating for its members consequent upon withdrawing from the Alliance.

CHAPTER 16

Leave of Absence of Members

Each constituency expects that the member it elects will take his seat in the Lok Sabha and attend sittings of the House, except when it is necessary for him to remain absent on account of unavoidable reasons. It is the right of the Lok Sabha to receive from him an account as to why he was absent. The duty of members to the House is paramount and they are expected to remain absent from the sittings thereof only when there are compelling reasons for doing so[1].

Constitutional Provisions

The Constitution provides that if for a period of sixty days, a member of either House of Parliament is, without permission of the House, absent from all meetings thereof, his seat may be declared vacant by the House[2]. In computing the said period of sixty days, no account is taken of any period during which the House is prorogued or is adjourned for more than four consecutive days[3].

In the Central Legislative Assembly, if a member was absent from India or unable to attend to the duties of his office for a period of two consecutive months his seat could be declared vacant by the Governor-General[4]. However, in the case of an elected member, the Governor-General could consider the possibility of taking action under the constitutional provision only when moved to do so by the constituency of the member to which the member was primarily responsible for the due performance of his duties. If a non-official nominated member could not see his way to attend with reasonable regularity, the proper course for him was to resign his seat.

During the period from the passing of the Indian Independence Act, 1947, to the commencement of the Constitution, there was no constitutional provision for declaring vacant the seats of the members of the Constituent Assembly (Legislative) on the ground of their continuous absence from the sittings thereof, nor was it necessary for members to obtain permission of the House to remain absent[5].

Under the Rules, the seat is declared vacant on a motion by the Leader of the House or by such other member to whom he may delegate his functions in this behalf [6].

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1. 4R (CAM-1LS).
2. Art. 101(4).

   Provision has accordingly been made by Lok Sabha in the Rules prescribing the method for seeking permission of the House to remain absent from the sitting thereof and for the vacation of a seat on a motion moved in that behalf by the Leader of the House—*Vide* Rules 242 and 325 to 328.
3. Art. 101(4), Proviso.
4. Sec. 93(2) of the Government of India Act, as set out in the Ninth Schedule to Government of India Act, 1935.
5. After the passing of the Indian Independence Act, 1947, the Ninth Schedule as also Sec. 25(3) of the Government of India Act, 1935, were omitted from the Act of 1935 under India (Provisional Constitution) Order, 1947.
6. Rule 241(1).

The present practice is that it is the Committee on Absence of Members[7] who first report that the House should declare the seat of the member in question vacant. The report, before presentation to the House, is forwarded to the Leader of the House for comments. After the report is agreed to by the House, the Leader of the House, or if he has delegated his authority to the Chairperson of the Committee, then the latter, may move the motion, on giving notice thereof [8].

The period of sixty days referred to in the Constitution means 'a single unbroken period of sixty days' and in order to disqualify a member under these provisions, the absence has to be continuous.

> The period of absence is calculated from the day a member is absent from the sittings of the House till the day he next attends it, whether in the same session or in subsequent sessions. The intervening days in a session on which no sitting of the House is held are counted, but any period of prorogation or adjournment of the House for more than four consecutive days is excluded[9].

The constitutional provisions are only directory and not mandatory and a seat may not be declared vacant unless there is a contumacious disregard of duty as a member of the House. The power to declare a seat vacant being only an enabling power, it is within the competence of the House to condone the absence of any member exceeding a period of sixty days[10].

Where a member has already been absent for over sixty days on the date of application for leave of absence, the permission of the House given to remain absent up to the date of the application is termed as 'condonation of absence' and the permission to remain absent after the date of the application, if applied for, is termed as 'grant of leave of absence'[11].

Attendance Register

In order to record the attendance of members, an attendance register is maintained for members to sign against their names in token of having attended the sitting of the House on a particular day[12].

Before entering the House, a member has to record his presence in the attendance register kept in the Lobby and he has to sign it every day[13]. For the convenience of members, the register is split up into four parts—each having a series of division numbers and each part is kept on a separate rostrum in the Lobby.

After the adjournment of the House each day, all the four parts of the attendance register are collected and the attendance of members[14] *i.e.* members who have signed/

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7. For details regarding the functions and working of the Committee, *see* Chapter 30—Parliamentary Committees, under 'Committee on Absence of Members from Sittings of the House'.
8. *L.S. Deb.,* 5-12-1956, cc. 1922-36.
9. *P. Deb.,* (II), 19-4-1950, p. 3023.
10. *Min. (RC),* 17-12-1953, p. 21.
11. 7R (CAM-1LS)—The Report was adopted by the House on 23 December 1954.
12. The register was first introduced on 11 December 1947. Previously, the practice had been that a Secretariat official in the Lobby recorded attendance of members; in view of the increase in the size of the House and the fact that members come in at different times of the day that practice was not regarded as satisfactory and accurate.
13. This information is incorporated in *Handbook for Members.* A para is also issued in the Bulletin from time to time reminding the members about the necessity of signing the attendance register. Such reminders were issued in the form of circulars prior to 1950.
14. Since the year 2020 (17th LS), Members have been provided with the facility to mark their attendance digitally through the Members' Attendance App.

not signed, is uploaded on the website of Lok Sabha for the purpose of keeping a complete record of the attendance of members and computing the period of continuous absence of members. Original attendance registers of different Lok Sabha are bound separately and kept as a record.

There is no provision in the Constitution or the Rules making it incumbent upon members to record their attendance in the attendance register. In fact, each day, a number of members attending the House do not sign the attendance register. There can also be cases where members may sign the attendance register in the Lobby on a day but may not actually attend the House at all on that day. Signatures in the attendance register do not imply that the members concerned were present in the House throughout the day. A member can come and sign the attendance register at any time during the sitting of the House. There are also occasions when due to inadvertence or hurry some members do not sign the attendance register. Sometimes the signatures are not legible; and later on it may become difficult to identify such signatures. Ministers, as a rule, do not sign the attendance register. All these factors go to show that the attendance register is not a complete document. It is only a voluntary record of the evidence to show that a particular member signed the attendance register on a particular day. Absence of signature of a member does not, therefore, mean that he was not present in the House on a particular day.

Prior to 9 June 1993, the payment of daily allowance to a member was not dependent upon his signatures in the attendance register. However, with effect from 9 June 1993, no member is entitled to daily allowance unless he signs the attendance register on all the days (except intervening holidays for which no such signing is required) of the session of the House for which the allowance is claimed[15].

In 1997, the Committee of Privileges (11 LS) in their Report on 'Ethics, Standards in Public Life, Privileges, Facilities to Members and Other Related Matters' also dealt with this matter[16].

The attendance register is utilised for reminding a member about the constitutional provisions regarding attendance of a member. In case he has not signed the attendance register for a long time and when his absence on the basis of the attendance register comes to forty days or more, the member concerned is then reminded to apply for leave of absence in time. Such a reminder also induces a member to sign the attendance register in future, in case he had not been doing so earlier.

Chart Showing Hourly Count

Connected with the attendance register, there is also a chart maintained by the Lobby officer showing the number of members present in the House at different hours of the day, which is maintained in order to convey a more correct impression of the attendance in the House than marking the attendance once in a day at a particular time. The chart also indicates the total attendance of the House during the day. At the end of each session, an analytical abstract showing the maximum and minimum

15. Section 3 of the Salary, Allowances and Pension of Members of Parliament Act, 1954 (amended by Act No. 40 of 2006).

16. The Committee, in their Report, took a view that claiming daily allowance without attending the House is immoral and unethical. The Committee, however, felt that the said statutory provision had to be viewed in the right perspective taking into account the spirit of the law. Taking a logical view, it was opined that a member who attends the sitting of the House becomes entitled to claim daily allowance, hence, in certain exceptional cases, where a member inadvertently forgets to sign the attendance register, but nevertheless attends the House, in all fairness, his claim for daily allowance should be considered, subject to production of a tangible proof of attendance.

attendance on a day, highest and lowest hourly count and the average attendance per day during the session, is prepared. This chart, however, does not show the names of members present but only the number of members present. With the commencement of the live telecast of proceedings of Lok Sabha by the Sansad Television Channel and the availability of attendance details of Members on the website from the Fourteenth Lok Sabha, the chart has lost its relevance and has been done away with.

Procedure for obtaining Leave of Absence

A member desiring permission of the House to remain absent from the sittings thereof to escape penalty under the constitutional provisions is required to make an application in writing specifying therein the period for which leave of absence is required, together with the date of commencement, and termination of such leave and the grounds for it[17]. Applications for leave of absence may be addressed to the Speaker, or the Secretariat, or the Chairperson of the Committee on Absence of Members. If any application is addressed to a person or body other than these, the member concerned is advised to send a fresh application.

To make an application in writing means that the member concerned should sign it. Leave of absence has also been granted on the basis of applications by telegram[18], e-mail and fax, followed by letter written and signed by the member himself.

If a member is unable to apply by himself in writing for reasons which the Speaker considers adequate, another member may be permitted to apply for leave of absence from the sitting of the House on his behalf[19].

An application from an ailing member affixing his thumb impression thereon received through a sitting member was considered by the Committee and the leave recommended was granted by the House[20].

An application for leave of absence on the ground of illness received on behalf of a member signed by his son was considered by the Committee and leave was recommended[21]. Similarly, an application on ground of severe burns, received on behalf of a member from his wife, was considered by the Committee and leave was recommended[22]. On the other hand, an application signed and addressed by a member on behalf of another member was not considered as valid as the latter was capable of applying by himself [23].

A letter from the private secretary of a member regarding grant of leave of absence to the member is not treated as valid application for leave of absence[24].

Where an application does not state the specific period or reasons or both for which leave is required, the member concerned is asked to do so by a letter addressed to him, before his application is considered.

17. Rule 242. This Rule was first framed in 1950.

18. *Min. (RC),* 15-4-1950, p. 2.

19. *Min.* (CAM-1LS), 13-12-1955; 9R (CAM-4LS); 10R (CAM-7LS).

20. *See* 10R & 11R (CAM-6LS); 6R (CAM-8LS).

21. *See* 3R, 10R and 11R (CAM-4LS); 16R (CAM-4LS).

22. 10R (CAM-8LS).

23. *See* 15R (CAM-4LS).

24. In his letter, dated 15 November 1958, the private secretary to a member intimated that the member was undergoing treatment in the U.S.A. and was not in a position to send his leave application under his own signature. The letter was not treated as leave application and the private secretary was advised to ask the member to send his leave application to the Speaker direct.

The period for which leave of absence is required by a member must not exceed sixty days[25]. If a member applies for leave of absence for a period exceeding sixty days, the Committee recommends fifty-nine days' leave only in the first instance[26].

In case a member applies for leave of absence for a period which falls partly during the current session and partly in the next session, he is granted leave till the termination of the current session only in the first instance, provided that the period of leave so granted does not exceed fifty-nine days. For the portion of period of leave falling in the next session, the member is advised to apply afresh[27].

It is not necessary to apply for leave of absence where the period of absence is less than fifteen days[28]. Strictly speaking, under the provisions of the Constitution, it is not necessary to take the permission of the House for leave of absence for less than sixty days, but it is safer for the members to do so[29].

As soon as a member completes forty days of continuous absence without permission of the House, the Secretariat informs him about it, so that he may apply for leave of absence in time in order to avoid complications at a later stage[30]. A further reminder is sent to him when his continuous absence amounts to fifty days.

This enables a member to apply for leave of absence or to clarify that he had been attending the House but had not signed the attendance register[31]. If a member is continuously absent from the sittings of the House for sixty days or more, without permission, his attention is drawn to the constitutional provisions and the relevant rules and he is advised to apply for condonation of the period of absence, stating the reasons necessitating his absence, for the information and consideration of the Committee on Absence of Members[32]. In a similar case, no such communication is, however, sent to a Minister.

Applications for leave of absence have to specify the grounds for leave[33]. The reasons given in the application should be proper, sufficient and convincing. On the recommendation of the Committee on Absence of Members, Lok Sabha has laid down[34] the following grounds on which leave could be granted to members:—

(i) Illness of self, including medical check up;

(ii) Illness, accident or mishap in the family;

(iii) Death in family;

(iv) Marriage of self or marriage in family;

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25. Rule 242(2), Proviso; 1R (CAM-1LS).
26. 20R (CAM-1LS).
27. *Min.* (CAM-2LS), 19-8-1959, para 3(5).
28. 7R (CAM-1LS), para 3.
29. *See L.S. Deb.,* 9-5-1956, cc. 7720-21; 17R (CAM-5LS).
30. This is done in pursuance of the recommendation of the Committee on Absence of Members — *see Min.* (CAM-1LS), 15-3-1956, paras 4 and 5; 13R (CAM-1LS), para 16.
31. *Min.* (CAM-5LS), 24-3-1975, 11-4-1975 and 25-7-1975.
32. 1R (CAM-1LS). For relevant provisions, *see* article 101(4) and rule 241(1).
33. Rule 242(2); *see* also 1R (CAM-1LS), para 3(ii) and (iii).
34. 17R (CAM-5LS); adopted by Lok Sabha on 3-12-1974.

(v) Detention in jail;

(vi) Pilgrimage or participation in religious celebrations;

(vii) Visits abroad for (*a*) participation in Conferences and Delegations, (*b*) study tour, (*c*) lecturing, or (*d*) participation in games and sports;

(viii) Relief work in natural calamities like floods, drought, fire or earthquake in the constituency or any part of the country;

(ix) Work connected with delimitation of constituencies or preparation of electoral rolls;

(x) Work connected with some Commission of Inquiry;

(xi) Celebrations in the constituency like Martyrs' Day, centenary celebrations, Inauguration of a new project in Assembly or State, etc. in which the member has been assigned a prominent role;

(xii) Elections or bye-elections in the constituency;

(xiii) Participation in Party session or Party meetings;

(xiv) Agitations or disturbances in the constituency; and

(xv) Breakdown of communications.

It was agreed[35] that some of the grounds mentioned above would not merit grant of leave for long durations, and as such while granting leave not only the grounds but also the duration of leave would be a vital factor.

The Lok Sabha further decided[36] that leave need not ordinarily be granted on grounds like—

(i) Work in the constituency other than those mentioned in the preceding paragraph;

(ii) Professional or business engagements;

(iii) Private affairs; and

(iv) Domestic trouble other than those mentioned in the preceding paragraph.

The Lok Sabha also decided[37] that the information given by members should be relied upon and members need not be required to produce certificates or evidence in support of the ground on which leave is applied for[38].

Leave should not be asked for on flimsy and frivolous grounds or on grounds which tend to lower the prestige and dignity of the House[39].

35. *Ibid.*

36. *Ibid.*

37. *Ibid.*

38. Earlier, on one occasion when a member had been continuously absent from the sittings of the House for a long period, he was directed to state full reasons for his absence and produce a medical certificate from a civil surgeon before the question of granting him any further leave could be considered—*L.S. Deb.,* 17-9-1963, c. 6515.

39. *See* 4R (CAM-1LS), *Min.* (CAM-1LS), 13-12-1955.

In connection with an application for leave of absence from a member, Speaker Mavalankar observed:—

> This leads me to another question and that is, it will be better if the House takes into consideration the propriety of the reasons for which a member remained absent. I am not speaking with reference to this case but I have seen cases in which applications have come and we have granted leave. Some of them have not been very convincing, and there were not cogent reasons for a member to remain absent from the discharge of his duties as a member of Parliament[40].

Where a member does not state in his application the grounds on which he desires leave of absence, he is asked to furnish them before his application is considered. If the reasons given by a member are vague, he is asked to specify them to enable the Committee on Absence of Members to recommend and the House to grant the leave[41].

Application for leave of absence for touring the country, meeting the people and listening to their grievances or holding of peace marches in various parts of the country or participation in the Ballet, *Ekta* on freedom struggle and participation in the *Bharat Jodo Yatra* were considered adequate by the Committee and leave recommended which was subsequently granted by the House[42].

> When the House is in session, a member who is on a Government Committee or Commission and goes out in connection with its work has to apply for leave of absence[43].

Absence of Speaker, Deputy Speaker and Ministers

The constitutional provisions in regard to leave of absence apply to the Speaker also since he is a member of the House. Whenever the Speaker has to remain unavoidably absent for long periods during a session, he sends a message to the Deputy Speaker to be conveyed to the House stating the reasons for his absence and requesting for grant of leave of absence to him[44]. The only procedural difference between the application for leave of absence by the Speaker and that by a member is that the application by the Speaker is in the form of a message which is directly conveyed to the House by the Chair and leave of absence is granted to him there and then without the matter being first placed before the Committee on Absence of Members.

Where the absence of the Speaker is for short periods only, he does not inform the House but informs the Deputy Speaker and the Secretary-General so that necessary arrangements are made for the Deputy Speaker or a member of the Panel of Chairmen to preside.

Similarly, the Deputy Speaker also informs the Speaker whenever he proposes to be absent for short periods during a session.

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40. *H.P. Deb.,* (II), 20-4-1953, c. 4627.

41. The following reasons were held as vague and not proper and the members concerned were asked to specify the exact reasons for their absence from the sittings of the House:
    (a) Urgent work without specifying what it was;
    (b) Some private business which required the member's continuous presence in his constituency;
    (c) Politico-communal disturbance in the member's area—*Min.* (CAM-2LS), 19-12-1957 and 30-3-1960. Reasons that the member is busy with constituency matters or that the member had to look after his factory are not considered good reasons—*L.S. Deb.,* 18-3-1974.

42. Min. (CAM-7LS), 15-4-1983; (CAM-7R-8LS); and (CAM-3R-8LS); (CAM-9R-17LS), 13-02-2023.

43. *L.S. Deb.,* 23-9-1965, cc. 7182-85.

44. *See P. Deb.,* 11-9-1951, cc. 2365-66; *H.P. Deb.,* (II), 13-2-1953, cc. 29-30; *L.S. Deb.,* 15-2-1956, c. 19.

Ministers need not apply for permission of the House for their absence from the sittings thereof whenever they are required to perform their duties outside the headquarters or are unable to attend the House due to circumstances beyond their control.

However, there have been occasions when applications for leave of absence received from Ministers were formally considered and leave of absence was granted to them[45].

Generally, the Ministers, whenever they propose to be absent from the House for long periods, inform the Speaker about their proposed absence as a matter of courtesy to the House and the Speaker[46].

Ministers inform the Speaker of their absence from the sittings of the House even for a short period and also intimate the arrangements made by them regarding handling of parliamentary business standing in their name during their absence.

Absence of Members who have not taken Oath or made Affirmation

A member who has not made and subscribed the oath or affirmation is entitled to ask for leave of absence from the sittings of the House in order to avoid penalty envisaged in the Constitution[47].

Procedure for Disposal of Applications for Leave of Absence

All applications from members for leave of absence are placed before the Committee on Absence of Members from the sittings of the House for their consideration and report[48].

The report of the Committee is circulated to all the members on the same day on which it is presented to the House.

If the recommendations contained in the report are that the leave of absence be granted to the members concerned or absence be condoned, as the case may be, then after the presentation of the report to the House, the Speaker takes the sense of the House in respect of these recommendations on the next sitting of the House.

The members concerned are then informed through a letter about the grant of leave of absence to them or condonation of their absence, as the case may be.

On the same day on which leave of absence is granted to the members or their absence is condoned by the House, the names of all such members together with the

45. *H.P. Deb.,* (II), 16-9-1953, c. 3804; 16R(CAM-1LS); 3R(CAM-17LS); 4R(CAM-17LS).

46. On 16 April 1960, the Minister of Food and Agriculture, (S.K. Patil) informed the Speaker about his inability to attend the sittings of the House as he had to undertake a trip to U.S.A.

47. In April 1952, a reference was made to the Ministry of Law as to the position of a member who had not taken oath and remained absent from the sittings of the House. The Ministry of Law advised as follows:

"A member who has not taken oath cannot sit and act as member, but there is no reason why he should not apply for permission under clause (4) of article 101 in order to avoid vacation of his seat under that clause. The object of that clause need not only be to penalise a member for dereliction of his duty as legislator, it may well be to ensure that all constituencies are represented in the House. The result of taking the former view would be that a member who has not taken oath, will stand in a more favourable position than the one who has taken the oath, since clause(4) of article 101 will apply to the latter and not to the former. It could not be intention of the Constitution to place a person who has neglected his duty of taking oath in a more favourable position than the one who has discharged his duty."

48. For procedure in the Committee, *see* Chapter 30–'Parliamentary Committees', under *C*ommittee on Absence of Members from the Sittings of the House.

period for which leave has been granted or absence condoned, are published in the Bulletin Part-I.

When the sense of the House is taken by the Speaker on the recommendations of the Committee as contained in their report, no member generally dissents, but if a dissenting voice is heard, the Speaker takes the sense of the House and decides accordingly. While doing so he goes by voices, and, if necessary, he may allow a division as well.

Earlier, at the time of taking the pleasure of the House, the Speaker used to permit members to raise points on the report, provided they had given advance intimation thereof in writing[49]. In case of such a notice, the Chairperson of the Committee was apprised of the position so as to enable him to respond in the House. This practice is, however, not followed now.

Vacation of Seat

When the Committee recommends that leave of absence be not granted to a member who has been absent for sixty days or more from the sittings of the House without permission thereof, they also recommend that a motion may be moved in the House with a view to declaring the seat of the member concerned vacant[50].

After the report[51] of the Committee has been adopted by the House, a motion is moved on the next day by the Chairperson of the Committee[52] for declaring vacant the seat of the member concerned[53].

Such a motion can also be made either by the Leader of the House or by any other member to whom he may delegate his functions in this behalf[54]. Under the current practice, this motion is moved by the Chairperson of the Committee[55].

No amendments to such a motion are permissible[56].

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49. In order to enable members to give advance intimation of the point that they desired to raise on the report, a paragraph was issued in the Bulletin, after presentation of the report suggesting that 'members desirous of raising any point on the report should give intimation thereof in writing to the Parliamentary Notice Office'.

50. 18R(CAM-1LS), para 9(9).

51. The report is also submitted to the Speaker and the Leader of the House for approval before its presentation to the House–*see L.S. Deb.*, 4-12-1956, c. 1789.

52. Before the constitution of the Committee in March 1954, the practice was that the action to declare the seat of a member vacant under article 101(4) was taken by the Minister of Parliamentary Affairs to whom the Leader of the House had delegated this function—*see P. Deb.* (II), 19-4-1950, c. 3023.

53. It is not necessary to state in the motion the actual period for which the member concerned was absent from the sittings of the House without permission thereof—*L.S. Deb.,* 5-12-1956, c. 1925.

54. Rule 241.

55. *See L.S. Deb.*, 5-12-1956, cc. 1922-26.

    In Lok Sabha, on 19 April 1950 seats of (i) Ravu Swetachalapathi Ramakrishna Ranga Rao, (ii) Raghib Ahsan, and (iii) Abdul Hamid, members of Provisional Parliament were declared vacant under Art. 101 (4) under a motion made by Minister of Parliamentry Affairs.

    On 5 December 1956, seat of S.N. Mahapatra, a member of First Lok Sabha, was declared vacant under Art. 101 (4) under a motion made by Chairman, Committee on Absence of Members from Sittings of the House (CAM), Lok Sabha.

    Similarly in Rajya Sabha, on 21 December 2000, seat of Barjinder Singh Hamdard was declared vacant under Art. 101(4) under a motion adopted by the Rajya Sabha.

56. *Ibid.,* c. 1923.

After the motion is carried, the Secretary-General causes the information to be published in the Gazette[57]. Copies of the notification are sent to the member concerned, the Election Commission for filling the vacancy thus caused, the Chief Electoral Officer of the area to which the member belonged, all the Ministries of the Government of India and others concerned.

The seat of the member concerned is vacated from the date on which the motion is adopted by the House.

Lapse of Unexpired Portion of Leave if the Member attends the House earlier

If a member who has been granted leave of absence attends the session of the House during the period for which the leave of absence has been granted to him, the unexpired portion of the leave from the date of his resumed attendance lapses[58].

Records regarding Attendance of Members

All records pertaining to the absence or attendance of members from the sittings of the House or pertaining to the Committee on Absence of Members are kept in the custody of the Secretary-General[59]. Such records comprise attendance register of members, daily and consolidated chart showing hourly count and total attendance of members, applications for leave of absence from members, and reports and minutes of the sittings of the Committee.

After the House is adjourned for the day, the attendance sheet is removed from the Lobby. When a member informs in writing that he forgot to sign the attendance register on any particular day although he was present in the House, his statement in original is tagged with the corresponding attendance without marking him present therein.[60]

Supply of Information regarding Attendance of Members

Earlier when a request was received from a member or a former member for the supply of information regarding his attendance in the House on particular days or for a specified period according to the records of the Secretariat, he was asked to state the purpose for which the information was required[61]. Each request was then considered on its merits[62] and information was furnished accordingly. With the coming into force of the Right to Information Act, 2005, the position has, however, undergone change. Now the information regarding attendance of members is being supplied to members and non-members as and when they are requesting for the same. In fact, as information regarding the Attendance Register is being uploaded on the website, it is already available in the public domain for perusal by one and all. Information regarding attendance of members of Lok Sabha is supplied to all the applicants who seek information under the RTI Act.

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57. Rule 241(2).

58. Rule 245.

59. Rule 383.

60. During the 17th LS, there are instances when the Members Attendance on the Lok Sabha Homepage was updated (after verifying his presence in the House) with the approval of Competent Authority with the following legend - NS@=Member was present but forgot to sign the Attendance Register.

61. Dir. 114(1).

62. Dir. 114(2).

Production of Documents regarding Attendance of Members in a Court of Law

Documents relating to the attendance in the House of a member or a former member can be produced in a court of law by an officer of the Secretariat with the permission of the House, if a request on that behalf is received from the court[63]. However, the request for production of attendance register may not be complied with where it would not conclusively prove the issue involved[64].

63. In 1957, an officer of the Secretariat was detailed to produce in a court of law in Bombay the relevant documents to show *inter alia* the dates on which an ex-member attended the sittings of the Provisional Parliament during the period from 14 November 1950 to 9 June 1951.

64. On 12 March 1964, the Home Department of the Uttar Pradesh Government made a request for production of the register for August-September 1959, before the court of Judicial Magistrate, Allahabad, in order to enable the court to find out whether a former member had attended the House during that period or not. The State Government was asked to bring to the notice of the court that there was no statutory obligation on a member to sign the attendance register when he attended the sittings of the House and that the absence of signature of a member in the register was not a conclusive proof of the fact that the member did not attend the House on that particular day or that he was not in Delhi.

CHAPTER 17

Sittings of the House

Fixation of Sittings

The Lok Sabha sits on such days as the Speaker, having regard to the state of business in the House, may direct from time to time[1]. 'The state of business in the House' means the volume as well as the importance of business[2].

Normally, three sessions of the House of about 23 to 24 weeks' duration are held during a year and the House on an average sits for about 120 days. However, since 1993 after the constitution of the Departmentally Related Parliamentary Standing Committees (DRSCs), the actual sittings of Lok Sabha have been below 100 days.

The Constitution does not prescribe the number of sittings for the Houses of the Parliament. Rule Book, *viz.* the Rules of Procedure and Conduct of Business in Lok Sabha also is silent about it[3].

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1. Rule 13.

   In the Central Legislative Assembly (1921-47), the Constituent Assembly of India (Legislative) and the Provisional Parliament, the rule regarding fixation of sittings was the same—*see The Standing Orders of the Legislative Assembly, 1945,* S.O.-99 3(3); *Rules of the Constituent Assembly of India (Legislative),* Rule 13; and the *Rules of Procedure and Conduct of Business in Parliament,* Rule 9.

   On 15 January 1983, the Minister of Parliamentary Affairs, while intimating the date of commencement and duration of the Eleventh Session of the Seventh Lok Sabha requested the Speaker that in view of the Non-Aligned Summit, the sittings of the House might not be fixed from 7 to 10 March 1983. The Speaker agreed and no sittings were fixed on those days. A footnote that 'There will be no sittings from 7 to 10 March 1983' was given in the Provisional Calendar of Sittings.

   Similarly, on 17 October 1983, on a request made by the Minister of Parliamentary Affairs, while intimating the date of commencement and duration of the Thirteenth Session of the Seventh Lok Sabha, and agreed to by the Speaker, no sittings of the House were fixed from 23 to 30 November 1983 in view of the Commonwealth Heads of Government Meeting at New Delhi and a footnote given in the Provisional Calendar of Sittings.

   Also during the Twelfth Session of the Eighth Lok Sabha, on a request made by the Minister of Parliamentary Affairs on 3 October 1988 and agreed to by the Speaker, no sittings of the House were fixed from 7 to 11 November 1988 on account of Diwali and a footnote given accordingly in the Provisional Calender.

   On another occasion on 31 January 1994, following the same procedure the Minister of Parliamentary Affairs, while intimating the date of commencement and duration of the Ninth Session of the Tenth Lok Sabha, requested the Speaker that to enable the Departmentally related Parliamentary Standing Committees to consider the Demands for Grants of Ministries/Departments and prepare their Reports, the House may adjourn on Friday, 18 March 1994. The Speaker agreed and indication was given in the Provisional Calendar of Sittings.

   From 1994 onwards, during Budget Session, the House is adjourned for recess for 3 to 4 weeks to enable the Departmentally Related Parliamentary Standing Committees (DRSCs) to consider the Demands for Grants of Ministries/Departments and prepare their reports, which are presented to the House when it meets after the recess.

2. *L.A. Deb.,* 22-2-1946, pp. 1352-56 and 1393-95.

3. However, the State Legislative Assemblies of Himachal Pradesh, Odisha, Rajasthan and Uttar Pradesh have in their Rules of Procedure a provision for holding a minimum number of the sittings during a year. Similar is the position in the Legislative Council of Uttar Pradesh.

After the Speaker agrees to the suggestion of the Government regarding the duration of a session, the days on which the House is to sit for the transaction of Government and Private Members' business are fixed under the orders of the Speaker[4]. However, there have been occasions when no day was allotted for transaction of Private Members' Business in the Commencement Para and Private Members' Business was dispensed with for the entire session along with the Questions Hour[5].

For fixing a sitting of the House the Speaker's power is absolute and the consent

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In the Sixty-fourth Conference of Presiding Officers of Legislative Bodies in India held at Chandigarh on 28 and 29 June 2001, the Conference unanimously adopted the Report of the Committee of Presiding Officers on "Procedural Uniformity and Better Management of the Time of the House", which *inter alia* recommended that "there should be some constitutional provisions regarding the minimum number of sittings of Legislatures. It should be 100 sittings for the bigger States, having more than 100 members and 60 sittings for the smaller ones, having less than 100 members".

Subsequently, in a Conference of major political leaders, in which the Presiding Officers and Chief Ministers of various States also participated, held in Chandigarh on 25 November 2001, adopted a resolution recommending a mandatory sitting of 110 days for Parliament and 90 and 50 days for Legislatures for big and small States and suggested steps for suitable amendments in the Constitution for the purpose.

4. In the Central Legislative Assembly, at the beginning of each session, the list of proposed Government days was submitted to the Speaker for his approval—*see* Fredrick Whyte, *Legislative Assembly Manual of Business and Procedure,* p. 2.

5. (i) During 14th Session (5LS), no day was allotted to Private Members' Business for the entire duration of the session in the Commencement Para. However, following motion was admitted and published in Bulletin-Part II alongwith Commencement Para on 9 July, 1975:—

"This House resolves that the current session of Lok Sabha being in the nature of an emergent session to transact certain urgent and important Government business, only Government business be transacted during the session and no other business whatsoever including Questions, Calling Attention and any other business to be initiated by a private Member be brought before or transacted in the House during the session and all relevant rules on the subject in the Rule of Procedure and Conduct of Business in Lok Sabha do hereby stand suspended to that extent.".

On 21 July, 1975, House adopted above motion, which was moved by Minister of Works and Housing and Parliamentary Affairs (Shri K. Raghu Ramaiah).

(ii) During 18th Session (5LS), there was no mention of allotment of days for Private Members' Business during the entire Session in Commencement Para. However, following motion was admitted and published in Bulletin-Part II alongwith Commencement Para on 16 September, 1976:—

"This House resolves that the current session of Lok Sabha being in the nature of a special session to consider the Constitution (Forty-fourth Amendment) Bill, 1976 and certain unavoidable and essential Government business, only Government business be transacted during the session and no other business whatsoever including Questions, Calling Attention and any other business to be initiated by a private Member be brought before or transacted in the House during the session and all relevant rules on the subject in the Rule of Procedure and Conduct of Business in Lok Sabha do hereby stand suspended to that extent."

On 25 October, 1976, above motion was moved by Minister of Works and Housing and Parliamentary Affairs (Shri K. Raghu Ramaiah). Following amendment was also moved by Minister of Works and Housing and Parliamentary Affairs:—

"Provided that after the disposal of the Constitution Amendment Bill, time permitting, the Speaker may in his discretion allow Calling Attention and Short Duration Discussions.".

Therefore, motion was adopted as amended.

(iii) During 4th Session (17LS), there was no mention of allotment of days for Private Members' Business in Commencement Para issued on 1 September, 2020. However, a para stating that "in view of request of Government owing to prevailing extraordinary situation due to Covid-19, Speaker has directed that no day be fixed for transaction of Private Members' Business during session" was published in Bulletin-Part II alongwith Commencement Para on 1 September, 2020.

of the Government is neither necessary nor sought. However, the Speaker normally goes by the general wish of the House or the recommendation of the Business Advisory Committee as adopted by the House[6].

On 14 September, 2020, Minister of Parliamentary Affairs, Coal and Mines (Shri Pralhad Joshi) moved following motion, which was adopted by Lok Sabha:—

"Keeping in view that the current Session of Lok Sabha is being held in extraordinary circumstances prevailing due to COVID-19 pandemic requiring maintenance of social distancing and keeping the movement of Government officials and others within the Parliament precincts to the bare minimum, this House resolves that Starred Questions and Private Members' Business may not be brought before the House for transaction during the Session, and all relevant Rules on these subjects in the Rules of Procedure and Conduct of Business in Lok Sabha may stand suspended to that extent.".

Accordingly, Private Members' Business was dispensed with for entire session [F. No. 3/1(2)/2020/L-II]. During 13th Session (17LS), no day was allotted to Private Member's business in commencement Para. Also, there was no mention in Commencement Para for dispensing with Private Member's Business for entire session. [F. No. 3/1(3)/2023-L-II]

6. The Budget Session, 1976 of the Fifth Lok Sabha was scheduled to conclude on 22 May 1976. The sitting on that day had to be cancelled and the session extended from 24 to 27 May 1976. This was done by the House on the recommendation of the Business Advisory Committee. *L.S. Deb.,* 6-5-1976, cc. 119-20. The Fifteenth Session of the Seventh Lok Sabha was scheduled to conclude on 24 August 1984. On the recommendation of the Business Advisory Committee, the House agreed to sit also on 25 and 27 August 1984. [66R (BAC-7LS), Bn. (II), 21-8-1984, Para 2999]

   The First Session (Eighth Lok Sabha) was scheduled to conclude on 25 January 1985. On the recommendation of the Business Advisory Committee, the House agreed to sit also on 29 and 30 January 1985. [1R(BAC-8LS), Bn. (II), 24-1-1985, Para 107]

   On the recommendation of the Business Advisory Committee, Lok Sabha agreed to cancel its sitting fixed on 4 April 1985, as no sittings had been fixed on 3 and 5 April 1985 on account of Mahavir Jayanti and Good Friday, respectively. [4R(BAC-8LS), Bn. (II), 2-4-1985, Para 289]

   The Third Session (Eighth Lok Sabha) was scheduled to conclude on 22 August 1985. On the recommendation of the Business Advisory Committee, the House agreed to extend the session till 29 August 1985. [12R(BAC-8LS), Bn. (II), 23-8-1985, Para 597]

   On the recommendation of the Business Advisory Committee, Lok Sabha agreed to cancel its sitting fixed on 27 March 1986 as no sittings had been fixed on 26 March and 28 March 1986 on account of Holi and Good Friday, respectively. Private Members Business scheduled for 27 March was accordingly shifted to 25 March, 1986. [22R(BAC-8LS), Bn. (II), 24-3-1986, Para 970]

   On the motion moved by the Minister of State in the Ministry of Parliamentary Affairs, Lok Sabha agreed to cancel its sitting fixed on 17 March 1987. [Bn. (II), 13-3-1987, Para 1567]

   On the motion moved by the Minister of State in the Ministry of Parliamentary Affairs, Lok Sabha agreed to sit also on 11 May 1987. [Bn. (II), 8-5-1987, Para 1655]

   On the recommendation of the Business Advisory Committee, Lok Sabha agreed to cancel its sitting fixed for 15 April 1988 as there were no sittings on 13 and 14 April 1988 on account of Vaisakhi and Birth Anniversary of Dr. B.R. Ambedkar, respectively. [51R(BAC- 8LS), Bn. (II), 4-4-1988, Para 2204]

   On the recommendation of the Business Advisory Committee, the Lok Sabha agreed to cancel its sittings fixed for 2, 6, 7, 8, 12, 15 and 16 April 1993 on account of the 89th Inter-Parliamentary Conference hosted by India. [26R(BAC-10 LS), Bn. (II), 16-3-1993, Para 1877]

   The Seventh Session of the Tenth Lok Sabha was scheduled to conclude on 27 August 1993. On the recommendation of the Business Advisory Committee, the House agreed to fix its sitting on Saturday, 28 August 1993. [33R (BAC-10 LS) Bn. (II), 25-8-1993, Para 2367]

   As per schedule, the House was to adjourn on 18 March 1994 to meet again on 18 April 1994. On the recommendation of the Business Advisory Committee, the Lok Sabha agreed to sit on Saturday, 19 March 1994. [38R (BAC-10 LS), Bn. (II), 2-3-1994, Para 2832]

   As per schedule, the House was to adjourn on 2 June 1995. On the recommendation of the Business Advisory Committee, the House agreed to fix its sitting on Saturday 3 June 1995. [51R (BAC-10 LS), Bn. (II), 31-5-1995, Para 3982]

   The Fifth Session of the Eleventh Lok Sabha was scheduled to conclude on 29 August 1997 but as per decision of Leaders of Parties and Groups, the House also met on Saturday, 30 August 1997 and Monday, 1 September 1997.

On 22 February 1946, in connection with the fixation of a sitting of the Central Legislative Assembly for discussing an adjournment motion, Speaker Mavalankar

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On the recommendation of the Business Advisory Committee, the sitting of Lok Sabha fixed for Friday, 16 November 2007 was cancelled and in *lieu* thereof a sitting of the House was fixed for Saturday, 1 December 2007. [42R(BAC-14LS), Bn. (II), 15-11-2007, Para 4245]

On the recommendation of the Business Advisory Committee, Lok Sabha agreed to cancel its sitting fixed for Friday, 7 March 2008. [46R(BAC-14LS), Bn. (II), 4-3-2008, Para 4587]

On the recommendation of the Business Advisory Committee, Lok Sabha agreed to cancel its sitting fixed for Friday, 2 May 2008. [48R(BAC-14LS), Bn. (II), 21-4-2008, Para 4740]

The Seventh (Budget) Session of the Fifteenth Lok Sabha was scheduled to conclude on 21 April 2011. In order to enable the Standing Committees to consider the Demands for Grants, the House was to adjourn on 16 March 2011 to meet again on 4 April 2011. However, on recommendation of BAC, the sitting of the House fixed for 4 April 2011 was cancelled on account of *Chaitra Sukladi/Gudi Padava/Ugadi/Cheti Chand* festival. Accordingly, the House after its adjournment on 16 March 2011 was to meet on 5 April 2011 instead of 4 April 2011. Subsequently, on recommendation of BAC, the first part of the session was extended up to 25 March 2011 (*i.e.* from 17.3.2011 to 25-3-2011) and the sittings of the second part of the session *i.e.* from 5- 4-2011 to 21-4-2011 were cancelled on account of Assembly elections in the States of Assam, Kerala, Tamil Nadu and West Bengal and Union Territory of Puducherry. [23R (BAC-15 LS), Bn. (II), 23-2-2011, Para 2508; 25R (BAC-15 LS), Bn. (II), 8-3-2011, Para 2578]

The Ninth Session of Fifteenth Lok Sabha was scheduled to conclude on 21 December 2011. However, as per recommendation of BAC, a sitting of Lok Sabha was fixed on 22 December 2011 *in lieu* of cancellation of sitting of Lok Sabha were fixed on 5 December 2011. Again as per recommendation of BAC, sittings of Lok Sabha were fixed on 27, 28 and 29 December 2011 in order to provide sufficient time for completion of essential items of Government Business, [30R(BAC-15 LS), Bn. (II), 1-12-2011, Para 3437); 33R (BAC-15LS), Bn. (II), 22-11-2011, Para 3559].

As per decision taken in the meeting of the Speaker with Leaders of parties held on 3 May 2012, a Special Sitting of the House was fixed on Sunday 13 May 2012 to commemorate the 60th Anniversary of the first sitting of the Parliament of India.

On the recommendation of the Business Advisory Committee, Private Members Business (Resolutions) scheduled for 30 April, 2015 was taken up alongwith Private Members' Bills on 8 May, 2015. Accordingly, Private Members' Business (Bills and Resolutions) was transacted on 8 May, 2015 [18R (BAC-16LS), Bn.(I), 8-5-2015].

On the recommendation of the Business Advisory Committee, Private Members Business scheduled for 17 March was shifted to 23 March, 2017 to facilitate discussion on Union Budget 2017-18. Accordingly, Private Members' Business (Resolutions) was transacted on 23 March, 2017. [40R (BAC-16LS), Bn.(II), 14-3-2017, Para 5029, Bn.(I), 23-3-2017]

On an observation made by the Speaker, Private Members' Business (Resolutions) which was scheduled to be taken up on Friday, 4 January, 2019 was transferred to Tuesday, 8 January, 2019 and subsequently dispensed with. [Bn.(II), 4.1.2019, Para 7751, Bn.(II), 7.1.2019, Para 7767]

The Fourth session of Sixteenth Lok Sabha was scheduled to conclude on 8 May 2015. However, in the meeting of Business Advisory Committee held on 8.5.2015, it was decided that the sittings of the House may be extended upto 13 May, 2015 in order to provide sufficient time for completion of essential items of Government Business. Announcement to that effect was made by the Chair. Accordingly, the House sat on 11, 12 and 13 May 2015.

The First session of Seventeenth Lok Sabha was scheduled to conclude on 26 July 2019. On a proposal of Minister of Parliamentary Affairs, sittings of the House were extended up to 7 August 2019 in order to provide sufficient time for completion of essential items of Government Business. However, the session was adjourned *sine die* on 6.8.2019 instead of 7 August 2019. Accordingly, the House sat on 29, 30 and 31 July and 1, 2, 5 and 6 August 2019.

During 11th Session (17LS), on a suggestion made by Minister of Parl. Affairs and agreed to by the House on 10 Feb., 2023, Private Members' Business (Resolutions) originally fixed for Fri., 10 Feb., 2023 was transferred to Mon., 13 Feb., 2023 in order to transact urgent Govt. business relating to general discussion on Union Budget.

Members were informed about transfer of Private Members' Business (Resolutions) through Bn. Part-II. dated 10 Feb., 2023. Accordingly, Private Members' Business was transacted on Mon., 13 Feb., 2023. [F. No. 6/1(1)/2023/L-II, Bn. (II), 10.2.2023, No. 6219].

made the following observations on the interpretation of the rule[7] regarding fixation of sittings—

> "This is irrespective of the consent of the Government and I believe, I have got the power of fixing the sittings from day to day"[8].

Along with the summons for a session, a Provisional Calendar of Sittings showing the programme of sittings so fixed is issued to members. Apart from the days on which the House is to sit, the Provisional Calendar of Sittings also contains the week days to be observed as holidays or those on which no sitting is to be held, the nature of business—Government or Private Members, to be transacted on the days on which sittings have been fixed and allotment of days for answering questions pertaining to various Ministries of the Government arranged in five groups to be taken up on specified days of the week[9]. This information is also published in the Bulletin along with the other information on various matters connected with the commencement of the session[10].

Any change in the programme of sittings as shown in the Provisional Calendar of Sittings and notified in the Bulletin may be made as and when considered necessary and announced by the Speaker in the House. Such changes are also published in the Bulletin.

From the Eleventh Session of the Third Lok Sabha normally no sitting of the House is fixed on a Saturday even if a holiday intervenes during the week[11]. However, if Saturday happens to be the last working day in the month of February, a sitting is fixed on that day for presentation of the General Budget[12]. Since the merger of Railway Budget with the General Budget in 2017, Union Budget is presented on the first day of February. The first session commences in the last week of January and ends in the second week or middle of April.

Consequent upon the Government's decision in mid 1985 to observe five-day week in Union Government Offices, Saturdays are observed as closed holidays. Accordingly, while drawing up the Provisional Calendar of Sittings for the Eighth Session of the Eighth Lok Sabha, no sitting was fixed on Saturday, 28 February, 1987. However, on a suggestion of the Minister of Parliamentary Affairs, the Speaker agreed to convene a sitting of the House at 17.00 hrs., on 28 February, 1987, specifically for the purpose of the presentation of General Budget for 1987-88, and members were informed accordingly through Bulletin.

Sometimes, sittings of the House are fixed on Saturdays to enable the House to cope with the pressure of Government business. Request for fixation of the additional sitting is made by the Minister of Parliamentary Affairs and is considered by the Business Advisory Committee. The Committee makes a report which is adopted by

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7. *See* the Standing Orders of the Legislative Assembly, 1945, S.O. 3(3).
8. *L.A. Deb.,* 22-2-1946, pp. 1393-95.
9. Prior to 12 November, 1962, the Ministries of the Government of India were divided into three groups and the Ministers concerned answered questions by rotation—*vide* Bn. 22-5-1961.
10. *Bn. (II)* 5-6-1965.
11. Till the Tenth Session of the Third Lok Sabha, the practice was that in case there was a holiday on any of the week days, or a session commenced from the middle of a week, a sitting of the House was fixed on Saturday in that week. *See* Bn. (II), 30-6-1956, paras 3336-38; 9-8-1956, paras 3464-66. Sittings were also previously fixed on Saturdays if on any day in the week the House adjourned without transacting any business either due to the death of a member or for any other reason – *L.S. Deb.,* 9-8-1956, c. 2550; 1-12-1961, cc. 2549-50.
12. Since 2001, the time of presentation of the General Budget has been shifted from 1700 hrs. to 1100 hrs.

the House[13]. If there is no time for the Committee to meet and consider the proposal, fixation is done by the Speaker after taking sense of the House.

The Lok Sabha observes all the closed holidays which are observed by the Government of India. In addition, Raksha Bandhan, Maha Shivratri, May Day (1 May), Vaisakhi, Guru Ravidas's birthday, Ramnavami and birth anniversary of Dr. B.R. Ambedkar are also observed as holidays for Lok Sabha[14]. In fixing the sittings, no note is taken of the other restricted holidays under the Government of India[15]. Whenever any *ad hoc* holiday is declared by the Government of India during a session, the question of declaring it a holiday for Lok Sabha is considered by the Speaker keeping in view the occasion for which that day has been declared a holiday[16].

In case it is decided to observe any such day as a holiday for Lok Sabha also, then a sitting of the House in lieu thereof may be fixed on any other day of the week on which no sitting has already been fixed.

In special cases a sitting of the House may be fixed on a holiday[17].

Sometimes, sittings of the House are extended beyond the last date fixed for a session[18]. This extension is always done after the actual commencement of the session. A proposal in this regard is submitted by the Leader of the House

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13. For instance, *see* 10R and 11R (BAC-4LS), agreed to by the House on 8 December, 1967 and 15 December, 1967, respectively; 27R(BAC-4LS), agreed to by the House on 13 December, 1968.

14. That *Raksha Bandhan* be observed as holiday for Lok Sabha was decided by the General Purposes Committee on 28 July, 1956. With regard to observance of the other days as holidays, see *L.S. Deb.,* 5-3-1970, cc. 240-41 (for *Maha Shivratri); L.S. Deb.,* 27-4-1972, cc. 132-37 and 28-4-1972, cc. 147-48 (for *May Day); L.S. Deb.,* 26-3-1973, c. 226 (for *Vaisakhi*); *L.S. Deb.,* 18-2-1981 (for *Guru Ravidas's Birthday);* and General Purposes Committee recommendations dt. 30-4-1982 (for *Ramnavmi and birth anniversary of Dr. B.R. Ambedkar).*

15. *L.S. Deb.,* 7-3-1965, cc. 1894-95.

16. For instance the Government of India declared that all their offices in the Union territory of Delhi would remain closed on 20 March, 1958 to enable the Government employees to serve as presiding and polling officers in connection with the elections to the Delhi Municipal Corporation on that day. The sitting of Lok Sabha provisionally fixed for that day was not cancelled as it was not a general holiday for a festival.

17. The Government of India had declared the 13 May, 1957 a holiday on account of *Buddha Purnima,* but the President's Address to both Houses and a sitting of Lok Sabha were held on that day. Similarly, 29 March, 1977 was declared holiday by the Government of India on account of *Ramnavmi,* but the sitting of Lok Sabha was held on that day.

18. The Minister of Parliamentary Affairs made a statement in the House on 19 March 1976 regarding (i) cancellation of the sittings of the House from 19 to 23 April, 1976; (ii) extension of the session upto 22 May, 1976, during which period there would be no Question Hour; and (iii) re-scheduling of the financial programme. The House agreed—*L.S. Deb.,* 19-3-1976, c. 151.

    The Fourteenth Session of Fifteenth Lok Sabha was scheduled to conclude on 30 August 2013. However, the Minister of Parliamentary Affairs proposed that sittings of the House may be extended up to 6 September 2013 in order to provide sufficient time for completion of essential items of Government Business. Announcement to that effect was made by the Chair and agreed to by the House. Accordingly, the House sat on 2, 3, 4, 5 and 6 September, 2013.

    The Fourth Session of Sixteenth Lok Sabha was scheduled to conclude on 8 May, 2015. However, in the sitting of Business Advisory Committee held on 8 May, 2015, it was decided that the sittings of the House may be extended up to 13 May, 2015 in order to provide sufficient time for completion of essential items of Government Business. Announcement to that effect was made by the Chair. Accordingly, the House sat on 11, 12 and 13 May, 2015.

    The First Session of Seventeenth Lok Sabha was scheduled to conclude on 26 July, 2019. On a proposal of Minister of Parliamentary Affairs, sittings of the House were extended up to 7 August, 2019 in order to provide sufficient time for completion of essential items of Government Business. However, the session was adjourned *sine die* on 6 August 2019 instead of 7 August, 2019. Accordingly, the House sat on 29, 30 and 31 July and 1, 2, 5 and 6 August, 2019.

to the Speaker. It is then placed by the Speaker before the Business Advisory Committee which makes a report to the House. On the adoption of the report of the Committee, a paragraph is published in the Bulletin regarding the extension of the session. Simultaneously, another paragraph showing the additional sittings fixed during the extended period of the session is also published[19]. When there is no time for the Business Advisory Committee to meet, the session is extended either by (i) an announcement[20] made by the Speaker; or (ii) motion adopted by the House; or (iii) the House agreeing to the suggestion of the Minister[21]. The information is simultaneously published in Bulletin for information of members.

A sitting may also be cancelled. The need to cancel a sitting may arise when there is no business to transact or the Government feel that the scheduled Government business will be completed in advance of the last date fixed for the session, or due to any other reason[22]. The Speaker has the power to decide whether the House shall or shall not sit

19. Bn. (II), 13-12-1952, Para 650; 23-4-1954, Para 1290; 24-1-1985, Para 107; 23-8-1985, Para 597; 13-8-1986, Para 1241; 31-3-1993, Para 1931; 23-12-1993, Para 2623.

20. *See* Bn. (II), 6-8-1957; *L.S. Deb.,* 6-8-1957, cc. 7259-60; Bn.(II), 8-5-1987, Para 1655; 11-5-1987, Para 1659.

21. Bn. (II), 10-12-1987, Para 2009; 9-1-1991, Para 1037; 11-6-1996, Para 87.

22. On 15 December, 1950, the Deputy Speaker, after making a reference to the passing away of Sardar Vallabhbhai Patel, adjourned the House for the rest of the day and announced cancellation of the sitting fixed earlier for 16 December, 1950—*P. Deb.,* 15-12-1950, c. 1832.

On 6 February, 1952, just before 1700 hours, when the Presidential and Vice-Presidential Elections Bill was being debated, the Prime Minister informed the House of the death of King George VI and suggested that the sitting of the House fixed for the following day, *i.e.* 7 February, 1952, might be cancelled. The Speaker agreed to the suggestion—*P. Deb.(II),* 6-2-1952, c. 96.

As a large number of items had been disposed of on 10 September 1957 before the scheduled time, the Speaker announced the cancellation of the sitting fixed earlier for 14 September 1957— *L.S. Deb.,* 10-9-1957, cc. 12987-88.

The Minister of Parliamentary Affairs made a suggestion regarding cancellation of the sitting of the House fixed for 12 April, 1976, on account of *Mahavir Jayanti.* The House agreed—*L.S. Deb.,* 8-4-1976, c. 98.

The Eighth Session of the Seventh Lok Sabha was scheduled to conclude on 6 May, 1982.

Lok Sabha, however, adjourned *sine die* on 30 April 1982 and sittings fixed on 3, 4, 5 and 6 May, 1982 were cancelled—Bn. (II), 30-4-1982, Para 1622.

The Second part of the Fourteenth Session of the Eighth Lok Sabha was scheduled to conclude on 16 October, 1989. The Lok Sabha however, adjourned *sine die* on 13 October, 1989 and sitting fixed for 16 October, 1989 was treated as cancelled.

The Seventh Session of the Ninth Lok Sabha was scheduled to conclude on 10 May 1991. The Lok Sabha, however, adjourned *sine die* on 12 March 1991—[F. No. 37/1 (VII)/91/7]. The Tenth Session of the Tenth Lok Sabha was scheduled to conclude on 16 June 1994. The Lok Sabha, however, adjourned *sine die* on 14 June 1994 and sittings fixed for 15 and 16 June 1994 stood cancelled. [F. No. 37/l(X)/94/T]

The First Session of the Eleventh Lok Sabha was scheduled to conclude on 31 May 1996. The Lok Sabha, however, adjourned *sine die* on 28 May 1996 and sittings fixed for 30 and 31 May, 1996 stood cancelled. [F. No. 37/l/(I)/96/T]

The Sixth Session of the Eleventh Lok Sabha was scheduled to conclude on 19 December, 1997. The Lok Sabha, however, adjourned *sine die* on 2 December 1997 following resignation of the Prime Minister.

The Eleventh Session of the Fourteenth Lok Sabha was scheduled to conclude on 14 September , 2007. Lok Sabha was, however, adjourned *sine die* on 10 September 2007 and sittings fixed for subsequent days *i.e.* 11, 12, 13 and 14 September 2007 were treated as cancelled.

on any day for Government business. A sitting of the House fixed for a particular day during a session may be cancelled even before the commencement of that session and a

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The Thirteenth Session of the Fourteenth Lok Sabha was scheduled to conclude on 9 May, 2008. Lok Sabha was, however, adjourned *sine die* on 5 May, 2008 and sittings fixed for subsequent days *i.e.* 6, 7, 8 and 9 May, 2008 were treated as cancelled.

The Third Session of the Fifteenth Lok Sabha was scheduled to conclude on 21 December, 2009. Lok Sabha was, however, adjourned *sine die* on 18 December, 2009 and sitting fixed for Monday, the 21 December, 2009 stood cancelled. [F. No. 37/1(III)2009/T]

The Thirteenth Session of the Fifteenth Lok Sabha was scheduled to conclude on 10 May, 2013, Lok Sabha was, however, adjourned *sine die* on 8 May, 2013 and sitting fixed for 9 and 10 May, 2013 stood cancelled. [F.No. 37/1(XIII)/2013/T]

On 28 February, 2015, during the Fourth Session of the Sixteenth Lok Sabha, Hon'ble Speaker informed the House that several members demanded that sitting of the House fixed for 5 March, 2015 be cancelled on account of Holi. Thereafter, Hon'ble Speaker made an announcement to that effect. Accordingly, sitting of the House fixed for 5 March, 2015 was cancelled.

On 28 July, 2015, during the Fifth session of the Sixteenth Lok Sabha after making obituary reference to the passing away of Dr. A.P.J. Abdul Kalam, former President of India, Hon'ble Speaker adjourned the House to meet again on 30th July, 2015 to enable members to attend the funeral of the former President which was scheduled to take place at Rameswaram on 29 July, 2015. Consequently, sitting of the House fixed for 29 July, 2015 stood cancelled.

On 1 February, 2017, during the Eleventh session of the Sixteenth Lok Sabha, Hon'ble Speaker made an observation in the House that due to the sad demise of a sitting member (Shri E. Ahmed), the House would not sit on 2 February, 2017 as a mark of respect to the departed soul. Accordingly, the sitting fixed for 2 February, 2017 stood cancelled.

As decided in the meeting of the Business Advisory Committee at its sitting held on 1 July ,2017 and agreed to by the House on 6 February, 2017, the sitting of Lok Sabha fixed for 3 April, 2017 was cancelled.

On 29 December, 2017 during the Thirteenth session of the 16th Lok Sabha, it was decided to cancel the sitting fixed for the 1 January, 2018. Announcement to that effect was made by the Chair on 29 December, 2017. Accordingly, the sitting fixed for 1 January, 2018 was cancelled.

On 1 February, 2018, during the Fourteenth Session of 16th Lok Sabha, Hon'ble Speaker made an observation in the House that due to the sad demise of a sitting member (Shri Chintaman Navsha Wanga), the House would not sit on 2 February, 2018 as a mark of respect to the departed soul. Accordingly, the sitting fixed for 2 February, 2018 stood cancelled.

On 23 March, 2018, Hon'ble Speaker informed the House that several members requested that sitting of the House fixed for 26 March, 2018 be cancelled on account of Ram Navami. Since the request was acceded to, sitting of the House fixed for 26 March, 2018 stood cancelled.

On 26 July, 2018, during the Fifteenth session of sixteenth Lok Sabha, Hon'ble Speaker informed the House that several members requested that sitting of the House fixed for 27 July, 2018 be cancelled on account of Guru Purnima. Hon'ble Speaker took the sense of the House to which the House agreed. Accordingly, the sitting fixed for 27 July, 2018 was cancelled.

During the sixteenth session of the Sixteenth Lok Sabha, Hon'ble Minister of Parliamentary Affairs informed the House that he had received requests from several members for cancellation of sittings of the House fixed for 24 December, 2018 and 26 December, 2018 on account of Christmas. Hon'ble Speaker took sense of the House to which the House agreed. Accordingly, the sittings fixed for 24 December, 2018 and 26 December, 2018 were cancelled.

Hon'ble Speaker announced in the House that on account of New Year, the sitting of the House fixed for 1 January, 2019 has been cancelled. Accordingly, the sitting fixed for 1 January, 2019 stood cancelled.

The Third session of Seventeenth Lok Sabha was scheduled to conclude on 3 April, 2020. However, due to outbreak of Covid-19 pandemic, the House was adjourned *sine die* on 23 March, 2020. Consequently, sittings fixed for subsequent days *i.e.* 24, 25, 26, 27, 30 and 31 March, 2020 and 1 and 3 April, 2020 stood cancelled.

new sitting fixed in lieu thereof[23]. When a sitting is cancelled, an announcement is made by the Speaker in the House and a paragraph is published in the Bulletin[24]. In cases where it is not possible to do both, only an announcement in the House or a paragraph in the Bulletin is considered sufficient.

The last two and a half hours of a sitting on Friday, and if Friday happens to be a holiday, then on any other day in the week, are allotted for the transaction of Private Members' Business[25].

Hour of Commencement

Sittings of the House, unless the Speaker otherwise directs, ordinarily commence at 1100 hours[26] and the normal hours of sittings are from 1100 hours to 1300 hours and from 1400 hours to 1800 hours leaving one hour from 1300 hours to 1400 hours as lunch break[27]. However, there have been occasions when the House continued to sit during the lunch hour to provide additional time for transaction of Government and other business. During the Budget sessions, usually from the time the Demands for Grants are taken up and to the passage of the Finance Bill, the lunch hour is suspended to make available more time for discussion on financial business, on the recommendation made by the Business Advisory Committee and agreed to by the House[28].

Members are informed of the normal hour of commencement and of conclusion of the sittings pertaining to a session through Bulletin along with information on various matters connected with the commencement of the session. As to the hour of commencement of a sitting from day-to-day, the Speaker, while adjourning the House for the day, also announces the date and hour of commencement of the next sitting. This is also indicated in the relevant Bulletin and the proceedings of the House for the day.

The hour of commencement of a sitting has been varied according to circumstances under the directions of the Speaker[29].

> In the First Lok Sabha, different hours for the commencement of the sittings of the House were experimented varying from 08.15 hours to 14.00 hours even though the Rules provided for 10.45 hours[30]. The new hours of commencement were found to entail difficulties in finding more time on a day in case it was necessary to do so for disposing of a larger volume of business. Accordingly, in 1954, Speaker Mavalankar, with the concurrence of the members and Leader of

23. A sitting of the House already fixed for 23 July, 1956 was cancelled on 30 June, 1956 whereas the session for which that sitting was earlier fixed was to commence on 16 July, 1956. A new sitting *in lieu* thereof was fixed for 28 July, 1956—*see Bn. (II)*, 30-6-1956, Paras 3336 and 3337.

24. *L.S. Deb.,* 9-8-1956, c. 2550; 10-8-1957, cc. 2987-89 and Bulletins issued on these days.

25. Rule 26.

26. Rule 12.
In 1929, on the recommendation of the Select Committee on Standing Orders, the authority for varying the hour of commencement of the sitting was vested in the Speaker—*see L.A. Deb.* (1), 1929, pp. 761-63 and Gaz. (V) 2-4-1929.

27. These hours of sittings were brought into force on 27 March, 1967—*see* Bn. (II), 23-3-1967, para 53. Previously, since 10 September, 1954, the House had been sitting continuously from 1100 hours to 1700 hours, without any lunch-break.

28. 50R(BAC-8LS), 1R(BAC-12LS), 2R(BAC-12LS), 3R(BAC-12LS), 8R(BAC-12LS), 3R(BAC-14LS).

29. Rule 12.

30. From 1920 to 1948, the hour of commencement of the sitting, provided in the Rules, was 1100 hours when it was changed to 10.45 hours—*see* Rules of Procedure and Conduct of Business in the Constituent Assembly (Legislative), Rule 12.

the House made an announcement that the House would sit from 11.00 hours to 17.00 hours without break with effect from 10 September, 1954[31]. In 1956, the relevant rule was also brought in conformity with the existing practice. Since September 1954, there has been no change in the hour of commencement of the sittings except on rare occasions. The hours of sittings of the House were, however, changed *w.e.f.* 27 March, 1967. On 23 March, 1967, the Speaker informed the House that at a meeting which he held with Leaders of Opposition Groups and the Minister of State for Parliamentary Affairs on 21 March, 1967, it was unanimously decided that the House should have a lunch break from 13.00 hours to 14.00 hours and that consequently the revised hours of sittings should be from 11.00 hours to 13.00 hours and 14.00 hours to 18.00 hours. However, the timing of sittings of the House was fixed from 10.30 hours to 18.30 hours *w.e.f.* 8 May, 1979 till the conclusion of the session *i.e.* 18 May, 1979[32].

The unprecedented Covid-19 pandemic impacted several sessions of 17th Lok Sabha, necessitating changes in sitting hours. The hour of commencement and duration of sittings varied accordingly.

During the 4th session, the first sitting was scheduled from 9 A.M to 1 P.M. while subsequent sittings of the session were scheduled from 3 P.M. to 7 P.M. During the 5th session, except for the first two days, sittings were scheduled from 4 P.M to 9 P.M. Similarly, in the 8th session (Budget Session), sittings for the first part of the session, except for the first two days, were scheduled from 4 P.M to 9 P.M. The schedule of sittings were published in Bulletin-Part II on the eve of the sessions.

In exceptional circumstances, the hour of commencement of the sitting may be changed[33]. Such a change may be effected either on the request of members wishing to take part in some religious festival[34], or other important functions though this request is not always acceded to[35], or in pursuance of the recommendation of the Business Advisory Committee to provide for more time for the discussion and disposal of certain items of business[36]. The change in the duration of a sitting of the House is made either on the recommendation of the Business Advisory Committee adopted by the House

31. *See L.S. Deb.,* 8-9-1954, cc. 1248-52. The Rule relating to the hour of commencement of the sitting was, however, amended in 1956—*See* Min. (RC), 14-12-1956, para 5; *Bn. (II)*, 24-12-1956, para 3935, and *L.S. Notfn. No.* 715-C1/56, 24-12-1956, *Gaz. Ex.* (1-1), 24-12-1956.

32. *L.S. Deb.,* 7-5-1979, cc. 306-20.

33. On the evening of 3 December, 1971, Pakistan attacked India. On 4 December, 1971, the Speaker informed the House that he had agreed to the proposals arrived at a meeting held by the Prime Minister with Leaders of Opposition Groups that with effect from Monday, 6 December, 1971, till the end of the session, (i) Lok Sabha would sit from 10.00 to 13.00 hours; and (ii) there would be no Question Hour and Calling Attention matters. The above decision remained in force till the termination of the session on 23 December 1971.—*L.S. Deb.,* 4-12-1971, cc. 163-64; *Bn. (II)*, 4-12-1971, para 455.

34. *P. Deb. (II)*, 19-8-1953, c. 1166; and *Bn. (II)*, 20-8-1953, para 776.

35. On 7 December, 1955, a request was made by certain members that the hour of commencement of the sitting of the House be altered on 14 December 1955, on account of Solar Eclipse. This request was not acceded to by the Speaker.

36. *L.S. Deb.,* 1-3-1956, cc. 1220-21 and *Bn. (II)*, 1-3-1956, para 2898; *L.S. Deb.,* 5-9-1956, cc. 5810-12.

Time for commencement of sitting was advanced a little to enable the House to observe two minutes' silence at 11.00 hours in memory of those who gave their lives in the struggle for India's freedom. (i) 30-1-1976, *see* Bn. (II), 29-1-1976, para 2619, (ii) 30-1-1980, *see* Bn. (II),29-1-1980, para 65, (iii) 30-1-1985, *see* Bn. (II), 29-1-1985, para 127 and (iv) The sitting of Lok Sabha on 30 January, 2004 during the second part of the Fourteenth Session of Thirteenth Lok Sabha commenced at 12 noon instead of 11.00 hours in view of observance of Martyrs' Day. *L.S. Deb.,* 30-1-2004, *see* Bn. (II), 28-1-2004, para 4436.

or by an announcement by the Speaker in the House. After the report of the Business Advisory Committee has been adopted or the announcement by the Speaker has been made, as the case may be, a paragraph is also published in the Bulletin informing members of the changed hours[37].

The sitting of Lok Sabha on a day on which the President addresses both the Houses assembled together commences half-an-hour after the President's Address.

In exceptional cases, the hour of commencement of a sitting on a day may be fixed *ad hoc*, keeping in view the nature of the business to be transacted on that day[38].

The scheduled hour of commencement of the sitting is not changed on account of the visit of a foreign dignitary or a function arranged in that connection[39].

On 23rd March, 2020 (Third Session of Seventeenth Lok Sabha), the sitting commenced at 2 P.M. instead of 11 A.M on account of disruptions in air traffic.

Commencement of a Sitting

A sitting of the House is duly constituted when it is presided over by the Speaker or any other member competent to preside over a sitting of the House under the Constitution or the Rules[40]. It is, therefore, necessary that the Speaker, the Deputy Speaker or a member of the Panel of Chairmen presides over the House at the hour fixed for the commencement of a sitting and also so long as the sitting lasts. If no such person is present, such other person as may be determined by the House can act as Speaker[41].

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37. *P. Deb. (II)*, 19-4-1951, cc. 7041-42 and *Bn. (II)*, 19-4-1951, para 268; *L.S. Deb.,* 23-3-1967, cc.762-63 and Bn.(II), 23-3-1967, para 53, 4R (BAC)-1971, cc. 163-64, *Bn. (II)*, 4-12-1971; *Bn. (II)*, 6-12-1996, para 692.

38. *L.S. Deb.,* 11-5-1957, c. 23. On 28 February, 1959 (Saturday), the House met at 17.00 hours.— *L.S. Deb.,* 28-2-1959, c. 3585. *See* also *L.S. Deb.,* 27-2-1965, c. 1809; 17-12-1971, cc. 73-75; 29-2-1992 and 27-2-1993, c. 1.

39. The King of Afghanistan was to arrive in Delhi on 11 February, 1958. A suggestion that the House might commence its sitting on that day in the afternoon instead of at 11.00 hours was not agreed to.

40. Rule 11.

41. Art. 95(2).

On 24 November, 1977, after the House agreed, a member (C.M. Stephen) presided over the sitting for some time as no member of the Panel of Chairmen or Deputy Speaker was available to relieve the Speaker—*LS. Deb.,* 24-11-1977, cc. 314-24.

On 11 August, 1982, the House agreed to a suggestion of the Deputy Speaker that a member (Rattan Singh Rajda) might take the Chair for some time, as no member of the Panel of Chairmen was available in the House to relieve him—*L.S. Deb.,* 11-8-1982, c. 535.

On 3 March, 1984 a member (M.C. Daga), relieved the Speaker as neither the Deputy Speaker nor any member of Panel of Chairmen was available in the House—*L.S. Deb.,* 3-3-1984, cc. 3058, 82 and 97.

M.C. Daga relieved the Deputy Speaker as no member of the Panel of Chairmen was available in the House—*L.S. Deb.,* 8-5-1984 at about 20.35 hours; 13-12-1985 at about 15.55 hours and 17-11-1986 at about 15.57 hours.

On 10 March, 2008, Chairman (Varkala Radhakrishnan) who was in Chair, suggested that as no member of Panel of Chairmen was available, C.K. Chandrappan, member, might preside for some time. House agreed. Accordingly, C.K. Chandrappan presided over the sitting from 20.58 hours till 21.07 hours, when a member of Panel of Chairmen (Varkala Radhakrishnan) relieved him.— *L.S. Deb.,*10-3-2008.

On 23 October, 2008, Chairman (Varkala Radhakrishnan) who was in Chair, suggested that as no member from Panel of Chairmen was available, a senior member might preside for some time. House agreed. Accordingly, P.S. Gadhavi presided over the sitting from 18.02 hours till 18.07 hours when a member from Panel of Chairmen (Varkala Radhakrishnan) relieved him.—*L.S. Deb.,* 23.10.2008.

Presence of Ministers is not necessary for constituting a sitting of the House[42].

The assembly of the two Houses of Parliament to hear the President's Address does not constitute a sitting of the House or a joint sitting of the two Houses as it is not presided over by the Speaker[43].

Before the Speaker or any other person competent to preside over the House takes the Chair at the commencement of a sitting, it is ensured that there is quorum in the House. If there is no quorum, the bell is rung and the commencement of the sitting is delayed by such time as is taken in making the quorum[44].

At the commencement of a sitting[45], the Speaker or, in his absence, any other Presiding Officer enters the Chamber from the room of the Speaker which is just behind the Speaker's Chair, preceded by the Marshal who announces the Speaker, the Deputy Speaker or the Presiding Officer, as the case may be in Hindi.

On hearing the announcement, members proceed to their seats and remain standing there. Officers at the Table and Reporters also stand in their places. The visitors in the Galleries, however, keep sitting. The atmosphere of the House at once undergoes a change upon the arrival of the Speaker. He proceeds to his Chair on the dais, bows to all sides of the House—first to the left, then to the right and thereafter to the front—and then takes his seat[46]. Members also respond by bowing to the Chair and take their seats as soon as the Speaker occupies the Chair. Other members who may be in the process of entering the Chamber wait in the gangway near the door and proceed to their seats only after the Speaker has taken his seat. With the Speaker in the Chair the sitting of the House commences. Immediately on taking the Chair the Speaker proceeds with the business for the day as entered in the List of Business.

The same procedure is followed if the House re-assembles after a short adjournment during the course of a sitting.

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42. *L.S. Deb.,* 16-3-1972, c. 152.

43. *L.A. Deb.,* 16-9-1936, pp. 1142-43.

44. *L.S. Deb.,* 16-11-1962, 16-4-1963, 26-8-1991; 20-7-1992; 10-5-1993 to 14-5-1993; 19-5-1995, 23-5-1995, 24-5-1995 to 26-5-1995, 29-5-1995 to 31-5-1995, 26-7-1996; 9-9-1996, 29-11-1996, 16-12-1996, 3-3-1997, 21-3-1997, 8-5-1997, 9-5-1997, 12-5-1997, 13-5-1997, 16-5-1997, 4-8-1997, 8-8-1997, 11-8-1997, 29-8-1997, 30-8-1997, 1-9-1997, 13-3-1999, 15-5-2000, 16-8-2000, 2-5-2002, 9-12-2002, 22-8-2003, 19-12-2003, 29-4-2005, 19-5-2005, 1-12-2006, 1-12-2007, 3-12-2007, 21-4-2008, 15-12-2008, 22-12-2008, 1-6-2009, 3-7-2009, 9-7-2009, 10-7-2009. 13-7-2009, 15-7-2009, 17-7-2009, 21-7-2009, 24-7-2009, 28-7-2009, 26-11-2009, 30-11-2009, 4-12-2009, 11-12-2009, 14-12-2009, 4-3-2010, 5-3-2010, 19-4-2010, 20-4-2010, 21-4-2010, 6-5-2010, 2-8-2010, 3-8-2010, 4-8-2010, 5-8-2010, 6-8-2010, 9-8-2010, 10-8-2010, 12-8-2010, 13-08-2010, 19-8-2010, 26-8-2010, 9-11-2010, 25-2-2011, 1-3-2011, 8-3-2011, 11-3-2011, 15-3-2011, 16-3-2011, 18-3-2011, 22-3-2011, 23-3-2011, 4-8-2011, 5-8-2011, 19-8-2011, 26-8-2011, 2-9-2011, 13-3-2012, 14-3-2012, 15-3-2012, 19-3-2012, 22-3-2012, 25-4-2012, 30-4-2012, 2-5-2012, 3-5-2012, 4-5-2012, 9-5-2012, 15-5-2012, 16-5-2012, 17-5-2012, 18-5-2012, 21-5-2012, 9-8-2012, 14-8-2012, 17-8-2012, 30-11-2012, 7-12-2012,10-12-2012, 18-12-2012, 22-2-2013 and 26-2-2013.

There have been occasions when the quorum bell had to be rung before the commencement of a sitting but there has not been any instance when a sitting could not commence for lack of quorum.

45. *See* fn. 34, Chapter 12 on Conduct of Members regarding playing of the National Anthem (Jana Gana Mana) and the National Song (Vande Mataram).

46. However, in practice nowadays, the Presiding Officers have been seen greeting the House with folded hands.

Quorum during the Sitting

The quorum to constitute a sitting of the House is one-tenth of the total number of members of the House. If at any time during a sitting of the House there is no quorum, it is the duty of the Speaker or the person acting as such, either to adjourn the House or suspend the sitting until there is quorum[47].

The Speaker presumes that there is quorum throughout a sitting until his attention is invited to the lack of quorum. In such a case the bell is rung and if the House is made within the first ringing of the bell, or if necessary, after the second ringing of the bell, as the Speaker may direct, the business of the House proceeds; otherwise, the Speaker adjourns the House for lack of quorum[48].

There have been occasions, though very rare, when the quorum bell was rung third time in a row and the House was made after the third ringing of the quorum bell[49].

Objection to lack of quorum once raised by a member cannot be withdrawn by him[50]. It becomes the duty of the Speaker to act in accordance with the provisions of the Constitution once his attention has been drawn to the lack of quorum.

During the period the quorum bell is ringing, the proceedings stand suspended and remain so suspended till the House is made.

When the House used to sit continuously without any lunch-break, a convention had developed that between 13.00 hours and 14.30 hours, the House would not be counted and any matter which had to be decided on a division during this time would be postponed till after 14.30 hours[51]. A voice vote was, however, taken during this time but if it was challenged no count was taken till after 1430 hours[52]. But in case a division was in progress at 13.00 hours, it was to continue and conclude[53]. On a number of occasions,

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47. The Constitution (Forty-second Amendment) Act, 1976, *inter alia* omitted the provisions relating to quorum in article 100 and amended article 118(1) enabling each House to make suitable Rules in that regard. However, the relevant provisions were omitted by the Constitution (Forty-fourth Amendment) Act, 1978.

48. There have been a few instances when the House was adjourned by the Chair for lack of quorum *L.S. Deb.,* 5-4-1963, c. 8104 and 9-4-1963, c. 8856.

    For instance, on 31 July, 2009 (Second Session, Fifteenth Lok Sabha), the House adjourned for the day for want of quorum – L.S. Deb., 31-7-2009, c. 134.

49. On 19 November, 1987, during discussion on a bill at about 1725 hours, a member raised the question of quorum. The bell had to be rung thrice till the House was made at 1734 hours.

    Similarly, on 20 November 1987, 8 August 1994, 19 May 1995 and 6 September, 1996 after the lunch interval, bell had to be rung three times till the House was made at 1408 hours, 1425 hours, 14.45 hours and 1426 hours, respectively.

    Further instances when quorum bell was rung third time in a row and the House was made after the third ringing of the quorum bell : 29-11-1991, 13-12-1991, 7-5-1993, 26-7-1993, 30-7-1993, 6-8-1993, 16-8-1993, 18-8-1993, 23-8-1993, 11-12-1993, 22-2-1994, 25-4-1994, 3-5-1994, 12-5-1994, 26-7-1994, 4-8-1994, 16-8-1994, 15-3-1995, 20-3-1995, 22-3-1995, 24-3-1995, 2-5-1995, 18-5-1995, 22-5-1995, 26-5-1995, 29-5-1995, 1-6-1995, 6-9-1996, 11-9-1996; 28-11-1996, 29-11-1996, 21-2-1997, 28-2-1997, 3-3-1997, 10-3-1997, 15-3-1997, 17-3-1997, 30-4-1997, 2-5-1997, 5-5-1997, 8-5-1997, 12-5-1997, 13-5-1997, 14-5-1997, 15-5-1997, 8-8-1997, 29-8-1997, 18-12-1997, 5-5-2000, 24-11-2000, 3-8-2001, 3-12-2004, 10-12-2004, 4-8-2005 & 12-8-2005, 9-11-2005, 24-2-2006, 12-5-2006, 19-5-2006, 24-11-2006, 16-3-2007, 22-11-2007, 23-11-2007. 30-11-2012 and 22-2-2013.

50. *L.S. Deb.,* 10-9-1956, c. 7677.

51. *L.S. Deb.*, 8-9-1954, cc. 1248-52.

52. *Ibid.,* 11-4-1955, cc. 4828-30.

53. *L.S. Deb.,* 20-2-1961, c. 858.

division was postponed till after 14.30 hours[54], but there were instances when divisions were held between 13.00 hours and 1430 hours with the unanimous consent of all parties and members[55].

Owing to persistent objections raised by some members from time to time, this convention was not observed on many occasions and if objection to the lack of quorum was raised, the Chair acted as it would at any other time of the day[56].

As stated earlier, the House now adjourns for lunch for one hour. There was another convention in regard to drawing the attention of the Chair to the lack of quorum in the House:

> The House was not counted within one hour of the count having been taken as also during the time when the House sat beyond the normal hours[57]; but when the House had to take decision on any matter, quorum was necessary even during the extended time[58].

At times, objections were taken by members in the House about the convention of not counting the House within one hour of the count[59] or of not challenging quorum when debate was extended beyond the normal hours of sittings[60]. There were also occasions when members did not follow the convention and drew the attention of the Chair to the lack of quorum within one hour of the count having been taken or when the House was sitting beyond the normal hours, and the Chair had to adjourn the House for some time[61] or for the rest of the day if the House could not be made[62].

Adjournment of the House

Unless the Speaker otherwise directs, sitting of the House on any day ordinarily concludes at 1800 hours[63]. The sitting does not, however, conclude automatically nor is any motion adopted for its conclusion[64]. The House stands adjourned and the sitting

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54. *L.S. Deb.,* 11-4-1955, cc. 4828-30; 9-4-1956, c. 4722; 26-8-1960, cc. 5159-60; 29-8-1962, cc. 4833-34 and 21-11-1962, c. 2752.
55. *Ibid.,* 1-12-1959, c. 2708, 16-12-1960, c. 6012; 2-5-1962, cc. 2087-89; 31-5-1962, cc. 8114-18.
56. *Ibid.,* 3-9-1955, cc. 12090-96; 5-9-1955, cc. 12186-89 and 19-8-2011, cc. 66-67.
57. *Ibid.,* 22-3-1960, c. 7249; 25-3-1960, cc. 8262-66.
58. *Ibid.,* 16-3-1963, c. 4373.
59. *Ibid.,* 16-3-1963, c. 4302; 29-3-1963, cc. 6496-97; 15-4-1963, c. 9814.
60. *Ibid.,* 29-3-1963, c. 7085; 1-4-1963, c. 7195.
61. *Ibid.,* 21-4-1965, cc. 10280-81, 26-8-2010, c. 240.
62. *Ibid.,* 16-3-1963, c. 4373; 5-4-1963, c. 4373, 8103; 9-4-1963, c. 8852.
63. Rule 12, *L.S. Deb.,* 23-3-1967, cc. 762-63.

    On 9 March, 1982 on a request by several members, the House was adjourned at 1725 hours in connection with 'Holi Festival' on 10 March, 1982—*L.S. Deb.,* 9-3-1982, cc. 423, 427-28.

    The House was adjourned on 29 January, 1976 and 29 January, 1985 at 1600 hours to enable members to witness the 'Beating Retreat' ceremony—*L.S. Deb.,* 29-1-1976, c. 262; 29-1-1985, c.102.

    On the recommendation of the Business Advisory Committee, Lok Sabha agreed that the House might be adjourned at 17.00 hours on 27 November 1986 in order to enable the members to attend the Address by General Secretary of the Communist Party of the Soviet Union on that day—31R (BAC-8LS), Bn.(ll), 26-11-1986, para 1393.

    On 30 April, 1990, the House was adjourned at 1742 hours to enable members to participate in the address by the Prime Minister of Japan in the Central Hall. On 4 December 2003, members desired that the House might be adjourned early to enable them to listen to results of elections to five State Legislative Assemblies. Accordingly, the House was adjourned for the day at 1246 hrs.—*L.S. Deb.,* 4-12-2003, cc. 402-04.

64. *L.A. Deb.,* 7-2-1924, p. 345.

on a day is terminated only when the Presiding Officer makes the announcement in the House to that effect[65].

During the course of a session, Lok Sabha may be adjourned[66] from time to time, day-to-day, or for more than a day, or *sine die*[67]. As a normal parliamentary practice, it is the House which has to determine by its own decision on a motion moved to that effect as to when it should adjourn or whether it should adjourn to a fixed date or *sine die*. With a view to abridging the process of moving a motion and the discussion thereon, the rules of Lok Sabha have vested the authority in the Speaker. The power of the Speaker is, however, limited in the sense that he either adjourns the House at a fixed hour, or at such other hour under some rule or convention, or as he may determine after taking the sense of the House, and he adjourns it from day-to-day according to the Calendar of Sittings issued at the beginning of a session. If any variation is required in this, the matter has to be decided by the House on a motion made on behalf of the Leader of the House. The Speaker may also, if he thinks fit, call a sitting of the House before the date or hour to which it has been adjourned or at any time after the House has been adjourned *sine die*[68].

When the motion "That the House do now adjourn" is being discussed, that is, from the hour the discussion on an adjournment motion has commenced

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65. *L.S. Deb.,* 25-11-1970, c. 532.

66. At 1110 hours on 6 September, 1974, the Speaker adjourned the House till 1215 hours to enable the members of the Business Advisory Committee and Leaders of Parties and Groups to attend an urgent sitting of the Business Advisory Committee (BAC).

    At 1220 hours, the Secretary-General announced that as the sitting of the BAC was still going on, the Speaker had directed that the House would re-assemble at 1245 hours—*L.S. Deb.,* 6-9-1974, c. 4.

    On 17 November, 1987, owing to pandemonium in the House, the Speaker adjourned the House at 1240 hrs. till 1400 hours. At 14.00 hours, the Secretary-General announced that the Speaker had directed that the House would remain adjourned till 1430 hours—*L.S. Deb.,* 17-11-1987, c. 430.

67. *L.S. Deb.,* 5-9-1974, cc. 1-31.

68. Rule 15. There have been two instances so far where a sitting adjourned by the Speaker to a particular day and time has been called before that date or time. For details, *see* Chapter 9 under the heading *Summoning of Parliament.*

    The House, after being adjourned *sine die,* was re-convened after a gap of two and a half months.

    The Eighth and Fourteenth Sessions of the Eighth Lok Sabha, the Third Session of the Ninth Lok Sabha, the First Session of the Eleventh Lok Sabha, the Fourteenth Session of Thirteenth Lok Sabha and the Seventh Session of Fourteenth Lok Sabha comprised two parts each as indicated below:—

(i)	Part I - 23-2-1987 to 12-5-1987 Part II - 27-7-1987 to 28-8-1987	L.S. was prorogued on 3-9-1987
(ii)	Part I - 18-7-1989 to 18-8-1989 Part II - 11-10-1989 to 13-10-1989	L.S. was prorogued on 20-10-1989
(iii)	Part I - 7-8-1990 to 7-9-1990 Part II - 1-10-1990 to 5-10-1990	L.S. was prorogued on 11-10-1990
(iv)	Part I - 22-5-1996 to 28-5-1996 Part II - 10-6-1996 to 12-6-1996	L.S. was prorogued on 13-6-1996
(v)	Part I - 2-12-2003 to 23-12-2003 Part II - 29-1-2004 to 5-2-2004	L.S. was dissolved on 6-2-2004
(vi)	Part I - 16-2-2006 to 22-3-2006 Part II - 10-5-2006 to 23-5-2006	L.S. was prorogued on 25-5-2006
(vii)	Part I - 21-7-2008 to 22-7-2008 Part II - 17-10-2008 to 23-12-2008	L.S. was prorogued on 24-12-2008
(viii)	Part I - 5-12-2013 to 18-12-2013 Part II - 5-2-2014 to 21-2-2014	L.S. was prorogued on 27-2-2014

to the time the motion is disposed of, the Speaker cannot adjourn the House for the day because during that time it is the House which has to take a decision on its adjournment. However, the discussion may be interrupted by lunch break and disposal of formal items such as laying of Papers[69]. The Speaker cannot also postpone the voting to the next sitting even if a request is made to him to that effect. The motion has to be disposed of before the House is adjourned for the day. In case the motion is adopted, the House automatically stands adjourned in pursuance of the adoption of the motion. If the motion is negatived, discussion on the business which had been interrupted by the adjournment motion is resumed or the next item on the Agenda taken up for a short while and then the House is adjourned by the Speaker for the day. When the motion is withdrawn by leave of the House, the House may be adjourned without resuming further business if it is time for the House to have adjourned in the normal course[70].

In the case of extension of the duration of a sitting, consent of the House is taken by the Speaker on the recommendation of the Business Advisory Committee who first consider the suggestion of the Government in this regard and make a report to the House[71]. If there is no time to convene a sitting of the Business Advisory Committee for the purpose, then the Speaker makes an announcement in the House and takes its consent.

The adjournment of the House by the Speaker under wrong assumption may be questioned in a court of law.

If the Legislative Assembly of a State is adjourned by the Speaker and in the meantime the Governor prorogues the Assembly and resummons it to meet on a particular day after the issue of an Ordinance to regulate the financial procedure, the Speaker's action in adjourning the Assembly afresh without taking the mandate of the Assembly by majority as required by the Ordinance or declaring that the former adjournment continues to operate, is null and void and of no effect. The ruling of the Speaker adjourning the Assembly afresh in these circumstances being based on wrong assumption can be called in question in a court of law[72].

Adjournment before normal hour: If the business entered in the Agenda for the day is completed earlier, the House adjourns for the day at that hour[73].

On the day on which the President addresses both Houses of Parliament assembled together in the Central Hall, the House sits in its own Chamber half-an-hour after the conclusion of the Address. At this sitting, a copy of the President's Address is laid on the Table and certain other formal business, *viz.*, introduction of Government Bills, laying of papers on the Table, etc., is transacted. Thereafter, the House normally adjourns for the rest of the day[74].

Earlier, when the General Budget was presented at 1700 hours on the day

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69. *L.S. Deb.,* 4-11-1986, 18-7-1989, 9-1-1991. 22-2-1991, respectively.

70. *L.S. Deb.,* 18-2-1954, c. 309; 18-8-1958, c. 1539; 12-3-1959, c. 6040; 26-5-1967, cc. 1195-1223; 22-7-1968, c. 682.

71. *See* 25R (BAC-3LS)

72. *State of Punjab v. Satya Pal Dang,* A.I.R. 1969, S.C. 903.

73. For instance, *see L.S. Deb.,* 19-6-1962, cc. 11771-72; 5-8-1975, c. 136, 7-8-1975, c. 116; 18-6-1977, cc. 71-72; 11-3-1991, c. 362; 28-5-1996, c. 96; 1-9-1997, c. 1410**;** 3-3-2003 cc. 480; 25-8-2004, cc. 824, 1-12-2007, c. 72.

74. However, on 18 March, 1967, the House did not adjourn but took up for consideration the motion of no-confidence in the Council of Ministers. For details, *see* Chapter X under the head "Laying of a copy of the Address on the Table".

appointed for the purpose, the House normally adjourned for one hour at 1600 hours and then reassembled at 1700 hours when the Budget was presented[75]. From the year 2001 onwards, on the suggestion of the Ministry of Parliamentary Affairs, the General Budget was being presented at 1100 hours on the last day of the month of February. Since 2017, on the suggestion of the Ministry of Parliamentary Affairs, the Union Budget is being presented on the first day of February. No other business is transacted on that day. A footnote to this effect is appended in the Provisional Calendar of sittings.

If death of a member occurs in the House during the course of a sitting or a member passes away in New Delhi while the House is sitting, the House adjourns for the day. This practice has been dispensed with in the Seventeenth Lok Sabha.

However, during the Fifteenth Lok Sabha, the Speaker took a decision in a meeting with Leaders to adjourn the House on the Opening day after the inter-session period, if a sitting member has expired during that inter-session period. In certain cases the House has also adjourned on the demise of the head of a friendly foreign State or some outstanding person, at the request of the Leader of the House[76].

On several other occasions also, the Speaker has adjourned the House earlier than the scheduled hour to meet either after a short interval on the same day or at the scheduled hour of commencement of the sitting on the next day[77].

The House may also adjourn early on account of lack of quorum[78].

In the case of a grave disorder arising in the House, the Speaker may, if he thinks it necessary to do so, adjourn the House or suspend any sitting to a later hour to be specified by him[79].

Normally, it is not the practice to adjourn the House earlier than the scheduled time on account of the visit of a foreign dignitary or function arranged in that connection or any other function[80] but there have been occasions when the time of conclusion of a sitting was advanced with the consent of the House itself[81].

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75. On 20 March 1967, the General Budget was to be presented at 1700 hours. However, at 1701 hours, division on no-confidence motion was in progress. After division and disposal of the motion, House adjourned at 1710 hours for 10 minutes and re-assembled at 1720 hours when the General Budget for 1967-68 was presented *L.S. Deb.,* 20-3-1967, c. 424.

    On 28 March 1977, the interim General Budget for 1977-78 was presented at 12.59 hours and the House did not adjourn for interval before presentation of the Budget. After its discussion for two days, a Vote on Account for four months was approved by the House.

    At the meeting of the Speaker with Leaders of Parties and Groups held on 21 February 1991, it was decided that before the General Budget was presented, the House might be adjourned for a brief interval of one hour (instead of half-an-hour) from 1991 onwards to give sufficient time to conduct security checks in various Galleries of the Lok Sabha Chamber.

76. For details *re.* adjournment of the House on account of death of members, etc., *see* Chapter XVIII-*Arrangement of Business and List of Business*, under the sub-heading *Obituary References.*

77. For instances, *see L.S. Deb.,* 17-8-1959, c. 2855; 15-2-1961, c. 200; 8-3-1961, c. 3720; 11-2-64, c. 218; 5-5-2008.

78. For instances, *see L.S. Deb.,* 12-12-1963, c. 4459; 1-9-1972, c. 294; 22-4-1988, c. 360; 4-5-1988, cc. 673-74. 3-4-1992, c. 522, 4-12-1992, c. 684; 18-12-1993, c. 114; 15-3-1997, c. 140; 5-3-1999, c. 448; 25-4-2003, c. 458.

79. Rule 375. *See* also Chapter 32—'General Rules of Procedure' under Maintenance of Order.

80. *L.S. Deb.,* 21-11-1955, c. 133; 9-12-1959, c. 4330; 10-12-1959, c. 4554.

81. *See* footnote. 60, *supra*

    On 14 August 2006 Lok Sabha adjourned at 1634 hours to enable members to attend the inauguration of the Parliament Museum in the Parliament Library Building by the President of India, *L.S. Deb.,* 14-8-2006, cc. 350.

Adjournment after scheduled hour: If there is a half-an-hour discussion fixed for a day it is taken up at 17.30 hours[82]. In case it is decided to sit beyond the normal hours on a particular day and if any half-an-hour discussion is also to be taken up on that day, then the sitting is extended further for half-an-hour[83]. During the Budget session till the disposal of urgent financial business, half-an-hour-discussions are usually taken up at 18.00 hours[84].

On the day on which an adjournment motion on a matter of public importance is discussed or a no-day-yet-named motion or a discussion of short duration is included in the List of Business, the House may sit beyond the normal hours of sitting.

Owing to pressure of work, the House has on many occasions extended its sitting beyond the normal hour of adjournment[85].

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82. Prior to 27 March 1967, the half-an-hour discussion was taken up only after the usual hour of conclusion of the sitting, *i.e.* 17.00 hours—*L.S. Deb.,* 18-12-1963.

83. *L.S. Deb.,* 31-3-1959.

84. 23R(BAC-8LS), 49R(BAC-8LS).

85. The longest sitting of the Provisional Parliament was on 6 October 1951, when it sat for eleven hours and seven minutes from 0900 hours to 1305 hours, from 1533 hours to 2030 hours and from 2115 hours to 2320 hours.

    The longest sitting of the First Lok Sabha was on 30 May 1956, when it sat for ten and a half hours from 1000 hours to 2030 hours without any break.

    In the Third Lok Sabha, the longest sitting was on 6 September 1966, for eleven hours and five minutes from 1100 hours to 2300 hours with a break from 20.35 hours to 21.30 hours.

    In the Fourth Lok Sabha, the longest sitting was on 24 March 1970 for eleven hours and thirty-two minutes from 1100 hours to 2232 hours without any break.

    In the Fifth Lok Sabha, the longest sitting was on 9 May 1974, for thirteen hours and fifty minutes from 1100 hours to 0130 hours (10 May 1974), with a break from 14.10 hours to 14.50 hours.

    In the Sixth Lok Sabha, the longest sitting was on 23 December 1977 for 12 hours and 5 minutes from 1100 hours to 2305 hours without lunch-break. (Discussion under Rule 193).

    In the Seventh Lok Sabha, the longest sitting was on 15 September 1981 for sixteen hours and 58 minutes from 1100 hours to 0358 hours (16 September 1981) without lunch-break.

    (Consideration and passing of Essential Services Maintenance Bill, 1981).

    In the Eighth Lok Sabha, the longest sitting was on 5 May 1986 for fifteen hours and 48 minutes from 1100 hours to 0248 hours (6 May 1986) with lunch break from 1337 hours to 1442 hours.

    [Consideration and passing of the Muslim Women (Protection of Rights of Divorce) Bill, 1986.]

    In the Tenth Lok Sabha, the longest sitting was on 30 March 1993 for nineteen hours and 24 minutes from 1101 hours to 0625 hours (31 March 1993) with lunch break from 1345 hours to 1434 hours. [General Discussion on the Budget (Railways) for 1993-94].

    In the Eleventh Lok Sabha, the longest sitting was on 30 August 1997 for twenty-one hours and sixteen minutes from 1108 hours to 824 hours (31 August 1997) with a lunch break in between from 1355 hours to 1503 hours.

    In the Twelfth Lok Sabha, the longest sitting was on 8 June, 1998 for nineteen hours and four minutes from 1100 hours to 604 hours (9 June, 1998) with a lunch break in between, in connection with discussion on Budget (Railways) for 1998-99.

    In the Thirteenth Lok Sabha, the longest sitting was on 30 April 2002 for seventeen hours and twenty five minutes from 1100 hours to 425 hours (1 May 2002) without lunch-break. (Discussion under Rule 184).

    In the Fourteenth Lok Sabha, the longest sitting was on 20 July 2004 for thirteen hours and thirty-three minutes from 1100 hours to 0053 hours (21 July 2004) with a break from 1140 hours to 1200 hours, in connection with General discussion and voting on the Budget (General) for 2004-2005, Demands for Grants on Account (General) for 2004-2005 and Demands for Excess Grants (General) for 2001-2002.

It is not necessary to adopt any motion for the extension of a sitting; however, when extension is recommended by the Business Advisory Committee[86], the House agrees with the report of the Committee on a motion adopted by the House. There has been an occasion when on private members' day the sitting was extended upon a specific motion adopted by the House to enable the next resolution to be moved[87].

Members have objected to the extension of a sitting beyond the normal hours, and the Speaker has also agreed sometimes with them[88]; but it has not been possible to avoid altogether the extension of hours of sittings. During the Budget Session, it has almost become a practice to extend the hours of sittings in order to provide more time for the discussion of the Budget.

Adjournment sine die: On the last sitting of a session, the Speaker adjourns the House *sine die*.

Secret Sitting of the House

On a request made by the Leader of the House, the Speaker may fix a day or part thereof for sitting of the House in secret[89].

When the House sits in secret no stranger is permitted to be present in the Chamber, Lobby or Galleries except the members of Rajya Sabha who may be present in their Gallery and the persons authorised by the Speaker who may be present in the Chamber, Lobby or Galleries[90].

A secret sitting has so far been held only once on 27 February 1942, in the Central Legislative Assembly[91]. Following a written representation by a large

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In the Fifteenth Lok Sabha, on 27 December, 2011, the House sat for twelve hours nineteen minutes from 1121 hours to 2353 hours in connection with combined discussion on the Lokpal and Lokayuktas Bill, 2011 (Insertion of new Part XIV B) and the Public Interest Disclosure and Protection to Persons Making the Disclosures Bill, 2010.

In the Sixteenth Lok Sabha (8 March, 2016) the House sat from 1100 hours to 23 hours 51 minutes with a lunch break for combined discussion on Budget (Railways) for 2016-17, Demands for Grants on Account (Railways) for 2016-17 and Supplementary Demands for Grants (Railways) for 2015-16. Members also raised Matters of Urgent Public Importance.

In the Seventeenth Lok Sabha, till date, the longest sitting was on 9 December 2019 for thirteen hours and five minutes from 1100 hours to 0005 hours (10 December, 2019) without lunch-break in connection with consideration and passing of the Citizenship Amendment Bill, 2019.

In the Eighteenth Lok Sabha (till Second Session). the longest sitting was 1 july 2024 for eleven hours and fifty-four minutes from 1100 hrs to 2358 hours with a lunch break in connection with discussion on the Motion of Thanks on the Prersident's Address.

86. For instance, extension was recommended by the Committee in these reports: 22R, 24R, 26R, 27R (BAC-1LS); 1R, 3R, 8R, 9R, 15R, 37R, 52R, 62R, 63R, 65R, (BAC-2LS); 1R, 2R, 6R, 10R (BAC-3LS); 28R, 32R, (BAC-5LS); 5R(BAC-6LS); 1R, 12R, 21R (BAC-8LS); 12R, 17R (BAC- 9LS); 4R, 6R, 14R, 17R, 24R(BAC-10LS); 4R, 6R, 12R (BAC-13LS) and 12R, 29R (BAC- 14LS); 21R, 33R (15LS).

87. *L.S. Deb.,* 20-7-1956, cc. 483-84.

88. *Ibid.,* 29-4-1955, cc. 6857-58.

89. Rule 248.

90. *Ibid.*

91. However, on 21 December 1946, the Constituent Assembly of India considered the Procedure Committee's Report by going into Committee and holding its proceedings *in camera.* The Assembly met again on the following day *in camera* to continue discussion on the draft rules framed by the Procedure

number of members, the Leader of the House, on 23 February 1942, made a request to the Speaker of the Assembly to fix 27 February 1942, as the day for a secret sitting of the Assembly to discuss the war situation.

After taking the pleasure of the House, the Speaker announced that all the Galleries except the Gallery for the Council of States would be cleared on the appointed day and directed that the proceedings of the secret sitting will not be taken down, recorded or published[92].

The following announcement was made by the Speaker of the Central Legislative Assembly before the motion to discuss the war situation was moved on 27 February 1942:

> Before I call upon Mr. Aney to move the motion which stands in his name, I ought to make it quite clear that the further proceedings of the House will be in secret session. Therefore, all the Galleries excepting those occupied by the members of the Council of States will be cleared[93].

Apart from the members of the two Houses, the only persons allowed to remain in the Assembly Chamber during the sitting were the Secretary, the Deputy Secretary and the Assistant Secretary of the Assembly and the Marshal.

The Speaker causes a report of the proceedings of a secret sitting to be issued in such manner as he thinks fit, but no other person present can keep a note or record of any proceedings or decisions of a secret sitting, whether in part or full, or issue any report of or purport to describe such proceedings[94].

No record of the proceedings of the secret sitting held on 27 February 1942 was prepared and published. For purposes of record, the only report which under the orders of the Speaker of the Legislative Assembly was printed in the debates was as follows:

"The remainder of the sitting was in secret session and the Assembly discussed the following motion moved by the honourable Mr. M.S. Aney:

Committee—Indian Annual Register, Ed. N.P. Mitra, Calcutta, 1946, Vol. II, p. 360. On 22 and 24 January 1947, the estimates of expenditure of the Constituent Assembly for the years 1946-47 and 1947-48 were also discussed by the House going into Committee—*Ibid.*, 1947, vol. 1, pp. 311 and 314.

92. *L.A. Deb.,* 23-2-1942, p. 405.

93. In pursuance of the direction, all Galleries and Lobbies were cleared of strangers and all doors leading to the various Galleries were securely bolted and locked. The Official Gallery and the Governor-General's Box were also cleared and locked. The door leading to the Council of State Gallery was closed but not locked and one member of the Watch and Ward staff was posted outside the door to admit members of that Chamber only. As regards the members' Lobby, no person, whether holding a Lobby pass or a session card was admitted; only the members of either Chamber of the Central Legislature were allowed. All doors leading to the members' Lobby were bolted and locked with the exception of one door which was closed but not locked and the Watch and Ward Officer was posted to sit outside the door to control the entry of members into the Lobby and the Chamber during the discussion of this motion. After all these precautions had been taken and a thorough search of the Chamber's Galleries and the Lobbies had been made by the Watch and Ward staff, the Watch and Ward Officer entered the Chamber and informed the Secretary who thereupon informed the Speaker that all the Galleries and the Lobbies had been cleared of strangers. The Watch and Ward Officer then went out and the Speaker called upon Mr. Aney, the Leader of the House, to move the motion standing in his *name—L.A. Deb.,* 27-2-1942, pp. 617-18.

94. Rule 249.

'That the war situation be taken into consideration'[95]."

The procedure in all other respects in connection with a secret sitting is in accordance with such directions as the Speaker may give[96].

When it is considered that the necessity for maintaining secrecy in regard to the proceedings of a secret sitting has ceased to exist subject to the consent of the Speaker, a motion may be moved by the Leader of the House or any member authorised by him that the proceedings in the House during a secret sitting be no longer treated as secret. On adoption by the House of such a motion, the Secretary-General causes a report of the proceedings of the secret sitting to be prepared and, as soon as practicable, to be published in such form and manner as the Speaker may direct[97].

Subject to what has been stated above, disclosure of proceedings or decisions of a secret sitting by any person in any manner is treated as a gross breach of privilege of the House[98].

In regard to the disclosure of the proceedings or decisions of the secret sitting of the Central Legislative Assembly held on 27 February 1942, the Government of India had, in advance, by an amendment of rule 34 of the Defence of India Rules, 1939, made the publication or divulging of the proceedings of any secret meeting of either Chamber of the Indian Legislature a penal offence punishable with imprisonment for a term which may extend to five years (or with fine or with both), *vide* rules 34(2)(a) and 38 (5) of the Defence of India Rules, 1939. A similar provision was also made in the Defence of India Rules, 1962, for any secret meeting of Parliament, *vide* rules 35(2)(1) and 41(5) of the Defence of India Rules, 1962.

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95. *L.A. Deb.,* 27-2-1942, c. 618.

96. Rule 250.

The following procedure was laid down in connection with the secret session of the Central Legislative Assembly held on 27 February 1942:

In case there was a division, two tellers from the Notice Office would attend but they were to clear out after the result of the division was announced by the Chair.

Official Reporters were to leave the Chamber as soon as the Speaker would direct that the Galleries be cleared as no record of the proceedings of the secret session was to be published.

A letter was to be sent to the Secretary of the Council of State informing him of the decision to hold the secret session on 27 February 1942, and intimating him that the Gallery of the Council of State would remain open for the use of those members of the Council of State who might like to hear the discussion. He was also to be requested to issue a circular letter to the members of the Council of State informing them of the fact and also impressing upon them the necessity of keeping the proceedings secret. (The members of the Council of State were subsequently allowed by the Speaker to occupy the Public Gallery on this occasion)

A letter was also sent to the Military Secretary to the Viceroy informing him that the Governor-General's Box would remain closed during the discussion of the motion.

97. Rule 251.
On 27 February 1942, after the motion regarding the war situation was discussed in secret sitting, the House adjourned. No motion was moved at any subsequent sitting of the House that the proceedings in the House during the secret sitting be no longer treated as secret.

98. Rule 252.

CHAPTER 18

Arrangement of Business and List of Business

Parliamentary business can be divided into two broad headings, *viz.* Government business and Private Members' business. Government business may be further sub-divided into two categories: (A) Items of business initiated by the Government; and (B) Items of business initiated by private members but taken up in Government time.

Government Business

(A) Items of Business Initiated by Government

Items of business initiated by Government are divisible into various forms. A brief account of these forms follows:

(i) Papers Laid on the Table

Ministers lay documents and papers on the Table under the relevant provisions of the Constitution, various enactments, Rules of Procedure or Directions issued by the Speaker and by practice or convention of the House. The purpose of laying such papers on the Table is to supply authoritative information for the use of members and to prepare ground for discussion.

A private member is generally not allowed to lay a document or paper on the Table unless he is authorised by the Speaker to do so[1].

(ii) Statements and Personal Explanations

At the end of the Question Hour, Ministers make various types of statements and explanations, a brief description of which is given below:

Statements by Ministers on Matters of Urgent Public Importance[2]

In order to keep the House informed about matters of public importance or to state the Government's policy in regard to a matter of topical interest, Ministers make statements in the House from time to time with the consent of the Speaker.

A Minister who desires to make a statement has to intimate in advance the date on which he proposes to make the statement[3]. The intimation is required to be sent, as far as possible, at least one day in advance so that the item may be included in the List of Business[4]. The statement is made at the appropriate time, *i.e.,* after the questions and other formal items of business are over. The Minister has to send in advance a copy of the statement for information of the Speaker, even if the statement is secret or confidential in nature. It is open to the Minister to alter the text of the statement before it is actually made in the House but, as far as possible, a copy of the revised statement should be made available to the Speaker in advance.

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1. For the detailed procedure regarding the laying of papers or documents on the Table by Ministers or private members, *see* Chapter 35—Papers Laid on the Table and Custody of Papers.
2. Rule 372.
3. Dir. 119.
4. However, the Speaker may permit a Minister to make an important statement without any entry being made in the List of Business.

A Minister has a right to make a policy statement at any time[5]. When a Minister proposes to make a statement *ex tempore* in an urgent case, the requirement of providing an advance copy of the statement is not insisted upon[6] but he has to inform the Speaker in advance of the reasons for making the statement at short notice in writing or by meeting the Speaker personally.[7]

A Minister has a right to make a statement in the House to inform the House of a treaty or an agreement entered into by the Government with a foreign Government[8]. It is a tradition that Ministers inform the House of current foreign affairs. A Minister may make a statement about a treaty signed between two foreign countries. The Speaker may allow a Minister to make a statement without the item being entered in the List of Business[9]. An objection that the item regarding a major policy statement must always be entered in the List of Business is not valid[10]. However, when an important statement is made by a Minister without an entry in the List of Business, a Supplementary List of Business is circulated to members in the House if time permits; otherwise, an announcement is made by the Chair or a notice is displayed on the notice-boards for information of the members[11].

As a rule, no questions are permitted after a statement is made by a Minister because there is no formal motion before the House on which debate may take place[12].

However, there have been instances when, in exceptional cases, members were allowed to ask clarificatory questions[13]. The only settled exception is statement by the Minister of Parliamentary Affairs regarding business for the next week when points regarding business of the House can be raised by members. The practice of making submissions by members has been dispensed *w.e.f.* third session of seventeenth Lok Sabha as per decision taken in the meeting of Hon'ble Speaker with leaders of Parties in Lok Sabha on 30 January 2020[14]. Lengthy statements may be laid on the Table of the House[15] and copies thereof may be circulated to members. Instead of asking questions then and there, it is open to members to raise discussion on a Minister's statement by tabling a suitable notice[16]. When the statement is on an important matter, discussion may be allowed on the same day on which the statement is made[17].

When a statement is made by a Minister on his own authority, members cannot ask him to verify the facts from some other authority[18].

In order that the House may come to know at the earliest opportunity about all serious occurrences, a convention is being followed that Ministers make statements in

5. *L.S. Deb.,* 3-8-1972, cc. 189-94; 4-8-1972, cc. 210-26.
6. *See L.S. Deb.,* 23-3-1959 and 3-4-1959 when the Prime Minister made statements *ex tempore* regarding the situation in Tibet and crossing of the border and arrival in India of Dalai Lama of Tibet, respectively. Also *see L.S. Deb;* 18.3.2008, when the Minister of External Affairs and Leader of the House, Pranab Mukherjee made statement regarding Sarabjit Singh.
7. *Ibid.*, 23-11-2007, 442; 28-11-2007, 351-53; 18-3-2008 and 19-3-2008.
8. *L.S. Deb.,* 23-7-1974, cc. 186-99.
9. *Ibid.,* 14-8-1970, c. 219.
10. *Ibid.*
11. *Ibid.,* 16-9-1964, cc. 1961-62.
12. *H.P. Deb.,* 19-11-1952, cc. 851-52; 24-11-1952, c. 1064; *L.S. Deb.,* 31-7-1956, cc. 1562-63; 25-11-1957, cc. 2193-94; 4-12-1957, c. 3550; and 27-3-1958, c. 6983.
13. *L.S. Deb.,* 30-11-2005 and 20-12-2005; 18.2.2009; 21.7.2009; 14.5.2015 and 5.3.2020.
14. Bulletin Part-II dated 5-2-2020, para 1117.
15. *Ibid.,* 19-11-1958, c. 510; 16-12-1958, c. 5274; 23-3-1966, c. 7310; 24-11-1971; cc. 307-14.
16. *Ibid.,* 25-4-1973, cc. 239-41 and 339-40; 24-3-1987; cc. 848-946.
17 *Ibid.,* 23-3-1966, c. 7310; 24-3-1966, cc. 7571-74; 27-4-1966, c. 13392; 28-4-1966, c. 13717; 7-3-1988, cc. 845-48.
18. *C.A. (Leg.) Deb.,* 8-12-1949, p. 290; *L.S. Deb.,* 17-2-1960, c. 1644.

the House regarding such occurrences *suo motu*[19]. The Speaker may also ask a Minister to make a statement on an important matter on which notice of calling attention and short notice questions have been tabled by members[20]. The Speaker has observed that a statement should be as comprehensive as possible covering all the points which might have been raised by members in calling attention notices and short notice questions on the subject tabled by them and copies of which have been received by the Ministers[21]. It has also been held that policy statements should first be made on the floor of the House when the House is in session before releasing them to the Press or the public[22]. But Ministers cannot be prohibited from making statements outside the House if such statements are not contrary to the declared policy of the Government[23]. The Speaker has, however, observed that where a statement is made outside the House even clarifying the policy already enunciated, the Minister should also make a statement about that in the House at the earliest opportunity[24]. No impropriety is involved when a Minister makes a statement before his Party to clarify his position regarding certain allegations made against him in the Press unless it involves some important statement of public policy[25]. The Speaker has held that Ministers should make statements in the House about the outcome of their official visits abroad[26].

There is no legal or constitutional requirement compelling the Government to make a statement in the House about the outcome of the visit to India of the Prime Minister of a foreign country or to lay on the Table of the House agreements or treaties signed by the two Governments during that visit. However, if some important talks have taken place and an agreement is reached between the two Governments during such a visit and if the leader of any Party or Group in the House or a fairly large number of members write to the Speaker, the Speaker, in turn, might ask the Government to make a statement in the House or lay on the Table a report, joint communiqué and agreement(s) entered into by the two Governments, as desired by the members[27]. There have been instances when the Ministers have made *suo motu* statements with respect to progress of various schemes pertaining to their Ministries[28].

Statements in Response to Calling Attention Notices by Members

(*See* Chapter 20 *Calling Attention* to Matters of Urgent Public Importance under the Heading 'Procedure for Calling Attention')

19. *L.S. Deb.,* 25-2-1988, cc. 394-95; 24-3-1988, cc. 380-81.

20. *Ibid.,* 29-11-1963, cc. 2228-32; 22-11-1966; cc. 4663-83; 26-4-1976, cc. 151-52; 27-4-1976, cc. 143-45.

21. *Ibid.,* 19-3-1958, cc. 5613-16.

22. *P. Deb*., cc. 11-4-1951, cc. 64-65; *H.P. Deb.,* 1-9-1953, cc. 1865-66; *L.S. Deb.,* 23-12-1960, cc. 7330-35; 28-8-1973, cc. 245-47.
In deciding what statements should be made first in the House, a distinction has to be drawn between matters of policy and news. In matters of policy, Government should first inform the House. But in the case of news, information can be given to Press before informing the House— *L.S. Deb.,* 3-12-1971, cc. 204-09 and 325-28; 3-3-2006, cc. 254-58; 7-3-2007; cc. 470-77; 20-3-2007; cc. 362-65.

23. *L.S. Deb.,* 7-12-1962, cc. 4752-53.

24. *Ibid.,* 18-3-1970, c. 229; 19-6-1980, cc. 219-20; 20-6-1988, cc. 258-62.

25. *Ibid*., 4-4-1963, cc. 7688-95.

26. *Ibid.,* 5-5-1972, cc. 157-60; 22-2-1978, cc. 239-40; 24-2-1978, cc. 258-60; 23-7-2003, cc. 407- 501; 21-12-2004, cc. 497-504; 29-7-2005, cc. 402-09.

27. *Ibid.,* 20-3-1979, cc. 262-70 and 273-74. Prime Minister made Statements in Lok Sabha on India's Vote in the IAEA on the issue of Iran's nuclear programme; on the Civil Nuclear Energy Cooperation with the United States in the context of the visit of the President of USA and regarding Civil Nuclear Energy Cooperation with United States on 17-2-2006, 7-3-2006 and 13-8-2007 respectively.

28. *L.S. Deb.,* 16-5-2007; 31-8-2007; 4-12-2007; 30-4-2008.

Statements to Correct Inaccuracies

When a Minister finds that incorrect information has been given to the House by him in answer to a starred/unstarred/short notice question or a supplementary question, or during a debate, he may make a statement or lay it on the Table correcting his earlier reply or information. The Minister has to give to the Secretary-General an advance notice of his intention and to furnish a copy of the proposed statement for information of the Speaker[29]. In case a delay has occurred in making the statement, reasons for delay for the same, have to be furnished.

A member is also at liberty to point out any mistake or inaccuracy in a statement made by a Minister or any other member, but he has to write to the Speaker seeking his permission to raise the matter in the House[30]. In support of his allegation, the member is required to furnish particulars of the mistake or inaccuracy and may also place before the Speaker such evidence as he may have in his possession[31]. The Speaker, in his discretion, may bring the matter to the notice of the Minister or the member concerned, who has made the statement for the purpose of ascertaining the factual position in regard to the allegation made. Where the member is permitted by the Speaker to raise the matter in the House, the member is required before doing so, to inform the Minister or the member concerned about his intention to raise the matter. The item is included in the List of Business for the day in consultation with the Minister or the member concerned. Not more than one such item may be admitted for the same sitting[32].

When a member points out a discrepancy in a statement made by a Minister and desires that it be corrected, the member may be permitted to raise the matter in the House only if the matter challenged has a direct relation to his own statement or arises out of a question asked by him[33].

If a Minister, whose statement is sought to be corrected, himself seeks permission to make a statement *suo moto* clarifying/correcting his earlier statement, then the member who has given notice to raise the matter may not be permitted to make a statement[34].

With a view to ensuring that the member does not utilize the opportunity to refer to extraneous matters, *i.e.,* matters which were not mentioned in the particulars of the mistake or inaccuracy earlier furnished by him, the Speaker has observed that before the matter is brought before the House, the member should invariably supply an advance copy of the statement which he proposes to make to point out the mistake or inaccuracy and should confine himself to the text of the statement approved by the Speaker[35]. A copy of the approved statement is supplied to the Minister concerned to enable him to come prepared to reply to the specific points that are likely to be raised in the House.

In explanation of the inaccuracy pointed out in the House, the Minister or the member concerned may make a statement then and there[36], or on a subsequent date after duly informing the member who had raised the matter in the House[37]. If the statement

29. *Dir. 16*. Procedure for correcting inaccuracy in reply to questions has been described in detail, under relevant heading, in Chapter 19 relating to 'Questions'.

30. *Dir. 115(1)*. For instances of statements made by members, see *L.S. Deb.,* 22-12-1956, cc. 4089-90; 4-12-1957, cc. 3550-51; 17-3-1959, cc. 6668-69; 8-4-1967, cc. 3747-53; 1-4-1968, cc. 1214-20; 9-5-1984, cc. 284-85; 27-8-1984, cc. 26-32; 19-11-1986, cc. 333-37.

31. *Dir.* 115(2).

32. *L.S. Deb.,* 7-9-1966, c. 9839.

33. *L.S. Deb.,* 26-8-1963, cc. 2607-13; 28-8-1968, cc. 2493-97.

34. *Ibid.,* 22-4-1968, cc. 2090-92.

35. *Ibid.,* 25-4-1960, cc. 13553-71.

36. *Ibid.,* 1-4-1961, c. 8479.

37. *Ibid.,* 28-3-1961, c. 7650.

of the member and the Minister's reply thereto are lengthy[38] or to save the time of the House, the Speaker so decides[39], the statements may be laid on the Table.

If there are interruptions and a Minister is not allowed to complete his statement, the Speaker may ask the Minister to lay the statement on the Table[40].

A Minister can also, with the permission of the Speaker, make a statement pointing out any mistake or inaccuracy in the information given by a member in the House[41].

Statement by a Member who has Resigned the Office of Minister

(*See* under Chapter 28—'Motions of Confidence and No-confidence in the Council of Ministers').

Statement by Minister on Committee Reports

In order to keep the House informed of the action taken by the Ministries on recommendations/observations made by the Standing Committee in their Reports, the Speaker inserted a new Direction 73A[42] in the Directions by the Speaker regarding Statement by Minister on Committee Reports.

The Minister concerned shall make once in six months a statement in the House regarding the status of implementation of recommendations contained in the Reports of Departmentally Related Standing Committees of Lok Sabha with regard to his Ministry. The Minister desiring to make the statement intimates in advance the date on which the statement is proposed to be made and also sends a copy of the statement to the Lok Sabha Secretariat for the information of the Speaker.

The Minister concerned seeks permission of the Speaker in writing for making the statement and after his approval makes the statement in the House.

Where intimation from the Minister/Ministry for making the statement is received on the same day on which the statement is proposed to be made, it is put up for the orders of the Speaker for permission to make the statement. If permission is granted and time is available, a Supplementary List of Business containing the item is issued with the approval of the Secretary-General and circulated to Members in the House. Copies of the List of Business are also supplied to Reporters and Interpreters.

In case the Minister wants to make the statement immediately and the permission has been granted but there is no time to circulate the Supplementary List of Business, the item may be included at an appropriate place in the Speaker's and Officers' agenda sets as "N.A." (Not included in the Agenda) item.

If the statement of the Minister is lengthy, or if, to have the time of the House, the Speaker so decides, the statement may be laid on the Table.

After the Minister has made/laid the statement in the House, a copy of the statement shall also be sent to the concerned Standing Committee and Committee Coordination Branch for further examination of the statement.

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38. *Ibid.,* 6-3-1964, cc. 4270-88.

39. *Ibid.*

40. *L.S. Deb.,* 21-3-1969, c. 2301.

41. For instance, the Deputy Minister of Labour made a statement in Lok Sabha on 10 December 1959, in respect of certain allegations made in the House on 2 April 1959, against a Government Officer by two members during the discussion on the Chinakuri Colliery Disaster.

42. *Vide Bn. II*, dt. 1.9.2004, Para 456.

Personal Explanation by Members

Members against whom comments or criticisms of a personal nature are made on the floor of the House are entitled to make, with the consent of the Speaker, personal explanations in their defence, although there is no question before the House[43]. A member has a right to make a personal explanation notwithstanding the fact that the allegations made against him in the House do not relate to him in his capacity as a member of Parliament but otherwise[44]. The forum of the House should not, however, be used to make personal explanations to contradict or clarify reports not connected with the proceedings of the House but published in the Press[45].

Personal explanations may, therefore, be defined as a statement made by a member with the previous permission of the Speaker explaining his conduct in regard to a particular question or occasion, replying to an accusation made by another member, or correcting an alleged misrepresentation. Personal explanation is made before the main business of the day is taken up, unless the member in question was permitted by the Speaker to make it during the course of the debate when the allegations against him were made.

Normally, if a member during the course of debate makes any allegation in the House against another member or Minister without giving advance notice thereof to the Speaker as required under the rule on the subject, the member is called to order. However, where any such allegations have gone on record, the Minister or the member against whom allegations have been made is allowed, on his request, to make a personal explanation in the House with a view to clarify the position either on the same day or later on.

When the member is present in the House at the time the allegations are made, he is normally permitted to make a statement by way of personal explanation at the end of the speech of the member who makes the allegations or, if the latter gives way, immediately after the allegations are made[46]. But, he cannot make a long personal explanation in the midst of a speech; for that, he must seek permission and raise the matter separately[47].

When the member in question does not wish to make a personal explanation on the spot or if he is not present at that time in the House, he is allowed to make a statement later on. In this case, the member seeking permission for a personal explanation either places personally the facts before the Speaker in his Chamber or makes a written request to him enclosing a copy of the statement to be made by him by way of proposed explanation or a gist thereof. The advance copy of the statement is examined to see to it that it is in first person so that the member making the personal explanation takes full responsibility for facts mentioned therein and the statement is brief and concise and does not introduce any further controversial or debatable matter[48]. If any portion thereof is considered objectionable or beyond the scope of personal explanation, the member is

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43. Rule 357; *L.A. Deb.,* (1935) Vol. VI, pp. 1733-34; *H.P. Deb.,* (II), 11-3-1953; c. 1772; *L.S. Deb.,*17-3-1970, cc. 218-26; 23-5-1972, cc. 139-44; 22-11-1973, cc. 224-26; 6-5-1976, cc. 117-19; 27-8-1981, cc. 293-94; 31-3-1987, cc. 405-07; 7-5-1987, cc. 477-81; 17-11-1987, cc. 403-30.

44. *L.S. Deb.,* 18-11-1968, c. 199.

45. *Ibid.,* 4-6-1971, cc. 159-60.

46. *L.A. Deb.,* (1928) Vol. 1, p. 492, Vol. IV, p. 1135; 5-4-1934, pp. 3268-76; and *LS. Deb.,* 24-4-1965, cc. 1227-28.
A Minister was permitted to refute then and there certain allegations made against him in his capacity as a Minister without being required to furnish written text of the statement to be made by him—*L.S. Deb.,* 28-8-1974, cc. 216-17; 29-8-1974, cc. 153-64.

47. *L.S. Deb.,* 16-3-1965, c. 4580.

48. Rule 357.

asked to delete it before permission to make the statement is granted. The copy is to be submitted to the Speaker sufficiently in advance for his approval.

If the permission has been granted, the member makes the statement in the House on the date and time fixed by the Speaker, and the Minister or the member who is alleged to have made the charges is accordingly informed as to when the statement would be made[49].

After the personal explanation has been made, no further questions are allowed on it. If the allegations are denied on the floor of the House, the denial is normally accepted by the member who made the allegations; even if the latter is not satisfied with the personal explanation, no further statement is allowed, the idea being not to convert it into a debate[50]. When a personal explanation is made by a member, it is not the practice to allow another member to make counter-explanation[51]. The matter is treated as closed with the statements of both sides being on record. However, after the personal explanation by a member, the Speaker may, in appropriate cases, permit the Minister or the member concerned to make a clarificatory statement for which also the submission of an advance copy is necessary[52].

In cases where certain allegations were made in the other House against a member of Lok Sabha, the Speaker permitted the affected member to make a personal explanation in the House to clarify his position[53]. The Speaker also permitted members whose names were mentioned in the other House in connection with a certain inquiry being conducted by the Government, to make personal explanations in the House to clarify their respective positions[54].

The Speaker also permitted members whose names were mentioned in the charge-sheet filed in connection with an espionage case to make personal explanation in the House to clarify their respective positions[55].

Where allegations are made in the House against a particular political party, the leader or, in his absence, the whip[56] of that Party or Group in the House is permitted to make a statement in regard thereto. He has, however, to submit to the Speaker the text of the statement to be made by him, and he can make the statement only if the Speaker accords him the permission after going through the statement[57].

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49. For instances of personal explanation, *see L.S. Deb.*, 7-9-1955, cc. 12577-78; 21-8-1963, cc. 1825-30; 12-2-1964, cc. 300-03; 2-12-1966, cc. 6987-7005 and 7011-16; 27-3-1967, cc. 992- 96; 20-8-1968, cc. 3089-94; 29-8-1968, cc. 2977-80; 17-3-1970, cc. 218-26; 9-4-1974, cc. 222-24; 12-4-1979, cc. 311-12; 29-1-1980, cc. 178-79; 6-3-1984, cc. 395-97; 30-7-1984, cc. 335-36; 5-3-1986, cc. 208-10; 12-7-2004, cc. 399-402; 16-7-2004, cc. 296-309; 11-8-2005, cc. 313-14; 30-8-2005, cc. 20-22; 27-2-2015, page nos. 47-48; 22-4-2015, page nos. 42-43; 25-7-2017, page nos. 44-45; 9-2-2021, page nos. 777-79.

    If a member wants to make a personal explanation in view of his name having been referred to by a Minister in his statement in the House, a copy of the text of the explanation submitted by the member to the Speaker in advance, may be sent to the Minister concerned—*L.S. Deb.*, 22-4-1975, cc. 254-62.

50. Rule 357. On objections raised by members that a debatable matter had been brought in the personal explanation, the Minister making the personal explanation withdrew the objectionable remarks—*L.S. Deb.,* 28-8-1973, cc. 251-68.

51. *L.S. Deb.,* 13-12-1972, cc. 208-10.

52. *Ibid.,* 27-3-1967, cc. 1275-82; 27-3-1967, c. 995.

53. *Ibid.,* 30-8-1969, cc. 11-15 and 1-4-1970, cc. 171-72.
    In the latter case, the Speaker, on suggestion of a member, wrote to the Chairman, Rajya Sabha, about the personal explanation. On 4 April 1970, the Chairman referred to this letter in the Rajya Sabha and asked members to exercise restraint while referring to members of the other House.

54. *L.S. Deb.,* 28-8-1974, cc. 317-18.

55. *L.S. Deb.,* 5-3-1986, cc. 208-10.

56. *Ibid.,* 9-3-1989.

57. *Ibid.,* 11-12-1967 and 13-12-1967; 12-12-1967 and 14-12-1967. The Speaker has, however, observed that leaders of Opposition Parties/Groups should sit together and evolve a procedure by which allegations against parties and individuals are avoided—*L.S. Deb.,* 14-12-1967, c. 6976.

When the conduct of a member, whether inside the House or outside it, has been mentioned in, and becomes the subject matter of a Report which is laid on the Table of the House, he may be permitted to make a personal explanation to clarify his position[58]. A member may also be permitted to make a personal explanation if the statement to which objection is taken can be attributed to him[59].

Personal explanation can be made only by the member against whom any charges or allegations have been made during the course of the debate in the House; no other member can make an explanation on behalf of that member.

A member who desires to make a personal explanation should do so at the earliest opportunity[60]; he should restrict himself to the particular matter and not seek to reply to the debate or the criticism of a general nature leveled against him[61]; a personal explanation cannot be utilised for making another speech[62]; personal explanation with regard to a matter under adjudication, even though a Minister has referred to it in the House, is not permissible[63]; if a member quotes an extract in refutation of another member's argument, it is not a personal explanation[64]; it is also not permissible to make a personal explanation with respect to every small matter[65].

On a personal explanation, a member is not expected to explain the reasons for not voting on a particular matter[66].

Portions of a personal explanation held to be objectionable have been expunged[67]. Words, phrases and expressions which are not in the statement approved by the Speaker, if spoken, do not form part of the proceedings of the House[68].

(iii) Motions for Election to Committees

Another formal item of business is the motion for the purpose of electing members to serve on a Committee, commission or body (other than a Parliamentary Committee) which is to be constituted either under the provisions of the Constitution, or under an Act of Parliament and rules framed thereunder, or in accordance with the terms of any Government resolution[69]. In consultation with the Minister concerned a date on which the Minister is to move the motion is fixed and the item included in the List of Business for that day after the questions and before the main business.

(iv) Motions for Introduction or Withdrawal of Bills

The motion for leave to introduce or withdraw a Bill is treated as a formal item of business[70] and is disposed of before the main business for the day is taken up.

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58. *L.S. Deb., 2*-12-1969, c. 277.
59. *Ibid.,* 12-2-1964, cc. 301-02.
60. *L.A. Deb.,* (1930), Vol. III, p. 2350.
61. *Ibid.* (1931), Vol. VI, p. 1226; Vol. VII, p. 1923
62. *Ibid.* (1923), Vol. III, p. 3070.
63. On 11 August 1960, the Minister of Finance disclosed in the House that a member was involved in a case of infringement of Foreign Exchange Regulations. On 6 September 1960, when that member sought permission to make a personal explanation, the Speaker refused permission on the ground that the matter was already under adjudication.
64. *L.A. Deb.* (1931), Vol. V, p. 331.
65. *Ibid.* (1926), Vol. VII, p. 1140.
66. *Ibid.,* (1928), Vol. II, p. 1410.
67. *L.S. Deb.,* 17-11-1966, cc. 3706-12.
68. Dir. 115C; *L.S. Deb.,* 19-5-1970, cc. 213-17; 23-5-1972, c. 143; 8-8-1977, cc. 43-50.
69. The procedure for constituting such committee, commission or body has been described in detail in Chapter 30–*Parliamentary Committees.*
70. Dir. 2—For items of formal business, *see* this Chapter, under *Arrangement of Government Business.*

An Appropriation Bill may be permitted by the Speaker to be introduced later in the day after the Demands for Grants have been voted by the House. The annual Finance Bill is usually introduced immediately after presentation of the General Budget[71].

In the case of a Bill seeking to replace an Ordinance, the item regarding the requisite statement of the Minister explaining the circumstances which had necessitated immediate legislation by Ordinance is included in the List of Business after the entry regarding motion for leave to introduce the Bill[72].

It is also permissible to include in the List of Business a motion or motions for leave to introduce a Bill or Bills notwithstanding the fact that the day is allotted for the transaction of financial business or for discussion on Motion of Thanks on the Address by the President[73].

(v) Motions for Adoption of Reports of Committees

Motions for adoption of reports of certain Parliamentary Committees are moved in the House after presentation of the reports[74]. Such a motion is also treated as a formal item of business and is disposed of before the main business of the day is taken up.

(vi) Financial Business

The financial business transacted by the House[75] consists of:

> Presentation of the Union Budget and Statements of Supplementary/Excess Demands for Grants; General discussion on the Union Budget; Voting on the Demands for Grants on Account in respect of the Union Budget; Discussion and voting on the Demands for Grants in respect of the Union Budget; Discussion and voting on Supplementary and Excess Demands for Grants and Votes of Credit; Discussion and passing of the Appropriation Bills in respect of the various Demands passed by the House; Discussion and passing of Finance Bill; and Presentation and discussion of Budget, supplementary and excess grants of States and Union territories which are under the President's rule and introduction, consideration and passing of Appropriation Bills.

Entries in respect of all the items mentioned above are made in the List of Business.

(vii) Legislative Business

Bills may be introduced and piloted in the House by Ministers as well as private members[76]. But only those Bills for which notice has been given by Ministers can be introduced and considered during the Government time.

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71. For details regarding the Appropriation Bill and the Finance Bill, *see* Chapter 29 – *Procedure in Financial Matters.*

72. Rule 71(1). For details regarding legislation by Ordinance; *see* Chapter 23–*Ordinances and Proclamations by the President.*

73. Rules 19(1) (a) and 220.

74. Rules 290, 295, 315 and 328. Details regarding adoption of such motions have been described in Chapter 30—*Parliamentary Committee*, under *Business Advisory Committee, Committee of Privileges,* and *Committee on Absence of Members from the Sittings of the House.*
Motion for adoption of a report of the Committee on Private Members Bills and Resolutions is disposed of during the time allotted for transaction of private members' business before the main business is taken up.

75. For details regarding procedure in financial matters, *see* Chapter 29–*Procedure in Financial Matters.*

76. For detailed procedure for introduction, consideration and passing of various categories of Bills and moving of amendments to clauses, etc., *see* Chapter 22–*Legislation.*

(viii) Motions

A motion to discuss a matter of public importance may be moved with the consent of the Speaker. The discussion on such a motion takes place during the Government time irrespective of the fact whether the notice is given by a private member or a Minister[77]. Out of the admitted motions given notice of by private members, the motions recommended by the Business Advisory Committee for discussion are normally taken up. There is no fixed time for taking up these motions.

Formerly, the convention was that one motion initiated by a private member was taken up in the House every week from 1600 hours to 1800 hours, except during the period when the Budget was discussed. However, in some cases the time for discussion on such a motion was provided even earlier during the day[78]. When a motion was to be moved by a Minister, it was normally taken up immediately after the Question Hour, and in case, there was an item of business which was urgent, or part-discussed, then immediately after the disposal of that item. Since 1971 (Fifth Lok Sabha), the Business Advisory Committee itself has been selecting and allotting time to such motions for discussion in the House. In a number of cases, the Committee has also fixed dates for discussion on those motions.

(ix) Resolutions

Resolutions are moved in the House by the Ministers as well as private members[79] but, as in the case of Bills, only the resolutions moved by Ministers are taken up during Government time. However, discussion on statutory resolutions tabled by private members—such as a resolution disapproving an Ordinance promulgated by the President or a resolution seeking to modify statutory rules and orders laid on the Table—takes place during the time allotted for transaction of Government business[80]. Other private member's resolutions are taken up during the last two and a half hours on alternate Fridays or such other day as may be allotted for discussion thereof[81].

(B) Items of Business Initiated by Private Members and taken up in Government Time

Apart from the private members' business, *i.e.* Bills and resolutions which are discussed for two and a half hours on every Friday or such other day as the Speaker may fix, there are certain items of business which, though initiated by private members, are transacted during the time allotted for the transaction of Government business[82].

Besides the two items, *viz.,* statements pointing out mistakes or inaccuracies in statements made by a Minister or another member and personal explanations by

77. For detailed procedure relating to the moving of motion, *see* Chapter 21–*Motion for Adjournment on a Matter of Urgent Public Importance* and Chapter 26–*Motion.*

78. *L.S. Deb.,* 14-8-1959, c. 2496; 11-9-1959, c. 7818; 12-9-1959, c. 7990; 11-8-1961, c. 1659.

79. For procedure relating to the moving of resolutions and conditions governing their admissibility, *see* Chapter 25–*Resolutions.*

80. *L.S. Deb.,* 17-12-1959, c. 5640; 22-12-1959, cc. 6589 and 6613; 8-8-1960, c. 1391; 24-4-1961, c. 13471; 6-9-1961, c. 7497; 22-3-1988, cc. 314-44; 344-406; 19-7-1996, cc. 202-24; 5-3-1997, c. 331.

81. Rule 26.

82. On the opening day of the Fourteenth Session 21-7-1975 (5 LS), the House adopted a motion for transaction of only Government business during the session—*L.S. Deb.,* 21-7-1975.

members, described earlier in this Chapter, the other items of business which fall under this category are the following[83]:

> Questions and Short Notice Questions; Adjournment Motions; Calling Attention to matters of urgent public importance; Motion of Thanks on the President's Address; Questions of Privilege; Discussion on Matters of Urgent Public Importance for Short Duration; Motion of No-confidence in the Council of Ministers; Resolution for the removal of Speaker or Deputy Speaker; Motions for amending regulations, rules, sub-rules, by-laws, etc., which have been laid on the Table and which are framed in pursuance of the Constitution or the legislative functions delegated by Parliament to a subordinate authority; Motions for Discussion on Matters of Public Interest; Motions to reduce Demands for Grants, *i.e.* Cut Motions; Half-an-hour Discussion on matters arising out of questions and answers[84], Statutory Resolutions; and matters under Rule 377.

Entries regarding all the above items are made in the List of Business. In the case of questions and short notice questions, separate lists showing the text of questions are printed and as such text of questions is not included in the List of Business. Similarly, in the case of motions seeking to amend rules, regulations, etc*.,* when their number is large, the text of the motions is not included in the List of Business. The motions are published in the Bulletin or in a separate list which is circulated to members in advance of the day for which the entry regarding the motions is made in the List of Business.

In addition, following are the other items of business which are taken up in Government time in pursuance of constitutional provisions or established conventions:

> Oath or affirmation; Obituary references; References on solemn occasions and Announcements by the Speaker.

Oath or Affirmation

Every member of Lok Sabha, returned either in the general elections or at any subsequent bye-election, or nominated by the President, is required to make and subscribe the oath or affirmation in accordance with the Constitution[85]. Although there is no bar on a member to make and subscribe the oath or affirmation before the President or any other person appointed in that behalf by him, outside the House, it has been the established practice that members do so only at a sitting of Lok Sabha. As it is necessary for members to take seat in the House before they can function, the two functions relating to making and subscribing of oath or affirmation and taking the seat are combined in order to facilitate the early functioning of members and to give solemnity to the occasion. This item is accorded the first place in the List of Business for that day, *i.e.,* at the commencement of the Question Hour. On rare occasions, oath or affirmation by a member may be made and subscribed at the end of the day or at some other convenient time during the day[86].

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83. The procedure regarding these has been described at the appropriate places in the relevant Chapters.

84. For details regarding half-an-hour discussion, *see* under the relevant heading in Chapter 19– *Questions*.

85. Art. 99.

86. Dir. 1. *L.S. Deb.,* 18-5-1954, c. 7734; 1-10-1955, c. 1607; 17-5-1957, c. 767; 24-8-1957, c. 9747; 21-12-1963; cc. 6249-50; 20-3-1967, c. 310; 26-3-1971, c. 21; 4-3-1983, c. 1; 18-11-1983, c. 373; 15-5-2007; c. 512.
Details regarding oath and affirmation have been described in Chapter 15.

Obituary References

It is customary to make obituary references in the House on the passing away of sitting members, former members, outstanding personages and heads of friendly foreign States. This item is taken up during Government time under the established convention of the House and is accorded priority over other business, *i.e.,* it is taken up before questions[87]. The time taken over it is not made good by extending the Question Hour beyond the scheduled time[88].

If before issuing the List of Business for a day, it is known that an obituary reference is to be made in the House, an entry is made in the List of Business before "Questions" but after "Oath or Affirmation", mentioning the name of the deceased and details of her/his membership. However, if intimation regarding death is received after the List of Business for the day has been issued, an entry regarding the obituary reference is made in the agenda papers of the Speaker. If the death of a sitting member or Minister occurs in New Delhi while the House is sitting, further business might be suspended and the House adjourned after the obituary reference is made[89], or adjourned immediately without transacting further business on that day and the obituary reference in that case is made at the next sitting[90].

On the death of a sitting member, an obituary reference is made by the Speaker in the House at the first available opportunity[91] on coming to know about the demise of the member. However, in the case of the death of a Minister or a member with a conspicuous place in public life, the Leader of the House breaks the news to the House and leaders and spokesmen of the various political Parties or Groups associate themselves by making short references and the proceedings are wound up by the Speaker[92]. Similarly, on the demise of outstanding personages commanding great respect in the eyes of the

87. *Dir. 2*, as revised. Formerly the item was generally taken up immediately on conclusion of the Question Hour.

88. *L.S. Deb.,* 12-4-1965, cc. 8857-64.

89. *L.A. Deb.,* 5-3-1945, p. 1056; 6-3-1945, p. 1057; *L.S. Deb.,* 7-5-1955, c. 8279; 16-2-1956, c. 37; 17-5-1957, c. 854; 18-11-1959, c. 577; 9-8-1967, c. 18080, 7-8-1972, cc. 1-4; 14-12-1978, cc. 1-6; 6-5-1985, cc. 1-2; 25-3-1988, cc. 1-4.

90. *L.S. Deb.,* 27-5-1954, c. 142; 29-5-1964, cc. 143-76; 12-4-1973, c. 194; 16-4-1973, cc. 1-8; 19-3-1982. c. 434; 22-3-1982, cc. 1-15.

91. *Ibid.,* 8-2-1960, c. 33; 22-2-1960, c. 2085; 21-3-1960, c. 6983; 8-9-1960, c. 7701; 4-10-1982, cc. 1-18; 23-7-1985, cc. 1-7; 22-2-1988, cc. 20-32.

92. On 23 December 2004, the Leader of the House, Pranab Mukherjee, at 1446 hours, mentioned about the passing away of former Prime Minister P.V. Narasimha Rao and requested the Speaker to adjourn the House. The Speaker made a brief condolence reference and members stood in silence for a short while. Thereafter, the House adjourned *sine die* at 1454 hours as it was the last sitting of the Third Session of the Fourteenth Lok Sabha. Formal obituary reference in Lok Sabha was made on 25 February 2005 when the House met at its first sitting in the Fourth Session.
However, during the major part of the Fourteenth Lok Sabha, the Speaker only made the obituary references, irrespective of the person's position in public life.
On 30 November 2012, Leader of the House, Sushil Kumar Shinde informed the House that former

public[93] or heads of friendly foreign States[94], obituary references are invariably made at the instance of the Prime Minister.

Prime Minister, Inder Kumar Gujaral passed away at a Hospital in Gurgaon at 15.30 hours on that day. The House was adjourned to meet again on 3 December 2012.

On 3 December 2012, the House was adjourned after making obituary reference to the passing away of Inder Kumar Gujral.

On 04 June 2014, the House was adjourned after making obituary reference to the passing away of Shri Gopinath Rao Munde, sitting Member of the Sixteenth Lok Sabha and Union Minister of Rural Development, Panchayati Raj, Drinking Water & Sanitation.

On 28 July 2015, the House was adjourned after making obituary reference to the passing away of Dr. A. P. J. Abdul Kalam, former President of India.

On 11 December 2018, the House was adjourned after making obituary reference and adopting a resolution on the passing away of Shri Atal Bihari Vajpayee, former Prime Minister of India. The House was adjourned to meet again on 12 December 2018.

On 11 December 2018, the House was adjourned after making obituary reference to the passing away of Shri Ananth Kumar, sitting Member of the Sixteenth Lok Sabha and Union Minister of Chemicals & Fertilizers and Parliamentary Affairs.

93. Under the category of 'outstanding personages', references have been made in respect of Mahatma Gandhi, Aurobindo Ghosh, B.N. Rau, Syed Fazl Ali, Lady Mountbatten, Maharaj Trailokyanath Chakrabarty,—freedom fighter of undivided India; Charles de Gaulle—former President of France; Dr. C.V. Raman; Harekrishna Konar—Member of the Central Committee of C.P.I. (M); Sir Seewoosagur Ramgoolam—Governor-General of Mauritius; Le Duan—General-Secretary, Communist Party of Vietnam; Samora Machel—President of Mozambique; M.G. Ramachandran—Chief Minister of Tamil Nadu; Satyajit Ray—doyen of cinematography; Justice M. Hidayatulla—former Vice-President of India; J.R.D. Tata—doyen of Indian industries; Dr. M. Chenna Reddy—Governor of Tamil Nadu; Deng Xiaoping—Chinese leader; E.M.S. Namboodiripad — Marxist leader and former Chief Minister of Kerala; M.S. Subbulakshmi – Renowned exponent of Carnatic music and Bharat Ratna Awardee; Swami Ranganathananda—President Rama Krishna Mission; Ustad Bismillah Khan—Veteran Shehnai Maestro and Bharat Ratna Awardee; Baba Amte—Social Reformer; Sir Edmund Hillary — renowned Mountaineer; Jyoti Basu – former Chief Minister of West Bengal; Pandit Bhimsen Joshi—legendary classical singer; Dharam Dev Anand—noted film actor; A.K. Hangal—noted film actor; Bal Keshav Thackeray—Founder of Shiv Sena; Pandit Ravi Shankar—eminent musician and ex-member, Rajya Sabha; Shri Sarabjit Singh, Pramukh Swami Shastri Narayan Swarup Das (Head of Swami Narayan Sect); Dr. M. Balamurali Krishna — renowned singer, composer and Carnatic musician; Selvi J. Jayalalitha – Chief Minister of Tamil Nadu; Prof. Stephen Hawking – renowned British Physicist and Cosmologist, Shri Gopaldas 'Neeraj' – renowned poet and lyricist; Dr. M. Karunanidhi – Former Chief Minister of Tamil Nadu; Pandit Jasraj – Eminent Vocalist; Shri Milkha Singh – Legendary Track and Field Sprinter; Shri Dilip Kumar – Ex-MP Rajya Sabha and notable film actor; Pandit Birju Maharaj – Legendary Kathak Dancer; Archbishop Emeritus Desmond Mpilo Tutu — Global Leader and Human Rights Activist and Nobel Peace Prize awardee; H.E. Mr. David Sassoli – the then President of the European Parliament; Ms. Lata Mangeshkar – Legendary Playback Singer, former member of Rajya Sabha and Bharat Ratna awardee,; H.E. Shri Shinzo Abe – Former Prime Minister of Japan; H.H. Sheikh Khalifa Bin Zayed Al Nahyan – President of the United Arab Emirates and the Ruler of Abu Dhabi; H.E. Shri Mwai Kibaki - Third President of Kenya.
See, respectively, *C.A. (Leg.) Deb.,* 2-2-1948, p. 101; *P. Deb.,* 6-12-1950, c. 1255; *H.P. Deb.,* (II), 30-11-1953, c. 1027; *L.S. Deb.,* 27-8-1959, c. 3797; 22-2-1960, c. 2085; 10-8-1970, c. 279; 11-11-1970, cc. 1-2; 23-11-1970, cc. 2-5; 24-7-1974, c. 1; 16-12-1985, c. 1; 17-7-1986, cc. 7-26; 4-11-1986, cc. 1-4; 22-2-1988, cc. 23-24; 24-4-1992, cc. 1-6; 2-12-1993, cc. 1-20 (House adjourned); 2-12-1996, cc. 1-3; 21-2-1997, cc. 1-2; 25-3-1998, cc. 1-2; 13-12-2004, cc. 1-2; 26-4-2005, cc. 1-2; 21-8-2006, cc. 1-2; 25-2-2008, cc. 1-5; 22-02-2010, cc, 49-50; 21-02-2011, cc. 9-10; 08-12-2011, cc. 2963; 27-08-2012, cc. 1; 22-11-2012, cc. 7-8; 12-12-2012, cc. 1-2; 02-05-2013, cc. 601; 16-11-2016, cc. 36; 24-11-2016, cc. 7-8; 06-12-2016, cc. 5; 16-03-2018, cc. 7; 24-07-2018, cc. 12; 08-08-2018, cc. 4; 14-09-2020, cc. 47; 19-07-2021, cc. 68; 02-02-2022, cc. 11-13; 07-02-2022, cc. 10; 18-07-2022, cc. 43, respectively.

94. After references were made on the death of Mustafa Kamal Pasha; King George VI; Marshal Stalin; Tribhuvan Bir Bikram Shah; Konstantin Ustinovich Chernenko—President of the U.S.S.R.; Olof Palme—Prime Minister of Sweden; Khan Abdul Ghaffar Khan—freedom fighter; Zia-ul-Haq—President of Pakistan; Ayatollah Ruhollah Khomeini—Religious Head of Iran; and Ranasinghe Premadasa—President of Sri Lanka, Dr. Nelson Mandela – former President of the Republic of South

Obituary references are also made on the demise of former members of Lok Sabha, Provisional Parliament, Constituent Assembly and the Central Assembly, and former Secretaries/Secretaries-General of the House[95]. In connection with the death of a former member of the Central Assembly who at the time of his death was not a national of India, no reference was made in the House.

Obituary references were, however, made in the House on 5 November 1952, and on 9 May 1958, to the passing away of Sir Abdul Rahim (former Speaker of the Central Legislative Assembly) who died at Karachi, and Dr. Khan Saheb (member of the Central Assembly) who died at Lahore.

No obituary reference is normally made in Lok Sabha on the demise of members of Rajya Sabha unless the deceased happens to be a former member of Lok Sabha. There have, however, been exceptions when references were made on the passing away of sitting or former members of Rajya Sabha[96]. Lok Sabha was also adjourned for the day in certain cases as a mark of respect to the deceased[97].

When a former or sitting Minister passes away, references are invariably made in Lok Sabha even if the Minister had been a member of Rajya Sabha[98] and in certain cases Lok Sabha also adjourned for the day without transacting any business[99].

Africa and recipient of the Bharat Ratna, the House also adjourned for the day. *See* respectively, *L.A. Deb.,* 14-11-1938, p. 2954; *H.P. Deb.,* (II), 6-2-1952, c. 96; 6-3-1953, c. 1567; *L.S. Deb.*, 14-3-1955, c. 1941; 13-3-1985, cc. 1-6; 3-3-1986, cc. 1-6; 22-2-1988, c. 1; 18-8-1988, c. 1; 18-7-1989, c. 6; 3-5-1993, cc. 1-6; and 06-12-2013, cc. 4. However, on the demise of Kim-Il-Sung, President of DPR Korea; King Hussein of Jordan; Sheikh Zayed bin Sultan Al Nahyan, President of UAE; Mr. Yasir Arafat, President National Authority and Chairman Palestine Liberation Organisation; His Holiness Pope John Paul-II of Vatican; His Majesty King Fahd Bin Abdul Aziz Al Saud of Saudi Arabia; Sheikh Jaber Al-Ahmad Al Jaber Al-Sabah, Amir of Kuwait; Mr. Boris Nikolaevich Yeltsin, Former President of the Russian Federation; Lech Kaczynski, President of Poland; Hugo Chavez, President of Venezuela;, Mohammad Zillur Rahman, President of Bangladesh; Lady Margaret Thatcher, Former Prime Minister of United Kingdom; His Majesty King Abdullah Bin Abdul Aziz Al Saud — Custodian of the Two Holy Mosques and the King of the Kingdom of Saudi Arabia; H.E. Mr. Lee Kuan Yew, Former Prime Minister and the Founding Father of Singapore; H.E. Sushil Koirala, Former Prime Minister of Nepal; Mr. Shimon Peres, Former President of Israel; King Bhumibol Adulyadej of Thailand; Mr. Fidel Castro, Former President of Cuba; His Majesty Sultan Qaboos Bin Said Al Said, Sultan of Oman, the House continued with the listed business after the obituary references were made.—*L.S. Deb.,* 25-7-1994, cc. 1-2; 25-3-1998; 1-12-2004, cc. 1-4; 19-4-2005, cc. 1-2; 2-8-2005, cc. 1-2; 16-2-2006, cc. 1-3; 27-4-2007, cc. 1-3; 15-4-2010, cc. 1-3; 11-03-2013, c.1; 21-03-2013, c.1; 22-04-2013, cc. 1-2; 23-02-2015, cc. 68; 20-04-2015, cc. 8; 23-02-2016, cc. 69; 16-11-2016, cc. 35; 16-11-2016, cc. 35; 28-11-2016, cc. 9 and 04-02-2020 cc. 12, respectively.

95. M.N. Kaul—Secretary, Lok Sabha—*L.S. Deb.,* 18-1-1985, c. 9; S.L. Shakdher, Secretary-General, Lok Sabha; 15-7-2002, c. 9.

96. Acharya Narendra Deva (sitting member, Rajya Sabha); Bhupesh Gupta (sitting member, Rajya Sabha); V.N. Tiwari (sitting member of Rajya Sabha); and K. Vasudeva Panicker (sitting member of Rajya Sabha); P.M. Sayeed (sitting member of Rajya Sabha) and Km. Nirmala Deshpande (sitting member of Rajya Sabha)—*L.S. Deb.,* 20-2-1956, cc. 287-290; 17-8-1981, cc. 4-5; 3-4-1984, cc. 7-8; 3-5-1988, cc. 3-4; 19-12-2005, cc. 1-3; 5-5-2008, cc. 1-3. On the assassination of V.N. Tiwari, a condolence resolution was also adopted by the House.

97. K. Vasudeva Panicker, sitting member, Rajya Sabha—*L.S. Deb.,* 3-5-1988, cc. 3-4.

98. Dr. B.R. Ambedkar, Hafiz Mohd. Ibrahim, Abid Ali, D.P. Dhar, Bhola Paswan Shastri, Bir Bahadur Singh and Prof. Saiyid Nurul Hasan**,** Vilasrao Deshmukh, Anil Madhav Dave, Arun Jaitley and Ram Vilas Paswan —*L.S. Deb.,* 6-12-1956, cc. 2059-60, 12-2-1968, cc. 33-54; 23-7-1973, cc. 4-38; 18-1-1985, cc. 4-5; 18-7-1989, cc. 1-3; 26-4-1993, cc. 1-3; 16-08-2012 cc. 1;17-07-2017, cc. 33;18-11-2019, cc 51-52; 29-1-2021, cc 97-98.

99. Dr. B.R. Ambedkar and Hafiz Mohd. Ibrahim. *L.S. Deb.,* 6-12-1956, cc. 2059-68; 12-2-1968, cc. 33-54**.** In the case of Kanshi Ram who was a former member of the Rajya Sabha and Lok Sabha both, the House adjourned after making of Obituary Reference on his demise as requested by the Minister of State for Parliamentary Affairs, *L.S. Deb.,* 22.11.2006, c. 1-5.

As a special case, on the passing away of Violet Alva, former Deputy Chairman of Rajya Sabha, not only obituary references were made but the House was also adjourned[100].

No obituary reference is made in Lok Sabha on the demise of ex-member if the news of his demise is received very late. Condolence letter is, however, sent to the next of kin of the deceased by the Speaker or the Secretary-General[101].

In certain cases, on the demise of a sitting member, Lok Sabha adjourned in the past after obituary references had been made. It is the practice now that the House is adjourned only when it is necessary to enable members to take part in the funeral procession of a sitting member irrespective of the fact whether the deceased held the Office of a Minister or not[102].

On the opening day of a session it is customary to make obituary references to the passing away of sitting members, etc., if deaths have taken place in the preceding inter-session period, but the House is not adjourned thereafter.

However, on the opening day of the Eleventh Session of the Fourth Lok Sabha, the House was adjourned, as a special case, without transacting any business after obituary references had been made to the passing away, in the preceding inter-session period, of P. Govinda Menon, Minister of Law and Social Welfare D. Ering, Deputy Minister of Food, Agriculture, Community Development and Co-operation (both sitting members of Lok Sabha) and four other former members[103].

On the demise of a sitting member (including Minister) or a former member, the obituary reference is made in the House by the Speaker[104]. Thereafter, members stand

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100. *L.S. Deb.,* 20-11-1969.

101 On 9 August 1971, the Speaker addressed a condolence letter to the elder son of Veerabahu about whom obituary reference could not be made in Lok Sabha as the information was received very late. On 13 March 1979, the Speaker addressed a condolence letter to the wife of Banmali Kumbhar about whom obituary reference could not be made in Lok Sabha as the information was received very late. In March 1987 the Secretary-General, on behalf of the Speaker and members, addressed a condolence letter to the son of Shaligram Ramchandra Bharatiya, member of First Lok Sabha about whom obituary reference could not be made in Lok Sabha as the information was received very late. On 3 March 2008, the Secretary-General, on behalf of the Speaker and members, addressed a condolence letter to the wife of S.V.L. Narasimhan, member of First Lok Sabha about whom obituary reference could not be made in Lok Sabha as the information was received very late.

On 4 April 2013, Secretary General on behalf of the Speaker and members, addressed a condolence letter to the grandson of M.S. Gurupadaswamy, a member of First Lok Sabha about whom obituary reference could not be made in Lok Sabha as the information was received very late.

102. *Ibid.,* 21-11-1964, cc. 944-46.

On 31 July 1974, after obituary reference on the passing away in New Delhi of M.B. Rana, a sitting member and Minister of State for Industrial Development, the Speaker adjourned the House at 1105 hrs. to re-assemble at 1700 hours when the Finance (No. 2) Bill was put down in the List of Business for introduction—*L.S. Deb.,* 31-7-1974, cc. 1-3. There have, however, been exceptions where the House was adjourned on the demise of sitting members even though the funeral did not take place at Delhi—*L.S. Deb.,* 14-7-1980, cc. 1-14; 6-5-1985, cc. 1-2; and 27-11-1987, cc. 7-10**.** Since 1998, the House has always been adjourned on the demise of a sitting member irrespective of the fact whether the death has taken place in Delhi or outside or during Session or Inter-Session period.

103. *Ibid.,* 27-7-1970, c. 16.

104. Formerly, when a reference was made in the House to the passing away of a sitting member or a former member, the leader of the Party or Group to which he belonged and leaders and, in appropriate cases, members of other Groups also, if they so desired, were allowed to make obituary references within an over-all time limit fixed by the Speaker. Also *see*, footnote No. 92 *ante.*

in silence for a short while as a mark of respect to the deceased[105].

On 30 January 1976, 1980, 1985 and 2004 members stood in silence for two minutes in memory of those who gave their lives in the struggle for India's freedom[106].

It is also customary to send a letter of condolence signed by the Secretary- General to the next of kin of the deceased together with the extracts from the proceedings of the House[107].

References to Tragic Events

The Speaker also makes references to the tragic happenings in and outside the country involving loss of life and property[108].

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105. *L.A. Deb.,* 5-3-1945, p. 1056; 6-3-1945, p. 1057; and *L.S. Deb.,* 7-5-1955, c. 8279.

106. *L.S. Deb.,* 30-1-1976, 30-1-1980; 30-1-1985, 30-1-2004.

107. The letter of condolence is sent only when reference is made in the House to the demise of a sitting member, a former member, a Minister, an outstanding personage or the head of a friendly State.

108. The Speaker on behalf of the House expressed profound sorrow on the death of 329 passengers including crew who died following the crash of Air India's Jumbo Jet "Emperor Kanishka" off the Irish coast on 23 June 1985. Thereafter, members stood in silence for a short while. *L.A. Deb.,* 23-7-1985, cc. 6-7. The Speaker made a reference expressing grief at the death of a large number of persons and injury to several others in the '*Kumbh Mela*' at Hardwar in a stampede and conveyed sympathies of the House to the bereaved families. Thereafter, members stood in silence for a short while in memory of the deceased *L.S. Deb.,* 15-4-1986, cc. 1-2. The Speaker made a reference to the tragic and large-scale loss of life and property caused by the earthquake in North Bihar, some other parts of the country and in Nepal and Bangladesh on 21 August 1988. Thereafter, members stood in silence for a short while. *L.S. Deb.,* 22-8-1988, cc. 23-24. The Speaker made a reference to the tragic and large-scale loss of life and property caused by the devastating earthquake in Armenia on 7 December 1988. *L.S. Deb.,* 13-12-1988, c. 1. The Speaker made reference on 20 November 1991 to the earthquake in the Garhwal region of Uttar Pradesh. Thereafter, members stood in silence for a short while. *L.S. Deb.,* 20-11-1991, c. 7. The Chairman made a reference at the death of a large number of persons in bomb blasts in Bombay—*L.S. Deb.,* 12-3-1993, c. 441. The Speaker, the Prime Minister, the Leader of Opposition, Leaders of Parties and Groups made references to the tragic and large-scale loss of life and property caused by the massive earthquake in Maharashtra and adjoining States of Andhra Pradesh and Karnataka on 30 September 1993—*L.S. Deb.,* 2-12-1993, cc. 1-23 (House adjourned). The Speaker also made references to: the tragedy that struck Dabwali Town (Sirsa), Haryana causing loss of 350 lives due to devastating fire at a school function—*L.S. Deb.,* 26-2-1996, c. 22; the death of Amarnath Pilgrims due to inclement weather—*L.S. Deb.,* 26-8-1996, c. 2; death of many persons in two tragic incidents—cyclonic havoc in Andhra Pradesh and mid-air collision of an aircraft of Saudi Arabian Airlines with that of the Kazhak Airlines on 12 November 1996—*LS. Deb.,* 20-11-1996, cc. 1-4; loss of several lives and damage to property due to tornado in West Bengal and Orissa on 24 March, 1998— *L.S. Deb.,* 25-3-1998, cc. 17-23; Cyclonic tragedy in the Saurashtra and Kutch regions of Gujarat, Jalore of Rajasthan on 9 June 1998—*L.S. Deb.,* 10-6-1998; loss of lives in a crash of an Indian Air Force aircraft in Pappan Kalan in South West Delhi on 7 March 1999**.**

A few more examples of such references are: loss of lives in a major fire at the Jhuggi clusters near Vijay Ghat in Jamuna Pushta in New Delhi on 14 March 1999 and on 15 April 1999; to the major earthquake in the Garhwal region and several parts of North India on 29 March 1999; to the terrorist attack during the Independence Day celebrations in Assam and Jammu and Kashmir on 15 August 2004; regarding loss of lives in the tsunami tragedy which struck the Southern coast of India and other parts of South-east Asia on 26 December 2004; loss of lives in avalanches and landslides in Jammu and Kashmir on 20 January 2005; loss of lives in stampede at Kalubai Temple in Mandradevi in Satara district of Maharashtra on 25 January 2005; regarding earthquake which struck Zarand, Iran on 22 February 2005; loss of lives in an earthquake in Indonesia on 28 March 2005; loss of several lives in the bomb blasts at London on 7 and 21 July 2005; to the terrorist attacks in Sharm-el-Sheikh, Egypt on 23 July 2005; to the loss of several lives in incessant rains in Mumbai on 26 July 2005; to the major fire resulting in death of several people when a shipping vessel collided with a drilling platform in Mumbai High Area on 27 July 2005; to the devastating earthquake which rocked parts of North India, particularly Jammu and Kashmir and Pakistan on 8 October 2005; to the loss of lives on 25 November 2005 caused by incessant rains in Tamil Nadu; to the loss of lives in a stampede at a flood relief center at Chennai on 23 November 2005; to the loss of several lives in the serial bomb blasts on 7 March 2006 at Varanasi, Uttar Pradesh; to the killing of several persons on 30 April 2006 in a terrorist attack in Jammu and

Kashmir; to an earthquake and *tsunami* that struck Java, Indonesia on 27 May and 17 July 2006, respectively; to the seven bomb blasts that occurred on 11 July 2007, in suburban trains in Mumbai; to the large-scale damage to lives and property due to incessant rains resulting in floods in the States of Maharashtra and Gujarat; to the death of 16 Indian Nationals in Manama, Bahrain on 30 July 2006 in a fire accident; to the loss of lives in twin bomb blasts that rocked the Attari bound Samjhauta Express on 18 February 2007 near Panipat, Haryana; to a boat tragedy killing teachers and students in Kerala on 20 February 2007; to the terrorist attacks on 11 April 2007 in Algiers, Algeria and Casablanca, Morroco, respectively; to a road mishap on 7 September 2007 at Rajsamand District of Rajasthan resulting in death of about 86 persons; to the loss of several lives and large scale damage to property by cyclone 'Sidr' that struck coastal areas of Bangladesh on 15 November 2007; to the loss of lives in serial bomb blasts that took place at Faizabad, Varanasi and Lucknow in Uttar Pradesh on 23 November 2007; to landmine blast on 29 November 2007 at Dantewara district of Chhattisgarh, which killed 12 persons including 10 Jawans of Second Mizoram Reserve Police Battalion; to the death of about 41 school children when a bus carrying them fell in the Narmada Canal on 16 April 2008 at Bodeli near Vadodara, Gujarat**;** to the naxalite attack on 29 June 2008 in Malkangiri district of Orissa resulting in death of more than 50 security personnel of Andhra Pradesh and Orissa Police; to the terrorist attack on the premises of the Indian Embassy in Kabul on 7 July 2008, resulting in death of 5 Embassy personnel and over 60 Afghan nationals; to the spate of terrorist activities witnessed in different parts of the country which resulted in death of innocent persons and destruction of property; to the unprecedented floods in Bihar, Orissa and Assam resulting in loss of lives and destruction of property which rendered a large number of persons homeless; to the terrorist attack at several crowded places and prominent hotels in Mumbai on 26 November 2008 resulting in death of 164 persons besides large-scale destruction of property. Members stood in silence for a shortwhile. During the span of Fifteenth Lok Sabha also, the Speaker has made references on 4 June 2009 to the Cyclone 'AILA' which struck the State of West Bengal and Bangladesh and to the crash of an Air France Plane with 228 persons on board into the Atlantic Ocean; on 19 November 2009 to a Naxal attack in which the son of Baliram Kashyap, MP was killed in Bastar, Chhattisgarh; Death of 45 Tourists in an accident in which a boat capsized in Thekkady lake in Idukki district of Kerala and Naxal attack at Laheri Police Station in Gadchiroli district of Maharashtra in which 17 police personnel were killed; on 21 October 2009 to the death of 22 persons in a railway accident between Goa Express and Mewar Express near Mathura, Uttar Pradesh; on 25 November 2009 to the unprecedented rains, landslides and floods and cyclone in Kerala, Karnataka, Tamil Nadu and Maharashtra. Resolution to mark the 1st anniversary of the terrorist attack in Mumbai which resulted in huge loss of innocent lives of Indian citizens as well as foreign nationals was passed on 26 November 2009. References were also made on 22 February 2010 to the death of 15 persons including foreigners and injuries caused to 60 persons in a terrorist attack at a bakery in Pune; on 14 March 2011 to the tragic loss of lives of several thousands of people and a large-scale damage to property in Japan's north-eastern coast caused by a massive 9 magnitude earthquake triggering devastating tsunami; on 1 August 2011 to the death of 25 people and injuries to about 100 people when three bombs exploded in Mumbai in a terrorist attack; on 22 November 2011 to severe earthquake in Sikkim resulting in death of more than 111 persons and injuries to hundreds others; Death of 641 people and injuries to 2076 persons in earthquake in Turkey's eastern province of Van; Floods in Thailand wherein more than 2.45 million people were affected and more than 500 people lost their lives; on 21 December 2011 to massive loss of lives in Southern Island Mindanao of Philippines hit by a tropical storm 'Sendog'; on 12 March 2012 to the earthquake in the central Philippines resulting in death of 69 people and injuries to more than hundred others; on 21 March 2012 to the death of 14 children and injuries to 30 other children when a school bus plunged into a canal in Khammam district of Andhra Pradesh; on 08 August 2012 to the floods in Assam resulting in death of more than 125 people and affecting about 24 lakh people and causing large-scale destruction and devastation of property and crops; Death of 73 persons and injuries to 61 others, besides rendering about two lakh people homeless in the sporadic ethnic violence in Assam; Loss of lives of more than 100 pilgrims during Amarnath Yatra; on 22 November 2012 to the death of more than 25 persons in cyclone Nilam which hit the coasts of Andhra Pradesh and Tamil Nadu; Death of 113 people and loss of property caused by hurricane Sandy which struck the East coast of the United States and the tragic accident which occurred due to collapsing of bamboo bridge near Bankipur in Patna causing death of more than 17 persons and injury to 40 others; on 10 February 2013 to the death of 37 pilgrims of Kumbh Mela due to stampede at Allahabad Railway Station; on 20 February 2013 to the killing of 11 persons due to capsizing of boat in Yamuna River at Etawah district of Uttar Pradesh; on 21 February 2013 to the killing of several persons due to bomb blasts in Hyderabad; on 22 February 2013 to the killing of six policemen in a landmine blast in Gaya district of Bihar; on 27 February 2013 to the killing of 19 persons in a major fire incident in a Kolkata market; on 4 March 2013 to the loss of lives of 11 school children in a road accident in Jalandhar, Punjab; on 13 March 2013 to the loss of lives of five CRPF jawans and injuries to several others in a terrorist attack at CRPF Camp in Srinagar, J&K; on 19 March 2013 to the loss of lives of 36 people in a bus accident in Ratnagiri district of Maharashtra; on 04 April 2013 to the passing away of 74 persons in a building collapse in Thane, Maharashtra; on 09 April 2013 to the killing of 5 Indian soldiers in UN Peace Keeping Force in Sudan; on 15 April 2013 to the loss of lives of 3 persons and injuries to 170 persons in a bomb blast incident in Boston, USA; on 16 April 2013 to the rape of a child in Delhi; on

24 April 2013 to the loss of many lives and injuries to several others due to collapse of a multi-storey building in Savar, Bangladesh; on 25 May 2013 to the killing of 28 persons in Naxal attack in Baster; on 18 June 2013 to the unprecedented calamity in Uttarakhand due to landslide and flash flood; on 25 June 2013 to the loss of lives of five crew members and fifteen others on board in an Indian Air Force helicopter during a rescue operation; on 24 June 2013 to the killing of 8 jawans due to a terrorist attack on Army Convoy in Srinagar; on 02 July 2013 to the death of six policemen including a Superintendent of Police in a naxal attack at Dumka in Jharkhand; on 16 July 2013 to the killing of 23 school children due to food poisoning in Saran in Bihar in a Mid-day meal; on 24 July 2013 to the killing of many people due to train accident in Spain; on 30 July, 2013 to the killing of several school children in a road accident in Hanumangarh in Rajasthan; on 01 August 2013 to the killing of 40 people due to falling of a bus in the Bhakra Canal in Punjab; on 05 August 2013 to the loss of lives in Kerala due to heavy rains, floods and landslides; on 06 August 2013 to the killing of 10 persons due to bus accident in Nagori near Shimla in Himachal Pradesh; on 19 August 2013 to the sinking of submarine INS Sindhurakshak after a major fire at naval dockyard in Mumbai; on 05 December 2013 to the loss of lives of 67 persons including four Indian nationals in a terrorist attack on Westgate Mall in Nairobi, Kenya; on 05 December 2013 to the loss of lives of 23 persons due to Cyclone Phailin in coastal districts of Odisha and Andhra Pradesh and to the stampede during navratri festivities near Ratangarh Temple in Datia district of Madhya Pradesh causing reported loss of lives of 111 people; on 5 February 2014 to the loss of lives of 54 people and injury to 41 others when the roof of a supermarket located in a suburb of Latvian capital of Riga collapsed; on 7 July 2014 to the loss of lives of 15 persons and injuries to several others when the trunk pipeline of Gas Authority of India Limited (GAIL) exploded near Nagaram in East Godavari District of Andhra Pradesh; on 30 July 2014 to the loss of lives of seven personnel including two officers of the Indian Air Force when their helicopter crashed in Sitapur district of Uttar Pradesh; on 24 November 2014 to the loss of lives of more than 120 persons and to the missing of several others in worst-ever floods in Jammu and Kashmir in recent times; on 26 November 2014 to the loss of lives of more than 170 persons in the devastating floods in the North Eastern States of Assam, Meghalaya and Arunachal Pradesh causing wide-spread damage to roads, infrastructure, river embankments and farmlands besides affecting thousands of people in the region; on 8 December 2014 to the loss of lives of eight Army personnel, three policemen and two civilians in four serial terrorist attacks in Jammu and Kashmir; on 17 December 2014 to tragic death of many school children and others in a gruesome terrorist attack in Peshawar, Pakistan; on 20 April 2015 to the loss of lives of 13 para military personnel in four separate extremist attacks in Sukma, Kanker and Dantewada and to the loss of lives of 148 persons and injuries to 79 others in a barbaric terrorist attack in the precincts of the University campus at Garissa in North-Eastern Kenya; on 27 April 2015 to the earthquakes which rocked Nepal and several parts in India Bangladesh, Tibet and Myanmar resulting in deaths of 3200 persons in Nepal and 67 persons in India; on 22 July 2015 to the death of 70 persons and injuries to many with several missing in the recent floods in Gujarat also causing large-scale destruction and devastation of widespread loss of property, crops and cattle; and to the death of 20 army personnel and injuries to 11 others in a terrorist attack on an army convoy in Chandel district of Manipur; on 30 November 2015 to the loss of lives of 224 persons in a Russian Federation plane that crashed over Egypt; on 23 December 2015 to the loss of lives of ten personnel of the Border Security Force when their aircraft crashed in Dwarka near Delhi Airport; on 23 February 2016 to the loss of lives of 7 security personnel in a terrorist attack on Air Force Station Pathankot and to the loss of lives of 10 soldiers of the Indian Army due to avalanche in Siachen, Jammu & Kashmir; on 25 April 2016 to the loss of lives due to earthquake in Ecuador and Japan; on 19 July 2016 to the loss of lives due to suicide attacks in Kabul, Afghanistan; on 17 November 2016 to the loss of lives of 19 soldiers in a cowardly terrorist attack in Uri, Jammu & Kashmir; on 6 February 2017 to the loss of lives of 17 persons and injuries to several others when a coal mine of Eastern Coalfields Limited collapsed in Godda district of Jharkhand; on 23 March 2017 to the loss of lives of 4 persons and injuries to several others in a dastardly terrorist attack in London, close to the British Parliament; on 18 July 2017 to the loss of lives of 44 persons and injuries to several others due to fall of a bus into Tons river of Shimla district of Himachal Pradesh; on 18 December 2017 to the loss of lives and property due to Cyclone Ockhi lashing several parts of Tamil Nadu, Kerala, Lakshadweep, Maharashtra and Gujarat; on 16 March 2018 to the loss of lives of 9 Security personnel of CRPF in a bomb blast by naxalites on a CRPF personnel vehicle in Sukma District, Chhattisgarh; on 18 July 2018 to the killing of 13 members of Afghan Sikh and Hindu Community in a suicide attack at Jalalabad, Afghanistan; on 2 August 2018 to the loss of lives of 33 persons and injuries to several others when a bus fell down into a deep gorge in the Raigad district of Maharashtra; on 14.09.2020 to the passing away of soldiers of the Armed Forces and Para-Military Forces and Police personnel who attained martyrdom while protecting unity and integrity of the nation; on 14.09.2020 to the passing away of Corona Warriors, including doctors, nursing and health personnel, sanitation personnel, police personnel and volunteers who made the supreme sacrifice while discharging their duties during Covid-19 Pandemic; on 29.01.2021 to the passing away of personnel of Armed Forces, Paramilitary Forces, Police personnel for protecting the unity and integrity of the country and Corona Warriors who made the supreme sacrifice while discharging their duties during COVID-19 pandemic respectively; on 09.12.2021 to the loss of lives of Gen. Bipin Rawat, Chief of Defence Staff and other Armed Forces personnel in an unfortunate crash of IAF military helicopter on 08.12.2021; on 16.12.2021 to the loss of life of Group Captain Varun Singh, the lone survivor of IAF helicopter crash on 08.12.2021;and on 07.02.2023 to the loss of lives due to severe earthquake in Turkey and Syria.

References on Solemn Occasions

It is customary for the Speaker to make appropriate references in the House on certain solemn occasions. When a new Lok Sabha meets for the first time after a general election, the Speaker *pro tem* makes a brief reference to the solemnity of the occasion and, thereafter, the members stand in silence for a shortwhile[109]. Similarly, at the last sitting of the House before its dissolution, the Speaker may make a valedictory address in which he thanks the members for their co-operation in the conduct of business and also briefly touches upon the achievements made during the tenure of the outgoing Lok Sabha[110]. On behalf of the members, the Leader of the House may make a brief reference on the occasion.

The Speaker has also made references in the House, *inter alia,* on the following occasions: Tenth, Twentieth, Twenty-fifth, Fortieth and Fiftieth anniversaries of the adoption by the United Nations of the Universal Declaration of Human Rights[111]; Commemoration of the Fortieth and Fiftieth anniversaries of the establishment of the United Nations Organisation[112], Fifty-second anniversary of 'Quit India Movement'[113] and subsequent anniversaries. The 75th Anniversary of the Movement witnessed special discussion to commemorate the occasion. References were also made in subsequent years including Eightieth Anniversary (08.08.2022); Centenary of the 1857 War of Independence[114], Unveiling of the Martyrs' Memorial at Jalianwala Bagh by the President[115], Birth centenary of an outstanding personality[116], Twelfth death anniversary of Pandit Jawaharlal Nehru[117], Death Centenary of Karl Marx[118], Bicentenary of the birth of Simon Bolivar[119], Fortieth anniversary of martyrs, who laid down their lives in the fight against fascism in the Second World War[120], Forty-first, Forty-second, Forty-fourth, Forty-fifth, Forty-seventh, Forty-ninth, Fifty-second and Fifty-third anniversaries and references were also made in subsequent years till the Seventy Seventh Anniversary (2022) of dropping of atomic bombs on the cities of Hiroshima and Nagasaki, Japan[121], death of players of Zambian football team in a plane crash[122], Fiftieth anniversary of Indian

109. *L.S. Deb.*, 13-5-1952, c. 1; 10-5-1957, cc. 1-27; 16-4-1962, c. 1; 16-3-1967, c. 1; 19-3-1971, c. 1; 25-3- 1977, c. 1; 21-1-1980, c. l; 15-1-1985, c. 1, 2-6-2004, c-1, 1-6-2009, p.1, 4-6-2014, page no. 10 and 17-6-2019, page no. 12.

110. *Ibid.*, 28-3-1957, cc. 1283-94; 30-3-1962, cc. 2784-90; 21-2- 2014, page nos. 171-177, 13-2-2019, page nos. 200-209, 10.02.2024, page no. 91-125.

111. *Ibid.,* 10-12-1958, c. 4091; 10-12-1968, cc. 1-2; 10-12-1973, cc. 1-2; 7-12-1988, cc. 372-74, 10-12-1998.

112. *Ibid.*, 29-8-1985, cc. 31-35 and 22-12-1994, cc. 234-35.

113. *Ibid.,* 9-8-1994.

114. *Ibid.,* 10-5-1957, cc. 1-27.

115. *Ibid.,* 13-4-1961, c. 10995.

116. At the joint sitting of the Houses of Parliament held on 6 May 1961, the Speaker made a reference to the memory of Pandit Motilal Nehru who was the Leader of the Opposition in the Central Legislative Assembly, as his birth centenary fell on that day—*see J.S.H. Parl. Deb.,* 6-5-1961, cc. 1-3. At the joint sitting of the two Houses of Parliament held on 9 May 1961, the Speaker made a reference to the memory of Rabindranath Tagore whose birth centenary was celebrated on the previous day—*see J.S.H. Parl. Deb.,* 9-5-1961, 151.

117. *L.S. Deb.,* 27-5-1976, c. 1.

118. *Ibid.,* 14-3-1983, c. 338.

119. *Ibid.,* 26-7-1983, c. 5.

120. *Ibid.,* 9-5-1985, cc. 231-32.

121. *Ibid.,* 6-8-1986, cc. 1-2; 6-8-1987, c. 1; 9-8-1989, cc. 1-2; 9-8-1990, cc. 1-2; 6-8-1992, cc. 1-2; 9-8-1994, cc. 1-2; 9-8-1994, cc. 1-2; and 6-8-1998, cc. 80-81.

122. *Ibid.,* 29-4-1993, c. 538.

National Army's crossing the Burma-India border[123], fiftieth anniversary of Liberation Day of Bangladesh[124]; on 26.07.2021 on the 22nd Anniversary of the Kargil Vijay; on

123. *Ibid.,* 18-3-1994, cc. 529-33.

124. *Ibid.,* 16-12-1996, cc. 2-3. Reference was also made by the Speaker on the following anniversaries and events on the occasion of terrorist attack on Parliament House on 13 December 2001 and its subsequent anniversaries; on 18 August 2004 on the winning of the Olympic Silver Medal by Major Rajyawardhan Singh Rathore in the Double Trap Shooting event at the Athens Olympic; on 11 March 2005 regarding Platinum Jubilee of the Dandi March led by Father of the Nation, Mahatma Gandhi; on 25 April 2005, on the 50th Anniversary of the Bandung Conference held in 1955; on 5 May 2005 regarding successful launching of Polar Satellite Launch Vehicle PSLV-C6; on 9 May 2005 regarding the 60th anniversary of the end of World War-II; on 2 August 2005 regarding 125th Birth anniversary of Munshi Premchand; on 9 August 2005 on the 63rd anniversary of the Quit India Movement and 60th anniversary of dropping of atomic bombs on the Japanese cities of Hiroshima and Nagasaki; complementing Dr. Vijaypat Singhania on 28 November 2005 for establishing a world record on 26 November 2005 by flying in hot-air ballon upto the altitude of 69,852 feet; complementing Sachin Tendulkar on 12 December 2005 for scoring a record 35 centuries in Test Cricket; on 17 February 2006 congratulating the members and skipper of the Indian Cricket Team for winning the One Day International series against Pakistan; on 8 March 2006 and 2007 on the occasion of International Women's Day; on 13 March 2006 congratulating Anil Kumble on becoming the first Indian cricketer to claim 500 wickets in test cricket; on 25 July 2006 congratulating Abhinav Bindra for winning a gold medal in 10m Air Rifle event on 24 July 2006 at the World Championship in Zagreb, Croatia; on 10 August 2006 on 64th anniversary of Quit India Movement and the 61st anniversary of dropping of atomic bombs on the Japanese cities; on 29 November 2006 congratulated the Scientists of DRDO for successfully carrying out first surface-to-surface missile interception test on 27 November 2006; on 29 and 30 November 2006, congratulating M.C. Mary Kom and Jenny RL, Lekha K.C. and Sarita Devi for winning gold medals in World Women Boxing Championship; on 1 December 2006 and 2007, a reference was made on the occasion of World AIDS Day; on 5 and 18 December 2006 congratulating Ms. Koneru Humpy and other participants for their medal winning performance in various events in the Asian Games at Doha; on 18 December 2006 on the occasion of Universal Minorities Rights Day; on 12 March 2007 on the successful launch of the INSAT-4B Satellite from Kourou, French Guyana; on 10 May 2007 regarding 150th Anniversary of India's First War of Independence; on 30 August 2007 congratulating skipper Bhaichung Bhutia and his team on winning the Nehru Football Cup; on 5 September 2007 complementing the Scientists for the successful launch of the satellite INSAT-4CR by launch vehicle GSLV-F04 from Sriharikota, Andhra Pradesh and also on the occasion of Teacher's Day; on 10 September 2007 on the occasion of International Literacy Day and the Indian Hockey Championship; on 3 December 2007, on the occasion of World Disability Day; on 10 March 2008 on the occasion of Commonwealth Day; on 22 April, 2008 on the occasion of World Earth Day; on 28 April 2008 complementing the Scientists of ISRO for the successful launch of record ten satellites by PSLV- C9 from Sriharikota, Andhra Pradesh; on 22 July 2008, congratulating the Junior Indian Hockey Team on winning the Junior Asia Hockey Cup against South Korea; on 20 October 2008 congratulating Abhinav Bindra for winning first ever individual Gold Medal in the Men's 10 metre Air Rifle shooting and Vijender Kumar and Sushil Kumar for winning Bronze Medals in the Men's 75 kg. Boxing and Free style wrestling in Men's 66 kg. respectively at the Beijing Olympics, 2008; again on 20 October 2008 congratulatory reference to Sachin Tendulkar for becoming highest run getter in Test cricket and Sourav Ganguly for scoring over 7000 runs in test cricket and Amit Mishra for taking 5 wickets in his debut test match at Mohali and to the Indian sportspersons who topped the medals tally in the Commonwealth Youth Games at Pune; on 22 October 2008 congratulating Scientists of ISRO for successful launch of Chandrayan-I from Sriharikota; on 16 December 2008 congratulating the Indian cricket team for winning the first test match against England at Chennai; on the occasions of 'World Environment Day' on 05 June 2009; World AIDS Day on 01 December 2009, 2010 & 2011; on the occasion of International Day of Persons with Disabilities on 03 December 2009 & 2010; Felicitation by the Speaker congratulating the Indian Cricket Team, for placing India at No. 1 spot in the ICC Test ranking, for the first time in the history of Indian Cricket on 07 December 2009; Human Rights Day on 10 December 2009, 2010 & 2012; Sachin Tendulkar for becoming the first cricketer to score the double century in ODI at Gwalior on 25 February 2010; 'International Women's Day' on 08 March 2010 & 2011; Indian Kabaddi Team for winning Kabaddi World Cup, 2010 at Ludhiana on 15 April 2010; "Earth Day" on 22 April 2010; Indian Contingent in Nineteenth Commonwealth Games, 2010 for winning 101 medals; Indian Contingent for winning 14 gold, 17 silver and 33 bronze medals at 16th Asian Games in Guangzhou, China; 125th birth anniversary of Bharat Ratna Dr. Rajendra Prasad, the first President of India on 03 December 2010; International Mother Language Day on 21 February 2011; 69th anniversary of Quit India Movement on 09 August 2011; Teacher's Day on 05 September 2011; International Literacy Day on 08.09.2011; 150th Birth Anniversary of Pandit Madan Mohan Malviya; on the occasion of 100 years of return of Capital of the country to Delhi on 12 December 2011; completion of 100 years of first rendition of National Anthem on 27 December 2011; Sachin Tendulkar on scoring 100th international century in cricket; Panchayati Raj Divas on 24 April 2012 & 2013; 151st Birth anniversary of Gurudev Rabindranath Tagore on 08 May 2012; to the International Indigenous People's Day on 09 August 2012; Vijay

Martyr's Day on 23.03.2022; on 26.07.2021 to commemorate the 22nd anniversary of the Kargil Vijay; on 23.03.2022 in honour of Martyr's Day; on 26.07.2022 to observe

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Kumar, Gagan Narang, Sushil Kumar, Yogeshwar Dutt, Ms. Saina Nehwal and Ms. M.C. Marykom for winning medals at London Olympics, 2012; Indian Cricket team for winning the ICC Under-19 World Cup in Australia on 27 August 2012; Girisha Hosanagara Nagarajegowda for winning a silver medal at the Paralympic Games, 2012. On 08 March 2013 on the occasion of International Women's Day; on 22 April 2013 on the occasion of Earth Day; on 22 April 2013 congratulating Ms. Rahi Samobat for becoming the first Indian woman shooter to secure a gold medal in the 25 Metre Sports Pistol event of International Shooting Sports Federation, World Cup; on 23 April 2013 on the occasion of National Panchayati Raj Diwas being observed on 24th April; on 05 August 2013 congratulating the Indian Cricket team for winning Champions Trophy beating England in Birmingham; Indian Cricket team on winning one day international against Zimbabwe; Indian Archery Team for winning one gold and two bronze medals in World Cup Championship in Columbia; Ms. K. Jenitha for winning World Chess Championship for the disabled in Czech Republic; Indian Wrestling Team for winning 15 medals including three gold, nine silver and three bronze, besides winning the Champion Trophy in free style category in Asian Cadet Championship in Ulaanbaatar, Mongolia on 28 July 2013; Aditya Mehta for winning gold in Men's Snooker event at Cali in Columbia and Indian Junior Women's Hockey Team for winning first ever bronze medal in Germany; on 06 August 2013 regarding the 68th anniversary of destruction of Hiroshima and Nagasaki by atom bomb and references were also made during subsequent years *viz*.06.08.2014 (69th Anniv.),06.08.2015 (70th Anniv.), 06.08.2016 (71st Anniv.), 04.08.2017 (72nd Anniv.), 06.08.2018 (73rd Anniv.), 06.08.2019 (74th Anniv.), 06.08.2021 (75th Anniv.) and 05.08.2022 (76th Anniv.). On 12 August 2013 congratulating P.V. Sindhu for winning bronze medal in World Cup Badminton and Soumyajit Ghosh and Ms. Manika Batra for winning the under-21 Men's and Women's Singles titles in Table Tennis respectively at World Tour Brazil Open at Santos in Brazil; on 26 August 2013 congratulating Indian atheletes winning 14 medals including 3 gold at Asian Youth Games in China; Indian Cricket team winning under-23 ICC emerging Trophy at Singapore and Indian Women Archery team winning gold medal in recurve team event in the Archery World Cup at Wroclaw, Poland and Sania Mirza for winning doubles Tennis Trophy event at WTA New Haven Open at New Haven; on 29 August 2013 on the occasion of National Sports Day;.on 05 September 2013 on the occasion of Teacher's Day; Shri Naveen Jindal, MP and his Polo Team for winning six tournaments organised by Indian Polo Association on 10 February 2014; Malavath Purna for becoming youngest female climber to scale the Mount Everest who was accompanied by another teenager Sadhanapalli Anand Kumar on 11 June 2014; ISRO for successful launch of Polar Satellite Launch Vehicle PSLV-C23 with five satellites on 7 July 2014; Indian Contingent on winning 15 gold, 30 silver and 10 bronze medals in the 20th Commonwealth Games at Glasgow, Scotland on 4 August 2014; ISRO Scientists for the successful placement of Mangalyan in Mars Orbit, making India as the first country to be successful on its maiden Mars Mission on 25 November 2014; Shri Kailash Satyarthi, the renowned children's rights activist for winning the Nobel Peace Prize for the year 2014 on 25 November 2014; Saina Nehwal for becoming the first woman badminton player from India to achieve number one rank in women's singles and Sania Mirza for becoming the first woman tennis player from India to achieve the world number one rank in women's doubles on 20 April 2015; Sania Mirza for becoming the first woman tennis player from India for winning the Wimbledon Women's Doubles title on 22 July 2015; Scientists and Technologists of the ISRO for the successful launch of ASTROSAT, the first multi-wavelength space observatory on 30 November 2015; ISRO on successful launch of IRNSS—1F on 11 March 2016; successful launch of 20 Satellites in a single launch including earth observation satellite CARTOSAT-2 on 19 July 2016; P.V. Sindhu for winning Silver medal and Sakshi Malik for winning Bronze medal at the Summer Olympic Games held at Rio de Janeiro, Brazil on 18 November 2016; Mariyappan Thangavelu and Devendra Jhajharia for winning Gold medals; Deepa Malik for winning a Silver medal and Varun Singh Bhati for winning a Bronze medal at the Summer Paralympic Games held at Rio de Janeiro, Brazil on 18 November 2016; Scientists of ISRO for successfully launching advanced weather satellite INSAT 3DR on board GSLV F05 on 18 November 2016; Scientists of ISRO for successful launch of Polar Satellite Launch Vehicle (PSLV C-36) carrying an earth observation satellite 'Resourcesat-2A' on 8 December 2016; Indian Contingent which secured the top position by winning a historic tally of 29 medals including 12 Gold, 5 Silver and 12 Bronze medals in Asian Athletics Championship, 2017 held in Bhubaneswar, Odisha on 18 July 2017; Indian boxer and Member of Rajya Sabha Mary Kom for winning Gold medal in the Asian Boxing Championship at Ho Chi Minh City, Vietnam on 18 December 2017; Ms. Hima Das for winning the first ever gold medal in 400 metre race at the International Association of Athletic Federations (IAAF) World Under-20 Athletics Championship in Tampere, Finland on 18 July 2018; ISRO Team for successful launch of GSAT-11 satellite into space from the French Space Port of Kourou in South America GSAT-29 Satellite and Hyper Spectral Imaging Satellite (HySIS) into the space on 12 December 2018; Smt. M.C. Mary Kom, Member of Rajya Sabha for winning a historic sixth gold medal in the 48 kg. category in World Boxing Championship held in New Delhi and Ms. Sonia Chahal for winning a silver medal in the 57 kg. category on 12 December 2018; on 21 June 2019 on the occasion of International Day of Yoga; on 21 July 2019 on the occasion of National Doctor's day; on 15 July 2019 on the occasion of *Swachhata Abhiyan* (Special Cleanliness Drive) in Parliament House Estate; on 22 July 2019, on the successful launch of Chandrayaan-2, India's second

of 23rd anniversary of the Kargil Vijay Diwas[125]; on 26.07.2023 to observe of 24th anniversary of the Kargil Vijay Diwas[126]; on 21.09.2023 on International Day of Peace[127]. The Speaker also made reference to successful conduct of the G-20 meetings in sixty cities and the New Delhi Declaration at the conclusion of 18th Summit in New Delhi under the presidency of India[128]. Reference was also made on the occasions of meeting of the House in the Parliament House (new building of Parliament)[129].

Announcements made by the Speaker

Announcements are at times made by the Speaker in the House in regard to certain matters such as resignation by a member[130], intimation received by him regarding the arrest, detention, conviction or release of a member[131], grant of leave of absence to members[132], and constitution of the Panel of Chairmen to preside over the sittings of the House[133]. No entry is made in the List of Business regarding such announcements to be made by the Chair. All these are treated as formal items of business and, as far as possible, made early in the day before the main business starts.

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indigenous mission to Moon; on 26 July 2019 to pay homage to martyrs on the 20th anniversary of Kargil war; on 27 November 2019 regarding successful launch of CARTOSAT-3 satellite by ISRO; on 14.09.2020 regarding special arrangements made to conduct the fourth session of 17th Lok Sabha in the time of COVID-19 Pandemic; on 08.03.2021 on the occasion of International Women's Day; on 23.03.2021 on the anniversary of Martyrdom of Shaheed Bhagat Singh, Shaheed Rajguru and Shaheed Sukhdev; on 23.07.2021 best wishes to the Indian Contingent for their participation in the 32nd Summer Olympics to be held in Tokyo, Japan; on 26.07.2021 Indian Weight lifter Chanu Saikhom Mirabai for winning Silver Medal in Weightlifting held at Tokyo, Japan and other Indian Contingents participating in the 32nd Summer Olympics; on 02.08.2021 Ms. P.V. Sindhu for winning bronze medal in Badminton Women's Singles in Tokyo Olympics; on 05.08.2021 Men's Hockey Team for winning Bronze Medal and Ms Lovlina Borgohain for winning bronze medal in Boxing in Tokyo Olympics; on 06.08.2021 Shri Ravi Kumar Dahiya for winning Silver Medal in Wrestling in Tokyo Olympics; on 09.08.2021 Shri Neeraj Chopra for winning Gold Medal in Men's Javelin Throw and Shri Bajrang Punia for winning Bronze Medal in freestyle wrestling under 65 Kg category in Tokyo Olympics; on 08.02.2022 Under-19 Indian Cricket Team on winning the ICC World Cup; on 18.07.2022 on the occasion of Full House in Lok Sabha; on 18.07.2022 regarding achieving 200 crore COVID vaccination doses in the country; on 25.07.2022 congratulating Shri Neeraj Chopra for winning India's first ever Silver medal in World Athletics Championship in Javelin Throw; on 25.07.2022 congratulating Smt. Droupadi Murmu, for taking oath as President of India; on 01.08.2022 congratulating Ms. Saikhom Mirabai Chanu, Shri Jeremy Lalrinnunga and Shri Achinta Sheuli for winning Gold Medals: Shri Sanket Sargar and Ms. Bindyarani Devi for winning Silver medals; and Shri Gururaja Poojary for winning Bronze Medal in Birmingham Commonwealth Games, 2022; on 08.08.2022 congratulating Indian Sports contingent on their outstanding feat in Medal tally in Commonwealth Games, 2022; on 07.12.2022 regarding assumption of G-20 Presidency by India since 01 December, 2022; on 31.01.2023 congratulating the Indian Women Cricket Team on winning First ICC Under-19 Women T-20 World Cup in South Africa; on 21.09.2023 congratulating all scientists, engineers and people of the country on the success of Chandrayan-III mission and the launch of first solar mission, Aditya-L1.

125. *L.S. Deb.*, 26.07.2022, c. 9

126. *L.S. Deb.*, 26.07.2023, c. 12

127. *L.S. Deb.*, 21.09.2023, c. 10

128. *L.S. Deb.*, 18-9-2023, c. 42

129. *L.S. Deb*., 19-9-2023, c. 4

130. *Ibid.,* 11-2-1960, c. 536; 12-4-1960, c. 11217; 8-8-1960, c. 139; 11-8-1960, c. 2126; 15-3-1985, c. 261; 18-3-1985, c. 202; 22-7-1986, c. 248; 24-2-1988, c. 247; 2-3-1988, cc. 260-62.

131. *Ibid.,* 1-3-1960, c. 3418; 3-3-1960, c. 3986; 4-3-1960, c. 4221; 6-4-1960, c. 9832; 2-8-1960, c. 364; 22-8-1960, c. 3971; 31-8-1960, c. 5925; 24-2-1961, c. 1954; 26.4.2007 cc. 6-7.

132. *Ibid.,* 19-12-1960, c. 6230; 7-4-1961, c. 9941; 3-5-1961, c. 15226; 5-9-1961, c. 7109; 15-6-1962, cc. 10840-41; 1-12-1986, cc. 296-97; 27-3-1987, cc. 168-69; 11-5-1988, c. 232; 6-12-2007, cc. 334-35; 5.9.2007, cc. 750-52.

133. *Ibid.,* 11-2-1960, c. 536; 16-8-1960, c. 2700; 19-4-1962, c. 146; 18-1-1985, cc. 126-27, 15-7-2004, cc. 469-70; 18-3-2006, c. 8.

Private Members' Business

The last two and a half hours on every Friday or such other day of the week, as the Speaker may fix, are spent on private members' business[134]. The following items of business initiated by private members are taken up in private members' time.

Private Members' Bills; Private Members' Resolutions; Motions for adoption of Reports of the Committee on Private Members' Bills and Resolutions; Motions for extension of time allotted to Private Members' Bills and Resolutions; and Motions for extension of time for presentation of Report of Select Committee on a Bill introduced by a private member or for circulation of such a Bill eliciting opinion thereon.

Normal Sessions in a Year

Normally there are three sessions of Lok Sabha in a year[135]. Since 2017, the first session commences in the last week of January[136] and lasts till the second week of April. This session has its own importance in as much as the President addresses members of both Houses of Parliament assembled together at the commencement of the session. After the President's Address, a day is fixed for moving the 'Motion of Thanks' on the President's Address. On this motion which is discussed for three or four days, members are afforded an opportunity to discuss the policies of the Government outlined in the President's Address as well as any other matter which the Address fails to take into account[137]. Another important feature of this session is the presentation and discussion of the Union Budget. On this account, this session is popularly known as the Budget Session.

In addition to the passing of the Railway and the General Budget, other items of business like Bills, motions and resolutions are also taken up in this session, whenever the Government so desire.

The total number of actual sittings in the Budget Session generally ranges between 30 [138] and 40 days. Prior to the Constitution of the Departmentally Related Standing Committees, the sittings of the Budget Session varied between 50 to 60 days.

The second session of the year which is known as the Monsoon Session generally commences in July/August and lasts till the first or second week of September. This session is comparatively of shorter duration and is mainly confined to legislative

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134. Rule 26.

135. During the years 1957 and 1962 when general elections to Lok Sabha were held, in addition to three sessions of the new Lok Sabha, one session each of the preceding Lok Sabha was also held after elections to new Lok Sabha had taken place and results thereof had been announced, but before the new Lok Sabha was duly constituted. These were popularly known as "lame duck" sessions. The purpose of these sessions was to pass the Vote on Account to enable the Government to carry on till the new Lok Sabha was constituted.
However, there was no "lame duck" session of the Third Lok Sabha as the Fourth Lok Sabha was constituted on 16 March, 1967, soon after the result of the Fourth General Elections had been announced. Similarly, there were no "lame duck" sessions of the Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth**,** Thirteenth, Fourteenth, Fifteenth, Sixteenth and Seventeenth Lok Sabha. The Vote on Account was passed in the first session of the respective new Lok Sabha.
However, four sessions 11th, 12th,13th and 14th sessions were held during 2023 in the Seventeenth Lok Sabha.

136. During the election year, this schedule may not be adhered to.

137. For details, *see* Chapter 10—President's Address, Messages and Communications to the House.

138. The Seventh Session of the Fifteenth Lok Sabha which commenced on 21 February, 2011 was to conclude on 21 April, 2011. However, on account of Assembly Elections in the States of Assam, Kerala, Tamil Nadu and West Bengal and Union territory of Puducherry, the session was accordingly rescheduled and it held 23 sittings before being adjourned *sine die* on 25 March, 2011.

business, discussion on motions[139] and discussion on matters of urgent public importance[140]. These motions and discussions on matters of urgent public importance provide opportunities to members to focus the attention of the Government on current matters of national and international importance and also to discuss the reports of Autonomous Bodies and other Public Undertakings. The financial business during this session may consist of discussion and voting of the Supplementary Demands for Grants or Excess Demands for Grants but only a few hours are allotted there for. The number of sittings in this session is around 30[141].

The third session in the year which is known as the Winter Session[142] commences in November and lasts till the third week of December. Like the Monsoon Session, this session is also devoted mainly to legislative business and discussion on motions and matters of urgent public importance. The number of sittings in this session also is around 30[143].

Regulation of Time available during a Session

Sittings of Lok Sabha ordinarily commence at 1100 hours, and conclude at 1800 hours, with a break for lunch between 1300 and 1400 hours. The hours of sittings are notified in the relevant Bulletin from time to time. The Speaker has the power to dispense with the lunch hour or to extend the usual hour of conclusion of the sitting but when the House has to sit late, consent of the House is normally taken.

Time for Government Business

The first hour of every sitting is normally devoted to the asking and answering of questions[144]. However, if a Minister at the end of the Question Hour represents to the Speaker that a particular question which did not reach for oral answer is one of special public interest to which he desires to give a reply, the question may be allowed to be taken up[145]. About half-an-hour is taken in the disposal of formal items of business[146]. Thus, out of six hours of a normal sitting only four and a half hours are actually available for transacting Government business on any day, and on the days allotted

139. Motions admitted under Rules 184, 189 and 342.

140. Under Rule 193.

141. The Fifteenth Session, *i.e* the last session of the Fourteenth Lok Sabha, which commenced on 12 February, 2009 to pass the interim budget and concluded on 26 February, 2009, held in all 10 sittings only.
Fifteenth Session is last session of the Seventeenth Lok Sabha which commenced on 31 January, 2024 to pass the interim budget concluded on 10 February, 2024, held in all 9 sittings only.

142. The Winter Session which usually takes place in November-December every year was however not held during the year 2020. Consequently, only two sessions of the House were held in that year instead of the usual three.

143. The Fourteenth Session of the Fourteenth Lok Sabha which commenced on 21 July, 2008 continued till 23 December, 2008 without prorogation, thereby became the longest session so far. However, during the period it held only 18 sittings. Also *see,* chapter 17–*Sittings of the House.*
During the 13th Session of 17th Lok Sabha, the Government had informed that there would be no Question Hour, Zero Hour and Private Members' Business.

144. On rare occasions, when members in whose names questions have been admitted are absent, less than one hour may be devoted to questions. Consequent upon amendment in Rule 48(3) in 2010, if a question on being called, is not asked or the member in whose name the question stands is absent, the Speaker may direct that the answer to it be given, and other members are allowed to ask Supplementary Questions.

145. Rule 46, Proviso.

146. *See* this Chapter under 'List of Business' *infra.*

for the transaction of private members' business, the time available for transacting Government business is only two hours.

It is for the Government to suggest the duration of a session after taking into account the quantum of business they propose to transact. However, the Speaker watches the interest of members and makes sure that private members get a proper share in the time available during a session[147]. On occasions, although rare, the House has adopted motions that only Government business be transacted during the session[148].

Time for various items of Government business and such other items as are taken up during the Government time is recommended by the Business Advisory Committee, reports of which are presented to the House from time to time and are adopted by the House on motions moved by the Minister of Parliamentary Affairs[149].

Time for Private Members' Business

On every Friday or such other day as may be allotted for the purpose, the last two and a half an hours are spent on private members' business.

In 1922, a provision was made for the first time for allotment by the Governor-General of "so many days as may, in his opinion, be possible compatible with the public interest for the business of non-official members"[150]. This provision continued in force almost without any modification till 1948 when the Speaker was empowered to allot time for the non-official, or the private members', as the term now began to be referred to, business[151]. However, till 1953, no separate day in a week was earmarked for the transaction of private members' business in Lok Sabha. On an *ad hoc* basis, only two or three or sometimes four days in a full session of two months were so allotted. In 1953, an amendment was made in the Rules of Procedure providing for the last two and a half hours of a sitting on Friday for the transaction of private members' business[152].

Up to the Fourth Session of Third Lok Sabha in 1963, resolutions and Bills were put down alternately starting with resolutions on the first Friday of the session. In order to give maximum notice of private members' resolutions to the Ministers, from the Fourth Session, 1963, Bills are put down on the first Friday of the session and resolutions on the second Friday and so on.

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147. *L.S. Deb.,* 7-9-1962, c. 6801.

148. The following motion moved by the Minister of Parliamentary Affairs on the opening day (21-7-1975) of the Fourteenth Session of the Fifth Lok Sabha was adopted by the House.
This House resolves that the current session of Lok Sabha being in the nature of an emergent session to transact certain urgent and important Government business, only Government business be transacted during the session and no other business whatsoever including Questions, Calling Attention and any other business to be initiated by a Private Member be brought before or transacted in the House during the session and all relevant rules on the subject in the Rules of Procedure and Conduct of Business in Lok Sabha do hereby stand suspended to that extent— *L.S. Deb.,* 21-7-1975, cc. 26-72. *See* also *L.S. Deb.,* 25-10-1976, cc. 24-25.

149. For details regarding increasing the Government time either by extension of sitting beyond 18.00 hours or by fixing extra sittings on Saturdays or holidays—*see* Chapter 30, relating to Business Advisory Committee.

150. Manual of Business and Procedure in the Legislative Assembly (1922 Ed.), para 20, Rule 6.

151. C.A. (Legislative) Rules of Procedure and Conduct of Business (1948 Ed.), (These came into force from 1 September, 1948), Part IV, Rule 15.

152. Rule 26.
On occasions, private members' business has been carried on beyond the normal duration of two and a half hours. For instances, *see L.S. Deb.,* 20-7-1956, cc. 483-84; 1-8-1969, cc. 284-85; 16-2-1968, cc. 1530-35; 21-8-1970, cc. 327, 337-38; 20-11-1970, cc. 335-36 and 366; 30-8-1974, c. 252.

Arrangement of Government Business

The Secretary-General is required to arrange Government business to be transacted on days fixed for Government business in such order as the Speaker may, after consultation with the Leader of the House, determine[153].

The Leader of the House is required to intimate the probable Government business for the first two or three days of a session at least ten days in advance. Thereafter, the List of Business is immediately drawn up and circulated to members so as to give them sufficient time to table amendments to the items of business included therein. A day or two before the commencement of the session, the List of Business for the first day is revised and the items of business[154], like calling attention notices, papers to be laid on the Table, statements by Ministers, presentation of reports, etc. which do not find place in the advance list, are included in the revised list.

After the session has commenced, the Leader of the House sends, through the Minister of Parliamentary Affairs, intimation from day to day regarding Government business to be transacted. If the List of Business for a day has been issued and any fresh item of business to be taken up on that day is received from the Minister of Parliamentary Affairs, a supplementary List of Business containing that item is issued or the item is included in the Revised List of Business, if one is to be issued. Where the time is short, the supplementary List of Business may be circulated to members in the House on the same day[155].

In order to give members advance information of the Government business to be transacted by the House during the following week, the Minister of Parliamentary Affairs, on behalf of the Leader of the House, makes a statement in the House at the last sitting in each week[156]. After the statement is made, not more than ten members other than those who serve on the Business Advisory Committee, may be permitted to make two brief submissions each suggesting subjects to be included in the next week's

153. Rule 25.

154. Items of business which are normally not received from the Leader of the House are arranged in the List of Business in the following order laid down by the Speaker (*See* Direction 2):—
Oath or affirmation; President's Address to both Houses of Parliament to be laid on the Table; Obituary references; Questions (including short notice questions); Leave to move motions for adjournment of business of the House; Questions involving a breach of privilege; Papers to be laid on the Table; Communication of messages from the President; Communication of messages from the Council of States (Rajya Sabha); Intimation regarding President's assent to Bills; Communications from Magistrates or other authorities regarding arrest or detention or release of members of the House; Announcements by the Speaker regarding leave of absence of members from the sitting of the House; Announcements by the Speaker regarding various matters, *e.g.,* resignations of members of the House, vacation of seats of Members, nominations to Panel of Chairperson, Committees, etc.; Rulings by the Speaker; Presentation of reports of Committees; Laying of evidence before Select/Joint Committees on Bills; Presentation of petitions; Statements by Ministers; Motions for elections to Committees; Motions for extension of time for presentation of reports of Select/Joint Committees on Bills; Calling Attention Notices; Personal statements by ex-Ministers in explanation of their resignation; Statements under Direction 115; Personal explanations under Rule 357 (if not made during the debate); Motions for adoption of reports of Business Advisory Committee; Motions for leave to move resolution for removal of Speaker/Deputy Speaker; Motions for leave to make a motion of no-confidence in the Council of Ministers; Presentation of General Budget; Presentation of Supplementary/Excess Demands for Grants (General, Railways and in respect of a State under President's Rule); Bills to be withdrawn; Bills to be introduced; Laying of explanatory statements giving reasons for immediate legislation by Ordinances; Raising of matters under Rule 377, which are not points of order; and Consideration of reports of Committee of Privileges.

155. *L.S. Deb.,* 24-9-1973, c. 12641; 28-7-1970, cc. 513; 20-2-1975, cc. 201-11.

156. The weekly statement regarding business of the House was made for the first time on 10 May, 1956. For details regarding the decision taken by the Speaker asking Government to make the statement regarding business, *see L.S. Deb.,* 4-5-1956, c. 7244; 9-5-1956, cc. 7723-26.
The weekly statement regarding business of the House as also any change in the programmes is published in the Bulletin for the information of members.

agenda. The names and *inter se* priority of such members is determined by ballot. The text of submissions is required to be brief and specific and should not ordinarily exceed 50 words each. The text of such submissions, duly approved by the speaker, is only allowed to go on record[157]. If any change is necessitated in the programme of business already announced for a week, the Minister of Parliamentary Affairs, on behalf of the Leader of the House, makes a statement to that effect.

Normally business is arranged in the same order in which it is furnished by the Minister of Parliamentary Affairs on behalf of the Leader of the House. This order may, however, be varied under directions of the Speaker or in accordance with the decisions of the House[158]. A new item of business may also be included in the List of Business by order of the House[159].

It is an established practice that a part-discussed item of business is put down before any other fresh item[160].

However, a part-discussed item of business may not be given priority over other items if the Speaker, on a request made by the Minister concerned or the Leader of the House, so directs or where it has been announced in advance that discussion of a particular item will be taken up on a particular day[161].

If no reasons are furnished by the Government for not including a part- discussed item in the List of Business for the following day, the Speaker has directed that item be

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157. Minutes of R.C.; 9-5-1988.
In order to save time of the House over the submissions by members regarding next week's business, the Speaker observed on 9 January, 1976, that members desiring to make any suggestions might approach the Minister of Parliamentary Affairs in advance to enable him to consider their requests before making the statement in the House regarding business for the next week— *L.S. Deb.,* 9-1-1976, cc. 130-33.
The practice of making submissions by members has been dispensed *w.e.f.* third session of seventeenth Lok Sabha (Bulletin- Part II dated 5 February, 2020, para 1117 refers.

158. *See* for instance, *L.S. Deb.,* 20-8-1956, cc. 2829 and 3847.

159. On 24 August, 1956, after the motion for reference to Select Committee of the Women's and Children's institutions Licensing Bill by a private member was adopted, the House agreed to the suggestion made by the Speaker that the Suppression of Immoral Traffic in Women and Girls Bill and the Children Bill, as passed by Rajya Sabha, might be referred to the same Select Committee and that the motion in respect of these Bills might be included at shorter notice on 25 August, 1956. Accordingly, entries for reference of these two Government Bills were included in the List of Business for that date with the following note: 'Included by Order of the House'.

160. *L.S. Deb.,* 21-11-1956, cc. 301-02; c. 61. *see* also Revised Supplementary List of Business for 17-2-1961.

161. In the following cases, for instance, on requests made by the Minister concerned or the Leader of the House, part-discussed items were not given precedence over other items of business:
Further discussion on the motion regarding the Second Five-Year Plan was normally to continue on 11 November, 1957. The item was instead included in the List of Business for 20 November, 1957. Discussion of the resolution regarding disapproval of the Reserve Bank of India Ordinance and consideration of the Reserve Bank of India (Second Amendment) Bill were to be resumed on 25 November, 1957. Instead, the Naga Hills Tuensang Area Bill was given precedence over these two items.
On 9 December, 1957, the Preventive Detention (Continuance) Bill, 1957, was given precedence over further consideration of the Payment of Wages (Amendment) Bill, 1957. In the Revised List of Business for 5 May, 1961, the motion for reference to Select Committee of the Indian Railways (Amendment) Bill was included before the part-discussed motion regarding the Report of the University Grants Commission.
In the Lists of Business for 16 and 17 September, 1963, the motion regarding International Situation was included before the Drugs and Cosmetics (Amendment) Bill, which was part-discussed

put down in the list as the first item after formal business[162].

However, an item of business like consideration and passing of an Appropriation Bill, on which practically no time is taken in the House, may be put down in the List of Business before the part-discussed item.

Normally, the order of business cannot be varied on the day that business is set down for disposal unless the House agrees or the Speaker is satisfied that there is sufficient ground for such variation[163]. The Speaker has ruled that an item of business fixed for a particular day should normally not be postponed[164]. However, on a request made by a Minister and agreed to by the House, the order of an item of business as set down in the List of Business may be changed[165] or the item may not be taken up[166].

When an item of business included in the List of Business is sought to be deleted through a corrigendum, the Minister concerned has to explain to the Speaker the reasons for which deletion is sought[167]. An item of business which is included in the List of Business for a day may, however, not be taken up owing to thin attendance in the House[168]. Similarly, certain items of formal business may not be taken up if that day is assigned for disposal of some important business[169].

After an item of business fixed at a particular hour is disposed of before the normal hour of adjournment of the House, any earlier item in the List of Business which had remained un disposed may be taken up.

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on 13 September, 1963. This was done as it had been announced in advance that the motion regarding International Situation would be discussed on these two days. In the Revised List of Business for 29 July, 1975, Delhi Sales Tax Bill was given precedence over the Defence of India (Amendment) Bill which was part-discussed. On an enquiry by a member, the Minister of Parliamentary Affairs explained the circumstances for altering the order of business—*L.S. Deb.,* 29-7-1975, cc. 11-26; 24-8-1976, c. 258. In the Revised List of Business for 24 November, 1987, the Constitution (Fifty-sixth Amendment) Bill was given precedence over further consideration of the Regional Rural Banks (Amendment) Bill.

In the Revised List of Business for 15 December, 1987, the Direct Tax Laws (Amendment) Bill and the Chandigarh (Delegation of Power) Bill, were included before the All India Council for Technical Education Bill which was part-discussed.

In the Revised List of Business for 18 December, 1991, the Constitution (Seventy-fourth Amendment) Bill and the Government of National Capital Territory Bill were included before the Family Courts (Amendment) Bill which was part-discussed. In the Revised List of Business, for 22 December, 1993, the Kalakshetra Foundation Bill was given precedence over further consideration of the Sick Industrial Companies (Special Provisions) Amendment Bill.

162. The Public Premises (Eviction of Unauthorised Occupants) Amendment Bill, which was part-discussed on 29 August, 1963, was excluded by the Government in the List of Business for 2 September, 1963, without giving any reasons. The order of business as furnished by the Government was changed and the part-discussed Bill was included in the List for 2 September, 1963.

163. Rule 25, Proviso. This, however, does not apply to the items of business, put down in the advance List of Business, which may be subsequently omitted when a revised list is issued—*L.S. Deb.,* 29-8-1962, cc. 4787-88.
For instance, on 30 August, 1969, the order of legislative business as set down in the Revised List of Business for that day was varied twice with the consent of the House, to enable the House to dispose of certain Bills without any discussion—*L.S. Deb.,* 30-8-1969, c. 3; 22-3-1974, cc. 204-05; and 2-9-1976, cc. 171-77.

164. *L.S. Deb.,* 8-3-1963, cc. 2983-84.

165. *Ibid.,* 16-11-1956, c. 278; 22-6-1962, c. 12512; 21-8-1962, cc. 3311-12.

166. *Ibid.,* 29-8-1962, cc. 4787-88.
On a motion moved by the Minister of Parliamentary Affairs and adopted by the House, the Scheduled Castes and Scheduled Tribes Orders (Amendment) Bill, was postponed before the Minister in whose name the item stood moved the motion for consideration of the Bill. *L.S. Deb.,* 24-5-1976, cc. 39-48.

167. *Ibid.,* 21-1-1963, c. 5483.

168. *Ibid.,* 16-11-1956, c. 302.

169. *Ibid.,* 14-11-1962, c. 1680.

The Speaker has ruled that an item of business which has been included in the advance List of Business cannot be taken out on the ground that it may not meet with approval of all sections of the House; that if an item, including the one with which both Houses are concerned, stands on the List of Business, it shall not be taken out of the List on account of any objection raised in the other House, as the appropriate time for the other House to express its views is when the item is brought before that House on a message sent from the House[170].

If the House adjourns without transacting any business on account of the death of a sitting member or a former member or an outstanding personage or for any other reason, the formal items of business included in the List of Business for that day may be put down in the List of Business for the following day[171]. If it is decided that the House would adjourn after obituary references, no other business is put down in the List of Business[172].

List of Business

A List of Business is the list of items of business, Government and private members[173], which are scheduled to be taken up in the House on a particular day or a number of days in the order as indicated therein. The Secretary-General causes the List of Business to be prepared which is made available to each member before the commencement of the sitting of the House on that day[174]. The first item in the List of Business is generally "Questions". However, items like oath/affirmation by new members, obituary references and introduction of new Ministers to the House precede "Questions"[175]. The item "Questions" is included in the List of Business but the lists of Starred, Unstarred and Short Notice Questions set down for answer on the day are printed and circulated separately. Similarly, the amendments to be moved to a Bill, motion, resolution, etc., and cut motions are printed separately. The List of Business, the list of questions, the list of amendments, the list of cut motions, and the Bills, all combined, form the Order Paper for the day.

No business not included in the List of Business for the day is permitted to be taken up at any sitting unless the Speaker gives previous permission to do so[176]. In case a member desires to raise a matter not included in the List of Business, he has to write to the Speaker stating the matter that he wishes to raise and if the Speaker gives the permission, only then the member can raise it in the House.

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170. *Ibid.,* 29-8-1962, cc. 4786-93.

171. *See,* for instance. Lists of Business for 1-3-1963, 2-3-1963; 12-8-1986, 30-11-1986, 4-5-1988, 19-12-1991, 24-3-1992, 20-12-1993, 21-4-1994, 1-3-1996, 20-12-1996 and 21-4-1997.

172. *See.* Lists of Business for 19-2-1973, 25-7-1983, 17-7-1986, 27-7-1987, 11-7-1991 and 26-2-1996.

173. The List of Business for a day on which Private Members' Business is also to be taken up by the House is divided into two parts-Part I, indicating Government Business and Part II, indicating Private Members' Business.
For details regarding Private Members' Business, *see* relevant portions of Chapter 22 and 25—*Legislation* and *Resolutions*, respectively.

174. Rule 31(1).

175. Dir. 2.

176. Rule 31(2); *L.S. Deb.,* 13-3-1961, cc. 4632-36.

The following items of business may, however, be taken up in the House without any entry in the List of Business:

> Oath or affirmation by a member returned in a bye-election; obituary reference on the demise of a sitting member or a former member or other leading personality; adjournment motion; communication of a message from the President; announcement or ruling by the Speaker; question of privilege; announcement of a communication regarding arrest, etc., of a member; announcement regarding resignation of a member; and motion regarding the suspension of a rule.

Special references on certain solemn occasions are also made in the House without any entry in the List of Business[177]. Secret Bills are allowed to be introduced, with the prior approval of the Speaker, without an entry being made in the List of Business[178]. In special circumstances, an emergent bill has been allowed to be introduced even though prior entry regarding that item was not made in the List of Business for the day[179]. Similarly, a Minister may be allowed to make a statement on a matter of urgent public importance which cannot be delayed, provided the Minister has made a request to the Speaker previously[180].

In the exercise of his discretionary powers, the Speaker may also permit consideration of an item of business not included in the List of Business[181], giving due consideration to the wishes of the House and urgency of the business to be transacted.

Entry in the List of Business regarding an item which is contingent on the passing of some other item of business is made under the heading 'Contingent Notice of Bill, Motion or Resolution', etc.[182] .

Items of business requiring notice under the rules are put down in the List of Business only after the notice period has expired[183]. An item of business is also not included in the List of Business unless the provisions of the rules relating to that class of business have been complied with. If a member or Minister concerned intimates that he proposes to move for the suspension of a rule or a part of a rule in relation to a particular item of business, that item, along with necessary motion for suspension of the rule, is included in the List of Business[184].

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177. *L.S. Deb.,* 13-5-1952, c. 1; 10-5-1957, cc. 1-2; 10-12-1958, cc. 4091-93 and Lists of Business for these days.

178. For instances of Secret Bills which were introduced in the House without any entry in the List of Business, *see L.S. Deb.*, 15-5-1957, cc. 505-07; 3-12-1957, c. 3423; 12-12-1957, c. 5318; 28-2-1958, c. 3034; 27-9-1958, c. 9035; 27-4-1959, c. 13504.

179. *L.S. Deb.,* 30-5-1957, cc. 2926-32.

180. For such statements by Ministers, *see* for instance, *L.S. Deb.,* 6-6-1967, 8-6-1967, 15-6-1967 and 20-7-1967.

181. *L.S. Deb.,* 7-9-1956, cc. 6885-88; 17-12-1959, cc. 5649 and 5691-95; 11-2-1960, cc. 484-87 and 490.

182. For details regarding 'Contingent Notice' *see* Chapter 32 – General Rules of Procedure.

183. Rule 31(3).

184. Under Rule 388, any member, with the consent of the Speaker, may move for suspension of any rule in its application to a particular motion before the House. *L.S. Deb.,* 9-12-1955; cc. 1930-45; 23-4-1956, cc. 6051-78; 30-8-1957, cc. 10926-32; 15-12-1958, cc. 4999-5000, 11-12-1959, cc. 4670-72; 31-3-1960, cc. 8955-61; 28-8-l962, cc. 4483-98; 25-3-1976, cc. 199, 224; 26-4-1983, cc. 346-47; 20-12-1983, cc. 514-18; 21-12-1983, cc. 402-17; 24-2-1984, cc. 310-13; 5-8-1986, c. 259; 13-12-1988, cc. 18-19; 4-10-1990, c. 10; 20-12-1991, cc. 132-33; 3-12-1992, cc. 535-38; 25-8-1995, c. 376; 11-3-2006, cc. 16-17.

CHAPTER 19

Questions

The development of question procedure in Parliament is intimately associated with the constitutional changes that have taken place from time to time in the composition, functions and powers of the Legislature. With every installment of constitutional reforms which the British Parliament introduced in India, the scope for asking questions widened.

The first Legislative Council set up under the Charter Act of 1853 was primarily meant for making laws and regulations. The Charter Act did not define the powers of the Legislative Council, but the Council showed some degree of independence by asking questions as to, and discussing the propriety of the measures of the Executive Government[1].

The Indian Councils Act of 1861, which explicitly circumscribed the functions of the Legislative Council to purely legislative matters, was retrograde in many respects and this led to a demand for reform of the Legislative Council so as to allow its members to elicit information by means of questions. This was conceded under the Indian Councils Act of 1892.

The rules framed under the Indian Councils Act of 1892 laid down that a member who wished to ask a question should give at least six clear days' notice in writing to the Secretary in the Legislative Department[2]. The Speaker of the Council[3] could allow a question to be asked with shorter notice than six clear days and could in any case require longer notice, if he thought fit, or extend the time for answering a question, if necessary[4]. The questions permitted to be asked by the Speaker were entered in the Notice Paper for the day and were asked in the order in which they stood therein. The questions were taken up as the first item of business[5]. A question had to be read by the member by whom it was framed, or in his absence, if he so desired, by some other member on his behalf, and the answer was given by the member- in-charge of the Department concerned, or by any other member whom the Speaker of the Council designated for the purpose[6].

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1. Banerji, Anil Chandra (ed.); *Indian Constitutional Documents,* Vol. I, p. xxvi.
2. Rules for the Conduct of Business in the Legislative Council, framed under the Indian Councils Act, 1892, Rule 6.
3. Until 1921, the Governor-General used to preside over the deliberations of the Legislative Council. In that year, the Council gave place to the Legislative Assembly and its deliberations began to be conducted by an officer known as President. In 1947, the designation was changed to Speaker. The term "Speaker" has, however, been used throughout in the text.
4. Rules for the Conduct of Business, *op. cit.,* Rule 9.
5. *Ibid.,* Rule 10.
6. Rules for the Conduct of Business in the Legislative Council, *op. cit.,* Rule 11.

No discussion was permitted in respect of an answer given to a question[7]. The question asked and the answer given were entered in the proceedings of the Council[8].

The next stage in the development of the question procedure was reached with the framing of rules under the Indian Councils Act, 1909. The minimum period of notice was extended from six to ten clear days[9] and, for the first time, a provision was made for the asking of supplementary questions; a member who had asked a question could now put a supplementary question seeking further elucidation of any matter of fact regarding which a request for information had been made in his original question[10]. The member-in-charge of the Department concerned could, however, decline to answer a supplementary question, in which case the supplementary question could be asked in the form of a fresh question at a subsequent meeting of the Council[11]. Moreover, any supplementary question could be disallowed by the Speaker without giving any reason therefor[12].

The rule regarding the form of question was also made more comprehensive. It was laid down that questions of excessive length or those containing arguments, inferences, ironical expressions or defamatory statements, or referring to the conduct or character of persons except in their official or public capacity, or questions asking for expression of an opinion or the solution of a hypothetical proposition were not admissible[13].

The rule regarding disallowing of questions by the Speaker was simplified: the power vested hitherto in the Speaker to disallow any question without giving any reason therefor, other than that in his opinion it could not be answered consistently with the public interest, was amplified to vest in the Speaker the power to disallow any question, or any part thereof, if, in his opinion, the nature of the question was as such that it should be asked in the Legislative Council of a Local Government[14].

No discussion was permitted in the Council in respect of any orders of the Speaker regarding admissibility or otherwise of a question[15].

Hitherto, the Speaker could rule that an answer to a question entered in the List of Business might be given on the ground of public interest although the question was not asked; now it was provided that the Speaker could direct that an answer be given on the ground of public interest even though the question might have been withdrawn[16].

The next significant stage in the development of the question procedure came with the coming into force of the Montague-Chelmsford Reforms of 1919. The

7. *Ibid., Rule* 13.
8. *Ibid., Rule* 14.
   The questions were, however, not as frequent or numerous as these are today. The questions and the replies thereof were sometimes regular speeches, both the questions and answers running into two or three foolscap pages. *See* Abstract of the Proceedings of the Council of the Governor- General of India, 1895, Vol. XXXIV, pp. 165-68.
9. Rules made under the Indian Councils Act, 1909, Rule 6.
10. *Ibid.,* Rule 12.
11. *Ibid.,* Rule 13.
12. *Ibid.,* Rule 14.
13. *Ibid.,* Rule 4.
14. *Ibid.,* Rule 8.
15. *Ibid.,* Rule 9.
16. *Ibid.,* Rule 15.

Rules and the Standing Orders framed at that time introduced certain notable changes.

Hitherto, no fixed time for questions had been provided; the Speaker could assign such time as, with due regard to the public interest, he might consider reasonable for asking or answering of questions. Under the new rules, the first hour of every meeting was earmarked for this purpose[17]. No business except obituary references or other purely formal business with the permission of the Speaker could precede questions[18].

Though the rules provided that the Speaker could allow a question to be asked with shorter notice than ten clear days under the new rules, he/she could reduce the normal period of notice only with the consent of the Government member concerned with the question[19].

Where a member desired to have a question answered at short notice he gave 'private notice' both to the Speaker and the Member-in-charge[20]. Such questions, if admitted, were taken up after the Question Hour had expired or after the questions included in the List of Business had been answered, as the case might be, if the latter did not consume the first hour of proceedings[21].

Ordinarily, the Speaker did not consent to waive the ten-day period of notice; but when notice was given within ten days of the probable end of the session, it was the practice, without prejudice, to suggest to the Department concerned the desirability, where possible, of waiving the period of notice and answering the question[22].

A question addressed to a member of the Government was required to relate to the public affairs with which he was officially concerned, or to a matter of administration for which he was responsible[23]. Questions could also be addressed to a non-official member provided they related to some Bill, resolution or any other matter connected with the business of the Assembly for which that member was responsible[24].

In September 1921, a practice was introduced under which a question to which a member desired an oral answer was distinguished by him with an asterisk. These were known as 'Starred Questions'. Questions not marked with an asterisk were printed on a separate paper and the answers to them were circulated subsequently and printed in the Official Report in a section separate from the Starred Questions. Where a Starred Question called for a long answer, the practice was to lay the answer on the Table of the Assembly[25].

The Rules and Standing Orders laid down no limit to the number of questions which a member might ask on one day. Questions were printed in continuous order and were called in the order in which they stood on the list. Those remaining unanswered at the end of the Question Hour were carried over to the next day and so on[26].

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17. *Manual of Business and Procedure in the Legislative Assembly* (1926 Ed.), S.O. No. 10.
18. *Ibid.,* p. 31. *See* also *L.A. Deb.,* 20-9-1921, pp. 485-86.
19. Manual, *op. cit.,* S.O. No. 13.
20. *Ibid.,* p. 24. *See* also *L.A. Deb.,* 9-2-1922, p. 2284; 1-3-1926, p. 1978.
21. Manual, *op. cit.,* pp. 30-31. *See* also *L.A. Deb.,* 23-2-1926, pp. 1649-52; 6-9-1927, pp. 3989-93.
22. Manual, *op. cit.,* p. 25.
23. *Ibid.,* S.O. 14(1).
24. *Ibid.,* S.O. 14(2).
25. *Ibid.,* p. 31. *See* also *L.A. Deb.,* 5-9-1921, pp. 98-99; 26-9-1921, pp. 985-1005.
26. Manual, *op. cit.,* p. 31. *See* also *L.A. Deb.,* 19-9-1921, p. 464; 20-9-1921, p. 486.

If on a question being called, it was not asked or the member in whose name it stood was absent, the Speaker, at the request of any other member, could direct that the answer to the question be given[27].

The rule regarding supplementary questions was also amplified; not only the member who had given notice of a question but any member could now ask a supplementary question[28]. There was no limit, except that liable to be imposed at the discretion of the Speaker, to the number of supplementary questions. Ordinarily, the Speaker intervened only when the questioning of a member of Government by supplementaries had proceeded for some time. In no circumstances were questions permitted to expand into a debate[29].

A member who had not taken the oath could not ask a question, nor could any other member ask it on his behalf[30]. The rule that the Speaker could enforce the answering of a question which had been withdrawn by the member concerned was omitted from the new provisions.

In 1937, certain radical amendments were made in the Rules[31], which are as follows:

A member had to specify the official designation of the Government member to whom the question was addressed and if addressed to a non-official member, the name of such member[32]. In case a member wrongly addressed a question, it was left to the Department to whose representative the question had been addressed to inform the Legislative Assembly Department as to which Government member was responsible for answering that question. The Legislative Assembly Department without further reference to the member placed the question on the paper for the first day appointed for the answer of questions by the Government member concerned for which the question list had not already been issued, provided that the member asking the question had not exhausted his quota of questions for that day. Where he had exhausted his quota for that day, he had to give fresh notice of the question[33].

A member had to specify the date on which the question was proposed to be placed on the list of questions for answer[34]. In the case of a question which was addressed to the concerned Department but the member inadvertently gave a wrong date and wanted a reply thereto on a day not reserved for the Department which was concerned with the subject-matter thereof, the question was put down on the next day available for that Department.

No question was placed on the list of questions for answer until five clear days' notice of the admission of a question by the Speaker was given to the Government by the member concerned, except in the case of Short Notice Questions[35].

27. Manual, *op. cit.,* S.O. 19.
28. *Ibid.,* Rule 10.
29. *Ibid.,* p. 32.
30. *Ibid.,* p. 31. *See* also *L.A. Deb.,* 1-2-1924, p. 32.
31. The revised procedure came into force from 15 April 1937.
32. Indian Legislative Assembly Rules, 1937, Rule 8A (i) (a).
33. *L.A. Deb.*, 1-9-1937, pp. 942-43.
34. Indian Legislative Assembly Rules, 1937, Rule 8A (i) (b).
35. *Ibid.,* Rule 8A (ii).

Not more than five questions admitted in the name of the same member were called for answer on any one day[36]. However, members could give notice of more than five questions which, if admitted, were all printed in the final list of questions. But members were not free to ask any of their five questions printed in the list; instead, the questions were called in the order in which they stood on the list[37]. No limit was, however, prescribed for unstarred questions to be asked on any one day by a member.

The Question Hour was allotted on different days in rotation for the answering of questions by such Department or Departments as the Speaker (then designated as the President) provided from time to time, except in the case of questions addressed to non-official members[38]. Members could not give notice of any question until allotment of days to the various Departments for answering questions had been made[39].

Questions were arranged in the list of questions according to priority of notice. Thereafter, questions relating to each Department were grouped together; the order of the Department *inter se* was arranged subsequently according to the days allotted to a Department or a group of Departments.

In case any question placed on the list of questions for answer on any day was not called for answer within the time available for answering questions on that day, the Government member to whom the question was addressed laid forthwith on the Table of the Assembly a written reply to the question; no oral reply was required to such question and no supplementary questions were asked in respect thereof [40].

A member was given the choice of withdrawing his question or postponing it to a later day provided he gave a notice in writing any time before the commencement of the sitting for which his question was placed on the list. In the case of postponement, the question was placed on the list after all the questions which had not been so postponed and two clear days had expired from the time when such notice had been given[41]. In practice, the information regarding postponed questions was sent to the Departments concerned on that very day on which they were postponed, and printed supplementary lists were supplied to them.

The members could not enter into correspondence with the Speaker about their questions before they had been admitted or disallowed by him. In the case of questions which were referred back to members or on which correspondence ensued, they were treated as fresh notices and in such cases, members had to suggest a new date for answer. If a question was in order, it appeared in the list of questions for answer in the same form in which it was framed by the member and without any corrections.

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36. *Ibid.,* Rule 8A (iii). *See* also *L.A. Deb.,* 8-2-1937, p. 590.
37. S.O. 17, adopted by the Legislative Assembly on 28 August 1933.
38. Indian Legislative Assembly Rules, 1937, Rule 8A (iv).
39. The Departments were classified in three groups and questions relating to each group were answered on an allotted day.
40. Rules, *op. cit.,* Rule 8A(v); *see* also *L.A. Deb.,* 8-2-1937, p. 592; 9-2-1937, p. 616.
41. Rules *op. cit.,* Rule 8A, proviso to Sub Clause (v).

In order to enable members to abstain from giving more notices of questions than could be disposed of ordinarily within one hour, an up-to-date list showing the total number of notices of questions pending, date-wise, was put up on the notice board every day[42].

Thereafter, no change in the question procedure was effected, until the country attained Independence in 1947. Having become responsible to the Legislature, Government was obliged to place before Parliament information on all matters of administration. The most significant change was the abrogation of the rule relating to questions on foreign affairs, tribal and excluded areas and Indian States, etc., which were previously allowed to be asked only at the discretion of the Governor-General.

The Provisional Parliament which continued until the General Elections of 1952 framed an elaborate set of rules for the conduct of business which incorporated many of the earlier provisions relating to questions, and which constitute the core of rules of procedure as obtaining at present. During the period from 1952 to 2023 several changes have come about in the question procedure. Some of these are as follows:—

(i) The maximum number of questions to be placed on the List of Questions for oral answer on any one day has been reduced from 30 to 20[43].

(ii) Limit on questions per member for oral answer on any one day has been reduced from three to one[44].

(iii) Limit on questions for inclusion in the List of Unstarred Questions for a day has been increased from 200 to 230[45].

(iv) Limit on clubbing the names of members to questions in the List of Questions for oral answer has been reduced from five to two[46].

(v) Transfer of printed question(s) from the List of Questions for oral answer is not effected[47].

(vi) Telecasting of the pre-recorded proceedings of Question Hour commenced *w.e.f.* 2 December 1991; and broadcasting of the same commenced *w.e.f.* 21 July 1992. Live telecast of the Question Hour commenced on 25 August 1994.

(vii) Notice of question to be given in not less than fifteen clear days[48].

42. *L.A. Deb.,* 8-2-1937, pp. 592, 595-96.

43. *Vide* Fourth Report of Fifth L.S. Rules Committee.

44. *Ibid.,* Earlier, the Rules Committee at their sitting held on 25 November 1971 recommended to limit the question of a member in the list of Starred Questions from three to two, which was subsequently accepted by the Speaker. *Also see*, Bn. II, 25-11-1971.

45. *Vide* Report of Rules Committee laid on 23 August 1984. Previously, the maximum number of questions was fixed at 200 *vide* its meeting held on 28 August 1968.

46. *Vide* Minutes of Rules Committee laid on 19-4-1973. The limit on clubbing the names of members had been reduced from five to two over a period of two years during the sittings of the Rules Committee held on 27 November 1969, 13 August 1970 and 25 November 1971.

47. *Vide* O.M. No. 13/3/V/92-Q dated 12 November 1992.

48. Rule 33 of Rules and procedure was amended *vide Bn. Pt. (II)*, para 1265, 19 March 2010. Earlier, not less than ten and not more than twenty-one clear days of notice period used to be given.

(viii) Member's entitlement to give notices of questions for any particular sitting has been limited to five[49].

(ix) Notices of question in excess of 230 for any day is to be treated as lapsed[50].

(x) Showing of status of notices of Questions on Lok Sabha website *w.e.f.* Twelfth Session of Fifteenth Lok Sabha[51].

(xi) As a part of e-initiative and paperless office, the lists of Questions are now made available on the Lok Sabha website. Similarly, the answers to both Starred and Unstarred questions are also made available on the Lok Sabha website after the conclusion of the Question Hour on that day. Supplementary Questions and their replies, Ballot list, Statistical statements relating to Questions are also available on the website. Members' e-portal was launched on 17th July, 2016 to facilitate members with online submission of notices of questions[52].

(xii) Provision of sending SMS alerts to the Members on their phones about their questions in Starred as well as Unstarred List has been made operational from the 5th session of 17th Lok Sabha and the first such SMS was sent on 05.03.2021 for the Lists of Questions for 08.03.2021.

Question Hour

Answers to oral questions are given only on the floor of the House. Till November 1969, it was an established practice in the Lok Sabha not to supply copies of answers in advance to members. The only exception in this regard had been that when long statements had to be laid on the Table in reply to starred questions, copies of the statements were made available to the members concerned on request, half-an-hour before the commencement of the Question Hour[53]. Similarly, when answer to a question referred to reply given to an earlier question or a document placed in Library, the same was made available to members for reference at least half-an-hour before the commencement of the sitting. From November 1969 till 1981, answers to Starred Questions were kept in the Notice Office and the Lobby for reference by members in both Houses. It was an informal arrangement but in 1981, after the Rules Committee approved it[54], members were informed formally of the arrangement through the Bulletin.

Suggestions have been made from time-to-time by members that it would be helpful to them in framing supplementaries if copies of answers to questions were supplied in advance.

The first such suggestion was made in the Central Legislative Assembly on 1 March 1921, but it was not accepted because there was no provision in the Standing Orders or Rules under which answers could be supplied beforehand and also because there were obvious objections to the introduction of any such practice.

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49. Dir. 10 B of Directions by Speaker, *vide* L.S. Bn. (II), 28.12.2018, para 7699.
50. Bn. Pt. (II), 17-2-2012, para 3670.
51. Bn. Pt. (II), 18-12-2012, para 4832.
52. L.S. Bn. (II), 15.01.2020, para 982.
53. For details *see* this Chapter under 'Answers to Questions', *infra.*
54. Minutes of Rules Committee, 10-8-1987.

On 13 September 1935, a Select Committee was appointed to consider the desirability of amending the Standing Order relating to questions[55]. In its report, presented to the House on 6 March 1936, the Committee did not favour the procedure for supplying of answers to questions in advance because it would, *inter alia,* largely detract from the importance and interest of Question Hour and would tend to make the proceedings unreal.

The matter was again raised on 7 February 1946, when a member suggested that answers to questions might be placed on the Table an hour or so before the commencement of a sitting. The matter was considered at length by Speaker Shri G.V. Mavalankar. While conceding that the introduction of the practice would not only save time but would also tend to make the supplementaries to the point, he, in his note recorded on 14 February 1948 for consideration of the Leader of the House, however, observed:

I feel that the atmosphere of *viva voce* proceedings of the House will be considerably lost, and it is possible that a large part of the House, who do not care to read the answers, may lose all interest in the supplementaries.

The Leader of the House agreed with the Speaker that printed answers would "take away considerably the interest and liveliness of the proceedings".

The matter was settled finally in favour of the existing practice when on the issue being raised in the House on 25 February 1953, the Deputy Speaker who was in the Chair, observed:

> That matter was considered a number of times and it was decided that the importance of the Question Hour would disappear if printed answers are distributed beforehand.

As per announcement made by the Speaker in Lok Sabha on 12 August 1969, arrangements were made from November 1969 on an experimental basis, for placing five sets of answers to starred and short notice questions in Parliamentary Notice Office half-an-hour before the commencement of the sitting[56].

> In August 1982, on a representation made by a member, the matter was referred to the Rules Committee. The Committee discussed thread-bare the merits and demerits of the proposal. After taking note of the difficulties pointed out by Government which could arise, for example, if the answer was changed by the Minister concerned on the morning of the day on which the question was listed for reply or the question was withdrawn by the member at the last moment, the Committee recommended continuance of the practice of providing copies of answers to starred questions to the Parliamentary Notice Office about half-an-hour in advance before the sitting of the House and a few copies to be kept in the Outer Lobby. The Committee did not agree to the suggestions for making

55. *L.A. Deb.,* 13-9-1935, pp. 1011-12.

56. During 16th Lok Sabha, 55 sets of the replies to Starred Questions (bilingual) were supplied to Parliamentary Notice Office for the use of members. With effect from the 5th Session of 17th Lok Sabha, 50 sets of the replies to Starred (bilingual) are being supplied to Parliamentary Notice Office for the use of members.

available copies of answers to questions either to members at their residence or to offices of Parties and Groups before these were actually answered in the House or laid on the Table of the House[57].

However, under the new initiative of e-parliament, an e-portal was launched for the benefit of the Members on 17th July, 2016. The replies to Starred Questions are uploaded by the concerned Ministry/Department on Members' e-portal by 0900 hours on the reply day to facilitate Members to frame supplementaries. Members have also been requested to maintain confidentiality about the replies and not to share the contents with others until the Question Hour is over. A limited number of hard copies of the replies are also made available in the Lobby and PNO for Members' reference[58].

In the Rajya Sabha, the issue was raised in 1968. During the discussion, it was pointed out that under the present procedure, a Minister could make changes in the answer to a question, which he had the right to do, till he stood up to give his oral answer; by that time he might receive some latest information or he might consult some document at the last minute and all this could make material difference to his answer. Hence, if answers were supplied in advance to members, besides diminishing the liveliness of the Question Hour, the Ministers would thereby be put to great embarrassment[59].

However, the present practice in Rajya Sabha also is that answers to starred questions are available for perusal by members in the Notice Office about half-an-hour before the commencement of the sitting.

Unless the Speaker otherwise directs, the first hour of every sitting of the House is available for asking and answering questions[60].

There is no Question Hour on a Saturday even if a sitting of the House is fixed on a Saturday for any special reason like presentation of Budget.

As a matter of exception, during the extraordinary situation created by COVID-19 pandemic, question hour was dispensed with during 4th Session of the 17th Lok Sabha, in consonance with strict social distancing norms. However, it was decided that Unstarred Questions may be listed and their replies shall be deemed to have been laid on the table of the House after laying of Parliamentary Papers related to the Business of the Day. The sittings of the House were held on all the days in a week including Saturdays and Sundays. Consequently, days were allotted to Ministries and Departments for answering Unstarred questions in continuity on all seven days of the week[61].

When, however, in the midst of a session a sitting of the House is fixed at short notice for a day which had not been originally included in the Calendar of Sittings, no time for asking and answering of questions is allotted for that day.

57. Minutes of Rules Committee 5-8-1982.

58. *L.S. Bn. (II)*, 15.01.2020, paras 982 & 983.

59. *See* M.N. Kaul's observations, *R.S. Deb.,* 17-12-1968, cc. 4447-48.

60. Rule 32; *L.S. Deb.,* 2-5-1974, cc. 1-17; 28-8-1974, cc. 1-18.

61. *L.S. Bn. (II)*, 01.09.2020, para 1401 and 02.09.2020 para 1413.

Similarly, no question time is usually allotted when a session is extended by a day or a few days beyond the originally scheduled date of termination of the session. When, however, the decision to extend the session by a number of days is taken sufficiently in advance of the last date for giving notices of questions for the originally scheduled dates, Question Hour is allotted for the additional days of the session[62].

The making and subscribing of oath or affirmation by any newly-elected member and making of any obituary references are the items of business which precede the asking and answering of questions[63].

The time spent on the ringing of the quorum bell and taking a count of the House[64], making and subscribing of oath or affirmation by members[65], obituary references[66], announcements made by the Chair[67], or any other matter[68] is counted in the time allotted for questions and the Question Hour is not extended beyond the first hour so that no inroad is made into the time fixed for other business before the House. However, on occasions, though rare, questions may be answered even after the Question Hour is over, with the permission of the Speaker if —

the Minister represents to the Speaker that the subject-matter of the question is one of special public interest[69]; or

the member represents to the Speaker that the question is of public interest and the Minister indicates his willingness to answer the question[70].

On very rare occasions, the Question Hour may collapse before time[71]. This happens mostly due to absence of members in whose name questions stand in the list of questions for oral answer. However, as per the extant rule 48(3)[72], if on a question being called, it is not asked (or) the member in whose name it stands is absent, the Speaker may direct that the answer to it be given.

In very exceptional cases, Question Hour may be dispensed with for making available more time to other business or to take up some other urgent business,

62. *L.S. Bn. (II)*, 20.01.2004, para 4397.

63. *Dir. 2.*

64. *L.S. Deb.,* 7-3-1956; 13-3-1956; 15-3-1956; 5-4-1956; 19-11-1957.

65. *L.A. Deb.,* 8-3-1938, pp. 39-40; *P. Deb.,* (II), 1-8-1950, cc. 17, 19-20; *L.S. Deb.,* 14-5- 1957; 15-5-1957; 11-11-1957.

66. There has, however, been an instance when the time taken on making obituary references was made good by extending the Question Hour beyond the scheduled time, *i.e.* 12 noon—*L.S. Deb.,* 12-4-1965. cc. 8857-64.

67. *P. Deb. (I)*, 15-11-1950, cc. 1-2.

68. *H.P. Deb. (I)*, 19-5-1952, c. 25; *L.S. Deb.,* 4-3-1958, c. 3273; 21-8-1968, c. 3246.

69. *See* Rule 46; *P. Deb.,* 30-8-1951, c. 816; *H.P. Deb. (I)*, 7-7-1952, cc. 1529-30; *L.S. Deb. (I)* 26-5-1956, cc. 4369-70.

70. *L.S. Deb.,* 18-12-1957, cc. 6060-61; 4-12-1959, c. 3348; 29-2-1960, c. 3119; 18-4-1960, c. 12184; 9-9-1960, c. 7739; and 29-3-1965, c. 6357.

71. The Question Hour collapsed before time on 17-8-1976; 22-4-1985; 24-3-1986; 29-4-1987; 8-5-1987; 7-3-1988; 10-5-1988; 2-12-1988; 19-4-1989; 8-5-1989; 6-3-1991 and 30-11-2009.

72. *L.S. Bn. (II),* 19.03.2010, para 1265.

only if the House unanimously agrees[73]. The Speaker has rarely exercised the power vested in him under the Rules of directing non-allotment of the first hour of any sitting(s) for asking and answering of questions[74]. The only exception in the normal course is the first session of each year and the first session after general election of Lok Sabha when Question Hour is not provided on or upto the day of President's Address. The other occasions when the Speaker used this power were in 1975 and 1976 when at the request of the Government, the Speaker directed that there would be no Question Hour during the Fourteenth and Eighteenth Sessions of the Fifth Lok Sabha[75]. In both the cases, on commencement of the sessions, motions were moved on behalf of Government and adopted by the House which *inter alia* provided for suspension of the Question Hour[76]. The Speaker used this power also during the Fourth and Fifth Sessions of Ninth Lok Sabha convened on 7 and 16 November 1990, respectively. On both the occasions, the sessions were convened for a specific purpose, *viz.* to enable the Council of Ministers to seek a vote of confidence of the House. As such, no Question Hour was fixed on both occasions. Also, during the Fourteenth Lok Sabha, a session was convened on 21 and 22 July 2008, to enable the Government to seek a vote of confidence in the House. No Question Hour was held on these dates too.

There are instances when the Speaker did not agree to suspend the Question Hour[77] or did not allow a member to raise point of order for dispensing with the Question Hour[78]. Similarly, in some cases, the Speaker withheld his consent to the moving of the motion for suspension of the rule regarding Question Hour[79]. There have also been instances when motion for suspension of rule regarding Question Hour was moved but negatived by the House[80].

In the event of Question Hour having been dispensed with, the normal practice is that all starred questions for the day are treated as unstarred and their answers, together with answers to the unstarred questions, if any, are printed in the debates of that day. There have, however, been instances when such questions (both starred and unstarred)

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73. *L.A. Deb.,* 28-3-1921, pp. 1619-20; 12-9-1924, p. 3277; 1-2-1932, p. 211; 2-2-1932, p. 267; 29-9-1932, p. 1557; 29-3-1933, pp. 2769-71; 3-2-1936, p. 2; 26-2-1936, p. 1549; 4-3-1936, p. 1893; 29-2-1940, p. 849; 18-9-1942, pp. 233, 273 and 487; 10-8-1943, p. 575; 13-11-1943, p. 249; *C.A. (Leg.) Deb.,* 8-8-1950; *P. Deb. (II)*, 29-3-1951, p. 5326; *P. Deb. (I)*, 19-6-1952, c. 1049; *Bn. (II)*, 18-6-1952, p. 52; 27-6-1952, p. 65; 28-6-1952; *P. Deb.,* (I) 1-7-1952, c. 1367; 2-7-1952, c. 1397; 22-12-1953, c. 1535; *L.S. Deb.*,4-12-1971, cc. 163-64; 21-7-1975, cc. 4-6; 25-10-1976, cc. 24-47; 21-2-1983, cc. 1-6; 13-5-1985, cc. 1-3; 20-4-1987, c. 4; 16-12-1992, cc. 2-28; 9-1-1993, c. 4; 20-11-1997, cc. 422-34; 15.4.1999, pp. 1-2; 11-12-2008, pp. 1-3; 25-2-2010, pp. 1-2; *L.S. Deb. (I)*, 03.08.2010, cc 3126-3134.

74. Rule 32.

75. *Bn. (II)*, 9-7-1975, p. 2399; 16-9-1976, p. 2950.

76. *L.S. Deb.,* 21-7-1975, cc. 26-71; 25-10-1976, cc. 24-25.

77. *Ibid.,* 2-5-1974, cc. 1-17; 28-8-1974, c. 118; L.S. Deb.(I), 30.11.2009, cc 3364, L.S. Deb.(I), 19.03.2012, c. 1427.

78. *Ibid.,* 17-11-1980, c. 4.

79. Minutes of meeting of Speaker with Leaders of Parties and Groups held on 10-1-1974; *L.S. Deb.,* 11-11-1974, cc. 7-8; 8-12-1980, c. 1; 24-2-1981, cc. 1-3; 1-4-1981, cc. 1-5; 6-4-1981, cc. 2-3; 7-4-1981, cc. 1-7 and 16-4-1984, cc. 7-10.

80. *L.S. Deb.,* 2-5-1974, cc. 1-17; 28-8-1974, cc. 1-18; 7-4-1975, cc. 1-9; 15-4-1975, cc. 1- 3; 15-4-1987, c. 15; 14-3-1989, cc. 7-8; 24-4-1989, cc. 5-10 and 22-5-1990, cc. 1-21.

were, with the agreement of the House, transferred *in toto* to another date for which no question time had been allotted[81].

When the Question Hour is not dispensed with, but questions are not taken up for answer orally owing to uproarious scenes and continuous interruptions, all the starred questions listed for the day are treated as unstarred and their answers, together with answers to other listed unstarred questions, are printed in the debates of that day[82]. When the Question Hour is suspended after some questions have been orally answered, all the remaining starred questions are treated as unstarred and their answers, together with answers to unstarred questions, are printed in the debates of the day[83].

When the Question Hour is dispensed with owing to the cancellation of one or more sittings of the House or its adjournment without transacting any business, questions entered in both starred and unstarred lists of questions for the days are deemed to be unstarred questions for the next sitting, and such questions with their answers are deemed to have been laid on the Table and are included in the debates of the next sitting day[84]. There have been instances, although very rare, when such questions were transferred to next[85] or earlier[86] day on which a sitting was fixed *in lieu* of a cancelled sitting. In case the House adjourns after obituary reference or otherwise without taking up the questions and meets again after sometime the same day, the replies to starred as well as unstarred questions are deemed to have been laid on the Table and printed in the proceedings of that day[87]. When sittings of the House towards the end of the session are cancelled and it is decided to conclude the session earlier, questions listed for such cancelled sittings lapse[88].

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81. *P. Deb. (II)*, 29-3-1951, c. 5326; *P. Deb.,* (I), 31-1-1951, cc. 2699-2750; *L.S. Deb.,* 25-8-1950, cc. 1637-1714.

82. *L.S. Deb.,* 13-7-1979, c. 9; 17-8-1984. cc. 1-6; 1-12-1986, c. 10 and 29-7-1987, cc. 3-6.

83. On 31 July 1985 the Question Hour was suspended in between owing to assassination of a sitting member and also on 30 July 1987, due to the reported attack on the Prime Minister in Sri Lanka.

84. *L.S. Deb.,* 24-2-1958, c. 2106, 25-2-1958, cc. 2144-82; 1-6-1964; 19-2-1981; 15-4-1981; 5-5-1982; 15-5-1982; 26-7-1983; 19-3-1984; 14-3-1985; 7-4-1985; 7-5-1985; 22-8-1985; 4-3-1986; 28-7-1987; 30-11-1987; 3-3-1988; 28-3-1988; 13-4-1988.

85. Due to demise of a sitting member, Lala Achint Ram, the Question Hour which was scheduled to be held on 1 December 1961, was adjourned and taken up next day *i.e.* 2 December 1961–*L.S. Deb*., 1-12-1961, c. 2549. Also on 3 March 1969, the Speaker informed the House,
"since the Holi festival falls on the next day *i.e*. 4 March 1969, the House would not sit on that day and the business including Question Hour scheduled for 4 March 1969 would also be taken up on 5 March 1969"—*L.S. Deb.,* 3-3-1969, c. 227.

86. On 25 February 1969, the Speaker informed the House that instead of 27 February 1969, as originally apprehended, Idul Zuha holiday would then fall on 28 February 1969 and that the House might transact business scheduled for 28 February 1969 on 27 February 1969; 25-2-1969, c. 230.

87. *Ibid.,* 9-4-1979, c. 25; 1-8-1985, c. 1; 31-7-1985, c. 11; 28-7-1987; 30-7-1987, c. 13.

88. During the Tenth Session of Fourteenth Lok Sabha, the House was adjourned *sine die* on 17 May 2007 and consequently, the notices of question for oral as well as written answers for 18, 21 and 22 May 2007 were treated as lapsed. Also in the Eleventh Session of Fourteenth Lok Sabha, the questions listed for answer on 11,12,13 and 14 September 2007 stood lapsed consequent upon the early adjournment of session on 10 September 2007. Similarly during the Thirteenth Session of Fourteenth Lok Sabha, the Lists of Questions for oral and written answers for 6, 7, 8 and 9 May 2008 were treated as lapsed as the Session was adjourned *sine die* on 5 May 2008 instead of 9 May 2008. Further, during Thirteenth Session of Fifteenth Lok Sabha also, the questions in the list of questions for oral as well as written answers on 9 and 10 May 2013 were treated as lapsed consequent upon adjournment of the Thirteenth Session of Fifteenth Lok Sabha on 8 May 2013; During the Third Session of the Seventeenth Lok Sabha, the House was adjourned *sine die* on 23rd March, 2020 and consequently, the questions listed for oral and written answers from 24th March to 27th March, 2020 lapsed.

Period of Notice

Unless the Speaker otherwise directs, a member is required to give not less than fifteen clear days' notice of a question[89]. For the purpose of counting, not less than fifteen clear days, the date on which the question, if admitted, will be put down for answer and the day on which the notice is received, are both excluded. Till Fourth Session of Fifteenth Lok Sabha, the period for notice of a question was 'not less than ten days and not more than twenty one clear days' before amendment of the Rule 33[90]. Normally, the Speaker does not agree to shorten the notice period. But in exceptional circumstances and in the interest of the members, the notice period may be relaxed. During Eleventh Session of Fourteenth Lok Sabha, Summons for commencement of Lok Sabha from 10 August 2007 were issued at a very short notice *i.e.* on 28 July 2007 (Saturday). The date of holding the ballot, the last date of receipt of notices of Starred and Unstarred Question for 10 August 2007 were the same *i.e.* 30 July 2007. The next date after issue of Summons, *i.e.* 29 July 2007 being Sunday, sufficient time was not left for members to give notices of questions for the first sitting *i.e.* 10 August 2007. As an exceptional case, for the convenience of members who were out of station, Notices of questions for the first sitting of the session, i.e. 10 August 2007 received upto 1300 hours on 30 July 2007 were included in the ballot and the ballot for that date was held at 1600 hours[91]. Similarly, the summons for the Twelfth Session of the Fourteenth Lok Sabha which was to commence from 15 November 2007, were issued late, *i.e.* on 5 November 2007. The minimum period of notice of ten clear days as was required under the then provisions of Rules 33 and 35, in respect of the sittings of the House to be held on 15 and 16 November 2007 could not be adhered to. In order to protect the interests of members, the Speaker relaxed the above conditions and fixed the Question Hour for 15 and 16 November 2007 with a notice period shorter than the minimum stipulated ten clear days and the Ministries concerned were informed accordingly. Printed lists for starred and unstarred questions for 15 and 16 November 2007 were circulated to the Ministries and members on 10 and 12 and 16 November 2007, respectively. Consequently, for the Question Hour fixed for 15 and 16 November 2007, the Ministries were actually given only three clear days' time to reply to the questions instead of the normal requirement of five clear days' time[92]. In yet another instance, during the Thirteenth session of Fifteenth Lok Sabha, Speaker in exercise of power vested under Rule 33 of the Rules of Procedure and Conduct of Business in the Lok Sabha had relaxed the notice period for giving notices of questions for 22 February 2013. The relaxation in the notice period for the said date was thirteen clear days. Accordingly, the notices of question for the said day received upto 1300 hours on 8 February 2013 were balloted at 1600 hours on the day[93]. Further, during the Fifth Session of the Fifteenth Lok Sabha the Speaker relaxed the notice

89. Rule 33. Also *see* 2R (RC-4 L.S.) Min. 30 August 1974. On the recommendations of the Rules Committee, the procedure for giving maximum 21 days' notice of a question was relaxed and then revived on 28 August 1968, and 29 August 1969, respectively. However, from Fifth Session of Fifteenth Lok Sabha (2010) the notice period for questions has been fixed as fifteen clear days.

90. *L.S. Bn. (II),* 19-2-2010, Para 1265.

91. *L.S. Bn. (II),* 28-07-2007, Para 3761.

92. *L.S. Bn. (II)*, 5-11-2007, Para 4139-57.

93. *L.S. Bn. (II)*, 6-2-2013, Para 4902.

period for holding ballot(s) for the first three dates *i.e* 26th, 27th and 28th July, 2010 to 13, 14 and 14 clear days, respectively[94].

The notices can be given from the day following the day on which summons are issued, but notices received more than fifteen days in advance are balloted along with notices received on fifteenth day**.**

Notices of questions for the last days of a session which fall short of fifteen[95] clear days are returned to the members and are not accepted as notices for the next session.

A chart showing dates of receipt of notices of questions in respect of each sitting is circulated to members along with summons.

Unless the Speaker otherwise directs, no question is placed on the list of questions for answer until five days have expired from the day when notice of such question was sent to the Minister to whom it is addressed[96].

The printed lists of questions for answer on a particular day are supplied to the Minister concerned five days before the due date of answer so that he may know the admitted version of the questions and prepare the answer for the same.

Till November 1962, with a view to enabling the collection of material for preparation of replies to questions, advance copies of notices of all questions after receipt in the Secretariat were sent to the Government under an informal arrangement. As a result of simplification of the question procedure agreed to by the Third Lok Sabha in 1962, the practice of sending advance copies of notices of all questions to Ministries was dispensed with. Instead, it was decided to make available to Ministries advance copies of only admitted questions soon after a decision regarding their admission was taken[97]. Advance copies of questions soon after admission are collected by the representatives of Ministries from the Lok Sabha Secretariat under an informal arrangement with a view to enabling the Ministries to have more time to prepare their replies, but authentic text of a question, as admitted by the Speaker, is to be taken only from the final printed list. The advance copy is superscribed at the top as "Provisionally Admitted Question".

The practice of sending advance copies of all notices of questions was started in 1937 when some heads of Departments represented to the Speaker that five clear days' notice of admission of questions given to them involved extreme pressure and the risk of questions receiving insufficiently considered replies, and suggested that advance copies of questions might be made available to them at as early a stage as possible after the receipt of the notice by the Legislative Assembly Department[98]. Presently, in order to facilitate Ministries/Departments with the collection of material for preparation of answers, advance copies of admitted questions are forwarded online to the Ministries/Departments on the day the notices of admitted questions are typed.

94. *L.S. Bn. (II),* 09.07.2010, para 1568.

95. Rule 33, *vide L.S. Bn. (II)*, 19.3.2010, para 1265.

96. Rule 35. The Speaker has, however, declined to waive this minimum notice of five days.

97. *L.S. Deb.,* 9-11-1962, c. 377.

98. Indian Legislative Assembly Rules, 1937, Rule 8 (ii).

On receipt of the advance copy, the Ministry concerned could and very often did, furnish factual information of the following nature for the consideration of the Speaker—

whether the question was covered either as a whole or in part by an earlier question or answer;

whether the requisite information was already available in an accessible document or in ordinary works of reference;

whether the subject-matter of the question was not primarily the concern of the Government of India; and any other factual information relevant to the disposal of a question.

Form of Notices of Questions

Notice of a question is given by a member in writing addressed to the Secretary-General and besides the text of the question, it is required to specify—

the text of the question[99].

the official designation of the Minister to whom the question is addressed[100].

the date on which answer to the question is desired[101]; and

the order of preference, if any, for its being placed on the list of questions, where a member tables more than one notice of questions for the same day[102].

Where a notice is signed by more than one member, it shall be deemed to have been given by the first signatory only[103].

In order to enable members to address their questions to the Minister concerned correctly, a link, "Demarcation of Responsibilities in Government of India", showing subjects allotted to various Ministries for the purpose of answering questions is available on Lok Sabha website for convenience of the members.

Till the Fourth Session of Fifteenth Lok Sabha, there was no restriction on the number of notices of Starred and Unstarred Questions which a member could give under the Rule. But, from the Fifth Session of the Fifteenth Lok Sabha, it was restricted to maximum of ten notices for a day. However, since the Sixteenth Session of the Sixteenth Lok Sabha, a member is allowed to give not more than five[104] notices of questions both for oral and written answers, concerning that Minister(s) during the period of that session only. Members who intend to give notices for the entire session may do so by indicating their *inter se* preference. In case, no preference is indicated, notices of questions in excess of five on a given day are considered for subsequent day(s) on the basis of time of their receipt.

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99. Rule 34(1) (a) Ins. by *L.S. Bn.* (II), 09.05.1989 para 2930.
100. Rule 34 (1) (b), *ibid.*
101. Rule 34 (1) (c), *ibid.*
102. Rule 34(1) (d) Added by *L.S. Bn.* (II), 09.05.1989, para 2930.
103. Rule 34(2).
104 . Dir. 10B Sub.by *L.S.Bn.* (II), 28.12.2018, para 7699.

Notices are received on all working days in the Parliamentary Notice Office and Distribution Branch between the hours notified from time to time, following the date on which summons for a session have been issued and a paragraph regarding allotment of days for answering questions by Ministers has been notified in the Bulletin. The *inter se* priority of such notices is determined by ballot[105]. Notices sent by post are also accepted but telegraphic notice of a question is not valid. Online notices of questions sent by the members through e-portal are accepted.

Ballots of notices of questions are held fifteen days in advance of each allotted day and all notices received upto 10.00 hours on the day of the ballot are included in the ballot. Where the gap between the date on which summons are issued and the first day allotted during the session for answering questions is so short that notices sent by members who are out of station cannot reach fifteen days in advance of the allotted day, dates for holding ballots for the first few days of the session are under orders of the Speaker, fixed for less than fifteen days in advance of the allotted day. At times, ballots for more than one allotted day may be held on the same day. Separate ballots are held for notices of starred and unstarred questions.

Where identical notices of a question are received at the same point of time from more than one member, a ballot is held to determine *inter se* precedence and notice from the member securing first position in the ballot is treated as valid and the notices from other members are disallowed.

All notices are arranged according to the time of receipt. After the priority of all notices received for a day has been determined, questions are serially diarized in the order of priority secured in the ballot. Notices of unstarred questions bear a different series of serial numbers than the one allotted to notices of starred questions. Typed copies of admitted questions only are forwarded in advance to the Ministers concerned.

Requests by members on the floor of the House to treat their supplementary questions as notices of regular questions for a future date have not been acceded to as these do not comply with the requirements of notices[106].

Notice of each question is signed by the member separately alongwith his IC number and name in block letters[107]. Unsigned notices of questions are not accepted and they are returned to the member concerned for signatures[108]. Similarly, where a member's signature on notices of questions does not tally with his specimen signature and their genuineness is in doubt, such notices are not treated as valid till the member owns that he has signed those notices. No other person can sign the notice of a question for or on behalf of the member.

Members are required to give notices of their questions in English or Hindi only, and in a legible form so as to obviate any chance of mistake in transcription. A member must specify only one date and not alternative dates for answer to a question. Requests

105. Dir. 10B, Bn. (II), 16-4-2010, para 1354.

106. *P. Deb.,* 4-4-1950, p. 1286.

107. Bn. (II), 6-1-1960, para 3267.

108. Rule 332.

from members that their questions bearing no dates for answers may be put down for answer on any date convenient to the Secretariat or the Minister concerned are not acceded to. In such cases, the member is requested to indicate the dates himself.

Notices of questions can be given by members on plain sheets of paper, provided the basic requirements of notices, *i.e.,* date for answer, designation of Minister to whom the question is addressed, the signature and the IC number of the member, etc., are complied with. However, standardized printed forms for giving notices of starred, unstarred and short notice questions are made available to members on request by the Parliamentary Notice Office[109]. A notice with the text of the question pasted thereon or notices bearing stamped signature of members or signed in pencil are not accepted as a valid notice and returned to the member. Notices of questions, whether starred or unstarred, received from a member under detention for unspecified period are treated as unstarred questions only and dealt with accordingly. It has been held that a member can table notices of questions but cannot participate before actually taking oath or making affirmation[110].

If a question relates to more than one subject, it is split up into two or more separate and self-contained questions and are dealt with Ministry-wise so that the answers thereto are clear and unambiguous[111].

If a question is wrongly addressed to a Minister, the Secretariat is informed by the Minister that the question is being transferred to another Minister within whose purview it falls. In such cases, the transfer of the question in the name of the appropriate Minister is effected by the Secretariat only on receipt of intimation of acceptance from the Minister to whom the question has been so transferred[112] [113]. If at the initial examination of the question by the Secretariat it is clear that the notice of the question has not been addressed to the correct Minister, the notice is transferred to the correct Minister and the member is informed.

A question is normally admitted for answer on the date specified by the member in the notice. Where, however, it is found necessary to refer the notice of the question either to the Minister or to the member concerned to ascertain facts, the question, if found admissible, is put down for a date later than the one specified by the member in the notice[114].

Status of Notices of Questions on Lok Sabha Website[115]

Since Twelfth Session of Fifteenth Lok Sabha, the status of Notices of Questions is made available on the Lok Sabha Website for information of members. As the information has been put under restricted circulation, a login page has been created for each member for the purpose. However, the practice of sending hard copies of ballot results to the Parliamentary Notice Office (PNO) of Lok Sabha still continues.

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109. *P. Deb.,* 28-11-1950, p. 765.
110. *L.S. Deb.,* 29-3-1971, c. 2.
111. *C.A. (Leg.) Deb.,* 1-2-1949, p. 4.
112. *L.S. Deb.,* 28-8-1958, c. 3332.
113. PR F. No. 1/34/XI/23-Q
114. *Vide* Rule 43(2).
115. Bn. (II), 21-2-2012, para 3679.

Questions for Oral Answer

A member who desires an oral answer to his question is required to distinguish it by an asterisk. If he does not so distinguish it, the question, if admitted, is printed in the list of questions for written answer[116].

If in the opinion of the Speaker, any question given notice of for oral answer is of such a nature that a written reply would be more appropriate, he/she directs that it be placed on the list of questions for written answer. Before so directing, the Speaker, if he/she thinks fit, may ask the member who has given notice of a question for oral answer to state in brief his reasons for desiring an oral answer[117].

In order to ensure that the list of questions for oral answer is manageable and important questions are reached for oral answer, the following types of questions are usually transferred to the list of questions for written answer:

(i) questions asking for information of a statistical nature[118];

(ii) questions going into details where it is obvious that the reply will be long *e.g.,* resolutions of a conference or recommendations of an expert committee and action taken thereon etc.;

(iii) questions which raise only matters of local or parochial interest, *e.g.,* the opening of level crossing, flag station or public call office[119];

(iv) questions relating to representation in the services of communities protected under the Constitution such as the Scheduled Castes and Scheduled Tribes in which no question of policy or administration is involved for elucidation on the floor of the House[120];

(v) questions relating to administrative detail, *e.g.,* the strength of staff in a Government Office, Embassy, etc.[121];

(vi) questions on which *prima facie* there could be no scope for supplementaries, such as reports under consideration or matters under correspondence or diplomatic negotiations;

(vii) questions asking for statements to be laid on the Table;

(viii) questions generally not of sufficient public importance, but of interest only to a limited section of the people, *e.g.,* provision of creches in mines or rest houses for ticket examiners on railways, etc.;

(ix) questions on matters relating to a Statutory body, supplementaries to which might affect the autonomy of that body[122];

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116. Rule 36. *L.A. Deb.,* 5-9-1921, pp. 98-99.

117. *See* Rule 44.

118. USQ. Nos. 7159, 7243, 7244, 18-4-1978; 1926, 5-8-1985; 669, 26-2-1993; 933, 17-8-2007.

119. USQ. Nos. 8058, 25-4-1978; 8123, 26-4-1978; 9053, 28-4-1983; 2244, 17-8-2007; 54, 15-11-2007.

120. USQ. Nos. 5980, 10-5-1985; 985, 22-11-1985; 4603, 25-4-2008.

121. USQ. Nos. 8372, 19-4-1982; 2855, 6-12-1985; 2128, 10-3-1987; 3623, 13-12-1991; 4802, 20-12-1991.

122. USQ. Nos. 9395, 5-5-1978; 8, 9-6-1980; 2586, 9-3-1982; 4692, 23-3-1982; 868, 24-2-1983; 2608, 31-8-2007.

(x) question on a subject on which a number of questions have been answered in the same session and if admitted as starred, supplementaries thereon might be repetition of the same matters[123];

(xi) questions to elicit factual information with little scope for supplementaries[124];

(xii) questions on which a discussion under Rule 193 or Calling Attention under Rule 197, etc. has been fixed or already held[125];

(xiii) questions seeking information on defence purchases, defence preparedness, foreign relations or some such matters on which disclosure of information in reply to supplementaries might be prejudicial to the security of the country or relations with friendly countries[126];

(xiv) questions seeking factual information on matters *sub judice* or under investigation by statutory tribunals/other investigating agencies[127];

(xv) questions relating to elections and Election Commission, on the consideration that the supplementaries thereon could bring the conduct of the Chief Election Commissioner into discussion[128];

(xvi) questions seeking information about specific districts of a State[129];

(xvii) questions on matters where public interest may suffer if these are put down as starred[130];

(xviii) questions going into administrative details of a public undertaking/statutory body[131]; and

(xix) questions seeking details of offers received in response to notices inviting tenders where Government takes the plea of public interest[132].

A question, notice of which has been received as starred, but which has been admitted as unstarred and printed in the list of questions for written answer, is not reconverted as starred on representation from the member concerned. In such cases, the member is informed that he may give a fresh notice of question after taking into account the reply to be given to the unstarred question, for being considered for admission as a starred question. However, in a rare case, when notice of a starred question with first preference of the member was included in the list of questions for written answers and

123. USQ. Nos. 8482 and 8624, 28-4-1978; 1433, 29-3-1985; 979, 23-11-2007; SQ No. 28, 16-11-2007.

124. USQ. Nos. 10265, 12-5-1978; 1222, 24-10-2008.

125. USQ. Nos. 10265, 12-5-1978; 6281, 1-4-1982; 1947, 11-12-2008.

126. USQ. Nos. 3989, 20-3-1979; 396, 10-7-1979; 3578, 30-7-1982; 1088, 1090 and 1112, 26-3-1985; 1410, 2-3-1988; 2599, 11-3-1988; 3822, 13-12-1991; 1168, 1-3-2006.

127. USQ. Nos. 5922, 3-4-1970; 3447, 2-11-1982; 938, 25-2-1983; 7333, 13-4-1983; 1383, 1-8-1983; SQ No. 300, 15-3-1988.

128. USQ. Nos. 2586, 9-3-1982; 4692, 23-3-1982; 3754, 19-4-1985; 4534, 25-8-1987.

129. USQ. No. 230, 21-2-1983.

130. USQ. Nos. 196, 20-2-1979; 1864, 26-3-1980; 9576, 4-5-1988; 1410, 2-3-1988; 3883, 31-8-1990.

131. USQ. Nos. 394, 10-7-1979; 8, 9-6-1980; 389, 22-2-1983; 762, 22-3-1985; 5980, 10-5-1985; 7086, 17- 5-1985; 10323, 10-5-1998.

132. USQ. No. 2335, 9-4-1985.

another question of the member was included in the list of questions for oral answer, on representation by the member, the Speaker agreed to his first preference question being included in the starred list. Accordingly, the question which had gone in the unstarred list was included in the starred list and the question which had earlier gone in the starred list was included in the unstarred list.[133]

Limits on the Number of Starred Questions

A member can give a maximum of five notices of questions both for oral and written answers[134], in all, for any day. Not more than five admitted questions, both starred and unstarred combined, by one member are placed on the list of questions for any one day[135]. Out of these, not more than one question distinguished by the member with asterisk as starred, is placed on the list of questions for oral answer[136].

The limit of one question in the name of one member for oral answer on any day does not include any short notice question of the member which may have been admitted for answer on that day. A member can also have more than one question in the starred list for a day when another question of the member included in the starred list of an earlier day has been included in the list on transfer or postponement.

The order in which questions for oral answers are to be placed is indicated by the member giving notice and if no such order is indicated, the questions are placed on the list of questions for oral answer in the order decided by the Speaker. However, the Speaker may not always go by the preference indicated by the member and select any one question of the member for inclusion in the starred list taking into account the public importance and urgency of the subject[137].

In the list of questions for oral answer for any day, normally not more than twenty questions are included. This number may, however, be exceeded if transferred or postponed questions are added to the list. The remaining admitted questions in excess of twenty are transferred to the list of questions for written answer[138].

Allotment of Days for Oral Answer to Questions

The time available for answering questions is allotted on different days in rotation for the answering of questions relating to such Ministry or Ministries as the Speaker may, from time to time, direct and on each such day, unless the Speaker with the consent of the Minister concerned otherwise directs, only questions relating to the Ministry or Ministries for which time has been allotted on that day are placed on the list of questions for oral answer[139].

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133. *L.S. Deb.,* 17-12-1985, SQ. No. 410 and USQ. No. 4465.

134. Dir.10B *vide L.S. Bn.* (II), 28.12.2018, para 7699.

135. The limit of five questions was introduced with effect from 12 November, 1962, *L.S. Deb.* 8-11-1962, c. 90; 9-11-1962, cc. 368-80.

136. From 12 November 1962 a limit of three questions was introduced to the number of questions by one member to be included in List of Starred Questions. The limit was further reduced to one question in 1974, *L.S. Deb.,* 8-11-1962, c. 90; 9-11-1962, cc. 368-80; Bn. (II), 10-5-1974, para 1734.

137. Rule 37(2).

138. Rule 37(1). Bn. (II), 25-11-1971, para 438.

139. Rule 38.

As soon as the dates of commencement and conclusion of session of the House are fixed, days are allotted to the different Ministries for the answering of questions and are published in the Bulletin and issued along with the summons for the session. Information regarding allotment of days for answering questions is also included in the 'Provisional Calendar of Sittings'.

For the purpose of answering questions in the House, the Ministries of the Government of India were, till November 1962 divided into three groups and the Ministers answered questions by rotation. Since 1962, various Ministries have been divided into five groups instead of three so that questions relating to one Ministry are answered on a fixed day in a week[140].

During the fourth Session of 17th Lok Sabha, the sittings of the House were held on all the days in a week including Saturdays and Sundays. Consequently, days were allotted to Ministries and Departments for answering Unstarred questions on all seven days of a week[141].

Based on past experience, the classification of Ministries into groups for the purpose of answering questions is done in such a way that each group of Ministries has, as far as practicable, approximately the same number of questions. It is also ensured that allotment of Ministries does not clash with the allotment decided for answering questions in the Rajya Sabha so that the Ministers are able to be present in both Houses on their respective days allotted for answering questions. It is also ensured that a Minister of Cabinet rank or a Minister holding independent charge is not required to come to either House for answering questions on more than one day in a week.

When in the middle of a session, a Ministry is bifurcated or a new Ministry is created, the dates for the asking and answering of questions relating to that Ministry are decided in consultation with the Ministry concerned and notified in the Bulletin.

Questions for Written Answer

If a Question is not distinguished by an asterisk or if a question placed on the list of questions for oral answer on any day is not called for answer within the time available for answering question on the day, a written answer to such questions shall be deemed to have been laid on the Table at the end of the Question Hour or as soon as the questions for oral answer have been disposed of, as the case may be, by the Minister to whom the question is addressed.[142] Till the Fourth Session of Fifteenth Lok Sabha, answers to starred questions were also laid on the Table when the member who had tabled the question is absent and had not given authority to any other member to ask the question on his behalf, or when called by the Speaker the member did not rise to ask his question.

From the Fifth Session of Fifteenth Lok Sabha onwards if the Question Hour on any day is dispensed with for any reason, the answers to questions included in the lists of questions for oral as well as written answers for that day are deemed to have been laid on the Table by the Ministers to whom such questions are addressed and form

140. *L.S. Deb.,* 8-11-1962, cc. 89-90; 9-11-1962, cc. 368-80.

141. *L.S. Bn.* (II), 01.09.2020, para 1401 and 02.09.2020, para 1413.

142. *See* Rule 39(1).

part of the proceedings of the day. However, if the House does not continue with the sitting after dispensing with the Question Hour, the answers to questions included in the lists of questions for oral as well as written for that are deemed to have been laid on the Table after the Question Hour at the next sitting of the House and form part of the proceedings of that day.[143]

Written answers to questions are not formally laid by the Ministers, but are deemed to have been laid on the Table at the end of the Question Hour.

Not more than 230 admitted questions are included in the list of questions for written answer for any day. This number may be exceeded by twenty five at the most if there are questions pertaining to States under President's Rule. However, questions of a member in excess of five already included in the starred and unstarred lists of a day are treated as disallowed and not carried forward. The member concerned is informed about such questions. If he revives notices of these questions, the same are reconsidered for inclusion in subsequent available dates during the session. Till the Fourth Session of the Fifteenth Lok Sabha, admitted questions which did not find a place in a day's list, being in excess of 230 were automatically considered for inclusion in the subsequent available dates during the session. Notices of questions which, being in excess of 230 could not be included in any of the lists, lapse at the end of the session. Subsequently, from the Fifth Session of Fifteenth Lok Sabha, Notices of Questions which had gone in excess of 230 were returned to the member concerned and the member, if he so desired, tabled these notices of questions afresh[144]. However, this practice has undergone further change since the Twelfth Session of Fifteenth Lok Sabha. Now the notices of questions in excess of 230 get lapsed and the copies of notices of such questions are provided to the members on request, if so desired by them[145].

Answers to Questions

Answers to questions orally given in the House on any date are printed in the day's proceedings under the heading 'Oral Answers to Questions', while answers to questions for written answers, together with answers to such of the starred questions as have not been orally given in the House, are printed in the proceedings under the heading 'Written Answers to Questions'[146].

In the proceedings, answers to questions are shown in the name of the Minister who actually replies on the floor of the House. Written answers to questions as also replies in respect of such of the questions for oral answers as are laid on the Table are shown in the name of the Minister indicated in the replies.

When a question standing in the names of more than one member is answered, the names of all such members are shown in the printed proceedings of the House. Where, however, such a question is orally answered, the name of the member who actually

143. *See* Rule 39(3), Bn. (I), 19-3-2010, para 1265.

144. Bn. (I), 9-7-2010, para 1593.

145. Bn. (II), 17-2-2012, para 3670.

146. Till the 3rd Session of 17th Lok Sabha hard copies of the replies to Starred and Unstarred Questions were supplied to concerned members after the day of Question Hour. However, from 4th Session of 17th Lok Sabha this practice has been dispensed with since the replies are already available on the website and in debates of the day.

asked it on the floor of the House is brought at the top and marked with the plus sign (+)[147].

In the following cases, a question can appear in the list of questions in the names of more than one member—

When a large number of notices of questions are received from several members on the same or allied subjects and a consolidated question is admitted; and

When a question on a subject is admitted, the names of other members who have tabled questions on the same subject are added thereon. After the list of questions has been printed and circulated to members, if any question on the subject-matter already appearing in the list is received, the name of the member concerned is not added but his notice is disallowed and his attention is drawn to the question already admitted.

Where a question has been printed in the list of questions in the names of more than one member, the question is deemed to stand in the names of all those members.

An answer to a question in the Lok Sabha cannot refer to the answer to a question or proceedings in the Rajya Sabha during a current session and *vice versa*[148]. Therefore, there is no bar on similar questions being admitted in the two Houses in the same session.

If a question contains reference to a reply given to a question asked in the Rajya Sabha, such reference is omitted before admitting the question and the question is made self-contained.

When a statement is to be laid on the Table in answer to a question for oral answer or where reference is being made to an answer to a previous question, copies of the statement or the answer to the previous question are made available to the members concerned half-an-hour in advance in order to enable them to study the information contained therein for the purpose of asking supplementaries[149]. Where a member other than the one who has tabled the question is keen to have a copy of the statement proposed to be laid on the Table in response to a question, he is supplied a copy thereof, subject to availability of spare copies. Copies of such statements or answers are considered confidential and are not released for publication till after the question is answered or the Question Hour is over, whichever is earlier. If for any reason such a statement is not laid on the Table or the answer is not given or the contents thereof are altered by the Minister while answering the question in the House, the original statement is not made public[150].

Earlier copies of printed 'Lists of Questions' were distributed to the accredited Press correspondents or sold to the public at a fixed price one hour before the Question Hour

147. The following footnote appears on the 'contents page' of the daily proceedings: "The sign+ marked above the name of a member indicates that the question was actually asked on the Floor of the House by him".

148. Rule 51.

149. Dir.13 (1)

150. Dir. 13(3)

begun. However, this practice has now been discontinued as the 'Lists of Questions' are available in the public domain and can be accessed online on Lok Sabha website.

Correction of Answers to Questions or Statement made by Minister

When a reply to a question on the floor of the House or laid on the Table is subsequently found by the Minister to be incorrect, the matter cannot be closed simply by providing clarification directly to the concerned member, because once the reply is given in the House it becomes public and ceases to be a matter only between the Minister and the member. The Minister in such cases is obligated to make a statement correcting the earlier reply.

When a Minister wishes to correct any inaccuracy in the information which was given by him as answer to a starred or unstarred[151] or short notice or supplementary question or in a debate, he gives notice of his intention to the Secretary-General and the notice is accompanied by a copy of the statement which he proposes to make to correct his earlier reply[152]. After such notice has been received from Minister, the relevant item is included in the List of Business for the appropriate day.

On the appointed day, when called upon to do so, the Minister makes the statement in the House[153]. The member, in response to whose question the answer was given earlier and which is sought to be corrected by the Minister, may be allowed to seek clarification after the Minister has made the statement[154]. If a member wants to ask a supplementary question about the correction made in answer to a question, he may write to the Speaker and seek his permission. If the Speaker permits, the item may be put down in the List of Business[155].

In order to save the time of the House, lengthy statements are not permitted to be read out in the House, but are laid on the Table and are thus included in the printed debates of the day.

Since a statement correcting an earlier answer is in the nature of a fresh reply, it is open to members to ask supplementaries thereon[156], though this option is seldom exercised. It may be argued that where a statement instead of being read out in the House, is directed to be laid on the Table, members would not be in a position to ask supplementaries thereon. To meet such contingency, arrangements exist whereby copies of the proposed statement correcting the answer to a starred/unstarred or short notice question are supplied by the Minister concerned to the Secretariat one day in advance.

A copy of the statement, together with a copy of the answer to which it refers, is made available to the member concerned through the Parliamentary Notice Office half an hour in advance of the sitting of the House in order to enable him to study

151. Dir. 16. *L.S. Bn.* (II), 16.04.2010, para 1354.

152. Dir. 16; *L.S. Deb.,* 16-8-1959, c. 1275-1300; 8-12-2005, c. 33; U.S.Q. No. 4795, 28-4-2008; S.Q. No. 2012, 12-12-2008.

153. *L.S. Deb.,* 11-2-1958, cc. 153-54; 2-8-1960, cc. 363-64; 2-8-1985, cc. 300-02; 26-11-1986, cc. 269-70; 11-5-1988, c. 370; 20-8-1992, cc. 150-51; 5-8-1994, c. 45; 19-12-2008.

154. *Ibid.,* 21-2-1968, cc. 2417-18.

155. *Ibid.,* 22-4-1968, c. 2092; 25-4-1968, cc. 3034-50; Revised List of Business, 25-4-1968; *L.S. Deb. (II)*, 08-12-2005, p. 5675; *L.S.* Deb., Part I, 25-4-2012.

156. Dir. 17(3).

the information contained therein[157] with the request that the same is to be treated as confidential till the matter is brought before the House[158]. On 25 April 2012, a statement was made by the Minister of Civil Aviation correcting the answer given to Starred Question No. 217 on 28 March, 2012 regarding "Aircraft under EU emission trading". Thereafter the Chair allowed the member, Asaduddin Owaisi, under Direction 17(3) to ask a supplementary question which was replied to by the Minister[159].

If the notice of a Minister's intention to correct any inaccuracy in the information furnished by him is received when Lok Sabha is not in session, the Secretary-General considers whether the statement can be made by the Minister during the next session, in which case the orders of the Speaker are taken. If the matter cannot wait till the next session, the statement is included in the official report of the proceedings of the House[160].

Where it is considered desirable not to publish the original answer, the revised answer alone is printed with a suitable footnote.

A private member may also seek the permission of the Speaker to correct an inaccuracy in a supplementary question asked by him. This is, however, rarely done, but where such permission is sought, the Speaker allows the member to correct the inaccuracy, provided it does not affect the answer already given by the Minister[161].

Corrections to answers to questions/statements are required to be made as early as possible[162], ordinarily within one week thereof[163]. The Speaker has ruled that in case of delay, the statement making correction should also contain reasons explaining the delay[164]. The Speaker may, however, on being satisfied with the reasons given, waive this requirement.

Questions to Private Members

A question may also be addressed to a private member provided 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, and the procedure in regard to such questions is the same as that followed in the case of questions addressed to a Minister with such variations as the Speaker may consider necessary or convenient. Supplementary questions are not generally permitted on such questions on being asked, clarifications may, however, be permitted[165].

A notice of such a question is referred for comments to the member concerned to whom it is addressed. On receipt of the member's comments the question may be

157. Dir. 17(1).

158. Dir. 17(2).

159. *L.S. Deb.* (I), 25-4-2012.

160. Dir.16(iii).

161. *L.S. Deb.,* 12-4-1960, c. 11152; 13-4-1960, c. 11475.

162. *Ibid.,* 12-8-1966, cc. 4559-61; 24-8-1966, cc. 6801-05; 29-11-1966, cc. 5936-39.

163. Dir. 16(iv).

164. *L.S. Deb.,* 30-11-1966, c. 6331; 21-12-2004, c. 408-16, S.Q. No. 87; 7-12-2008.

165. Rule 40; *L.S. Deb.,* 30-4-1957; 28-7-1966, cc. 986-88; 30-11-1966; 17-7-1967; 18-7-1967; 28-2-1968; 19-4-1968; *L.A. Deb.,* 23-1-1923, p. 1368; *L.S. Deb.*, 6.9.1990, cc. 42-44.

admitted or disallowed as the case may be. If no comments are received from the member, no further action is taken in regard to the question. A Chairman of a Committee when answering such a question replies on behalf of the Committee and not as a private member[166].

Questions cannot be addressed to the Speaker in Lok Sabha[167].

There have, however, been occasions when questions were addressed to the Presiding Officer of the Central Legislative Assembly and actually answered by him on the floor of the House[168]. Since 1937, there has been no instance where a question was asked of the Speaker.

It is now established that questions on matters which come under the administrative control of the Speaker are disallowed and the information, when so directed by the Speaker, may be supplied to the member orally[169].

Conditions of Admissibility of Questions

A question is asked for the purpose of obtaining information on a matter of public importance within the special cognizance of the Minister to whom it is addressed. The right to ask a question is, however, governed by certain conditions which are described below[170].

A question must be clearly and precisely expressed and must not be too general, incapable of any specific answer or in the nature of a leading question: Questions which are vague or too general or roving in nature or give information instead of seeking it, are inadmissible. Questions, on matters of public importance which are of a roving character, too broad and vague are, however, amended with the approval of the member to make the same admissible. During the Ninth Session of Sixth Lok Sabha, a member B.C. Kamble gave notice of a question seeking to know the decision taken by the Ministry of Tourism and Civil Aviation about the purchase of new aircraft and accessories thereof. Since the question was too broad and vague for a specific reply, the question was amended accordingly after informing the member. But a question on similar subject was already admitted so the name of the member was clubbed to the already admitted question. However, on dissolution of the Lok Sabha on 22 August 1979, the question could not be taken up[171].

166. *L.S. Deb.,* 30-4-1975.

167. *L.A. Deb.,* 5-9-1928, p. 224.

168. *Ibid.,* 10-1-1922, p. 1366; 12-3-1923, pp. 3229-30; 11-9-1928, pp. 505-06; 14-9-1928, pp. 739-62; 16-9-1936, pp. 1142-43.

169. *Ibid.,* 24-9-1929, pp. 1328-29. There are several instances when questions were disallowed having been found to be under the administrative control of the Speaker. For example, questions seeking information regarding the Seminar organised by the Bureau of Parliamentary Studies and Training; displaying of portrait in the Central Hall of Parliament House; direct telecast of Parliamentary proceedings during session periods; use of Hindi as official language in the proceedings of Lok Sabha; policy/ guidelines for allotment of houses to members of Parliament; occupation vacation of Government accommodation by ex-MPs; institution of Asian Parliament; visits of Secretaries of State Legislatures to attend Commonwealth Parliamentary Conference and Study Tours; Parliamentary delegations going abroad, etc.

170. Rule 41.

171. *Manual on Business and Procedure* (1989 Ed.), pp. 222-23, Note XIV.

A question must not bring in any name or statement unless strictly necessary to make it intelligible: While admitting a question, names of individuals appearing in the body of the question are ordinarily omitted, but in the case of an official, his designation may be mentioned, if necessary, to make the question intelligible. The Speaker has deprecated the practice of mentioning names of individuals in supplementary questions[172]. But, if a member has any particular names he thinks the Minister should be informed of, he has been asked to pass them on to the Minister concerned[173]. In exceptional cases, names have been allowed where it is considered necessary to make a question intelligible or self-contained[174].

If a question contains a statement, the member shall make himself responsible for the accuracy of the statement: The responsibility envisaged under this condition is a moral and not a legal responsibility and the member concerned incurs the censure of the Chair if the statement eventually turns out to be untrue and unfounded. Where a member is asked to supply *prima facie* evidence in support of the statement made in a question and he is unable to do so, his question may be disallowed by the Speaker[175]. During the Fifteenth Session of Seventh Lok Sabha, a member, Chandra Pal Shailani gave notice of starred question regarding shifting of aromatic complex proposed to be set up in Salempur, UP to Kerala. The question was provisionally admitted after omitting reference to the news-item and also referred to the Ministry as tabled. The Ministry's note revealed that the question lacked factual basis. As a result the question was disallowed and facts conveyed to the member.

Where facts mentioned by a member in a question are substantiated by him to the satisfaction of the Speaker, the question is admitted in spite of the fact that the Minister to whom the question might have been referred for comments indicates a different view. A question regarding detention/arrest of some VIPs by Custom Officers at Mumbai Sahar Airport on 24 September 1988 for bringing banned items was referred to the Ministry of Finance which stated that no VIPs were detained or arrested on that date. Thereafter, the member who was also requested to furnish information in his possession in support of his statement in the question informed that the question was framed on the basis of reliable information provided by a well-known industrialist of Bombay orally and that he did not have any documents in this regard. In view of the Member's reply, the question was admitted[176].

Questions based on Press reports are not ordinarily admissible unless the member takes responsibility for the facts, except in respect of external or foreign affairs and happenings in foreign countries having a bearing on India, as it is not considered possible for members to verify the truth or otherwise of the report of the speeches,

172. *L.S. Deb.,* 6-3-1954, c. 758; 9-12-1964, c. 3984; 4-8-1978, cc., 5-6; 22-12-1978, cc. 18-20; 6-3-1981, c. 14; 13-3-1981, cc. 4-5; 19-3-1982, cc. 22-28; 23-3-1988, cc. 36-38, SQ No. 411; 30-3-1988, cc. 5-8; SQ No. 511; 8-4-1988, c. 20; SQ No. 620.

173. *Ibid.,* 26-3-1957, c. 151.

174. *Ibid.,* 30-3-1979, c. 454; 6-8-1980, c. 83; 19-4-1983, c. 294; 2-3-1984, cc. 302-03; 18-4-1984, c. 307; 31-7-1984, cc. 11-12; 11-4-1986, c. 35; 14-11-1986, c. 173.

175. *H.P. Deb.,* (*I*), 20-5-1952, c. 51.

176. USQ No. 3029 answered on 2-12-1988.

measures or actions of foreign Ministers or Governments[177]. The Speaker has discouraged the practice of quoting or referring to newspaper reports during the course of supplementaries[178]. Questions otherwise self-contained and on matters of public importance are admitted after suitable editing and members are duly informed of the amended version[179].

A question must not contain arguments, inferences, ironical expressions, imputations, epithets or defamatory statements: In asking questions members have to confine themselves to eliciting particular information[180]. If a notice of question contains words, phrases or expressions which contain arguments, inferences, imputations, epithets or collateral incidental matters or are defamatory, unparliamentary, ironical, irrelevant, verbose or otherwise inappropriate, the Speaker may, in his discretion, amend such notice before it is circulated[181]. It is not open to members to take advantage of the Question Hour for asking supplementary questions of the same character[182]. Members can only elicit information through questions and not argue with the Minister[183]. But where there is a difference of opinion on a question of fact between a Minister and a member, the Speaker has directed the member concerned to bring the matter specifically, in the first instance, to the notice of the Minister instead of raising it directly on the floor of the House[184].

While asking and answering questions, attempts to cast reflections upon members or castigate Government or make other slanderous remarks or make use of ironical expressions or imputation of motives and the like have been deprecated by the Speaker[185]. As regards making allegations against persons, members have been directed to ensure the accuracy of their statements, for after a charge is made publicly, whether it is proved or not, it has an effect which cannot be undone, especially in view of the fact that persons against whom allegations are made have no chance to come before the House and explain their positions[186]. If in the course of supplementaries, allegations against persons, public servants or institutions are made, the Speaker has ordered expunction of the offending portions from the proceedings of the House and prohibited their publication in the Press[187].

A question must not ask for expression of an opinion or a solution of an abstract legal question or of a hypothetical proposition: A question framed to make suggestions, to contain expression of opinion, or to elicit opinion of Government or to

177. *C.A. (Leg.) Deb.,* (i), 23-2-1949, pp. 1000-01; *L.S. Deb.,* 24-7-1985, cc. 87-88 and 189; 18-7-1986, cc. 242-43, 301-03; 8-5-1987, c. 164; 14-8-1987, cc. 2005-06; 20-4-1988, c. 228, USQ. No. 7646; 30-3-1995, c. 1597.

178. *Ibid.,* 28-7-1980, cc. 31-33.

179. *Ibid.,* 5-5-1987, cc. 19-20**,** USQ No. 2147**,** 14-3-2008.

180. *Ibid.,* 10-12-1956, c. 1211.

181. Rule 43.

182. *L.S. Deb.,* 6-4-1977, c. 7; 4-5-1976, c. 31.

183. *Ibid.,* 16-12-1957, c. 5522; 27-4-1976, cc. 21, 132-33, SQ No. 362; 17-4-2008.

184. *Ibid.,* 21-8-1958.

185. *Ibid.,* 22-8-1957, c. 9263; 17-2-1959, c. 1349; 13-8-1959, c. 2131; 26-11-1980, cc. 17-18.

186. *L.S. Deb.,* 20-8-1957, c. 8823; 24-4-1959, c. 13218; 29-2-1960, c. 3120; 6-3-1981, c. 14; 13-3-1981, cc. 363-76, 439-56, USQ No. 3029**,** 2-12-1988.

187. *Ibid.,* 21-12-1954, cc. 1731-33; 29-4-1959, c. 13935; 17-11-1980, c. 23; 9-12-1983, c. 17; 25-3-1985, c. 22; 14-8-1987, c. 47.

raise hypothetical issues is not in order[188]. The question which asks for an expression of opinion on an abstract legal issue is not admissible[189]. A question relating to the interpretation of the Constitution or laws or rules or containing suggestions for their amendment or seeking to know the details of such laws and rules is inadmissible[190]. During the Fifteenth Session of Seventh Lok Sabha, a question was disallowed as it sought a legal opinion on a given proposition.

A question must not ask as to the character or conduct of any person except in ***his*** *official or public capacity:* A member is at liberty to criticize an action of the Government, but when it comes to making allegations of a defamatory character against an individual, the freedom of speech in the House does not extend to the making of any defamatory statement against any person. During the Second Session of the Tenth Lok Sabha, a question was disallowed being allegatory and individual in nature[191].

Questions containing personal insinuations and seeking either to support or to bring into disrepute an individual officer of Government or a person are inadmissible as it is not in the public interest that an individual officer's merits or demerits or the conduct of any person should be discussed in this manner[192].

A question must not ordinarily exceed 150 words: A lengthy question is, wherever possible, suitably abridged or split up into two or more separate self-contained questions, if otherwise admissible. When this is done, the member giving notice and the Minister concerned are duly informed of the final form in which the question has been admitted.

A question which is unduly long but which is otherwise important may be admitted after deleting unnecessary parts and words, but keeping intact the substance of the question.

When a question is reached for oral answer, members are not allowed to put lengthy supplementaries. The supplementaries have to be brief and concise[193]. It has been held repeatedly that these are to be straight, direct, relevant and within the scope of the main question[194]. The Speaker has deprecated the practice of delivering a long speech in the guise of asking a supplementary question[195], reading out from prepared material[196] and raising several issues or points in a single supplementary[197].

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188. *Ibid.,* 15-5-1956, c. 3798; 1-4-1958, cc. 7619-20; 24-8-1959, c. 3972; 21-6-1971, c. 19; 28-7-1971, c. 11; 30-7-1971, c. 19; 13-6-1977, c. 10; 6-7-1977, c. 7; 25-7-1977, c. 25; 4-12-1980, cc. 19-20.

189. *Vide,* rule 41(2)(V).

190. *Ibid.,* 16-5-1956, c. 3875; 4-9-1957, c. 11472; 26-11-1957, c. 2225; 30-11-1960, c. 2968; 17-5-1966, c. 17228.

191. *L.A. Deb.,* 12-3-1937, p. 1825-27; *L.S. Deb.,* 20-8-1957, c. 8823.

192. *H.P. Deb.,* (I), 8-12-1950, c. 741; 11-8-1953, cc. 458-59; *L.S. Deb*., 26-3-1957, cc. 150-53.

193. *L.S. Deb.,* 30-7-1957, c. 5876; 4-7-1977, c. 41; 30-6-1980, c. 2; 1-7-1980, c. 3; 25-4-1983, c. 25; 22-3-1990, c. 1, *L.S. Deb.*(I), 01.12.2009, c. 4607, *L.S. Deb.*(I), 13.08.2010, c. 8531.

194. *Ibid.,* 5-4-1977, c. 20; 28-7-1977, cc. 18-19; 17-4-1978, c. 30; 17-6-1980, c. 19; 21-7-1980, c. 16; 28-7-1980, c. 36; 7-4-1982, c. 6; 25-3-1983, cc. 12-13; 9-8-1984, cc. 3-4, 17; 6-11-1987, c. 6, SQ. No. 1; 10-12-1987, c. 7, SQ. No. 499; 10-8-1990, cc. 27-28, SQ. No. 66;17-3-2006, c. 24, *L.S. Deb.*(I), 01.12.2009, c. 4600, *L.S. Deb*.(I), 15.12.2009, c. 10660.

195. *Ibid.,* 28-2-1983, cc. 23-24; 21-3-1983, cc. 23-24; 16-4-1985, cc. 7-8; 7-5-1985, cc. 11- 12; 14-8-1987, c. 2, SQ. No. 264; 5-4-1990, c. 23, SQ. No. 340, *L.S. Deb*.(I), 01.12.2009, c. 4604.

196. *Ibid.,* 3-5-1985, c. 5; 15-5-1985, c. 32; 30-4-1986, c. 14.

197. *Ibid.,* 23-2-1981, c. 19; 30-4-1982, cc. 5-6; 21-7-1982, c. 19; 16-8-1983, c. 32; 14-5-1985, c. 6, *L.S. Deb.*(I), 10.08.2010, c. 6652, *L.S. Deb.*(I), 10.05.2012, cc. 10114-10115.

A question must not relate to a matter which is not primarily the concern of the Government of India: Questions seeking information on matters falling within the competence and the field of a State Government, *i.e.,* matters enumerated in the State List — List II of the Seventh Schedule of the Constitution—are generally disallowed[198]. The discretion to allow a question which is not the primary concern of the Government of India is exercised by Speaker on the merits of each case. In such matters, the extent of public importance is the deciding factor—if it is a health hazard like spread of jaundice, AIDS, etc., where national health is at stake, or a matter of law and questions like atrocities on scheduled castes and scheduled tribes/minorities, communal disturbances, the Speaker may ask for admission of such notices. Questions simply requiring information without touching the policies on administration of a State are normally admitted. In certain cases, questions though touching the policies of a State may be admitted if they relate to: (i) matters of all-India importance or interest[199]; (ii) policies or matters where the Government of India gives grants or advice[200]; and (iii) all matters in respect of which State Governments act as agents of the Government of India, though details are left to be worked out by the State Governments as such agents[201]. Hence, questions of all-India importance even though the subject-matter falls within the scope of a State Government[202], have been admitted[203].

A member can ask for information on all matters arising out of the control, supervision or administration of Central grants or assistance to the States. Even though money is given by the Union to the States and the latter are responsible for spending it and for executing the schemes, implementing the programmes, etc. under their supervision, it is in order to ask a question as to how the money has been spent, on what projects or for what purposes, or whether economy or due care was exercised in such spending. Besides, members may also ask questions regarding enforcement of Central Acts/implementation of Centrally sponsored schemes, safety in railway travel (as ensuring passengers' safety is the concern of Railway authority), etc.

A question must not ask about proceedings in a Committee which have not been placed before the House: The proceedings of a Committee are treated as confidential and it is not permissible for anyone to communicate, directly or indirectly, to the Press any information regarding its proceedings, including its report or any conclusions arrived at, finally or tentatively, before the report has been presented to the House[204]. No question seeking information about the proceedings of a Committee is, therefore, admitted. Supplementary questions aimed at eliciting information regarding the proceedings of a Committee have been ruled out of order[205].

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198. *Ibid.,* 26-5-1971, c. 13; 13-8-1984, c. 10, SQ. No. 4842 dt. 21.07.2009.

199. *Ibid.,* 21-2-1979, c. 203; 2-7-1980, c. 148; 3-3-1982, c. 95; 14-3-1985, c. 121; 11-12-1985, cc. 61-62; 23-7-1986, c. 24; 5-11-1986, c. 15; 2-4-1987, cc. 222-23; 11-11-1987, c. 27, SQ. 68; 18-11-1987, c. 56, USQ. No. 1695; 26-11-1987, c. 23, SQ. No. 293; 7-4-1988, c. 37, SQ. No. 598.

200. *Ibid.,* 16-5-1985, c. 50; 7-8-1986, c. 32; 6-11-1986, cc. 51-123, 170; 4-12-1986, c. 75; 7-5-1987, cc. 323-24; 9-11-1987, c. 337, USQ. No. 340; 12-11-1987, c. 103, USQ. No. 882; 10- 12-1987, c. 122, USQ. No. 5124; 10-3-1988, c. 86, USQ. No. 2386; 21-3-1988, c. 226, USQ. No. 4045; 12-5-1988, c. 90, USQ. No. 10689.

201. *Ibid.,* 16-5-1985, c. 45; 19-11-1987, c. 240, USQ. No. 2005; 2-12-1987, c. 165, USQ. No. 3909; 9-12-1987, c. 35, SQ. No. 491; 24-3-1988, c. 119, USQ. No. 4546; USQ. No. 41; 17- 10-2008.

202. *Ibid.,* 4-5-1961, cc. 15407-14; 9-8-1961, cc. 791-92, 899-900.

203. *See* also Chapter 42—Parliament and the States, *infra.*

204. Dir. 55.

205. *L.S. Deb.,* 9-3-1954, c. 849.

A question must not reflect on the character or conduct of any person whose conduct can only be challenged on a substantive motion: In accordance with the provisions of the Constitution[206], conduct of persons holding certain offices, *e.g.,* the President, the Vice-President, the Speaker, the Judges of the Supreme Court or a High Court, the Chief Election Commissioner and the Comptroller and Auditor General cannot be discussed in the House except on a substantive motion. Therefore, questions are not admitted on such subjects.

A question must not make or imply a charge of a personal character: Insinuation and introduction of personal element in questions and answers have been deprecated by the Speaker[207]. During the Seventh Session of the Sixth Lok Sabha, disallowing a question, the Speaker observed that the question was highly personal and reflected on the conduct of the person, against whom the question was directed. A portion of the proceedings of Lok Sabha was expunged by order of the Speaker where a supplementary question asked by a member was of an insinuating character and implied charges of a personal character against some responsible persons[208].

A question must not raise matters of policy too large to be dealt with within the limits of an answer to a question[209]: Matters of policy which can more appropriately be discussed during discussion on the Budget or raised by means of a resolution or motion cannot form the subject matter of questions[210]. Moreover, questions seeking a change of policy which has already been adopted by the House are not permitted[211].

A question must not repeat in substance questions already answered or to which an answer has been refused: Repetition of questions which have already been fully answered is treated as an abuse of the right of questioning or calculated to obstruct or prejudicially affect the procedure of the House. Questions which have been substantially answered are not admitted. In cases where some parts of a question are substantially covered by the replies given earlier in the House, such parts are omitted while admitting the question, and references to such earlier questions are supplied to the members concerned for information. If there is any question which appears to be in substance a repetition of a question answered earlier, it is for the Ministries concerned to bring that fact to the notice of the Secretariat[212].

When a Minister has refused to answer a question, subsequent notices of questions on the same subject are disallowed.

A question is not generally disallowed merely on the ground that it is not in the public interest to disclose the information. It is for the Minister to refuse to answer on the plea of public interest[213]. However, in exceptional circumstances, a question may

206. Arts. 61, 94(c), 121 and 148.

207. *H.P. Deb.,* (I), 11-8-1953, cc. 458-59.

208. *L.S. Deb.,* 18-7-1956; 11-8-1978, cc. 15-16; 16-6-1980, c. 33.

209. Rule 41 (2) (xii) *L.A. Deb.,* 18-9-1935, pp. 2168-69; *L.S. Deb.,* 23-12-1954, cc. 1863-64; 9-4-1956, c. 1960; 18-8-1958, c. 1281; 24-2-1966, c. 1977; 5-7-1977, cc. 5-6; 23-3-1978, c. 23.

210. *L.S. Deb.,* 9-4-1956, c. 1960; 27-8-1958, c. 3096; 17-12-1968, c. 15.

211. *Ibid.,* 28-3-1957, c. 236; 29-7-1957, c. 5657; 12-2-1960, cc. 682-83; 18-4-1960, c. 12158.

212. Rule 41(2)(xiii) *Ibid.,* 1-12-1954, cc. 764-65.

213. *Ibid.,* 28-7-1956, c. 506; 13-8-1959, cc. 2156-58; 3-9-1959, cc. 6030-32; 24-11-1959, cc. 1358-60; 4-4-1960, cc. 9530-35; 13-8-1962, cc. 1352-54; 22-4-1963, cc. 11045-46; 27-4-1976, cc. 31-33; 9-3-1979, c. 240; 11-4-1979, c. 138; 11-6-1980, cc. 58-59; 9-7-1980, cc. 47-48; 15-9-1981, c. 268; 26-2-1982, cc. 139-40; 26-7-1983, cc. 618-19; 3-12-1986, cc. 82-83; 22-3-1988; c. 223, USQ. No. 4253.

be disallowed by the Speaker if it seeks information which is not in national interest to be given publicity such as deployment of armed personnel, process of manufacture of weapons, etc.[214].

A question must not ask for information on trivial matters: Questions seeking information on petty matters or asking for minor details or relating to purely local matters are discouraged[215]. The Chair has advised that such questions should first be taken up by the members with the local authorities or the Minister or Consultative Committee concerned and only as a last resort brought before the House[216].

A question must not ask for information on confidential matters: No question can be asked on a confidential letter or correspondence, but if the letter or correspondence becomes public, a notice is in order and the Speaker may admit it on the merits of the case.

A question must not ordinarily ask for information on matters of past history: Questions going into past history or based on matters which are historical or academic in nature have not been admitted[217].

A question must not ask for information set forth in accessible documents or in ordinary works of reference: Questions seeking information which is available in gazettes, reports, documents, books and papers are not admitted. Such references should ordinarily be available in the Library where members can consult them at their convenience. The proceedings of the Rajya Sabha of earlier sessions are treated as accessible documents and questions are not generally admitted in the Lok Sabha if the answers are found in such proceedings, and *vice versa.*

A question must not raise matters under the control of organizations or persons not primarily responsible to the Government of India: Questions relating to the work of private companies/non-official organizations and autonomous bodies not in receipt of any grant from the Government are not ordinarily admitted, though questions can be asked insofar as they relate to actions of the Government[218]. However, questions relating to non-official organizations are admitted in cases where the Government have made grants to such organizations[219].

Questions based on statements made by persons not primarily responsible to the Government of India may be admitted in special cases on the ground of public importance[220].

A question must not ask for information on a matter which is under adjudication by a court of law having jurisdiction in any part of India: Supplementary questions

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214. *Ibid.,* 24-11-1959, cc. 1358-60; 15-2-1960, cc. 964-65.

215. *H.P. Deb.* (I), 19-4-1954, c. 2106; *L.S. Deb.,* 24-2-1956, c. 317; 22-3-1956, cc. 1333-34, USQ No. 708; 26-7-1984, USQ No. 2679, 9-8-1984.

216. *L.S. Deb.,* 28-3-l987, cc. 238-39; *See* also *P. Deb.,* (I), 24-9-1951, cc. 1614-15.

217. *P. Deb.,* 7-3-1950, p. 630; 16-5-1951, c. 4296.

218. *Ibid.,* 20-8-1951, cc. 435-36; Also *see L.S. Deb.,* 26-8-1983, c. 290; 10-8-1984, cc. 298-300; 8-7-1987, c. 524. In 1988, a question seeking to know whether a five member Ohio state delegation visited India recently, was disallowed under Rule 2 (viii) as the visit was arranged by Punjab, Haryana and Delhi Chamber of Commerce, a non-official body and the responsibility of the Government of India was not involved.

219. *L.S. Deb.,* 2-4-1960, c. 9296, S.Q. No. 2460; 27-3-1979, cc. 142-43; 19-3-1980, cc. 191-92; 9-6-1980, c. 716; 16-12-1983, cc. 198-99.

220. *Ibid.,* 19-8-1959, USQ. No. 1107.

going into details of a case being tried in a court of law have been ruled out of order[221]. A question on a matter under police investigation may not be disallowed on the ground that the matter is *sub judice;* however, the Speaker has discouraged asking of such questions and has advised the members that in case they have any particular and reliable information about a matter under police investigation they should pass it on to the authorities[222]. Similarly, questions on matters under departmental inquiry which cannot strictly be disallowed on the ground of being *sub judice* have been discouraged[223]. Questions regarding undertrial prisoners have also been ruled out of order[224]. However, questions seeking statistics or factual information concerning a particular case and not about the merits of the case, even though when it relates to a *sub judice* matter, have been admitted since disclosure of such information does not affect the trial of the case[225].

A question should not ordinarily ask about matters pending before any statutory tribunal or statutory authority performing any judicial or quasi-judicial functions or any commission or court of inquiry appointed to inquire into, or investigate, any matter but may refer to matters concerned with the procedure or subject or stage of inquiry, if it is not likely to prejudice the consideration of the matter by the tribunal or commission or court of inquiry: Questions relating to matters under inquiry are ordinarily not admitted[226]. It has been ruled that it would not be proper to ask a question relating to any inquiry which is in progress as it may affect the results of the inquiry[227]. Questions asking for information about the progress made in the prosecution of a person of public standing and not about the merits of the case have been permitted to be raised. Similarly, questions seeking to know as to how the Government was acting in regard to a particular inquiry and about the presentation of the report of the inquiry have been admitted[228]. Questions relating to matters concerned with the procedure or subject or stage of inquiry, when admitted, are usually admitted as unstarred to elicit factual information only.

A question should not ordinarily ask for information on matters which are under consideration before a Parliamentary Committee: Ordinarily, no question on a matter under the consideration of a Parliamentary Committee is admitted for answer[229]. Matters are deemed to be under consideration of the Committee till the Committee has made a report informing the House of the action taken by the Government on the original recommendations made by the Committee[230]. The Speaker has, however, ruled that

221. *Ibid.,* 5-5-1959, c. 14899.

222. *Ibid.,* 7-4-1958, cc. 8533-34.

223. *Ibid.,* 1-8-1958, c. 670.

224. *P. Deb.*, (I). 21-2-1950, p. 364.

225. *L.S. Deb*., 25-2-1983, cc. 60-61; 8-5-1984, cc. 282-83; USQ No. 4963, 23-08-85; 13-8-1986, cc. 53-54; 5-12-1986, c. 134; 24-3-1987, c. 45; 11-8-1987, cc. 61-62; 22-11-2002, SQ No. 74.

226. *L.S. Deb.*, 7-4-1959, c.10222. In 2002, regarding Shivani Bhatnagar Murder case.

227. *P. Deb.*, 5-4-1950, p. 1310; *L.S. Deb.*, 3-8-1977, cc. 10-13; in *re*. Bofors Gun deal in 1990.

228. *P. Deb.*, (I), 8-5-1951, cc. 4044-45. *L.S. Deb.*, 2-8-1985, SQ. No. 164.

229. *H.P. Deb.*, (I), 17-4-1954, c. 2042. *L.S. Deb*., 13-7-1967, SQ. No.1111.

230. Dir. 102.

members could ask questions regarding recommendations made by a Parliamentary Committee if their implementation has been unduly delayed by the Government[231].

Questions pertaining to the recommendations of the Committee on Estimates, Public Accounts or Public Undertakings and also the other Standing and Joint Committees may be admitted in special cases. Where a question makes no direct reference to the recommendations of a Committee though the subject thereof may have been considered by the Committee, it will be admissible only if it asks for some factual information which is not readily available in the reports of the Committee[232].

Questions asking for information in respect of specific recommendations contained in Chapters I and IV (*i.e.* the report proper, and replies of the Government that have not been finally accepted by the Committee and are being pursued) of "Action taken by Government on the Recommendations contained in the Report" of a Committee are admissible.

Questions asking for information in respect of specific recommendations of a Committee which have remained outstanding for long and in respect of which the Committee have not been informed by Government of the action taken within a reasonable time, are admissible[233].

Normally no question on the Audit Report is permitted to be raised in the House until the Public Accounts Committee has considered the report. However, questions based on the Audit Report relating to matters which are yet to come up before the Public Accounts Committee may be admitted by the Speaker if they relate to grave instances of fraud or defalcation of public funds.

Where a question is based on the Audit Report and the information is contained therein, it is normally disallowed, the attention of the member being drawn to the relevant passages in the report.

Where a question seeks to have more information than is contained in the Audit Report, and the matter is not important, it is normally admitted as unstarred, so that the information is brought on record.

Where a question, though based on the information contained in the Audit Report, raises a matter of public importance and it is desirable that information must be given in oral answer so that supplementaries are asked, such question is admitted as starred. In a case of this character, the question is dissociated from the Audit Report, *i.e.,* reference thereto is omitted and the question is kept on its own to avoid a conflict with the general ruling that normally questions should not be asked on matters contained in the Audit Report[234].

Matters discussed in a Consultative Committee of Members of Parliament are not allowed to be raised or its proceedings referred to in the House during Question Hour[235].

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231. *L.S. Deb.*, 22-12-1959. c. 6852; 15-3-1979, cc. 138-41; 20-4-1979, cc. 89-90; 7-3-1986, SQ. No. 190.

232. *Ibid.,* 28-7-1978, cc. 181-82.

233. *L.S. Deb.,* 15-3-1979, cc. 138-41; 20-4-1979, cc. 89-90.

234. *Ibid.,* 10-3-1988, c. 33, SQ. No. 235.

235. *Ibid.,* 31-7-1970, cc. 23-24.

However, where a news item regarding matters discussed in Consultative Committee has appeared in the Press, or there has been Press briefings on behalf of the Committee, such matters can be referred to in the House during Question Hour[236].

A question must not relate to a matter with which the Minister is not officially concerned: Questions about anything said or done by a Minister in his non-official capacity are not permitted.

A question must not refer discourteously to a friendly foreign country: Questions relating to the administration of, and matters concerning a foreign Country about which the Government of India have no executive authority, are not admitted.

The Speaker has ruled that foreign experts invited by the Government of India should not be criticized[237]. A question regarding criteria applied by the Government before granting recognition to a new Country has been held inadmissible[238].

A question should not ask for information about matters which are in their nature secret, such as composition of Cabinet Committees, Cabinet discussions or advice given to the President in relation to any matter in respect of which there is a constitutional, statutory or conventional obligation not to disclose information[239]: Questions asking for information about the internal working of the Cabinet, its committees or sub-committees, which, in its very nature, is secret, are not admitted. A question relating to composition of a Cabinet Committee on a matter given wide publicity may, however, be admitted to elicit factual information[240]. Any differences among the Ministers in a Cabinet discussion in regard to the merits of a particular proposal cannot form the subject-matter of a question since the Cabinet as a whole is responsible to the House[241]. Similarly, supplementary questions aimed at eliciting information regarding difference of opinion between two Ministers on a matter in an internal discussion have been ruled out of order[242]. But questions relating to a difference of opinion stated in public between two Cabinet Ministers on a matter of public importance may be admitted so as to clear misapprehensions[243]. Questions about advice given by officials to a Minister are also not admissible[244].

A question relating to the Head of the State is not answered in the House: Questions relating to the Head of the State are not ordinarily admitted for answer on the floor of the House. If question is admissible, the requisite information may be obtained from the Secretary to the President and passed on to the member. Questions, which

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236. *Ibid.,* 5-8-1970, c. 23.

237. *H.P. Deb.* (I), 26-2-1953, cc. 554-55.

238. *C.A. (Leg.) Deb.,* 28-11-1948, p. 20.

239. Rule 41(2) (xxi), *vide L.S.* Bn. (II), 9-5-1989, para 2930

240. *L.S. Deb.,* 14-3-1990, c. 288, USQ. No. 356.

241. *L.S. Deb.,* 10-8-1959, cc. 1355-56.

242. *Ibid.,* 23-3-1978, c. 10.

243. A question regarding the conflicting statements made by the Ministers of Commerce and Industry and Food and Agriculture about the fulfillment of Plan targets laid down for production of fertilizers was admitted and printed in the List of Questions for 3 December 1958, as S.Q. No. 514. The question was, however, withdrawn by the member.

244. *P. Deb.* (I), 3-9-1951, c. 906.

seek information of purely factual character, *e.g.,* visits of the President abroad, the President's Estate, and the expenditure incurred thereon fall in this category. A question regarding appointment of Governors, directions given to Governors by the President on the advice of the Prime Minister to resign, or the President's prerogative in respect of mercy petitions is inadmissible, because apart from the constitutional provisions, they also seek to bring in a discussion on the conduct of the President. However, a question seeking factual information regarding such matters may be admitted.

Since the Governors are Heads of respective States, questions about them or containing or implying reflections on them or regarding their discretionary powers and guidelines specifying the areas of discretion are likewise not admitted. Questions can, however, be asked if the Governor is functioning in a State which is under the President's Rule under article 356. Questions relating to the guidelines issued to the Governors by the State Government in regard to making nominations to the State Legislative Councils[245] and regarding consultations with Chief Ministers[246] before appointment of Governors may also be admitted to elicit factual information.

Questions regarding discussions held between Heads of States, questions involving expression of opinion on a statement made by the Head of another State, and questions regarding diplomatic negotiations, correspondence or informal talks are not ordinarily admitted.

A question about the Vice-President, who is also the ex-officio Chairman of the Rajya Sabha, is not admitted.

A question on matters falling within the jurisdiction of the other House is not admissible: Each House is independent of the other so far as its jurisdiction is concerned. No question on any matter falling within the jurisdiction of a House can, therefore, be asked in the other House. Even quotations from the Rajya Sabha proceedings during the course of supplementaries have been deprecated by the Speaker[247].

Questions on Matters under Correspondence between Government of India and States

In matters which are or have been the subject of correspondence between the Union Government and the Government of a State, no question is permitted except as to a matter of fact, and the answer to such a question is confined to a statement of facts[248].

Questions which ask for statement of views expressed by a State Government on a particular reference made by the Union Government are not usually admitted.

Questions seeking reply of the Union Government to a communication or request from the State Government pending consideration of the former are also not admitted

245. *L.S. Deb.,* 22-3-1990, cc. 23-27, (SQ No. 146).

246. *L.S. Deb.,* 15-3-1990, cc. 162-63**,** (SQ No. 559).

247. *L.S. Deb.,* 17-6-1980, c. 21.

248. Rule 42. *See* also *L.S. Deb.,* 21-5-1957, c. 1104; 28-8-1957, c. 7484; USQ No. 1733, 3-3-1982, cc. 168-69; SQ No. 577, 7-4-1986, cc. 4-7; USQ No. 8384, 30-4-1986, c. 104; USQ No. 9188, 7-5-1986, cc. 114-15; USQ No. 1417, 4-8-1987, c. 226 and USQ No. 2084, 8-3-1988, c. 257.

as the means of questions is not to be used to elicit the reply of the Union Government which is required to be given to the State Government first and not to be disclosed on the floor of the House.

Similarly, where the matter is at a negotiation stage, questions are not ordinarily admitted. However, where undue delay is involved on the part of the Union Government[249] in clearing a proposal of a State Government or the matter is pending for a long time, questions are admitted to enable the House to have requisite information in the matter.

Questions Concerning Allegations of Corruption against Ministers of State Government

A question to be admissible should relate to a matter of public importance, the administrative responsibility of which is primarily the concern of the Union Government. The Constitution defines and delimits, in the main, the administrative jurisdiction of the Union and the State Governments. There are cases where the respective jurisdiction has either been not clearly defined in the Constitution or the matter is such that it involves mixed responsibility. There is no specific provision in the Constitution or in the Rules of Procedure which has a direct bearing on the admissibility of questions relating to allegations of corruption against Ministers of State Governments. However, through a number of decisions and precedents in the Lok Sabha, certain principles have been evolved under which the admissibility of such questions is determined.

Questions relating to allegations of corruption against Ministers of State Governments may be categorized as under:

Questions which relate to charges of corruption against State Ministers other than the State Chief Ministers.

Such questions are not admissible as the authority for ensuring the observance of the Code of Conduct prescribed for Ministers of State Governments rests with the Chief Minister concerned, who in turn, is answerable to the State Legislature.

However, questions about allegations of corruption against such Ministers can be admitted and answered in the Lok Sabha where the matter is being investigated by an Agency of the Union Government like the Central Bureau of Investigation or the Special Police Establishment[250].

Questions which relate to charges of corruption against the State Chief Ministers.

According to the Code of Conduct for Ministers, it is the Prime Minister to whom complaints against a State Chief Minister can be made and it is the Prime Minister who would institute an enquiry into charges of corruption against a Chief Minister. As such, the Union Government becomes answerable to the House for all matters connected with the subject. Questions regarding alleged charges of corruption against the

249. USQ No. 1499, 26-11-1985, c. 268; USQ No. 3970, 24-3-1986, c. 216; SQ. No. 577, 7-1-1986, cc. 4-7; USQ No. 7656, 23-4-1987, cc. 97-98 and USQ No. 686, 11-11-1987. c. 92.

250. SQ. No. 63, 9-9-1964; SQ. No. 73, 18-11-1964; USQ. No. 1535, 13-10-1982, c. 55.

Chief Ministers of States are, therefore, admitted and answered in Lok Sabha[251]. Prior to the enactment of the Jammu and Kashmir Reorganisation Act, 2019, the Chief Minister of Jammu and Kashmir was an exception to this, as article 162 of the Constitution was not applicable to the State.

Questions which simply seek information about the cases of corruption against Ministers and the action taken against them by the various State Governments.

Such questions may be admitted for a written answer[252] as under the Constitution it is the duty of the Union Government to ensure that the Government of every State is carried on in accordance with the provisions of the Constitution[253] and the House, therefore, has a right to be informed of the action taken by both the Union and State Governments. But since the primary responsibility is that of the State Governments and the State Legislatures to take action in the matter, the Lok Sabha does not call the Union Government to account in individual cases and, therefore, questions for oral answer are not generally admitted. Questions seeking information about the procedure evolved by the Union Government for the guidance of State Governments for investigation into charges of corruption against the various Ministers may be admitted for oral answer[254].

Questions relating to Statutory Corporations, Other Organisations and Companies in which Union Government have Financial or Controlling Interest

Admissibility of questions relating to statutory corporations and limited companies with full or partial Government financial interest is regulated generally in the following manner on the merits of each case. Where a question relates to a matter of policy, or refers to an act or omission of an act on the part of a Minister, or raises a matter of public interest although seemingly it may pertain to a matter of day-to-day administration or an individual case, it is ordinarily admitted for oral answer.

A question which calls for information of statistical or descriptive nature is generally admitted as unstarred.

Questions which clearly relate to day-to-day administration and tend to throw work on the Ministries, Corporations or Government Companies incommensurate with the results to be obtained therefrom are normally disallowed[255].

The rule[256] framed under the Government of India Act, 1919 provided that the Speaker could disallow any question or any part of a question on the ground that it related to a matter which was not primarily the concern of the Governor-General in Council. In actual practice, the rule restricted the scope of questions relating to institutions which were substantially autonomous. The admissibility of questions relating to these institutions continued to be governed by the principles set out in *Manual of Business and Procedure*[257].

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251. SQ. No. 499, 30-9-1964; SQ. No. 644, 23-12-1964; SQ. No. 135, 24-2-1965; SQ. No. 3141, 5-5-1965; SQ. No. 145, 10-11-1965; SQ. No. 555, 24-11-1965; SQ. No. 1408. 2-3-1966; SQ. No. 981, 6-4-1966; USQ. No. 1535, 13-10-1982, c. 55, and SQ. No. 143, 5-3-1986. c. 29;

252. For instance, *see* USQ. No. 5358, 11-5-1966.

253. *Vide Art.* 355.

254. For instance, *see* SQ. No. 122, 24-2-1965.

255. *Bn. (II),* 18-11-1958.

256. Rule 7 of the Indian Legislative Rules.

257. Manual of Business and Procedure (1926 Ed.), p. 26.

However, after independence and with the extension of governmental activities to the industrial and commercial fields, various statutory corporations and Government companies for managing industrial and commercial undertakings of the Government came into existence. The procedure that has since been evolved regarding admissibility of questions in relation to them is described in subsequent paragraphs.

Statutory Corporations

In the case of statutory corporations which are set up under enactments of Parliament, the extent of ministerial responsibility in the affairs of a corporation is generally set out in a definite section of the statute[258]. The admissibility of questions relating to such corporations largely depends on the interpretation and application of the provisions of the statute[259]. Questions relating to administrative details may be admitted in case matters of principle or of public importance are involved.

Financial Corporations and Banks

Questions seeking information about the functioning of Financial Corporations and nationalised banks are examined keeping in view the confidentiality of the relationship between the financial institutions, banks, etc. and the customers. Questions asking for information on the following aspects have been held admissible:

1. Appointment of Chairman and Board of Directors where vacancies exist for a long time or there are allegations of irregularities in appointment provided it has some factual basis[260].
2. Reservation of posts for Scheduled Castes and Scheduled Tribes and filling up of backlog[261].
3. Robberies/dacoities/looting in banks[262].
4. Frauds in banks or alleged unsound advances involving huge amounts, provided these have basis[263].
5. Allegations of malpractices against officers and staff, where factual basis are known depending upon the merits of each case[264].

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258. S. 21 of the Life Insurance Corporation Act, 1956; ss. 485 and 487 of the Delhi Municipal Corporation Act, 1957.

259. *P. Deb.,* (1), 8-4-1950, pp. 1386-87; *H.P. Deb.,* (I), 10-6-1952, c. 746.

260. USQ. No. 2644, 11-3-1988; USQ. No. 8026, 22-4-1988; USQ. No. 851, 27-11-1992; USQ. No. 4912, 2-4-1993; USQ No. 563, 24-11-2006; USQ No. 3441, 16-4-2010.

261. SQ. No. 350, 18-3-1988; USQ. No. 3849, 18-3-1988; USQ. No. 7052, 15-4-1988; USQ. No. 2623, 6-12-1991; USQ. No. 3240, 11-12-1992; USQ No. 2943,18-8-2004; USQ No. 3478,15-12-2006, USQ No. 4810, 18-12-2009; USQ No. 163, 22-02-2013.

262. USQ. No. 715, 26-2-1988; USQ. No. 835, 26-2-1988; USQ. No. 7006, 15-4-1988; USQ. No. 4375, 18-12-1992; SQ. No. 837, 30-4-1993; USQ No. 47, 10-8-2007; USQ No. 1414, 27-11-2009.

263. USQ. No. 5432, 11-12-1987; USQ. No. 8986, 29-4-1988; USQ. No. 1598, 17-7-1992; USQ. No. 1946, 4-12-1992; USQ. No. 1761, 5-3-1993; USQ. No. 1089, 24-10-2008; USQ No. 3492, 14-12-2012; USQ No. 121, 22-12-2013; SQ No. 16, 22-02-2013.

264. USQ. No. 4910, 26-8-1987; USQ. No. 8980, 29-4-1988**;** USQ. No. 902, 27-11-1992; USQ. No. 1946, 4-12-1992; USQ. No. 3922, 20-12-2005.

6. Advancing of loans by banks to the weaker sections of the society and unemployed youth in the country[265].
7. General deterioration in customer services in the nationalised banks[266].
8. Opening of State-wise Branches of nationalised banks or State-wise disbursement of loans[267].
9. Control of Reserve Bank over nationalised banks with regard to guidelines and implementation thereof[268].

Questions seeking information relating to profit and loss in various corporations, banks, etc. which is available in the Annual Report are not admitted. However, questions seeking information for the period for which the Annual Reports have not been laid before Parliament or comparative figures for various years have been held admissible[269].

Limited Companies

Private limited companies wherein the Government hold all the shares do not stand on the same footing as statutory corporations. Hence, greater latitude is allowed in the matter of admissibility of questions relating to such companies.

The same principle applies to private companies where the majority of the shares are held by the Government and which are managed by the Government.

With respect to other private companies in which Government have invested monies but have no controlling interest, such questions can be asked as a share-holder can. In addition, questions on matters of public importance can be asked.

Members may, in certain circumstances, obtain information direct from corporations or Government Companies: Such information as is normally permissible through a question in respect of the working of statutory corporations and limited companies in which Government have financial or controlling interest can be obtained by the members direct from the corporations or the companies concerned. For this purpose, the Ministries issue directions to the statutory corporations or organisations and limited companies functioning under them to supply the requisite information to the members direct[270]. In case the Statutory

265. USQ. No. 3779, 18-3-1988; USQ. No. 2573 and 2652, 11-3-1988; SQ. No. 2631, 11-12-1992; USQ. No. 673, 26-2-1993; USQ. No. 5182, 11-5-2007**;** SQ No. 303, 14-12-2012; USQ No. 4246, 22-3-2013.

266. USQ. No. 731, 26-2-1988; USQ. No. 4948, 25-3-1988; USQ. No. 6374, 8-4-1988, USQ. No. 6026, 3-4-1992; USQ. No. 442, 20-12-1992; USQ. No. 1894, 24-8-2004; SQ No. 220, 7-12-2012; USQ No. 6183, 3-5-2013.

267. USQ. No. 6363, 8-4-1988; USQ. No. 8157, 22-4-1988; USQ. No. 5277, 3-4-1992; USQ. No. 2630; 24-7-1992; SQ. No. 248, 12-3-1993; USQ. No. 2328, 14-3-2008, USQ. No. 4617, 25-4-2008; USQ No. 40, 8-8-2012; SQ No. 261, 15-3-2013.

268. USQ. No. 3285, 27-11-1987; USQ. No. 3708, 18-3-1988; USQ. No. 4877, 25-3-1988; SQ. No. 511, 10-7-1992; USQ. No. 3196, 11-12-1992; USQ. No. 4320, 18-12-1992; USQ. No. 5679, 16-4-1993; USQ. No. 5322, 29-4-2005; USQ. No. 51, 9-7-2004**;** USQ No. 424, 23-11-2012.

269. SQ. No. 106, 13-11-1987; USQ. No. 7125, 18-4-1988; USQ. No. 2709, 24-7-1992; USQ. No. 7292, 30-4-1993; SQ. No. 918, 7-5-1993; SQ. No. 63, 9-7-2004; USQ. No. 1285, 7-3-2008.

270. *L.S. Deb.,* 17-9-1958, cc. 256-68 and 280-82. *See* also *Bn. (II),* 18-11-1958.

Corporation or Government Company does not give reply to a request from a member for any reason, no representation or appeal shall lie from the member either to the Government or to the Speaker. In such cases, the member may avail of the normal parliamentary opportunities available to him under the Rules.

Autonomous Organisations, Universities, etc.

Questions with regard to a substantially autonomous organisation are admissible only if they are confined to such matters as would call for interference on the part of the Government of India under the provision of the relevant Act creating the organisation and if they are of general character. Hence, questions regarding the ordinary administration of such organizations are not admissible.

The Speaker has observed:

> One of the principal aims in this House should be to elicit information— but, though sovereign it is and it may go into any question in any part of India, yet under the scheme of our Constitution, we have created certain autonomous bodies; and if we want that the spirit of self-government should increase then that autonomy should be least interfered with by asking question in this House[271].

As regards Centrally controlled Universities, detailed questions of administration are not admitted on the ground that Universities are autonomous and their administration should not ordinarily be the subject of questions in the House except where (i) the Government have express statutory powers of control and superintendence; (ii) some important question is raised on which the Government should make its views known to the University and if necessary, enforce these views by the threat of withdrawal of the grant; and (iii) important statistical information, involving no question of internal policy or administration, is required.

The subject of admission of questions relating to Universities was discussed at the Conference of Presiding Officers held at Srinagar in June 1954. The Chairman of the Conference (Speaker Shri G.V. Mavalankar) summed up the position as follows:

> Where autonomous bodies are receiving money from the public treasury, it cannot be maintained that no question can be asked. On the other hand, questions about day-to-day administration, the details of internal administration, should not be permitted. The bodies are given autonomy for better and efficient working and that autonomy should not be interfered with by any kind of pressure of public opinion, or opinion in the Legislature. These are two extremes of the proposition. As regards cases falling between these two, I think it will be difficult to give any general rule. Every question will have to be decided on its own facts and merits. It will all depend upon the nature of the question, the nature of the allegation implied in the question, and then it will have to be decided as to whether the question should or should not be allowed.

Statutory Organisations

No hard and fast rules have been laid down as regards questions concerning statutory organisations such as the Union Public Service Commission, the Election

271. *H.P. Deb.* (I), 10-6-1952, c. 746.

Commission, etc. Each question is examined on merits. Ordinarily no question which seeks to interfere with the discharge of statutory functions by these organisations is admitted.

Questions pertaining to the Comptroller and Auditor-General are regulated in such manner that only questions on matters which have a bearing on policy or which are of wide public importance are admitted, as also questions which merely ask for supply of factual data or statistics. What powers the Comptroller and Auditor-General should exercise and whether he can go into administrative details or matters like efficiency, economy, etc., cannot be taken up during the Question Hour[272].

Admissibility of Questions

The conditions of admissibility of questions mentioned in the preceding paragraphs do not cover all categories of questions. The admissibility of questions not covered by the specific provisions in the Rules is determined in the light of past precedents and well-established parliamentary practices, conventions and usages. In these and other cases, the Speaker decides whether a question or a part thereof is or is not admissible under the Rules and may disallow any question or a part thereof when in his opinion it is an abuse of the right of questioning[273] or is calculated to obstruct or prejudicially affect the procedure of the House or is in contravention of the Rules[274].

In effect, the Speaker has discretionary power, conferred by the rules and inherent in him, to admit or disallow a question without any reason being assigned, which no one can question[275]. There is no right of representation to the Speaker against his decision on a question. Facts may, however, be placed before him or he may himself call for facts, but it is entirely within his discretion to give such decision as he may think fit after taking all the facts and circumstances of the case into consideration[276].

Lists of Questions

Questions which have been admitted by the Speaker are entered in the List of Questions for the day for oral or written answer as the case may be[277].

Questions in the List of Questions for oral answer on a day, under Rule 37, shall be arranged in accordance with the priority secured by each member at the ballot held for the purpose[278].

The preparation of the lists is subject to the following restrictions—

(i) The total number of questions on any day should not be more than 20 for

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272. *L.S. Deb.,* 18-6-1962, c. 11271.

273. During the 11th Session of the 14th Lok Sabha, three Members tabled eight notices, each relating to various Ministries seeking information on the same subject regarding details of Centrally Sponsored Schemes being implemented in various States. All questions sought same information and had identical language and hence, were, held inadmissible under Rule 43(1) as it was considered an abuse of the right of asking Questions.

274. Rule 43(1).

275. *L.A. Deb.,* 3-9-1929., p. 128; 18-6-1962, cc. 11271, 11274-75.

276. *Ibid.,* 4-7-1923, pp. 4262-63.

277. Rule 45.

278. Dir. 11.

oral answers[279] and 230 for written answers. This limit may, however, be exceeded by the number of postponed or transferred questions. The total number of questions in the list for written answers may be further exceeded by 25 questions, at the maximum, if there are questions pertaining to States under President's Rule.

(ii) When several notices of questions are received on the same or allied subject, they are either consolidated or one of the questions is admitted according to the priority secured at the ballot and admissibility. The names of other members are clubbed thereon. However, only two names can appear on a starred question[280].

(iii) 'One member one question' is the rule for the list of oral answers whether a member's name appears exclusively or is clubbed with another member. A postponed or transferred question can, however, be in addition.

(iv) No member can have more than 5 questions both for oral and written answers for one day. This limit excludes the postponed or transferred questions.

(v) All questions admitted as starred, *i.e.,* for oral answers, but not included in the list for oral answers owing to aforesaid restrictions, are treated as unstarred questions and included in the list for written answers subject to other restrictions mentioned above. It is ensured that out of questions admitted, each member has at least one question in the list for written answers.

The questions admitted for oral as well as written answers for any day often exceed the limits mentioned above and have, therefore, to undergo a process of rounding which means selection and elimination in accordance with the decisions of the Rules Committee of Lok Sabha. The process of rounding is held separately for preparation of the Lists of Questions for oral and written answers.

The process of rounding for unstarred questions, *i.e.,* questions for written answers undergoes the following stages:

(i) The question to be considered for this rounding are of three categories namely: (a) questions for which notices were originally given as unstarred, *i.e.,* for written answers, and such notices were received upto 10 a.m. on the fifteenth day preceding the day on which the answers are desired; and (b) questions for which original notices were given for oral answers but could not be included in the Starred list, *i.e.,* list for oral answers;

(ii) Out of the whole lot of the admitted questions mentioned in (i) above, in the first rounding, one question each of every member will be taken out for inclusion in the list for written answers but excluding the members whose questions have already been included in the list for oral answers. The exclusion of the members will confine not only to those members whose names appear in the starred list exclusively but also those whose names have been clubbed with another member.

279. Rule 37.

280. *Bn. (II),* 25-11-1971, para 438.

(iii) In the second and subsequent rounds, one question of every member will be included in each round, subject to the limit of 5 questions of a member as well as the overall limit of 230 questions.

(iv) The process of rounding is stopped as soon as the number of questions reaches the limit of 230, irrespective of the fact whether the particular round is complete at that stage or not[281].

Till the Fourth Session of the Fifteenth Lok Sabha, notices of questions found in excess of 230 questions in the list of unstarred questions for a day were considered for inclusion in the list of unstarred questions on subsequent available relevant dates without asking the members to give fresh notices for the same. Notices of questions which being in excess of 230 could not be included in any of the lists for subsequent dates lapse at the end of the session. Subsequently, from the Fifth Session of Fifteenth Lok Sabha, notices of questions which had gone in excess of 230 were returned to the member concerned and the members, if they so desired, table these notices of questions, afresh[282]. However, this practice has undergone further change and, now the notices of questions in excess of 230 get lapsed and the copies of notices of such questions are provided to the members on request, if so desired by them.

Questions for oral and written answers are numbered separately. Numbers are allotted separately for each list beginning from 1 at the commencement of each session and run on consecutively until the end of the session.

The list of questions for oral answer is printed on green paper and that for written answer on white paper.

The names of the Ministries in respect of which questions are included in a particular list are indicated on the top of the list, as also the total number of questions included in each list.

Each question included in the list of questions is given a suitable heading and the name of the member who has tabled the question together with the designation of the Minister to whom it is addressed is indicated in bold print.

A question is deleted from the list of questions on its being withdrawn[283] or postponed[284] or transferred[285] to a later date by issuing a corrigendum.

During the last few days of a session, supplementary lists of admitted questions may be issued in respect of such of the admitted questions as could not be included in the regular lists due to paucity of time.

Questions in the supplementary list of starred questions are arranged strictly according to their priority of receipt *vis-a-vis* the questions on the original list by suffixing the letters 'A', 'B' 'C' etc., after the number of the questions.

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281. The Practice started from the Fourth Session of the Tenth Lok Sabha.

282. *L.S. Bn. (II),* 9-7-2010, para 1593.

283. USQ No. 1508, 22-08-2007.

284. SQ Nos. 126 & 140, 09-12-2004; SQ No. 343, 18.08.2005.

285. SQ No. 391, 23-08-2006.

Questions in the supplementary list of unstarred questions are shown in continuation of the original list.

In the case of admitted questions, the notices of which are given in Hindi, separate lists for starred and unstarred questions are prepared in Hindi with the same serial numbers as appearing in the English version. The Hindi lists of questions are also circulated to the members and the Ministers along with the English version of the list of questions.

Mode of Asking Questions

Questions for oral answers are called in the order in which they stand on the list of questions[286].

The Speaker calls successively each member in whose name a question appears on the list of questions for oral answers. The member so called rises in his place and asks the questions by reference to its number on the list of questions.

Priority is not accorded to any question out of its turn on request from a member[287]. It is only in very exceptional cases that questions lower down in the list have been permitted to be answered out of turn in view of their importance. Only one such question may be taken towards the end of the Question Hour[288].

A question appearing in a day's list of questions for oral answer which is not likely to be reached for oral answer during the Question Hour might be given out of turn priority in view of its importance if the member concerned writes to the Speaker before the commencement of the Question Hour and the Speaker, after taking the sense of the House, agrees to it. Such questions are answered towards the end of the Question Hour[289].

If, on being called, a member states that he does not intend to ask his question, the question is treated as having been withdrawn[290]. However, there was an instance when the member in whose name the question was cited for oral answer did not want to ask the question and the Speaker allowed the other members to ask supplementaries in view of the importance of the Question[291].

When a member is called and is absent, the question is treated as unstarred and its answer is printed in the debate[292].

If, on a question being called, it is not asked as the member in whose name it stands is absent, the Speaker may, at the request of any other member, direct that the answer to it be given. However, the prerogative of allowing starred questions of members absent in the first round has been exercised by the Speaker very sparingly; that is only

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286. Rule 46.

287. *P. Deb.* (*1*), 21-4-1951, c. 3367; 10-8-1951, c. 179; *L.S. Deb.,* 12-8-1960, cc. 2299-2302.

288. *P. Deb.,* 31-3-1951, cc. 2699, 2727-28; *L.S. Deb.,* 7-12-1956, cc. 1149-52; 28-8-1958, c. 3337; 1-5-1961, c. 14570.

289. *L.S. Deb.,* 1-3-1960, c. 3340; 18-11-1960, cc. 1011-15; 13-12-1960, c. 5206.

290. *C.A. (Leg.) Deb.,* 5-4-1949, p. 2125; *L.S. Deb.,* 13-3-1959, c. 6072; 30-8-1960, cc. 5565, 5654-58.

291. For instance, *See L.S. Deb.,* 9-5-2007, pp. 12065-69.

292. *L.S. Deb.,* 24-3-1955, c. 1397.

when he is satisfied about the importance of the question[293]. From Fifth Session of Fifteenth Lok Sabha, if on a question being called it is not asked or the member in whose name it stands is absent, the Speaker may direct that the answer to it be given.[294] On 9 May 2007, when SQ No. 483 appearing in the name of a member Anant kumar Hegde reached, the Speaker called the member who was present in the House to ask the question. The member stated that he did not want to ask the question. Thereafter, the Speaker sought to know if any other member was interested in putting supplementaries as he would allow them because of the importance of the subject and the keen interest of members in the subject. In response, many members expressed their willingness and were permitted by the Speaker to ask supplementaries[295].

When a question appears in the names of two members and one of them is absent, the other member, if present in the House, may ask the question as and when taken up for oral answer[296].

Till the Fourth Session of Fifteenth Lok Sabha, the following provision was in force which has now been omitted.

> When all the questions for oral answer have been called, and, if time remains in the expiry of the Question Hour, the Speaker may in the second round call again any question which has not been asked by reason of the absence of the member in whose name it stands, and may also permit a member to ask a question standing in the name of another member if so authorised by him[297]. The Speaker may at his discretion, also direct the answer to a question of a member who remains absent and has not given a letter of authority to another member to ask such question on his behalf, to be given, if in his opinion or that of the Minister concerned, the subject matter of the question is of such importance as to warrant an answer being given in the House[298].

A question not reached for oral answer during the time made available for questions may be answered after the end of the Question Hour with the permission of the Speaker if the Minister represents to the Speaker that the question is one of special public interest to which he desires to give a reply[299].

Where two or more questions on the same or allied subject addressed to a Minister for oral answer appear on the list of questions for any particular day and when the first of these comes up for answer, the Speaker may himself, or on the request of any member,

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293. For instances, *see L.S. Deb.,* 21-11-1956, cc. 334-36; 3-12-1956, cc. 844-45; SQ. No. 887, 18-5-1990, c. 18; SQ. No. 43, 25-2-1993.

294. Rule 48 (3).

295. *L.S. Deb.* (*I*), 9-5-2007; 19-12-2011; 19-3-2012; 27-4-2012, p. 6655; 30-4-2012; 29-11-2012.

296. *H.P. Deb.* (*I*), 12-1-1953, c. 3008. For instances, *see* SQ. No. 754, 8-5-1985, cc. 24-30; SQ. No. 152, 5-3-1986, cc. 21-24; SQ. No. 472, 5-12-1986, cc. 10-14; SQ. No. 82, 12-11-1987, cc. 5-10.

297. Rule 49.

298. Dir. 15. (omitted) For instance, *see* SQ. No. 231, 28-11-1988, cc. 24, 38-39.

299. Rule 46, Proviso.
For instances, *see P. Deb.,* 30-8-1951, cc. 815-16; *H.P. Deb.,* (I), 7-7-1952, cc. 1529-30. *L.S. Deb.,* 26-5-1956, cc. 4370-71; 31-5-1957, cc. 3132-33; 4-12-1959, cc. 3348-56; 29-2-1960, cc. 3119-23; 18-4-1960, cc. 12184-86; 9-9-1960, cc. 7739-44; 29-3-1965, cc. 6357-62; 20-12- 1978, cc. 16-18.

direct that two or more such questions be taken up together for answer, irrespective of the order in which they stand on the list[300].

Withdrawal or Postponement of Questions

A question which has already appeared on the admitted list of questions for a day may be withdrawn or postponed to a later day by the member by notice given at any time before the sitting for which the question has been placed on the list[301].

The question can also be withdrawn if the member makes a statement to that effect in the House when his question is called by the Speaker[302].

When a member desires the postponement of his question, the date to which the question is desired to be postponed has to be specified in the notice, and on such later day, provided it is a day allotted to the Minister to whom the question is addressed, it is placed on the list after all the questions which have not been so postponed[303].

In cases where members request the postponement of the notices of their questions, the questions will lose the priority accorded to them in ballot.

With a view to enabling advance intimation being given to Ministers, a postponed question is not placed on the list until two clear days have expired from the date when the notice of postponement was received[304].

A question postponed from the printed list of questions bears in the new list the same number which it had in the list for the earlier date from which it has been transferred. It is printed below all the other admitted questions for that day under the heading 'Postponed Question'[305].

The right to ask for postponement of a question after it is placed on the printed list of questions for a day is conceded to the member concerned and not normally to the Minister who is to answer the question**.** However, there was an instance when a question printed in the Unstarred List was withdrawn under the directive of the Speaker, on a request being made to this effect by the Minister concerned on the ground that it was not in the interest of the country and also its security to divulge any information[306].

The Speaker has agreed to a request of the Prime Minister to the postponement of particular questions as he desired to answer them personally[307]. The requests from

300. Dir. 14.
For instances, *see P. Deb.* (*1*), 20-3-1951., c. 2390; *L.S. Deb.,* 23-8-1954, c. 225; 1-9-1954, c. 422-23; 2-9-1954, c. 516; 7-9-1954, cc. 715-16; 11-9-1954, cc. 926-27; 16-9-1954, c. 1179; 18-11-1956, c. 301; 27-11-1956, c. 3171, 28-11-1956, c. 2783; 3-8-1959, cc. 3 and 30; 20-8-1959, cc. 3234-35; 31-5-1967, c. 1885; 4-10-1982, cc. 20-23; 20-10-1982, cc. 10-18; 21-2-1986, cc. 22-26; 11-8-1987, cc. 1-2; 6-5-2005, cc. 41-60; *L.S. Deb. (I)*, 8-12-2009, cc 7635-45; *L.S. Deb. (I)*, 16.3.2011, cc 10113-10117.

301. Rule 47.

302. Rule 48 (2).

303. Rule 47.

304. Rule 47, Proviso.

305. Rule 47; *L.S. Deb.(I)*, 9-12-2004.

306. USQ No. 1508, 22-08-2007.

307. *Bn. (II)*, 22-4-1955, para No. 2142; *L.S. Deb.,* 3-5-1955, cc. 2889-900.

other Ministers are also agreed to by the Speaker when they want more time to collect the information necessary to answer the question or for some such other justifiable reason. When a question is postponed at the request of the Minister, it retains its priority secured at the ballot and is put down in the list of the next day at the same place which it occupied in the list from which it is postponed[308]. For instance five questions printed in the Starred Question List were postponed due to non-participation of members of Opposition in the proceedings of the House under Direction of the Speaker. Starred Question Nos. 221, 222, 225, 226 and 227 listed in the List of Questions for Oral Answers for 8 August 2006 were postponed by the Speaker during the Question Hour due to absence of members of Opposition from the House. The Speaker did not accede to the request of a member. Ramdas Athawale for allowing his Question No. 221 where his name appeared at second position. All the five questions were enlisted at the same position in the List of Questions for Oral Answers dated 22 August 2006. The list consisted of twenty-five questions[309]. Due to unavoidable circumstances, the Minister of Civil Aviation was not able to attend the House on 16 May 2012. The Speaker decided that all the questions listed in the name of Minister of Civil Aviation would stand postponed to the next date in the next Session. Accordingly, all the four questions were enlisted at the same position in the List of Questions for Oral Answers dated 17 August 2012. The list consisted of twenty four questions[310]. Convenience of the member is also taken into account when fixing the next day.

When in reply to a question it is stated that a statement will be made on the subject on a subsequent day, the question is deemed to have been answered and cannot be postponed.[311]

Questions of Absent Members

If on a question being called it is not asked or the member in whose name it stands is absent, the Speaker may direct that the answer to it be given[312]. Upto Fourteenth Session of Fifteenth Lok Sabha, the provision was that when all questions for which oral answers are desired had been called and the Question Hour is not exhausted, the procedure was to call again any questions which could not be asked earlier by reason of the absence of the members in whose names they stood[313]. This also enabled the asking of questions of an absent member who had authorized another member to ask questions on his behalf.

The authority was to be given in writing by a member to another to ask questions in his absence must be in writing[314] and specify the question and the date on which was to be asked. A general authority for a number of days or for the entire session had not

308. *L.S. Deb.,* 16-12-2004; *L.S. Deb.*, 25-08-2005.

309. *L.S. Deb. (I),* 8-8-2006.

310. *L.S. Deb.(I),* 16-5-2012 and 17-8-2012.

311. C.A. (Leg.) *Deb.,* 28-3-1949, pp. 1904-05.

312. Rule 48(3); *Bn.(II)*, 19-3.2010, para 1265; *L.S. Debs.*, (I), 18-8-2011; 7-12-2011; 19-12-2011, 19-3-2012; 27-4-2012, 30-4-2012; 10-5-2012;14-5-2012; 21-5-2012; 29-11-2012; 4-12-2012; 7-12-2014.

313. Rule 49. For instance, *see L.A. Deb.,* 19-2-1946, pp. 1130-32; *L.S. Deb.,* 29-11-1954, c. 649; Rule 49 has been Omitted *vide L.S. Bn. (II)*, 19-3-2010, para 1265.

314. *L.S. Deb.,* 14-3-1956, c. 1026.

been recognized[315]. Letters of authority were required to be sent to the Secretariat at least a day in advance of the date on which such questions were put down for answer. If, however, such authorizations were made on the same day on which questions were due for answer, the members who had such letters of authority in their favour were required to pass them on to the officer at the Table at the latest by 11 a.m. A member authorised to ask question of an absent member could not further delegate that authority to any other member.

In the absence of any authorisation from the member who was absent, his questions were treated as unstarred questions and, along with their answers, were printed in the debates of the day for which they were put down[316].

If a member in whose name a question stood was absent and he had not given a letter of authority to another member to ask it on his behalf, the Speaker might permit the question to be answered in the second round, if, in his opinion or that of the Minister concerned, the subject matter of the question was of such importance as to warrant an answer being given in the House[317].

In rare cases, judging the importance of a question, the Speaker might permit the question to be answered in the first round itself[318].

Questions of members granted leave of absence are included in the list of questions for written answers for the period for which they have been granted leave of absence. The questions of members who are on tour abroad are not put down in the list of questions during the period of their such absence[319].

Questions of Members who expired or resigned

No question is listed in the name of member(s) who either expired[320] or resigned[321] from the membership of the House. All notices of questions of such members are treated as lapsed. All the questions that have already been listed in his name are removed from the list of questions by issuing a corrigendum to that effect. In case the questions are in name of several members, the name of such member(s) who either resigned or expired are removed from the list.

Questions of Members who are suspended from the service of the House

No notice of question is accepted from the member who is under suspension during the period of suspension irrespective of the fact whether the notice is for a date falling within the period of suspension or beyond the period of suspension. However, notices of questions received from such members prior to their suspension for the dates beyond the period of their suspension are included in the ballots held on dates falling during the period of suspension.

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315. *L.A. Deb.,* 9-3-1939, p. 1824.

316. *L.S. Deb.,* 24-3-1955, c. 1397; *see* also *L.S. Deb.,* 23-8-1960, SQ. No. 657 and 672; 18-5-1990, SQ. Nos. 881-84.

317. Dir. 15; for instances, *see L.S. Deb.,* 28-4-1958, c. 11892; 18-3-1960, cc. 666-67; 28-11-1988, cc. 39-41.

318. *L.S. Deb.,* 18-5-1990, SQ. No. 887, cc. 16-18; 25-2-1993, SQ. No. 43, c. 1100, *L.S. Deb.*, 9-5-2007; *also see* fn. 272, *ante*.

319. *L.S. Deb.,* 3-3-1960, c. 3875.

320. During the 5th Session of 17th Lok Sabha, Shri Ram Swaroop Sharma, MP passed away on 17th March, 2021. Thereafter the name of Member appearing in the Unstarred Question No. 4121 in the list of question for 19.03.2024 was removed by issuing corrigenda to this effect.

321. During the 14th Session of 17th Lok Sabha several Members of Lok Sabha resigned *vide* notification no. 21/1(1)/2023/T(B) dated 6.12.2023. Subsequently, the name of Col. Rajyavardhan Rathore, Shri Arun Sao, Smt Riti Pathak and Shrimati Gomati Sai, MPs were removed from unstarred question Nos. 937, 948, 1008, 1111, 1122 and 1135 dt. 08.12.2023, unstarred question Nos. 1178, 1373 dt. 11.12.2023, unstarred question Nos. 1398, 1423, 1500, 1507, 1599 and 1608 dt. 12.12.2023 from the list of questions for respective dates by issuing corrigenda.

All notices of questions of members who are under suspension from the sitting(s) of the House are not admitted for the days on which they are under suspension.

The notices of questions from suspended members which have already appeared in the list(s) of questions are removed from the list(s) by issuing a corrigendum[322].

Supplementary Questions

The member who asks the question listed in his name gets a chance to ask two supplementary questions after the Minister has replied his question. Thereafter, the second member, if any, whose name appears on the question, gets a chance to ask one supplementary question. Thereafter, any member when called by the Speaker may ask a supplementary question arising out of the main question and answer thereto, for the purpose of further elucidating any matter of fact[323]. But a supplementary question framed with a view to asking the Government to lay down certain policy[324] or if its purpose is to get an assurance from a Minister[325] or to seek opinion of a Minister on a matter[326] or to seek information regarding the correctness of a decision taken by the Government after the Minister has clarified the position fully[327] or to raise a matter without ascertaining its basis[328] are inadmissible. Supplementary questions should seek information rather than give information or make suggestions for action[329]. They should not precede with introduction, and the Minister's reply thereto should also be brief[330]. Supplementary questions should be brief, specific, relevant and within the scope of the subject matter of the main question[331]. Where the supplementary does not arise from the main question, the Speaker may direct the Minister to send the information in writing to the member[332].

Chits sent in the House by members asking for an opportunity to put supplementary questions are not taken notice of[333]. Asking of supplementary questions by members who have not been called by the Chair has been deprecated[334] no member can claim a right to be called to ask a supplementary with respect to a particular question[335]. It is left to the discretion of the Chair to call upon any member to ask supplementary questions.

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322. During the 14th Session of the 17th LS, several members were suspended from the service of the House on 14th, 18th, 19th, 20th and 21st December 2023 for remaining period of the session. Three members were also suspended till Report of the Committee on Privileges'. Consequently the Questions of all the Members were removed from the lists by issuing corrigenda.

323. Rule 50; *L.S. Deb.,* 12-3-1956, c. 900; Rule 50 (1) Sub. by *L.S. Bn. (II)*, 9-5-1989, para, 2930; *L.S. Deb.*, 12-3-1956, c. 900; L.S. Deb. *(I)*, 24-2-2011, cc 1670.

324. *L.S. Deb.,* 7-9-1959, c. 6612, Supplementary to SQ. No. 13; 17-12-1968, Supplementary to SQ. No. 786.

325. *Ibid.,* 21-8-1968, Supplementary to SQ. No. 571.

326. *Ibid.,* 3-12-1970, c. 28; 28-7-1971, c. 11; 30-7-1971, c. 19.

327 *Ibid.,* 9-3-1985, c. 23.

328. *Ibid.,* 29-1-1980, c. 39.

329. *Ibid.,* 21-8-1970, c. 10; 9-8-1988, cc. 32-33.

330. *Ibid.,* 10-12-1970, cc. 33-34; 13-3-1980, c. 2; 7-5-1985, cc 11-12; 14-8-1987, cc. 11-12; 5-5-1988, c. 6; 5-4-1990, c. 23; *L.S. Deb., (I)*, 1-12-2009, cc 4604; *L.S. Deb., (I)*, 13-8-2010, cc 8531.

331. *Ibid.,* 7-4-1969, c. 21; 29-7-1980, c. 3; 17-3-1982, c. 20; 28-2-1983, cc. 23-24; 14-8-1987, c. 11; 10-12-1987, c. 11; 22-11-1988, cc. 27-28; 2-3-1989, cc. 5-6; 10-8-1990, cc. 27-28; *L.S. Deb., (I)*, 1-12-2019, cc 4607; *L.S. Deb., (I)*, 13-8-2010, 8531; L.S.Deb., (I), 29-4-2016.

332. *Ibid.,* 25-8-1981, c. 6.

333. *Ibid.,* 3-4-1970, c. 27.

334. *Ibid.,* 30-11-1956, c. 776; 8-12-1964, c. 3732; 9-3-1966, c. 4420; 24-11-1987, c. 29.

335. *Ibid.,* 12-2-1958, cc. 296-97; 25-7-1986, c. 13.

Precedence in the matter of asking supplementaries is given to the member who has tabled the main question and to the member whose name is clubbed[336]. Unless there is none to ask a supplementary question from any other Party/Group, not more than one member from the same Party/Group is normally permitted to ask a supplementary question after the member who has tabled the main question and the member whose name is clubbed on that question have asked supplementary questions[337]. However, the discretion as to when and in what order the Speaker should call the members to ask supplementaries vests in him[338].

A supplementary question has to be asked and must not be read[339] or quoted from report of Inquiry Committee/Commission[340] and must not repeat parts of the main question, if any, disallowed by the Speaker[341]. The number of supplementaries on a particular question is determined by the Speaker; asking of too many supplementaries has generally been discouraged[342].

A Minister can ask for notice if he is not in a position to answer at once a supplementary question[343] but he cannot be forced to answer in a particular way[344]. It is upto the Minister to reply the supplementaries in the manner he thinks proper[345].

Supplementary questions are governed by the same rules of admissibility as are applicable to the main questions[346].

Short Notice Questions

A question relating to a matter of urgent public importance may be asked for oral answer by a member with notice shorter than ten clear days, and the member has to state briefly the reasons thereof. Where such reasons are not stated in the notice, the question is returned to the member[347].

If a notice is signed by more than one member, it is deemed to have been given by the first signatory only[348]. Where two or more members give short notice questions on the same subject and one of the questions is accepted for answer at short notice or where the Speaker has directed that all the notices be consolidated into a single notice as it would be desirable to have a single question covering all the important points raised by members, names of not more than four members other than the one whose notice has been admitted as determined by ballot, are shown against the admitted question[349].

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336. *H.P. Deb. (I)*, 19-5-1952, c. 4; 26-4-1954, c. 2280; *L.S. Deb.* (I), 19-12-1955, c. 1150.
337. *L.S. Deb.,* 8-7-1971, c. 20.
338. *Ibid.,* 29-2-1960, c. 3106.
339. *Ibid.,* 1-3-1956, cc. 521-22; 27-3-1958, c. 6928; 24-8-1962, c. 3613; 23-1-1963, c. 5895; 3-5-1985, c. 5; 15-5-1985, c. 32; 16-5-1985, c. 3; 30-4-1986, c. 14.
340. *Ibid.,* 8-6-1971, c. 23.
341. *L.A. Deb.,* 19-8-1926, p. 11.
342. *H.P. Deb. (I)*, 23-4-1954, c. 2250; *L.S. Deb. (I)*, 10-8-2010, cc. 6652.
343. *L.A. Deb.* 23-3-1931, pp. 2496-97; *L.S. Deb. (I)*, 01-12-2009, cc. 4600.
344. *L.S. Deb.,* 18-6-1962, cc. 11271, 11274-75; 23-2-1988, c. 28; *L.S. Deb.*, *(I)*, 24-11-2019, cc. 1465 and 1466.
345. *L.S. Deb. (I),* 15-12-2009, cc. 10653 and 10654.
346. *P. Deb.,* 4-4-1951, cc. 2841-50.
347. Rule 54 (1) (5).
348. Rule 54 (3A).
349. Rule 54 (4), as amended.

If the Speaker accepts the urgency[350], the Minister concerned is asked whether he is in a position to reply to the question at short notice and, if so, on which date. It is for the Minister to accept or not to accept short notice of a question[351], but it is within the discretion of the Speaker to disallow a question even if the Minister is prepared to answer it. If the Minister refuses to accept short notice and the Speaker is of the opinion that the question is of sufficient public importance to be orally answered in the House, he may, while admitting the question in the ordinary course, accord it the first priority in order to enable members to raise supplementaries on it[352]. However, this procedure is followed in exceptional cases and only one such question on the list of questions for any one day can be accorded such priority[353].

In cases where the matter referred to in a question is not considered to be urgent, the Speaker may admit a short notice question for answer in the ordinary course with minimum fifteen days' notice as a starred or unstarred question[354].

When a short notice question is admitted and placed on the agenda, it is called immediately after the Question Hour or immediately after the starred questions for the day have been disposed of[355] and if the Question Hour has either been dispensed with or has not been provided for, it may be called for answer as the first item of business and if there is a new member to take oath or affirmation, then immediately thereafter[356].

On being called, if the short notice question is not asked by the member, or the member concerned is absent and he has not authorised another member to ask the question on his behalf, the Speaker may direct that the answer to it be given[357]. In such cases, if the Minister has expressed a desire to give a reply on the ground of its public importance, the Speaker has permitted the question to be asked by any other member or allowed the Minister to read out the question and the answer[358].

A short notice question put down on the list of short notice questions may be postponed to a later date at the request of the Minister and with the concurrence of the member concerned[359].

The conditions of admissibility of short notice questions are the same as are applicable to questions in general, but every short notice question should, in addition, relate to a matter of public importance of an urgent character[360].

Not more than one short notice question is normally put down for answer on any one day. Where more than one such question has been accepted by Ministers for answer

350. The Ministry concerned is asked, where necessary, to furnish facts to enable the Speaker to consider the admissibility of the question.

351. Rule 54 (1). *L.S. Deb.,* 16-8-1956, c. 3417.

352. Rule 54 (3). *Ibid.,* 3-11-1965; 29-8-1973; 17-12-1973.

353. Rule 54 (3), Proviso.

354 *L.S. Deb.,* 24-8-1957, c. 9730; Rule 54 (3).

355. Rule 54 (2).

356. *L.S. Deb.,* 2-5-1955, c. 2885; 4-8-1955, c. 2901; 5-5-1955, c. 2907.

357. Dir. 18. Sub. By *L.S. Bn. (II)*, 16.4.2010, para 1354.

358. *P. Deb. (I)*, 25-11-1950, cc. 337-38; *L.S. Deb.,* 25-2-1959, cc. 2870-71.

359. *L.S. Deb.,* 5-9-1961, cc. 7019-20.

360. Rule 54 (7).

on any one day, only one of them is put down and the rest are either postponed to later dates or disallowed if no other date is available. In exceptional cases, the Speaker may allow more than one short notice question to be answered on any one day. On the Lok Sabha adjourning without transacting normal business on a particular day, a short notice question admitted for that date is not postponed but answer thereto is deemed to have been laid on the Table on the next sitting and printed in the debates of that day[361].

Short notice questions addressed to private members are inadmissible.

Lapse of Notices of Questions

Sometimes notices of questions are vague or indefinite. In such cases, references are made to the members to clarify the points to enable the Speaker to decide the admissibility of the questions. If replies to those references are not received from members in time and the House is later prorogued, the notices are treated as having lapsed[362].

Publicity of Answers to Questions in Advance

Answers to questions which Ministers propose to give in the House are not released for publication until answers have actually been given on the floor of the House or laid on the Table[363].

The rule prohibits publicity being given to any notice of question until the day on which the question is answered in the House[364].

Half-an-hour Discussions

A member may give notice to raise discussion on a matter of sufficient public importance which has been the subject of a recent question, oral or written, and the answer to which needs elucidation on a matter of fact[365]. If a notice is admitted, the discussion is limited to half-an-hour and is held in the last thirty minutes of a sitting[366]. However, there are instances when Half-an-hour discussions continued beyond the stipulated period of 30 minutes[367]. Half-an-hour discussions are normally held on three sittings in a week, namely, Monday, Wednesday and Friday. There have also been instances when Half-an-Hour Discussions were held on other days[368]. However, during the Budget Session, no half-an-hour discussion is held till the disposal of Financial Business[369].

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361. *L.S. Deb.,* 10-12-1965, c. 6763.

362. Rule 52. *Ibid.,* 12-3-1987, c. 470.

363. Rule 53.

364. Rule 334A.

365. Rule 55 (1).

366. *L.S. Deb.,* 10-4-1958, c. 9390; 23-3-1976, cc. 762-63.

367. *Ibid.,* 2-3-1960, c. 5283; 4-9-1962, cc. 5975-94; 23-3-1967, cc. 875-903; 4-12-1974, c. 322; 13-7-1977, c. 391; 16-12-1977, c. 396; 29-3-1978, c. 396; 24-8-1981, cc. 525-46; 30-11-1981, c. 429; 3-8-1983, cc. 415-56; 19-12-1985, cc. 348-88; 4-5-1987, cc. 470-96; 25-11-1987, c. 350; 2-12-1987, c. 302; 2-3-1988, c. 369; 6-5-1988, c. 374; 15-3-1989, cc. 478-92; 29-8-1991, cc. 664-90; 12-9-1991, cc. 530-52; 12-3-1993, cc. 6923-53.

368. *L.S. Deb. (I)*, 24-3-2011.

369. *L.S. Bn. (II),* 21-3-2012, para no. 3852.

A member wishing to raise such a discussion has to give notice in writing to the Secretary-General normally within three days of the answering of the question, and at least three days in advance of the day on which he/she desires to raise the matter. Such a notice is also required to be accompanied by an explanatory note stating the reasons for raising discussion on the matter[370]. The Speaker may, however, waive the requirement concerning the period of notice with the consent of the Minister - concerned[371], but there has been no such instance so far.

It is the Speaker who decides whether the matter sought to be raised is of sufficient public importance to be put down for discussion[372]. He may, however, before admitting a notice, send a copy of the same to the Minister concerned for his comments.

After a notice has been admitted, the exact date on which the discussion is to be held is settled in consultation with the Minister and the member who gave notice.

Where more than two notices are admitted by the Speaker for the same date, a ballot is held to determine their priority for inclusion in the List of Business. An item put down for discussion on a particular day and not disposed of on that day is not set down for any other day, unless the member so desires. In such a case, the item is again included in the ballot for the next available day[373].

Not more than one half-an-hour discussion is put down in the name of any individual member in a week, subject to the condition that a member shall not raise more than two half-an-hour discussions in the same session. If one discussion in the name of the member is held, his notices are not ballotted for the remaining sitting(s) of the week. Further, where a member has already raised two half-an-hour discussions in the same session, his notices are not ballotted for the remaining sittings of the session[374].

When there is no time for the Minister to give a full reply to the debate, the Minister may, with the permission of the Speaker, lay a statement on the Table[375]. Where a half-an-hour discussion has already taken considerable time, the Speaker directs the Minister to lay on the Table a statement in reply to points not covered in his reply[376].

If the member in whose name a half-an-hour discussion is put down in the List of Business is absent, discussion is not taken up[377]. The Speaker has on request postponed the discussion to some other day either when the member concerned is unavoidably absent on the day on which the half-an-hour discussion is scheduled to be held[378] or at the request of the Minister or if the House so decides.

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370. Earlier, the notice was required to be signed, in support, by at least two other members. The procedure was changed *vide Bn. (II).* 8-8-1967, para 303.

371. Rule 55 (2) Proviso.

372. Rule 55 (3).

373. Rule 55 (4).

374. *Bn. (II)*, 9-11-1981, para 1256.

375. Dir. 19; *L.S. Deb.*, 28-8-1956, c. 4862.

376. *L.S. Deb.,* 16-6-1971, c. 256; 12-8-1971, c. 207.

377. *Ibid.,* 8-12-1969; 10-12-1969; 25-3-1970.

378. *Ibid.,* 30-8-1956, c. 5013; 18-11-1968, cc. 204-05; 9-8-1982, c, 447; 19-8-1985, c. 543.

To provide time for disposal of urgent business, the Speaker may direct that a half-an-hour discussion put down in the agenda for a day may be postponed to the following day which need not necessarily be the day for taking up half-an-hour discussion[379].

In exceptional cases, when time is not available during a session, the Speaker has ordered the discussion of an admitted notice which was included in the List of Business to be postponed to the next session[380]. In such a case, fresh notice is required to be given by the member concerned in the next session for raising the discussion.

Usually only one half-an-hour discussion is put down in the List of Business for any particular day, but during the last few days of a session more than one such discussion may be included in the day's List of Business. Two discussions, if put down in the List of Business for a single day, the subjects of which are interrelated, though addressed to different Ministers, have been taken up together[381].

The procedure regarding initiating a discussion is that the member giving notice makes his point[382] and the Minister concerned then replies in short. Thereafter, the members who have given prior intimation to the Speaker are permitted to ask a question each for the purpose of further elucidating any matter of fact. However, not more than four members can be permitted to ask a question each[383]. In case more than four members seek permission to ask a question, a ballot is held to select four members[384]. There have been instances when those members who had not given prior notices were permitted to ask a question in addition to the members who gave prior notice[385]. A member though not raising a half-an-hour discussion or participating in it, may be permitted to make personal explanation if charges are levelled against him during the discussion[386]. After that, the Minister concerned replies to the questions asked. Then the discussion ends, there being no formal motion before the House and consequently no voting.

A half-an-hour discussion put down on the List of Business for a day can be withdrawn by the member concerned at any time before the discussion is held[387].

In exceptional cases, where a matter is important, the Speaker may, at his discretion, convert a half-an-hour discussion into a short duration discussion under Rule 193[388].

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379. *L.S. Deb.,* 5-5-1975, c. 256; 20-12-1977, cc. 439-58; 20-8-1985, cc. 373-90; L.S. Deb., (II), 16-12-2004; 24-03-2011.

380. *Ibid.,* 10-9-1956, c. 6402; L.S. Deb., (II), 7-8-2009.

381. *L.S. Deb.,* 9-9-1959, c. 7330.

382. *Ibid.,* 30-7-1952, c. 4914.

383. *Ibid.,* 29-7-1968, c. 2492.

384. Rule 55 (5) Proviso.

385. *Ibid.,* 13-2-1963, c. 4745; 26-4-1966, c. 13221; 24-8-1981, cc. 525-46; 30-11-1981, cc. 429-48; 3-8-1983, cc. 415-56; 19-12-1985, cc. 348-88; 4-5-1987, cc. 470-96; 12-9-1991, cc. 530-52.

386. *Ibid.,* 20-8-1969, cc. 567-73.

387. *Ibid.,* 9-9-1960. c. 543.

388. *Ibid.,* 5-8-1960, c. 1257.

CHAPTER 20

Calling Attention to Matters of Urgent Public Importance

A member may, with the prior permission of the Speaker, call the attention of a Minister to any matter of urgent public importance and the Minister may make a brief statement or ask for time to make a statement later[1].

Mode of Giving Notice

A notice to call the attention of a Minister must be addressed by a member to the Secretary-General, and according to the practice, which is now well established, a copy thereof is endorsed separately to the Speaker and the Minister concerned[2]. The purpose of endorsing copy of the notice to the Minister is to give the Minister advance intimation and also to enable the Minister to apprise the Speaker, if necessary, of the facts of the matter raised therein in order to assist him in deciding the admissibility of the notice. The notice addressed to the Secretary-General and copies thereof endorsed to the Speaker and the Minister concerned are received in the Parliamentary Notice Office. The copy intended for the Minister is collected by the Ministry concerned themselves from the Lok Sabha Secretariat. Before the commencement of a session, the notices can, at the earliest, be given only with effect from a day (which is usually the third working day of the Secretariat before the date of commencement of the session) fixed in advance and notified in the Bulletin. The Speaker considers these notices only few days in advance of the commencement of the Session. Notices received in advance of the date notified in the Bulletin for receipt of notices are returned to the members concerned. However, after the commencement of the Session, the notice has to be given by 1000 hours on the day on which the matter is proposed to be raised in the House. A notice received after that hour is treated as notice given for the next sitting[3]. When notices from more than five members are received on the subject selected by the Speaker for admission, a ballot is held to determine the relative priority of each such notice. Where the

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1. Rule 197.

   This rule was embodied in the Rules of Procedure on 1 January 1954. Prior to this, there was considerable feeling that no precise procedure was available to a private member to raise an important matter at a short notice. The procedure of adjournment motion was frequently used for such purposes. Since an adjournment motion being in the nature of a censure motion and its scope considerably restricted, its use for other purposes was deprecated. *See* also Chapter 21—*Motion for Adjournment on Matters of Urgent Public Importance*.

   The concept of 'Calling Attention Notices' is of Indian origin. It is an innovation in the modern parliamentary procedure and combines the asking of a question for answer with supplementaries and short comments in which all points of view are expressed precisely and the Government has adequate opportunity to state its case. Sometimes it gives opportunity to members to criticize the Government directly or indirectly, and to bring to the surface the failure or inadequate action of Government on an important matter.

2. During the years 1971, 1975 and 1976, when the Proclamation of Emergency was in operation, the House had for certain periods, dispensed with the calling attention matters in view of the urgency and importance of Government business—*see L.S. Deb.,* 4-12-1971, cc. 163-64; 21-7-1975, cc. 26-72; 25-10-1976, cc. 24-47.

3. Rule 197(2)(ii) and Dir. 113B.

number of members giving notice on a subject selected by the Speaker is five or less, their *inter se* priority is determined with reference to the date and time of receipt of the notices[4].

All notices received during a week, commencing from the first sitting of the House till 10.00 hours of the last day of the week, on which the House is to sit, are valid for that week. It is not necessary that notices given for a particular day may be considered for that day only. These may be considered for any day during the period of their validity or thereafter also, depending upon the importance of the subject involved. Notices which are not taken up during the week for which they have been tabled are deemed to have lapsed at 10.00 hours on the last working day of the week unless the Speaker has admitted any of them for a subsequent sitting or has kept the same pending till receipt of facts from the Minister concerned.

After the Speaker has selected a subject, members who have tabled notices thereon are verbally informed. The Minister concerned is also informed verbally through the principal officers followed by a written communication. Where no information is communicated to a member, it has to be presumed that notice has not been selected by the Speaker.

A member cannot give more than two notices for any one sitting. Notice on the same subject can be given by more than one member, but names of not more than five members, as determined by ballot, are shown in the List of Business[5]. Where a notice is signed by more than one member, it is deemed to have been given by the first signatory only.

Conditions of Admissibility

Urgency and public importance are the main tests of admissibility of a calling attention notice[6]. The admissibility of such a notice is decided by the Speaker[7]. The Speaker's power to allow or disallow a notice is unlimited[8]. The decision of the Speaker

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4. Rule 197(2)(iv).

5. Rule 197(1) and (2). This Rule was amended on 23 June 1967. Previously, neither was there any limit to the number of notices that a member might table nor to the number of members who might table notices on the same subject.

   Though no limits had been imposed under the Rules, the Speaker discouraged the practice of giving a number of notices by the same member and observed that a member might not give more than two notices for a particular sitting—*see L.S. Deb.,* 23-8-1965, cc. 1236-38; Bn. (II), 23-8-1965, para 1380.

6. Rule 197 (1).

7. *Ibid., L.S. Deb.,* 19-8-1965, c. 993.

   The Speaker has firmly declined to give reasons for disallowance of the notices or to enter into arguments in that regard with the members in the House—*see L.S. Deb*., 5-8-1959, cc. 661-62; 17-2-1961, c. 611; 21-2-1961, cc. 1100-01.

   It is, however, open to the members to meet the Speaker in his Chamber and place before him their points of view. The Speaker may review his orders on good and sufficient grounds—*see L.S. Deb.*, 3-5-1962, cc. 2457-68; 11-11-1965, cc. 1346-50; 1-9-1966, c. 8466.

8. The Speaker is not bound by any precedents strictly, although she/he has laid down for himself such obvious rules or conventions, as for example, whether the matter falls within the cognizance of a Minister of the Union Government, whether the matter is trifling, involves argument or is vague or general or whether it can be appropriately dealt with by other parliamentary procedures. Admission of a notice is not a precedent, for a similar matter in another context may be disallowed. It is the feeling, the judgement of the Speaker, and the surrounding circumstances in the context of the information available to her/him on the day the notice is received, that are vital in determining whether a notice is admissible or not. At times it so happens that a matter, at its initial stage, may not appear to be that important and urgent, so no significance is attached to it. But, on a later date, the matter may, due to subsequent developments, assume significance and, consequently the Speaker may admit it then. The Speaker admits or selects a notice purely on the importance and the urgency of the matter raised therein. Although sometimes the Speaker judges the importance of a matter by the number of members who are interested in it or by the national interest behind it, these are factors like others which he takes into consideration; by themselves they are not conclusive.

is final and members cannot raise question of admissibility of calling attention notices in the House[9].

The Speaker may decide to admit a calling attention notice in place of an adjournment motion on the same subject[10]. A calling attention notice usually renders a notice of an adjournment motion infructuous and unnecessary[11].

Before deciding the admissibility of a notice, the Speaker may call for facts and comments from the Minister concerned, because a notice is inadmissible if it lacks factual basis[12]. Where necessary, the Minister is also asked to furnish information on specific points such as the responsibility of the Union Government, its nature, extent, etc.[13]. A notice after admission may be taken up the same day provided a calling attention notice has not already been fixed for the day in the List of Business. In that case, depending upon the urgency of the matter, the Speaker may allow another notice to be taken up later at an hour fixed by him which is generally at the end of the day[14].

A calling attention notice may be disallowed even though such a notice on the same subject has been admitted in the other House and the Minister concerned has made a statement in reply[15]. It is not necessary that if a notice has been admitted in one House, an identical or similar notice should also be admitted in the other House, as the Presiding Officer of each House takes decisions independently[16].

As a rule, a notice must be given on the same day on which a matter has arisen or become publicly known. If it is given a little later, the notice may be rejected on the ground that it has not been raised at the earliest opportunity[17].

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9. *L.S. Deb.,* 18-11-1962, c. 308; 22-11-1985, cc. 293-94; 12-8-1986, c. 560.
10. *L.S. Deb.*, 1-5-1962, cc. 1797-98.
11. *Ibid.*, 3-5-1966, c. 14519; 7-8-1970, c. 202.
12. *Ibid*., 11-4-1960, c. 10904.
13. The facts, to be placed by the Minister before the Speaker, have to reach the Speaker within 24 hours of the reference failing which the admissibility of the notices may be decided by the Speaker independently of the facts called for.
14. *See L.S. Deb.*, 17-12-1963, cc. 5162-66 and 5884-95; 24-11-1965, cc. 3605-12 and 3722-26. It is, however, now a settled practice that a calling attention notice is admitted at least one day in advance and an entry about it is made in the printed List of Business. There have been instances when more than one calling attention notice was admitted on the same day. *L.S. Deb.*, 19-11-1963, cc. 380-94 and 531-36; 27-11-1963, cc. 1703-11 and 1711-20; 17-12-1963, cc. 5162-66, and 5284-94; 17-5-1966, cc. 17289-98 and 17441-57; 4-8-1978, cc. 285-310 and 408-36; 20-2-1977, cc. 330-38; 15-5-1979, cc. 266-89 and 396-416; 16-5-1979, cc. 247-50, 387-401 and 402-16; 21-3-1980, cc. 244-63 and 380-92; 10-5-1983, cc. 316-29 and 405-17; 8-5-1984, cc. 319-37 and 446-68, 27-11-2007, cc. 477-507.
15. *L.S. Deb.*, 24-8-1965, c. 1421.
16. *Ibid.*, 1-3-1966, cc. 5042-43; 17-11-1966, c. 3787-88.
17. The members' chief source of information for tabling calling attention notices is the daily newspaper. Sometimes the notice may be based on information communicated to a member in writing by his constituents, but such notices are few in number.

    A notice based on newspaper reports about which it was represented to the Speaker that they were not correct was allowed in view of a statement on the subject made by the Minister in the other House—*L.S. Deb.,* 12-3-1970, cc. 221-31; 13-3-1970, cc. 225.

Only those matters which are primarily the concern of the Union Government can be raised through a calling attention notice[18]. There have, however, been instances

18. (a) Notices regarding the following matters have generally been admitted by the Speaker—

(i) Incidents which involve a question of national security and unity of the country;

(ii) Serious food, drought or flood situation in the country or any part thereof;

(iii) Issues involving maintenance of essential services;

(iv) Incidents involving a matter of law and order in a Union territory over which the members and the public are greatly agitated;

(v) Serious developments in States or Union territories involving proper functioning of the constitutional machinery;

(vi) Serious issues involving production of important commodities like oil, fertilizers, textiles, sugar, etc.;

(vii) Issues involving action on the part of a foreign Government which would adversely affect the interests of India;

(viii) Border incidents with a neighbouring country which are of a serious nature or where loss of life is involved;

(ix) Matters involving important issues pertaining to relations between the Union Government and the State Governments;

(x) Serious incidents in foreign countries involving Indian diplomats or Indian nationals.

(b) Matters mentioned in the above list are not exhaustive and the Speaker can, in his discretion, admit a notice to call attention on any matter not covered by the above mentioned categories, keeping in view the urgency and public importance of the matter. Calling attention notices on the following matters are usually not admitted—

(i) Law and order matters in States [A calling attention notice relating to a matter of law and order in a State having been disallowed, the Minister was asked to make a factual statement after collecting the information from the State Government, on the understanding that the members who had tabled the notice would not be allowed to ask questions on the statement— *L.S. Deb.,* 18-4-1966, cc. 11395-96; 20-4-1966, cc. 11985-86];

(ii) Strikes, lock-outs, fasts and agitations;

(iii) Terms and conditions of service of employees;

(iv) Accidents;

(v) Matters likely to be debated in the near future or discussion on which has already been fixed;

(vi) Matters which do not involve the primary responsibility of the Union Government;

(vii) Day-to-Day administrative matters;

(viii) Frivolous or trivial matters;

(ix) The arrest of an individual cannot form the subject matter of a calling attention notice – *see*, rulings of the Speaker, *L.S. Deb.,* 24-3-1964, cc. 7145-47.

(x) Minor matters involving normal relations between the Union and the States or between the States *inter se;*

(xi) Matters relating to autonomous corporations and local bodies;

(xii) Arrests, searches, confiscation of goods or issue of prohibitory orders under the normal process of Law;

(xiii) International conventions or agreements entered in the normal course;

(xiv) Isolated border incidents with neighbouring countries;

(xv) Communication or messages exchanged between the Government of India and Governments of foreign countries in the normal course;

(xvi) Statements about India made by foreign dignitaries or individuals of which no special note need be taken;

(xvii) Minor developments about a continuing matter on which a statement has already been made;

(xviii) Visits of foreign dignitaries or on talks held between foreign dignitaries and Ministers of the Government of India about which communiques are issued in the normal course;

(xix) Appointments of Governors or formation of Ministries in States unless a grave violation of the constitutional machinery is involved;

(xx) Incidents or speeches in a State Legislature. [A calling attention notice regarding violation of the sanctity of a State Legislature was, however, allowed as a special case even though law and order is a State subject—*L.S. Deb.,* 1-8-1969, cc. 236-37; and 6-8-1969, cc. 231-43];

(xxi) Incidents in foreign Parliaments;

(xxii) Other matters of unimportant nature—*see Min.* (*R.C. 4 L.S.*), 10-7-1967.

where notices regarding certain matters which though not primarily the concern of the Union Government were admitted by the Speaker in view of their special significance and public importance[19] or because of the fact that they involved revenues of the Union Government or assistance and grants by the Union Government[20].

A notice is normally disallowed or may be kept pending if an intimation has already been received from the Minister that he will make or lay on the Table a statement on the subject *suo motu*[21] or if the subject is likely to be raised on another motion

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19. A notice regarding the situation in the Middle East arising out of the presence of foreign troops in Lebanon and Jordan was admitted and a statement in response thereto was made in the Lok Sabha on 14 August 1958—*see L.S. Deb.,* 14-8-1958, cc. 857-70.

    A notice on the alleged harassment of a marriage party of Scheduled Caste people in a village in Tehri (U.P.) on 14 January 1959, though primarily the concern of the State Government, was admitted by the Speaker in view of its special significance and a statement in response thereto was made in the House on 20 February 1959—*see L.S. Deb.,* 20-2-1959, cc. 2176-77.

    A notice regarding members of the Uttar Pradesh Legislative Assembly not being allowed to take oath in Urdu language was admitted not with a view to discussing the action of the Presiding Officer but to consider the constitutional issues arising therefrom and national importance of the matter—*L.S. Deb.,* 20-3-1969, c. 201.

    A notice regarding violation of sanctity of a State Legislature premises was allowed even though law and order is a State subject—*L.S. Deb.,* 1-8-1969, cc. 232-239; 4-8-1969, c. 236; and 6-8-1969, cc. 231-43.

    A notice regarding the reported effort by the Congress President to bring pressure and undue influence on members of the Bihar Assembly in connection with the Presidential election was admitted in view of the public importance of the matter—*L.S. Deb.,* 7-8-1969, cc. 227-51.

    A notice regarding the reported hunger strike by the Chief Minister of a State over the widespread violence and lawlessness in the State was admitted because the House, as the Speaker observed, was entitled to know the reasons behind such a fast which was an unusual thing— *L.S. Deb.,* 3-12-1969, cc. 194-212.

    A notice regarding reported incident of burning alive of some Harijan women and children in a village in U.P. was admitted. When the item was taken up on 2-8-1972, the Minister made a statement that the State Government had no information of such an occurrence and that a statement would be laid on the Table on receipt of a report from the State Government. On the request of the members, the item was postponed and on 9-8-1972, the item was taken up again when the Minister made the statement and answered clarificatory questions—*L.S. Deb.,* 2-8-1972, cc. 172-76 and 9-8-1972, cc. 182-94.

20. Calling Attention Notices on the following subjects were admitted—

    (i) A bogus payment of Rs. 3.77 crore from the revenues of the Union Government for transportation of fertilizers as disclosed in the Third Report dt. 16-3-1970 of P.A.C., Andhra Pradesh Legislature—*L.S. Deb.,* 13-4-1970, cc. 210-31. (ii) Reported stoppage of grant by the U.G.C. to several colleges in Punjab and Haryana resulting in the closure of these colleges—*L.S. Deb.,* 5-12-1972, cc. 199-223. (iii) Reported lack of assistance to Rajasthan by the Union Government to tide over famine conditions prevailing in 12,500 villages there—*L.S. Deb.,* 15-12-1972, cc. 203-321.

21. Two calling attention notices were received on 11 January 1960, regarding the Dakota Crash on the Indo-Tibetan border on 3 January 1960. Notices of 21 questions were also received on the same subject. All the notices were kept pending in view of the intimation received from the Ministry of Transport and Communications that the Minister would make a statement *suo motu* on the subject in the House on 10 February 1960, and, thereafter, the calling attention notices and notices of questions were disallowed.

    At the time the statement was being made by the Minister, the Speaker, however, made a reference in the House that he had received two calling attention notices and notices of 21 questions on the subject.

which has been admitted for discussion[22]. However, the Speaker has the discretion to admit a notice even when the Minister has informed that he would make a statement on the subject *suo motu*[23]. In view of the urgency of the matter and the demand for an immediate statement being made in the House the Chair may permit the Minister to make the statement *suo motu* and disallow the calling attention notice on the subject already admitted for the following day[24]. On matters of public importance, Ministers are expected to make statements in the House *suo motu*[25].

Notices on a subject which have either lapsed or have been disallowed may be revived by tabling fresh notices[26].

Procedure for Calling Attention

When a notice is admitted by the Speaker on the same day, an entry showing the position at which the item will be taken up is inserted in the List of Business for the use of the Speaker, and the text of the matter to be raised is prepared for the use of the Speaker, member concerned, Minister and officers at the Table. In case the notice is admitted for the following or any subsequent day, an entry of the admitted text is made in the printed List of Business.

Admitted notices are normally taken up in the House at the stage laid down in Direction 2 but, in special cases they may be taken up later in the day[27].

On being called by the Speaker, the member in whose name the item has been put down in the List of Business rises in his place and calls the attention of the Minister concerned to the matter and requests the Minister to make a statement thereon[28].

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22. *L.S. Deb.,* 14-8-1963, c. 412.

23. Two calling attention notices were received on 20 April 1960 regarding the strike of road transport operators in Bombay. The Ministry of Transport and Communications informed that the Minister would make a statement on the subject *suo motu* in the House on 27 April 1960. The Speaker directed that the statement should be made in response to the calling attention notice.

    On 6 April 1985, twenty members tabled notices on several Railway accidents and particularly the one involving Howrah-Amritsar Mail and the Howrah-Amritsar Express on 5 April 1985. The Minister of Railways informed on the same day that he would make a statement *suo motu* on the subject on 8 April 1985. It was decided that the statement should be made by the Minister in response to the calling attention notices. Accordingly, calling attention notices were admitted and the Minister made the statement on 8 April 1985—*L.S. Deb.,* 8-4-1985, cc. 459-60.

24. *L.S. Deb.,* 23-11-1973, cc. 335-38.

25. On 26 July 1977, a member raised a point of order in the Lok Sabha that on an important matter like the visit of the External Affairs Minister to Nepal, who according to the member, should have made a statement on his own instead of doing so only in response to a calling attention notice. The Speaker agreed with the member's contention and observed that it would have been proper for the Minister to come forward with a statement on his own.

26. *In Dir. 2, the order of Precedence of such notices is xxii.*

27. *L.S. Deb.,* 30-11-1962, cc. 3059, 3970-78; 23-4-1963, cc. 11350-51; 19-3-1965, cc. 4940-60; 28-3-1966, cc. 8157, 8269-75; 9-11-1966, cc. 2138-62; 26-8-1970, cc. 167-68; 24-6-1971, cc. 155-59, 264-81; 23-7-1971, cc. 150-55, 224-37; 20-3-1973, cc. 191-93, 382-412; 23-3-1973, cc. 206-08; 10-4-1975, cc. 226-33.

28. If a notice is received in Hindi, it is usually the practice that the statement should be in Hindi—*See L.S. Deb.,* 20-11-1963, cc. 661-62. After the installation of the simultaneous interpretation system, it is now left to the Minister to make the statement in a language of his own choice, Hindi or English.

A member, in whose name a calling attention notice appears in the List of Business, cannot authorise another member to call attention on his behalf.

On his attention being called, the Minister may make a statement if he is in possession of all the facts of the case. Where the information asked for is not available with the Minister at the time, it is open to him to ask for time to make a statement at a later hour or date[29]. The Speaker may direct the statement to be made at the end of the day, or, in his discretion, give time more than once to make a statement if the Minister makes a request to that effect. The expression "ask for time to make a statement at a later hour or date" in the Rule has been held not to preclude the extension of time being asked for or given more than once[30].

A statement promised to be made on a particular day on a matter to which the attention of the Minister concerned had been called by a member earlier is not postponed to a later day at the request of that member, if other signatories to that notice are not in favour of its postponement[31].

If the statement is short, the Minister usually reads it out to the House. This is followed by questions by members whose names appear in the List of Business. Replies thereto are given by the Ministers, at times by other Ministers, including the Prime Minister, depending upon the question asked and allowed by the Speaker[32]. But if the statement to be made is lengthy, the Speaker may ask the Minister to read out a synopsis of the statement and lay the complete statement on the Table[33]. In such cases, the usual practice, for the members, is to study the statement and to ask questions thereon at a later hour, usually at the end of the day, if so fixed by the Speaker, or during the next sitting of the House[34]; where a statement is lengthy and is normally to be laid on the Table, Ministers are required to supply copies thereof in advance to Table Office latest by 1030 hours, on the day, with a view to making them available to the members concerned[35]. When copies of the statement are made available to members in advance, questions are asked and answered by the Minister[36], when the statement is laid on the Table. Even if copies of the statement to be made by the Minister have been

29. Rule 197(1). For instances where a Minister asked for and was given time to make statement at a later date, *see L.S. Deb.,* 22-8-1963, cc. 2076-77 and 26-8-1963, cc. 2600-02; 13-9-1963, cc. 6007-12 and 16-9-1963, cc. 6254-60; 1-5-1964, cc. 13587-59 and 4-5-1964, cc. 1466-70; 22-9-1964, cc. 3049-55 and 24-9-1964, cc. 3494-3500; 2-12-1964, cc. 2891-92 and 3-12-1964, cc. 3266-70; 16-12-1964, cc. 5328-30 and 17-12-1964, cc. 5425-30; 2-8-1972, cc. 172-76 and 9-8-1972, cc. 182-94.

    Under Directions of the Speaker, statement had been made later on the same day and question asked thereon. *L.S. Deb.,* 7-3-1968, cc. 2215-17 and 2341-55.

30. *See L.S. Deb.,* 1-4-1965, cc. 7193-95; 2-4-1965, cc. 7427-54; 5-4-1965, cc. 7657-88.

31. *Ibid.,* 8-12-1965, c. 6349; 9-12-1965, cc. 6584, 6683-93.

32. A statement in response to a notice can be made by any Minister and it is not necessary that the seniormost Minister of the Ministry concerned should personally make the statement—*L.S. Deb.,* 8-3-1965, cc. 2977-78.

33. *L.S. Deb.,* 1-10-1955, c. 15021; 29-3-1956, cc. 3719-20; 22-8-1957, cc. 8212-14, 11-2-1960, cc. 533-36; and 22-2-1960, cc. 2099-2101.

34. *Ibid.,* 28-11-1963, cc. 1991, 2111-16; 10-12-1963, cc. 3934-35, 4078-87.

35. *Ibid.,* 10-11-1965, cc. 1100-01.

    It has been observed by the Speaker that if copies of the statement in question were not received in time, the item would be taken up only towards the end of the day and till then the Minister concerned would have to wait—*L.S. Deb.,* 31-8-1970, c. 213.

36. *L.S. Deb.,* 25-11-1965, cc. 3856-62.

made available to members in advance, which is now done in almost every case[37], the Minister has a right to amend his statement till he makes it in the House but he has to give prior information to the Table[38].

If the statement does not give full information, the matter is kept pending to enable the Minister to make a further statement on the subject, and the members who have tabled the notice are permitted to ask questions when further statement is made[39].

Questions by way of clarification on a calling attention statement are to be restricted to the subject matter of the admitted notice[40], and should not reflect upon conduct of persons in high authority[41], nor seek an assurance[42]. Where a statement is based on the first information report lodged with the police or a matter under judicial enquiry, questions on the statement may be allowed to a restricted degree confining to procedure, subject and stage of inquiry[43]; questions on the merits of the case are not permitted[44] and no individual allegedly involved in the incident is allowed to be referred by name.

If the first member in whose name the item has been put down is not present when called by the Chair, the next member in the List may call the attention of the Minister. If the members in whose name the matter has been put down in the List of Business are not present in the House when the item is reached, the Minister does not make a statement but, with the permission of the Speaker, may lay the statement on the Table. The statement so laid is shown in the proceedings and the Bulletin as not having been laid in response to the calling attention but as one laid by the Minister *suo motu*[45]. Where the matter is very important, the Speaker may permit a Minister to make the statement in the House but in this case also the statement is treated as having been made *suo motu* and not in response to the calling attention notice[46]. However, it is not obligatory on the part of a Minister to make or lay the statement if the member/members concerned either decline to call his attention or are not present in the House when the item is reached[47].

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37. On 9-8-1973, a circular was issued by the Secretariat to all Ministries asking them to send advance copies of the statement in response to a calling attention notice by 1000 hrs. on the day on which it is to be made so that copies are made available to the Speaker and members concerned before the commencement of the sitting.

38. *L.S. Deb.,* 14-5-1973, cc. 1-6.

39. *Ibid.,* 26-11-1963, cc. 1472-73; 29-11-1963, cc. 2222-28; and 2-8-1968, c. 3884; 21-8-1968, cc. 3331-40; 2-8-1972, cc. 172-76 and 9-8-1972, cc. 182-94.

40. *Ibid.,* 2-4-1969, c. 139.

41. *Ibid.,* 3-3-1969, cc. 217-18.

42. *Ibid.,* 4-8-1970, c. 242.

43. *Ibid.,* 26-3-1973, cc. 202-09.

44. *Ibid.,* 5-4-1965, cc. 7655-56.

45. *Ibid.,* 17-12-1958, c. 5694; 26-2-1959, cc. 3213-14. *See* also *L.S. Deb.,* 21-3-1960, c. 6989.

    In one case, calling attention *re:* inadequate supplies of coal to industries in Northern India was included in the List of Business for 14 March 1962 but when the item was reached, the member concerned was absent. He repeated the notice the next day but it was disallowed—*L.S. Deb.,* 14-3-1962, c. 275.

46. *L.S. Deb.,* 30-9-1955, cc. 15848-50.

47. *Ibid.,* 7-8-1970, c. 221.

    A calling attention regarding death of some army officers during their assault on Mount Everest was put down in the List of Business in the names of two members, for 26 November 1985. When the item was taken up, neither of the members was present in the House to call the attention of the Minister. The Minister was not, therefore, called to make/lay a statement and the next item on the Agenda was taken up and the calling attention notice lapsed—*L.S. Deb.,* 26-11-1985, c. 287.

There cannot be any debate on a statement at the time it is made by the Minister[48]. There is, however, no bar on a notice being given for a debate on a subsequent date on a matter contained in the statement[49].

Only one clarificatory question can be asked on a calling attention statement by each member whose names appear in the List of Business. If the question so asked is disallowed, the member cannot normally ask another question[50]. No questions may be permitted to be asked if such is the desire of the House[51]. Members whose names do not appear in the List of Business are not permitted to ask questions. However, there are occasions when the Speaker has allowed the members to ask clarificatory questions even if their names did not appear in the List of Business[52].

Clarificatory questions asked by members should not be so lengthy as to convert the calling attention into a debate. Generally, a calling attention matter should take not more than half-an-hour and, in exceptionally important cases, not more than 30 to 45 minutes. The member calling attention can take ten minutes and other members 2-5 minutes each. The Minister replies at the end to all questions asked by the members in whose names the item is listed. The Chair cannot compel a Minister to answer each and every clarificatory question in a particular way[53].

In the event of more than one matter being presented for the same sitting, priority is given to the matter which, in the opinion of the Speaker, is more urgent and important[54]. The second matter cannot be raised by the same members who have raised the first matter. It may be taken up at or immediately before the end of the sitting as the Speaker may fix[55]. Also, the Minister concerned may make a brief statement in respect of the first matter and in respect of the second matter; a statement may be laid on the Table by the Minister concerned.

A copy of the statement laid is supplied to each of the members in whose names the item stands in the List of Business[56]. If the Prime Minister is to make a statement in response to one of the two calling attention matters on a day, that matter may be

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48. Rule 197(2).

49. Ruling by the Speaker—*see L.S. Deb.,* 27-6-1967, cc. 7825-47.

50. *L.S. Deb.,* 30-8-1963, c. 3611; 13-9-1963, c. 6009.

51. *Ibid.,* 23-3-1964, c. 6913; *see* also 23-11-1969, cc. 3361-71.

52. *Ibid.,* 20-11-1963, cc. 646-49; 3-12-1963, cc. 2741-44.

    However, a member whose name was not in the List of Business was, as a special case, permitted to ask a clarificatory question on the calling attention statement *re.* burning of the Al-Aqsa Mosque in Jerusalem in view of the religious importance of the matter—*L.S. Deb.,* 26-8-1969, cc. 263-64.

    For more such instances *see L.S. Deb.,* 20-2-1979, cc. 334-35, 8-5-1981, cc. 280-81; 5-8-1988,cc. 336-37; 10-5-1990, cc. 462-63; 31-3-1992, cc. 341; 27-11-1996, cc. 217-24; 8-5-2007, cc. 478-92; 20-8-2007, cc. 304-20; 14-8-2006, cc. 261, 263-68 and 276-84; 17-5-2006, cc. 410-35; 6-3-2006, cc. 331-50; 18-3-2008, cc. 521-540; 11-12-2009, cc. 58-68; 20-12-2011, cc. 73-87; 29-12-2011, cc. 7672-7703. 18-05-2012, cc. 42-63, 24-07-2014, cc 55-56, 8-8-2014, cc 62-69, 11-8-2014, cc. 48-49, 13-8-2014, cc. 171-178, 18.12.2014, cc. 59-76, 22-12-2014, cc. 66-85; 31.7.2024, page no. 358-371

53. *L.S. Deb.,* 22-7-1977, cc. 349-50 and *Bn. Part II*, 14-11-1985, and *Min.* (RC) 28-8-1985.

54. Rule 197(4).

    On 15 April 1954, after the Prime Minister had made a statement under this Rule regarding the applicability of the North Atlantic and Anglo-Portuguese Treaties to Goa, he sought the permission of the Chair to make another statement under the same Rule on a different subject. The Speaker withheld his permission—*See H.P. Deb. (II)*, 15-4-1954, c. 4810.

55. Rule 197(3), Proviso.

56. Dir. 47A(1).

given *inter se* priority in the List of Business[57]. If a notice received on the last day of a session is admitted for that day but the Minister concerned is unable to make a statement, the Speaker may direct the Minister to furnish to the Secretariat, at a later date, a note giving the required information for onward transmission to the member who has tabled the notice[58].

A calling attention notice which has been admitted and put down in the List of Business may be withdrawn by the members concerned with the Chair's permission, on so stating their intention on the floor of the House[59].

Conversion of Calling Attention into Short Duration Discussion

A notice of a calling attention on matters of urgent public importance, admitted for a particular day may, with the permission of the Speaker and on the basis of the consensus of the House, be converted into Short Duration Discussion.

There have been occasions when the Speaker agreed to convert a calling attention, on a subject included on the order paper into Short Duration Discussion, to be taken up either on the same day or any other subsequent day[60].

Scope of Statements

A statement made in response to a calling attention notice is not in the nature of an answer to a question and, therefore, it need not be confined to facts alone. The statement can include opinions, conclusions and decisions of the Government or the Minister and it is not necessary that it should be of a nature on which there should be complete agreement in the House. Similarly, the questions which are asked on such a statement are in the nature of suggestions, criticisms and counter-opinions and, therefore, there is no restriction that the original statements as well as the subsequent questions and answers should be confined to mere facts alone.

Such statements are open to debate. The only restriction is that there cannot be any debate on such statements at the time they are made. There is no prohibition against a notice being given for a debate on a subsequent date on a matter contained in the statement of a Minister in response to a calling attention notice. Hence, if a section of the House is not in agreement with the opinions or conclusions given by a Minister in his statement, they are at liberty to raise a debate and to have the opinion of the House recorded on a proper motion or question before the House[61].

Clubbing of Names

Normally a notice is not admitted on a subject on which a short notice question has been admitted and *vice versa.* Where a calling attention notice and a short notice question are tabled on the same subject simultaneously, a Minister may select either of the notices for answer. On receiving the intimation from the Minister, the Speaker may admit the notice selected by the former unless he has already admitted the calling

57. Dir. 47A(2).

58. *L.S. Deb.,* 17-5-1966, c. 17299.

59. *Ibid.,* 25-11-1965, c. 3850; 22-7-1971, cc. 173-74.

60. *L.S. Deb.,* 19-2-1975, cc. 213-17; 20-2-1975, cc. 202-03 and 393-457; 12-8-1987, cc. 363-67; 17-8-1987, cc. 430-84; 24-8-1987, c. 771; 18-11-1987, c. 353; 23-11-1987, c. 420; 30-3-1988, c. 241; 12-4-1988, c. 517; 3-5-1990, cc. 476-78 and 485; 16-5-2006; cc. 418-27; 7-12-2006, c. 338; 24-8-2007, cc. 307-08; 8-3-2021, 31-03-2022, 20-12-2022.

61. Ruling by the Speaker—*L.S. Deb.,* 28-6-1967, c. 8118.

attention notice[62]. The ballot under Rule 54(4) for clubbing names on an admitted short notice question is restricted only to members tabling short notice questions on that subject. Names of members tabling calling attention notices on the subject are not included therein[63].

Whenever a Minister makes a statement in response to a calling attention notice, he is expected to answer all the points that might have been raised in the short notice questions or other questions received on the same subject and notices of which may have reached him before that date.

On 19 March 1958, Speaker Ayyangar observed that whenever a Minister made a statement on the floor of the House in pursuance of an earlier direction of the Speaker or the House or in response to a calling attention notice, he should cover all the points that had been raised on the subject in various notices, copies of which would have reached him by then[64].

Generally, the House does not recommend to the Government any action to be taken on the basis of a calling attention notice, but sometimes questions are in the form of suggestions and the Government indicate in their replies whether they are in a position to accept them or not[65].

62. Under Rule 54(1), a short notice question can be admitted only if the Minister agrees to answer the question at short notice, but a calling attention notice can be admitted without any reference to the Minister concerned.

63. *L.S. Deb.,* 6-12-1977, cc. 275-77.

64. *See L.S. Deb.,* 19-3-1958, cc. 5615-16.

65. For instance, in the case of the plight of Indians in Burma following the nationalization of business controlled by Indians in Burma, the members insisted that officials of the Ministry of External Affairs should be sent to inquire into the grievances of Indians there and plead with the Government of Burma to agree to their repatriation in an orderly manner. The suggestion was accepted by the Government—*see L.S. Deb.,* 28-4-1964, cc. 13180-97.

CHAPTER 21

Motion for Adjournment on a Matter of Urgent Public Importance

Normally, no business not included in the List of Business for the day can be transacted at any sitting without the permission of the Speaker[1]. However, a matter of urgent public importance can be raised by interrupting the regular business of the House through an adjournment motion tabled at the earliest opportunity, if the Speaker gives his consent thereto. In the words of Speaker Mavalankar:

> An adjournment motion is really a very exceptional thing, because hon. Members will see that to allow a matter to be discussed in the House in respect of which no previous notice is given and which is not placed on the Order Paper, is doing injustice to a large number of absent members. Therefore, the practice has been that nothing will be introduced extraneously in the Order Paper of the day unless the occasion is of such a character that something very grave, something which affects the whole country, its safety, its interests and all that is happening and the House must pay its attention immediately. Then only an adjournment motion can be conceived. Adjournment Motions are not included in the Order Paper unless the extent of the matter, its importance and its gravity justifies it[2].

The primary object of an adjournment motion is to draw the attention of the Government to a matter of urgent public importance so as to criticise the decision of the Government in regard to which a motion or resolution with proper notice will be too late[3].

> Provision to move an adjournment motion which was largely based on the procedure obtaining in the House of Commons, U.K. was made for the first time in 1920 when the Indian Legislative Rules for the Legislative Assembly to be constituted under the Government of India Act, 1919, were framed[4]. The rules were applicable to both the Houses of the Central Legislature and provided that an adjournment motion could be moved in either Chamber. This was a patent departure from the practice in the U.K., where an adjournment motion could be moved only in the House of Commons. The position was corrected in 1947[5] and the provision in the rules vesting in the Governor-General the power to disallow an adjournment motion in certain cases, notwithstanding the fact that consent to its moving had been given by the Speaker, was also omitted.

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1. Rule 31 (2).
2. *L.S. Deb.,* 22-2-1955, cc. 23-31. For instances, *see* Revised List of Business dt. 12-8-1966, 14-11-1972, 22-3-1978, 27-4-1983; 28-2-1984.
3. *L.A. Deb.,* 9-6-1924, p. 2812.
4. *Gaz. Ex.* 27-9-1920, pp. 1003-10.
5. In 1952, when the Lok Sabha and the Rajya Sabha were constituted, provision to move an adjournment motion was retained in the Rules of Procedure of Lok Sabha only as the Council of Ministers is responsible to the Lok Sabha *alone vide* art. 75(3) of the Constitution.

From the very beginning, an adjournment motion has been taken to be in the nature of a censure motion, though not absolutely[6]. Explaining this, Speaker Frederick Whyte stated as follows:

> No direct effect can be given to an adjournment motion of this House. The rule itself only provides a convenient method by which the ordinary business of the Assembly may be put on one side in order to make way for the discussion of some sudden emergency. The only question put from the Chair on the occasion is that this House do now adjourn. If this motion is carried, the action of the Assembly may be taken: (i) as evidence of the serious view which the majority of the Floor takes regarding the matter, and (ii) as a possible vote of censure on Government[7].

The procedure for moving an adjournment motion has remained unaltered since the inception of the First Central Legislative Assembly in 1921 but the purpose and effect of these motions have changed since Independence. The procedural devices whereby members could bring matters of urgent public importance for discussion, before Independence, were very few. They had, therefore, to resort frequently to one rule, namely, adjournment motion. In those days, an adjournment motion was not regarded, in the absolute sense, as amounting to a censure motion because the Government was not responsible to the House. The Speaker of the Assembly had also to construe the rules not on the basis of strict parliamentary conventions or usage but in the light of prevailing conditions. Thus the practice developed that any matter of consequence was brought for discussion on an adjournment motion. The Speaker invariably permitted discussion by admitting adjournment motions liberally. This practice had become so deep-rooted that when India became free and the Government became responsible to Parliament, members did not realise that a change had taken place and that it was no longer appropriate to bring matters of any consequence for discussion on adjournment motions. Partly, the rules were at fault. They had not been so revised or enlarged to facilitate more such parliamentary devices through which urgent matters could be raised and discussed in the House. Therefore, a period of great stress and strain between the Presiding Officer and the members ensued-members wishing to discuss matters on adjournment motions, and the Speaker resisting this method of approach as it was not conducive to sound parliamentary procedure[8]. Speaker Mavalankar, therefore, took an opportunity at the earliest, of explaining the scope of an adjournment motion in the new set-up. In his ruling in the Provisional Parliament on 21 March 1950, he said:

> The crucial test always is as to whether the question proposed to be raised has arisen suddenly and created an emergent situation of such a character that there is *prima facie* case of urgency and the House must therefore leave aside all other business and take up the consideration of the urgent matter at the appointed hour. The urgency must be of such a character that the matter really brooks no delay and should be discussed on the same day the notice has been given.
>
> Successive Speakers of the Central Legislative Assembly, including myself, had considerably relaxed the rule of admission as it prevailed in the House of Commons, for the obvious reason that private members, who were in Opposition, had few opportunities of discussing matters of public importance. The Government then was not responsible to

6. *L.A. Deb.,* Vol. I, 1921, p. 406; 12-3-1924, pp, 3229-30; Vol. I, 1927, p. 1080, Vol. V, 1927, p. 4381; P. *Deb.* 21-3-1950, pp. 1889-95.
7. *L.A. Deb.,* 12-3-1923 pp. 3229-30; *see* also *L.A. Deb.* Vol. I, 1927, pp. 406 and 1028; Vol. V, 1927, p. 4381.
8. *First Parliament (1952-1957): A Souvenir,* Lok Sabha Secretariat, pp. 29-30.

> the Legislature, nor were they amenable to its control. There was, therefore, good ground for the Presiding Officers to relax the rule and allow opportunities for discussion of all important questions on adjournment motions... The conditions now have entirely changed and, therefore, in the new set-up, with the various opportunities and the responsive and responsible character of the Government, we cannot look upon an adjournment motion as a normal device for raising discussion on any important matter[9].

If an adjournment motion is carried, it indicates stronger disapproval of the policy of Government than a censure against it. For removing the Government, however, it is necessary for members to give notice of a no-confidence motion in the Council of Ministers as provided for in the Rules[10].

Notice of Adjournment Motion

Notice of an adjournment motion is given by members on the prescribed form, copies of which are made available to them through the Parliamentary Notice Office. In his notice of a motion for an adjournment of the business of the House, a member has to state the definite matter which he wants the House to consider. He must confine the subject matter of the notice within the limits laid down by the rules and be brief and clear about it. A notice which is vague or contains lengthy arguments which are in the nature of a discussion is disallowed on that very ground[11].

The contents of the notice are kept secret and are not divulged to members or to the Press. It is also not open to a member to give publicity to his notice of an adjournment motion or to give it to the Press to publish it before it is brought before the House[12] and any lapse in this regard is treated as a breach of privilege of the House.

Notice of an adjournment motion has to be given before the commencement of the sitting on the day on which the motion is proposed to be made to the Secretary- General, copies of which should be endorsed to the Speaker, the Minister concerned and the Minister of Parliamentary Affairs[13].

The expression 'before the commencement of the sitting' in the rules means a reasonable time before the commencement of the sitting so that the notice could reach the Speaker in his office before he goes to occupy the Chair at the commencement of the sitting. Before the commencement of a session, notices can at the earliest be given only after a day fixed, for the purpose, in advance and notified in the Bulletin[14].

> The Standing Orders framed in 1920 provided for the notice of an adjournment motion being given to the Secretary of the Assembly only[15]. In 1937, the Legislative Assembly Rules were amended to provide for a copy of the notice being given also

9. *P. Deb.,* 21-3-1950, pp. 1889-95.
10. Rule 198(1). *See* also *L.S. Deb.,* 6-8-1962, c. 12; 19-11-1963, cc. 375-76.
11. Rule 198(1)(b). *L.A. Deb.,* 3-3-1941, p. 917.
12. Rule 334A; *H.P. Deb.,* 10-12-1952, cc. 1974-75.
13. Rule 57.
    One 6 April 1970, Rule 57 was suspended to enable to House to take up an adjournment motion of which notice had been given after the commencement of the sitting – *L.S. Deb.,* 6-4-1970. c. 245.
14. *See* Bn. II, 8-1-1973 and *also* see Chapter 32 – *General Rules of Procedure.*
15. S.O. 22.

to the Speaker and Member of the Government to whose Department the motion related[16].

Notices are now addressed to the Secretary-General and copies thereof endorsed to the Speaker, the Ministers concerned and the Minister of Parliamentary Affairs are received in the Parliamentary Notice Office[17]. Keeping in view the need for giving sufficient time to the Speaker to consider notices, it has been laid down that notices of adjournment motions received upto 10.00 hours are valid for that day. In case copies of notice are delivered after l0.00 hours at the Parliamentary Notice Office, the notice is not deemed to have been received in time and treated as a notice given for the next sitting[18].

In case the House is adjourned for the day without transacting any business, notices received for that day are kept pending for the next sitting[19].

No member shall give more than one such notice for any one sitting.

Where several notices on the same subject are received at the same point of time, a ballot is held to determine their *inter se* priority.

Where, however, a notice is signed by more than one member, it shall be deemed to have been given by the first signatory only[20].

Where a member delivers a notice to the Speaker personally before 10.00 hours and hands in the copy intended for the Secretary-General after that hour, the Speaker may, in exceptional circumstances, to be explained by the member to the satisfaction of the Speaker, hold that the notice may be deemed to have been received in time.

A notice received after the prescribed hour, in the absence of any instructions from the member as to the date on which it is to be taken up, is treated as a notice for the next sitting and in deciding the admissibility of such a notice, due consideration is given to the point whether the notice has been given by the member at the first available opportunity.

In accordance with well established convention, notices of adjournment motion received before the President's Address stand postponed for consideration at the sitting of the House following the one held immediately after the President has addressed the Houses of Parliament assembled together[21]. There is, however, no bar to take up the motion on the day of the President's Address itself[22].

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16. Rule 11(2) of Indian Legislative Rules.

17. Formerly, copies of the notice intended for the Ministers had to be delivered to them by the member himself – *L A. Deb.,* 21-2-1938, pp. 881- 89.

18. Dir. 113B.

19. Notices received on 23 June 1980, 25 July 1985 and 21 August 1985 were kept pending for the next sitting as the House adjourned without transacting any business due to the demise of Sanjay Gandhi (sitting member), Sardar Hukam Singh (former Speaker, Lok Sabha) and Sardar Harchand Singh Longowal (President, Shiromani Akali Dal); On 20 February 2001, due to the demise of lndra Jit Gupta (sitting members); On 28 November 2001, due to demise of Vishno Datt Sharma (sitting member); On 21 February 2003 and 28 July 2003 were also kept pending for the next sitting as the House adjourned without transacting any Business after making obituary and other references on the passing away of sitting members.

20. Rule 57, Explanation (i).

21. *L.S. Deb.,* 11-5-1957, c. 25; 18- 4-1962, cc. 43-44; 17-2-1965, c. 23; 14-2-1966, c. 1; 28-1-1980, cc. 34-36; 16-02-1981, c. 33.

22. On 18 March 1967, when the House assembled after the President's Address, members of certain Opposition Groups did not agree with the convention and pressed for their adjournment motions being taken up on that day itself. There were also two notices of no-confidence motion in the Council of Ministers which too members wanted to be taken up on that day to which the Prime Minister agreed. Accordingly, discussion on motion of no-confidence in the Council of Ministers was taken up on that day and motion for adjournment was not taken up. *L.S. Deb.,* 18-3-1967, cc. 100-120.

When a motion of no-confidence in the Council of Ministers is under discussion, adjournment motions are not allowed[23]. Where notice of a motion of no-confidence has been received, the Speaker may hold over consideration of adjournment motions till decision is taken by the House about granting leave for the moving of the no-confidence motion.

Adjournment motions are not normally allowed during the budget discussions or during the discussion on the Motion of Thanks on President's Address as members have sufficient opportunity to focus the attention of the House to any matter during that discussion[24].

Admissibility of Adjournment Motion

An adjournment motion, to be admissible, must possess the following essential elements:

Ministerial Responsibility

Generally speaking, the subject matter of an adjournment motion must have direct or indirect relation to the conduct or default on the part of the Government of India and must be in the nature of criticism of the action of the Government of India either for having done some action or for having omitted to do some action which was urgently necessary at the moment[25]. An adjournment motion is not admissible unless there was failure on the part of the Government to perform the duties enjoined by the Constitution and the law[26]. Where the Government of India has no obligation to intervene in a matter, an adjournment motion is out of order. An adjournment motion cannot be moved also on matters where a Minister exercises discretionary powers conferred upon him by a statute.

An adjournment motion on a matter concerning a State Government is inadmissible[27]. Notice of an adjournment motion relating to a State subject has, therefore, to be accompanied by a statement showing how the responsibility of the Government of India has not been discharged[28]. However, adjournment motions relating to matters of law and order or any other State subject, if these concern members of the Scheduled Castes and Scheduled Tribes[29], may be referred to the Minister of Home Affairs for making

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23. *L.S. Deb.,* 19-8-1963, cc. 1190-1210; 20-8-1963, cc. 1520-32, 1572; 4-8-1966, cc. 2612-13; 2-11-1966, cc. 451-52; 3-9-1973, cc. 1-13.

24. On 19 February 1981, while giving consent to moving the adjournment motion, the Speaker observed that normally when debate on the President's Address was taking place, there was hardly any reason for adjournment motion. However, having regard to the fact of tragic loss of life due to consumption of poisonous and spurious liquor, in Delhi, he had given his consent. Accordingly, discussion which commenced at 16.00 hours; concluded the same day. *L.S. Deb.,* 19-2-1981, cc. 460-61; 548-622.

25. *L.A. Deb.,* 4-9-1928, p. 153. *See* also *L.A. Deb.,* Vol. II, 1923, p. 5034; Vol. IV, 1924, pp. 1315, 2812; *L.S. Deb.,* 31-5-1957, cc. 3203-05; 10-3-1975, cc. 217-20.

26. *L.S. Deb.,* 24-5-1971, c. 154; 18-4-1974, cc. 174-77.

27. *L.A. Deb.,* Vol. IV, 1924, pp. 1626-27; *H.P. Deb.* (II), 15-2-1954, cc. 21-22; *L.S. Deb.,* 7-4-1955, cc. 4560-61; 21-12-1956, cc. 3889-90; 2-5-1957, cc. 1388-89; 5-8-1959, cc. 661-66; 29-8-1959, c. 5086; 11-3-1966, c. 5041; 28-11-1973, cc. 226-34; 4-9-1974, cc. 30-32.

28. *L.S. Deb.,* 29-8-1957, cc. 10666-67.

29. Under art. 338, a Commission (National Commission for Scheduled Castes and Scheduled Tribes) to be appointed by the President to investigate all matters relating to safeguards provided for the Scheduled Castes and Scheduled Tribes and its reports are to be laid on the Table of each House of Parliament, and before the Legislature of the State concerned. However, *vide* the Constitution (Eighty-ninth Amendment) Act, 2003, two National Commissions for Scheduled Castes and Scheduled Tribes were created to deal with matters concerning each separately, under articles 338 and 338A, respectively.

enquiries in the matter from the Government of the State concerned and furnishing the information direct to the member or members tabling the notice[30].

An adjournment motion on constitutional developments in a State which bring the Union Government into picture may be held to be in order. Thus, consent has been given by the Speaker to the moving of adjournment motions on the failure of the Union Government to prevent the prorogation of a State Assembly by the Governor when the Assembly session had been called to pass the budget and a vote on certain Demands was likely to go against the Government in view of crossing of the floor by several members and dissolution of a State Assembly by the Governor[31].

An adjournment motion regarding dissolution of a State Assembly was also held to be in order[32].

An adjournment motion seeking to discuss the action of the Governor in issuing an Ordinance for appropriation of money after proroguing the State Assembly was held inadmissible, as the action of the Governor was in accordance with the provisions of article 213 of the Constitution[33].

It has been held that calling of armed forces by a competent authority of the Government of a State in aid of the local police force to maintain law and order cannot be the subject matter of an adjournment motion as under the Code of Criminal Procedure, 1973[34], a Magistrate is empowered to call the armed forces when he feels that an unlawful assembly cannot be otherwise dispersed[35].

The action of the Government of a State which it is empowered to take under the provisions of the Constitution cannot form the subject matter of an adjournment motion[36].

An adjournment motion seeking discussion on Supreme Court judgment was held to be inadmissible[37].

Where the President has, by a proclamation, declared that the powers of the Legislature of a State shall be exercisable by or under the authority of Parliament after having dissolved the Legislature of the State, an adjournment motion on a State subject in respect of that State may be moved in Lok Sabha. The admissibility of such a motion is, however, governed by the Rules of Procedure and Conduct of Business in Lok Sabha and not by those of the State Legislature[38].

Matters relating to the day-to-day administration of an autonomous organisation/ corporation cannot be raised by way of an adjournment motion[39].

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30. *L.S. Deb.,* 7-8-1959, c. 1188.
31. *Ibid.* 20-7-1967, cc. 13413-24; 5-3-1973, cc. 250-59.
32. *Ibid.,* 29-3-1977, cc. 159-240.
33. *Ibid.,* 1-4-1981, cc. 266-310.
34. Cr. P.C., Sections 130 and 151.
35. *L.S. Deb.,* 12-8-1958, cc. 356-61; 4-9-1959, cc. 6402-22.
36. *Ibid.,* 14-3-1960, cc. 5694-95.
37. *Ibid.,* 25-7-1985, c. 180.
38. *Ibid.,* 5-8-1959, cc. 661-66. Such a proclamation is issued by the President under article 356.
39. *Ibid.,* 28-8-1959, c. 4872.

Conduct of a foreign Government[40] as also events in a foreign country over which the Government of India have no jurisdiction cannot be discussed on an adjournment motion[41].

Matter must be definite

The matter sought to be raised by a motion for adjournment must–

(a) Relate to a single specific matter: An adjournment motion to discuss an inquiry report as a whole has been held as not relating to a specific matter.

A motion must not raise more than one issue. However, subjects referred to in different adjournment motions raising substantially the same question have been allowed to be discussed together on the first admitted motion[42]. When two or more notices on the same subject have been received, the Speaker, in his discretion, gives his consent to a notice which is appropriately framed, although it may not be the first one received in point of time[43].

(b) Neither be couched in general terms nor cover a great number of cases: An adjournment motion which seeks to raise a general issue like political situation in the country[44], or appalling conditions leading to unparalleled economic upheaval in India due to unemployment of middle classes, etc.[45], or lawlessness in a State[46], or attitude of Government when Government have not disclosed any attitude[47], or late running of trains and increase in the number of railway accidents[48], has been held to be not in order. If an adjournment motion is sought to be moved on the basis of statement by any Minister, it must set out either the statement in full or at least give a substance of the statement; otherwise it could not be a definite matter for discussion for which the House should be adjourned[49].

(c) Have a factual basis: The mover of a motion must be ready with all the facts before he makes the motion[50]. Where the information is within the personal knowledge of a member, it may be presumed as having factual basis if confirmed by him on the floor of the House[51]. There is no objection *per se* to the notice of an adjournment motion being given simply because it happens to be based on a newspaper report, but the Speaker before accepting the motion must be in possession of further facts. Press reports unless admitted by Government cannot be accepted as authoritative for the purpose of an adjournment motion[52].

40. *L.A. Deb.,* 29-3-1933, p. 2771; *H.P. Deb.,* (II), 30-6-1952, c. 2819.
41. *L.S. Deb.,* 23-3-1960, cc. 7545-71.
42. *L.A. Deb,* 9-2-1945, pp. 126-71.
43. *L.S. Deb.,* 12-3-1959, cc. 5841-53.
44. *L.A. Deb.,* Vol. II, 1922, p. 1453.
45. *Ibid.,* Vol. III, 1923, pp. 4640-41.
46. *Ibid.,* Vol. III, 1933, pp. 2633-56; Vol. IV, pp. 149-50.
47. *Ibid.,* 6-2-1936, Vol. I, pp. 293-95.
48. *Ibid.,* 10-11-1938, p. 2825. For other instances, *see* also *ibid.* Vol. II, 1922, pp. 3016-17; Vol. III, 1923, p. 1544; Vol. IX, 1933, p. 2971.
49. *L.A. Deb.,* 6-4-1945, pp. 2658-70.
50. *Ibid.,* Vol. IV, 1937, p. 613; *see* also *ibid,* 5-2-1936, pp. 198-99.
51. *Ibid.,* 27-2-1933, pp. 1250-51.
52. *H.P. Deb. (II)*, 30-5-1952, c. 861; *L.A. Deb.,* 21-4-1936, pp. 4343-44; *L.S. Deb.,* 22-4-1992, cc. 508-09.

Private telegrams cannot be accepted as justifying an adjournment motion[53]. Where facts are not admitted by Government, the member must adduce some authentic information to support his notice[54]. In an appropriate case, the Speaker may allow the notice to stand over till the next day so that further information could be gathered and placed before the House[55].

An adjournment motion does not lie when facts are in dispute, or before they are available. When Government dispute the facts stated in the notice of the adjournment motion, the Speaker accepts the Government version of the facts[56].

Matter must be urgent

In interpreting whether a matter is urgent or not, the Speaker is guided not by the ordinary meaning of the term but by the technical use of the term made in the rule[57]. A matter to be urgent must have arisen suddenly in the nature of an emergency[58].

Instances of matters held 'urgent' include decision of Government to postpone the Currency Bill after presentation of the General Budget[59]; sending of troops to a foreign country without consulting the Assembly[60]; terms of communique announcing the appointment of the personnel of a committee to make inquiry and make recommendations regarding allocation of certain resources between the Government of India and the Government of a State[61]; use of religious places for extremist activities[62]; decision of Government to increase the prices of fertilizers and petroleum products on the eve of Budget Session[63]; and security lapses for President and Prime Minister and other dignitaries[64].

Instances of matters held 'not urgent' include the question of serious unemployment in an industry in India[65]; Government's attitude regarding contract for the Howrah Bridge going to a British firm[66]; dacoities committed on the border of Baluchistan and Sind in which one officer and three clerks were killed[67]; railway disaster near

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53. *L.A. Deb.,* Vol. III, 1923, pp. 4680-82; 21-4-1936, pp. 4343-44.
54. *Ibid.,* 5-10-1936, pp. 2345-47.
55. *Ibid .,* Vol. II, 1938, p. 1977; *L.S. Deb.,* 30-11-1955, cc. 783-84; 2-12-1955, cc. 1037-38; 22-12-1955, cc. 2677-85.
56. *L.A. Deb.,*19-11-1940, pp. 184-85; *L.S. Deb.,* 19-5-1972, cc. 182-89.
57. *L.A. Deb.,* Vol. II, 1922, p. 1453; 14-3-1922, p.3016.
    The term 'Urgent' explained by Speaker Mavalankar (in r.e. *plight of Tongawalas in Delhi)* reads as: "The matter certainly is an urgent matter but it has to be of importance, and there. I have said that the matter is not of such importance as to warrant an adjournment of the House...", *see P. Deb. (II)*, 7-8-1950, c. 305.
58. *L.A. Deb.,* 6-2-1933, p. 240.
59. *Ibid.,* Vol. I, 1927, pp. 545-46.
60. *Ibid.,* Vol. I, 1927, pp. 51-55.
61. *Ibid.,* Vol. VI, 1935, pp. 1194-97.
62. *L.S. Deb.,* 26-4-1983, cc. 342-47, 516; 27-4-1983, cc. 379-496.
63. *Ibid.,* 21-2-1986, cc. 359-500.
64. *Ibid.,* 4-11-1986, cc. 299-376.
65. *L.A. Deb.,* Vol. *N,* 1934, p. 1315.
66. *Ibid.,* Vol. I, 1936, pp. 293-95.
67. *Ibid.,* Vol. VII, 1938, pp. 2953-54.

Bikaner resulting in the death of forty-five passengers and injuries to sixty-one others[68]; closure of tea gardens due to sharp fall in prices[69]; air crash in Delhi[70]; alleged occupation of the island of 'Kachcha Thivu, by Ceylon[71]; and arrests and convictions in Trivandrum following an agitation to establish a Bench of Kerala High Court at Trivandrum[72].

A matter is 'urgent' only if it is of very recent occurrence and must be raised at the first available opportunity[73]. Matters arising during the period when the House is not in session should be raised on the first day the House meets[74]. A matter which has been continuing for some time cannot be raised through an adjournment motion[75].

A matter even of very recent occurrence is not 'urgent' if an opportunity for its discussion will arise in the ordinary course of business within a reasonably short time[76].

It has been held that an adjournment motion on a matter which can be raised during debate on the Motion of Thanks on the President's Address[77]; budget discussion[78]; motion on international situation[79]; motion regarding a matter of public importance such as food policy, etc.[80] to be held in the same session is not in order. Similarly a matter which can be raised under any other procedural device, *viz.,* calling attention notices, questions, short notice questions, half-an-hour discussions, short duration discussions, etc.[81] cannot be raised through an adjournment motion[82].

A matter which has already been discussed by the House during the same session cannot be raised again through an adjournment motion[83]. Similarly, notice of an

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68. *H P. Deb. (II)*, 20-5-1952, cc. 157-58.
69. *Ibid.,* 9-2-1952, c. 1897.
70. *L.S. Deb.,* 26-2-1954, c. 783.
71. *Ibid.,* 28-3-1956, cc. 3593-94.
72. *Ibid.,* 28-11-1956, cc. 1271-77.
73. *L.A. Deb.,* Vol. VIII, 1926, p. 59; Vol. V, 1927, pp. 4058-60; Vol. IV, 1930, pp. 566-67; *HP. Deb. (II)*, 22-5-1952, cc. 329-30
74. *L.S. Deb.,* 1-8-1960, cc. 96-97.
75. *L.A. Deb.,* Vol. Ill, 1928, p. 157; *L.S. Deb.,* 27-9-1958, c. 8974; 9-3-1960, cc. 4915-16; *L.S. Deb.,* 3-12-1991, cc. 522-32.
76. Frederick Whyte, *Manual of Business and Procedure,* pp. 33-34, *see* also *L.A. Deb.,* Vol. II, 10-1-1922, pp. 1453 and 2176-79; Vol. V, 1929, p. 1626; Vol. I, 1937, p. 159.

    The Speaker withheld his consent to the moving of adjournment motion as the Minister of Home Affairs had given notice to make a statement on the same subject *(viz.* dissolution of Punjab Assembly and issuing of Proclamation) *suo motu* and had also requested for a discussion thereon immediately. The Minister accordingly made a statement on the subject on 7 March 1988, which was immediately followed by discussion under rule 193. The discussion concluded on the same day- *L.S. Deb.,* 7-3-1988.
77. *P. Deb., (II)*, 7-8-1951, cc. 30-31; *L.S. Deb.,* 11-2-1964, cc. 142-43; 20-2-1973, cc. 207-22.
78. *H.P. Deb. (11)*, 16-5-1952, cc. 65-68; *L.S. Deb.,* 14-5-1957, cc. 131-36; 20-2-1973, cc. 207-22; 4-3-1974, cc. 223-34.
79. *L.S. Deb.,* 14-11-1956, cc. 2-3.
80. *Ibid.,* 11-11-1957, c. 68.
81. *Ibid.,*16-11-1954, cc. 9-10.
82. *Ibid.*, 13-3-1955, cc. 2199-200; 15-2-1956, cc. 22-23; 25-7-1957, cc. 5123-24.
83. *L.A. Deb.,* Vol. III, 1923, cc. 5034-55; *L.S. Deb.,* 16-8-1955, cc. 10141-42; *L.S. Deb.,* 22-4-1992, cc. 508-09.

adjournment motion cannot be amended from day-to-day as new situations in respect of the same matter arise[84].

The Speaker may, in a fit case, postpone consideration of a notice of an adjournment motion without prejudice to the claim of the member to raise an urgent matter. Circumstances in which consideration of adjournment motions has been postponed are:

until certain information had been obtained[85], or until full facts were available[86];

in order to conclude discussion on an important Bill[87] or on a motion[88] before the House;

to enable the Minister of Law to give his opinion to the Speaker on a certain point[89], or the mover to amend his notice of adjournment motion by omitting certain words[90], or members to have more time to study the matter sought to be raised[91].

when the Budget guillotine was to be applied at 5 p.m.[92] or when the then Viceroy was to address the Assembly in the afternoon[93];

when consideration of the motion is postponed by the Speaker for a somewhat longer period, a fresh notice of the motion is necessary[94].

Matter must be of Public Importance

To be in order, an adjournment motion must raise a matter of sufficient public importance to warrant interruption of normal business of the House. No hard and fast rule can be laid down as to what constitutes public importance. The question of public importance is decided on merits in each individual case[95]. It is always a relative question and in a vast country like India, the importance of an incident has to be judged in the background of the entire administration of the country[96].

The factors which usually go in favour of deciding that the matter raised by an adjournment motion is one of public importance are–

(i) The matter raised should be a larger issue than a merely individual grievance.

Service grievances and individual cases of administrative character such as appointments, promotions of officers or class of officers of the Government cannot

84. *L.A. Deb.,* Vol. III, 1930, p. 2327.
85. *L.A. Deb.,* Vol. II, 1930, pp. 1413-14; *H.P. Deb. (II)*, 5-11-1952, cc. 4-6; 6-12-1952, cc. 1720-27; *L.S. Deb.,* 20-9-1954, cc. 24-69; 29-11-1954, cc. 1223-24; 25-11-1957, cc. 2100-08; 16-12-1957, cc. 5612-16; 28-8-1958, cc. 3459-63; 25-11-1958, cc. 1441-44; l-9-1959, cc. 5587-600.
86. *L.A. Deb.,* Vol. LI, 1938, p. 1977.
87. *Ibid.,* Vol. V, 1929, p. 1239.
88. *Ibid.,* Vol. IV, 1944, pp. 264-65 and 285. In this case, leave to move the adjournment motion had been granted.
89. *L.A. Deb.,* Vol. I, 1932, pp. 657-63.
90. *Ibid.,* Vol. III, 1933, p. 2771.
91. *Ibid.,* Vol. IX, 1933, p. 3686.
92. *Ibid.,* Vol. III, 1932, p. 2283; 24-2-1938, p. 1104.
93. *Ibid.,* Vol. I, 1935, p. 99.
94. *Ibid.,* Vol. VIII, 1933, pp. 2013-14.
95. Frederick Whyte, *Manual, op. cit.,* p. 33.
96. *H.P. Deb. (II)*, 27-5-1952, c. 620; 7-8-1950, cc. 393-95.

be brought up by way of an adjournment motion[97],

(ii) The matter raised should be a question of public importance. Adjournment motions on the following subjects were held to be in order as they involved the principle of Indianisation.

Appointment of S.P. Chambers from England as Chief Commissioner of Income-tax[98], and appointment of a non-Indian as Superintendent of Insurance even when only one Indian was qualified for the post[99].

(iii) Though generally the policy and attitude of Government cannot be considered to be a fit matter to be raised through an adjournment motion, occasions may arise when policy and attitude of the Government may become a matter of public importance[100], *e.g.,* the attitude of the Government as disclosed by replies to a question relating to a scurrilous article in a newspaper regarding Mahatma Gandhi[101]; raids and arrests in several parts of India[102]; decision of the Government not to publish the Report of the Indian Deputation to Fiji[103]; reported decision of the Government to drop the Second Shipyard Project at Cochin[104].

In the following cases notices were disallowed on the ground *inter alia* that the matter raised was not of public importance;

action of pushing and beating, by two police officers, at Simla, of two Congress volunteers[105]; dacoity in a town[106]; confidential report made on the members of the Legislative Assembly (held to be an ordinary departmental matter[107]; kidnapping of five Hindus by armed Torikhal Waziris of the trans-border area in Bannu district[108]; tension in Delhi due to rioting near civil courts[109]; visit of U.S. destroyers in Calcutta port[110]; non-availability of serviceable vehicles with the Delhi Transport Service[111]; Press Note issued by the Government regarding contemplated strike of the Bank employees — (the matter held to be not of such a great importance in the whole set-up of the Indian economy as to warrant admission of adjournment motion)[112]; taking over of certain sugar mills by the Government in U.P. (held

97. *L.S. Deb.,* 10-2-1958, cc. 1-4; 9-3-1961, cc. 3847-48.
98. *L.A. Deb.,* Vol. VII, 1937, p. 3119.
99. *Ibid.,* Vol. IV, 1938, p. 113.
100. *Ibid.,* Vol. VI, 1930, p. 1390.
101. *Ibid.,* Vol. VI, 1930, pp. 1390-91.
102. *Ibid.,* Vol. III, 1929, p. 2277.
103. *Ibid.,* Vol. I, 1927, p. 403.
104. *L.S. Deb.,* 15-3-1960, cc. 5899-5909.
105. *L.A. Deb.,* Vol. IV, 1930, pp. 559-60.
106. *Ibid.,* Vol. IV, 1930, p. 678.
107. *Ibid.,* Vol. III, 1935, pp. 2965-68.
108. *Ibid.,* Vol. IV, 1939, p. 4215.
109. *H.P. Deb. (II)*, 27-5-1952, cc. 619-21.
110. *Ibid.,* 3-3-1953, cc. 1261-67.
111. *L.S. Deb.,* 23-11-1954, c. 689.
112. *Ibid.,* 6-12-1954 , c. 1925.

to be not a matter of public importance in all-India setting)[113]; and explosion in Delhi[114].

Restrictions on the Right to Move Motion

The right to move an adjournment motion is subject to the following restrictions namely[115]—

(i) *Not more than one such motion shall be made at the same sitting:* An adjournment motion is deemed to have been duly made after leave of the House to move it has been granted[116]. If the Speaker gives his consent to the moving of an adjournment motion and the leave of the House is also granted, the disposal of the remaining notices is as follows:

Notices on the same subject are barred[117].

Notices on different subjects stand over to be taken up at the next sitting of the House[118].

The process of pending notices being taken up at the next sitting of the House may continue from day-to-day until all the notices are disposed of. In a case where the Speaker has given his consent to the moving of an adjournment motion but leave of the House is not granted, the next notice in order of receipt in point of time, if it has not already been disposed of by the Speaker in his Chamber, is taken up. Similarly, where the Speaker withholds his consent to the moving of an adjournment motion after referring to the motion in the House, the next notice in order of receipt in point of time, which has not already been disposed of by the Speaker in his Chamber, is taken up.

Where notices of more than one adjournment motion are received for a particular day and the Speaker decides to bring them before the House, they are taken up one by one in the order of their receipt in point of time. If there are more than one notice on the same subject, the Speaker may, in his discretion, take them up together[119]. The Speaker has, on occasions, declined to take up more than one notice at a time even when the notices related to a like subject on the ground that the question to be considered by the House was whether the first motion was in order and if so, whether on an objection being taken, the House granted leave to move it[120].

Where notices of more than one adjournment motion received on the same subject are taken up and the matter sought to be raised is held in order, the Speaker normally gives his consent to the notice which is received first in point of time[121]. But the Speaker may, in his discretion, give his consent to a notice, as

113. *Ibid.,* 23-12-1955, c. 3906.

114. *Ibid.,* 12-8-1957, cc. 7977-80.

115. Rule 58.

116. Rule 60.

117. *L.S. Deb.,* 21-4-1960, cc. 12978-79.

118. *L.A. Deb.,* Vol. I, 1934, pp. 29-30.

119. *L.S. Deb.,* 1-8-1960, c. 96.

120. *L.A. Deb.,* Vol. I, 1943, pp. 33-34.

121. *L.S. Deb.,* 3-8-1957, cc. 6721-23; 18-8-1958, cc. 1356-60.

stated earlier, which is appropriately framed although it may not be the first in point of time[122].

(ii) *Not more than one matter can be discussed on the same motion.*

The debate on an adjournment motion, when admitted, should be strictly restricted to the specific matter mentioned in the motion[123].

(iii) *The motion should be restricted to a specific matter of recent occurrence*[124].

(iv) *The motion should not raise a question of privilege.*

The Rules and Standing Orders framed in 1921 did not specifically bar a question of privilege being raised through an adjournment motion[125]. However, it was held by the Speaker from time to time that an adjournment motion was not the proper procedure for raising a question of privilege[126]. It was also held that an adjournment motion could not be employed for defending the House against outside attacks[127].

The distinction between an adjournment motion and a question of privilege was brought out by Speaker Abdur Rahim in his ruling on 27 February 1936:

> Ordinarily the object of a motion for adjourning the business of the Assembly is to discuss and criticise the conduct or attitude of the Government in a definite matter of urgent public importance, while in a case, where the question of privilege is raised as the main issue, the House would be asked to take such suitable action as is within its competence in order to protect the members from interference and molestation in the discharge of their duties or to uphold the dignity of the House. But, if the question of privilege raised is a definite matter of urgent public importance, which is also primarily the concern of the Government, and the main object of the motion is to discuss and criticise the conduct of the Government in the matter, it can be dealt with by an adjournment motion subject, of course, to the restrictions and limitations laid down by the rules[128].

Before Independence, when the privileges, powers and immunities of the House were not defined, adjournment motions arising out of the detention of and ban on members were held to be in order since the object of the motions was mainly to discuss and criticise the conduct of the Government in the matter[129].

After Independence, Speaker Mavalankar held that the arrest of a member of the House under the ordinary law of the land was not a breach of privilege of the House and the matter could not be raised through an adjournment motion since the mere fact of his being a member of the House did not make him free from all laws of the country. He held that when a member was arrested, the Government was acting under the authority vested in it by the law and no question of privilege could

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122. *L.A. Deb.,* 9-2-1945, pp. 126-27; *L.S. Deb.,* 12-3-1959, cc. 5841-53.

123. *L.S. Deb.,* 12-3-1959, c. 6018.

124. Rule 58 (iii); *L.A. Deb.,* 14-9-1922, pp. 501-03; *L.S. Deb.,* 6-8-1962, c. 142.

125. Rule 12 of the Indian Legislative Rules, 1921.

126. *L.A. Deb.,* Vol. II, 1936, p. 1783.

127. *Ibid.,* Vol. III, 1928, p. 154.

128. *Ibid.,* Vol. II, 1936, p. 1783.

129. For instance: (i) The Gold Standard and Reserve Bank of India Bill. –*L.A. Deb.,* 13-9-1927, pp. 4242, 4277-97; (ii) Conduct of the Government in preventing a member from attending to his duties as a member of the House. –*L.A. Deb.,* 22-1-1935, p.77; (iii) Decision of the Government that a member of the House who was also a political leader could not expect to remain at liberty if he returned to India.—*L.A. Deb.,* Vol. IV, 1936, pp. 3059-60, 3089-3114.

arise because the member was like any other citizen in that respect[130]. Further, the rules prohibit a member from raising a question of privilege on an adjournment motion[131]. Also, where a matter has been raised as an adjournment motion, the same matter cannot be allowed to be raised as a question of privilege[132].

(v) *The motion should not revive discussion on a matter which has been discussed in the same session*[133].

An adjournment motion on a matter which is substantially identical with the one already raised by an adjournment motion, consent to the moving of which has been withheld by the Speaker[134] or leave of the House to the moving of which has been refused[135] during the same session, is not in order. Similarly, a matter already discussed by the House cannot be revived during the same session by way of an adjournment motion unless something new has arisen which warrants interruption of the normal business of the House[136].

Matters which are coming before the House from day to day by way of questions, half-an-hour discussions, etc., cannot be raised through an adjournment motion[137].

(vi) *The motion should not anticipate a matter which has been previously appointed for consideration.*

In determining whether a discussion is out of order on the ground of anticipation, the Speaker shall have regard to the probability of the matter anticipated to be brought before the House within a reasonable time. Explaining the purpose of this provision, Speaker Mavalankar observed:

> The point is that if hon. members have a fairly good chance of raising the question on a debate, it will not be permitted as an adjournment motion. The adjournment motion is a device to bring something before the House which is not included in the agenda or Order Paper. It is something like taking up a new matter which is not intended to be taken up and of which all members had no notice whatever. So in the interest of all, it has been the practice to allow adjournment motion as a matter of exception where the matter is really urgent and there is no other opportunity or chance for the House to consider the matter[138].

Therefore, an adjournment motion must not anticipate a resolution which is likely to be reached on the day allotted for discussion of the private member's resolutions[139], or a motion likely to be discussed by the House shortly[140], or matters covered by

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130. *P. Deb. (II)*, 28-2-1950, pp. 971-78.
In 1950, a provision was made in the Rules which specifically barred a question of privilege being raised through an adjournment motion.

131. Rule 58 (iv).

132. *L.S. Deb.,* 2-4-1973, cc. 277-78; 4-4-1973, cc. 217-19.

133. *L.A. Deb.,* 27-7-1923, pp. 5034-35; 11-2-1935, pp. 628-32; *L.S. Deb.,* 22-4-1992, cc. 508-09.

134. *Ibid.,* 9-10-1936, p. 2773.

135. *Ibid.,* 5-11-1940, pp. 71-72; 6-11-1940, p. 149.

136. *Ibid.,* 1-11-1944, p. 43; *L.S. Deb.,* 16-8-1955, cc. 10141-42; 4-9-1974, c. 43.

137. *H.P. Deb. (II)*, 9-12-1952, c. 1897.

138. *Ibid.,*16-5-1952, cc. 63-67; also *see L.S. Deb.,* 12-6-1962, cc. 20299-308; 13-6-1962, cc. 10560-562.

139. *L.A. Deb.,* 12-2-1942, pp. 102-05; 14-2-1942, pp. 170-72; 27-7-1943, pp. 85-86.

140. *Ibid.,* 26-9-1929, pp. 1618-27.

amendments to Motion of Thanks on the President's Address[141], or a matter which can be raised during discussion on the Budget and Finance Bill which is to take place in the same session[142]. Likewise, when Demands for Grants are being discussed, adjournment motions may not be allowed as Government can be censured, by voting down the Demands. A separate discussion on the subject matter of an adjournment motion may, however, be allowed, if necessary[143].

But, a notice of a cut motion having been received on a subject is no bar to the moving of an adjournment motion on the same subject[144].

(vii) *The motion should not deal with any matter which is under adjudication by a court of law having jurisdiction in any part of India*[145].

A matter is not *sub judice* until the legal proceedings actually start[146], but the moment a complaint is filed or a petition is launched involving jurisdiction of any of the courts in India, the court is seized of the matter and to that extent the jurisdiction of the House to discuss the matter is barred[147]. An adjournment motion to the moving of which leave of the House has been granted cannot be proceeded with, if at the time appointed for taking up the motion, the matter has become *sub judice*[148]. A matter which is appealable cannot be discussed by the House[149].

Although it may be the unanimous desire of the House to discuss a matter which is *sub judice,* the Speaker is bound to forbid it[150]. Non-observance of the prescribed legal procedure in a case before the court cannot be raised through an adjournment motion[151].

Where the intention of the mover of an adjournment motion is to discuss the Government policy underlying certain arrests and not the merits of the individual cases of arrests pending before the courts, the motion may be held to be in order[152].

An adjournment motion seeking to discuss the arrest of a member, charges against whom had been withdrawn, was held to be out of order since the case against the co-accused was still under investigation and the matter continued to be *sub judice*[153].

If the subject matter of an adjournment motion consists of two parts and a part becomes *sub judice* after leave of the House to the moving of the motion has been granted, discussion has to be restricted to the part which is not *sub judice.* The Speaker has ruled out the objection that the entire motion need not be proceeded with in such a case[154].

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141. *H.P. Deb. (II)*, 13-2-1953, c. 32; *see* also *P. Deb. (II)*, 7-8-1951, cc. 30-31; *L.S. Deb.,* 11-2-1964, cc. 142-43.
142. *L.A. Deb.,* 15-2-1943, pp. 212-13; *H.P. Deb. (II)*, 20-2-1953, cc. 611-12.
143. *L.S. Deb.,* 1-4-1968, c. 1207; 16-4-1968, cc. 892-93.
144. *L.A. Deb.,* 10-3-1928, p. 1244.
145. For details *re.* discussion on matters which are *sub judice, see* Chapter 43 'Parliament and Judiciary'.
146. *L.A. Deb.,* 13-2-1946, pp. 924-25.
147. *H.P. Deb. (II)*, 9-3-1953, cc. 1579-89.
148. *L.A. Deb.,* 24-3-1938, p. 1104; 25-3-1938, pp. 1220-21.
149. *Ibid.,* Vol. VI, 1933, p. 1120; 9-6-1924; p. 2812; 27-7-1943, pp. 82-83.
150. *L.A. Deb.,* 20-9-1921, pp. 581-82, *see* also *L.A. Deb.,* 8-9-1922, pp. 278-79; 11-9-1922, pp. 357-60; 22-3-1930, pp. 2216-20; 24-3-1930, p. 2327.
151. *H.P. Deb. (II)*, 9-3-1953, cc. 1579-81.
152. *L.A. Deb.,* 21-3-1929, pp. 2271-77.
153. *Ibid.,* 8-3-1937, pp. 1571-77.
154. *Ibid.,* 12-2-1941, pp. 958-59.

It has further been held that an order passed in the ordinary administration of law cannot be the subject matter of an adjournment motion even though there is no remedy for it under the law[155]. The Discussion on a ruling of the Supreme Court is not admitted[156]. The sentence passed by a martial law court, however, stands on a different footing from the judgment of an ordinary court, and may be discussed on an adjournment motion[157].

(viii) *The motion should not raise any question which under the Constitution or the Rules can only be raised on a distinct motion by a notice given in writing to the Secretary-General.*

This provision was for the first time made in the Rules of the Provisional Parliament in 1951[158]. There was no such provision in the Rules and Standing Orders of the Central Legislative Assembly or the Constituent Assembly (Legislative). However, it has been held by the Speakers from time to time that the following matters could not be raised by way of an adjournment motion:

Conduct of the Governor-General (now President) or any action taken by him[159]. Conduct of the Governor of a State[160] and Conduct of the Speaker[161] or an order passed by the Speaker[162].

Under the Constitution, the conduct of the following persons can be discussed by the House on a distinct motion given notice of to that effect and in the manner prescribed therein, namely:

the President[163]; the Vice-President[164]; the Speaker or Deputy Speaker[165]; a Judge of the Supreme Court[166]; the Comptroller and Auditor-General[167]; a Judge of a High Court[168]; and the Chief Election Commissioner[169].

No other person whose conduct can be discussed on a distinct motion has been specifically mentioned in the Rules. The Speaker has, however, the power to hold that the conduct of a particular person can be discussed only on a substantive motion drawn up in terms approved by him[170].

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155. *Ibid.,* 30-3-1937, p. 2384.
156. *L.S. Deb.,* 25-7-1985, c. 180.
157. *Ibid.,* 20-3-1943, pp. 1277-78.
158. *Min.* (RC), 24-4-1951, para 5; *Parl. Sectt. Notfn. No*. 30-C/51, 30-4-1951, *Gaz. Ex. 1(1)*, 4-5-1951.
159. *L.A. Deb.,* 17-3-1925, pp. 2495-98; 16-9-1936, pp. 1154-55; 16-2-1938, pp. 719-23; 10-8-1939, pp. 72-73; 6-11-1940, pp. 145-48.
160. *Ibid.,* 3-9-1936, pp. 373-79; *L.S. Deb.,* 5-3-1984, cc. 310-12; 7-8-1984, c. 367.
161. *L.A. Deb.,* 11-2-1935, pp. 625-28.
162. *Ibid.,* 8-10-1936, pp. 2664-65.
163. Art. 61 and First Proviso to Art. 361(1).
164. Art. 67.
165. Art. 94.
166. Art. 124 (4).
167. Art. 148 (1).
168. Art. 217 (1), Proviso (b).
169. Art. 324 (5), First Proviso.
170. Rule 352 (v), Explanation.

It has been observed by the Speaker that members should not be making allegations or cast aspersions against members of statutory bodies[171]; high dignitaries[172]; and Governor of a State[173]; Chief Minister[174] or any other Minister in a State Government; and the State Legislature[175].

An adjournment motion which seeks to raise discussion on a matter pending before any statutory tribunal or authority performing any judicial or quasi-judicial functions or any commission or court of inquiry appointed to inquire into, or investigate, any matter is not ordinarily permitted to be moved. The Speaker may, however, in his discretion, allow such matter to be raised in the House as is concerned with the procedure or subject or stage of inquiry, if he is satisfied that it is not likely to prejudice the consideration of such matter by the statutory tribunal, authority, commission or court of inquiry[176].

An adjournment motion is not permissible on an issue which would be the subject of a judicial decision or the subject matter of a petition before the Election Commission[177].

Accidents in the air involving both civil and military aircrafts, on the railways, in the mines or in the sea, or explosions are generally followed by a judicial inquiry in the case of major accidents and statutory or departmental inquiries in the case of others. An adjournment motion on such incidents is held out of order if the Government comes forward with a plea that the matter is under investigation[178]. Where a matter has been referred to a commission of inquiry by a State Government, an adjournment motion seeking to raise that matter in the House has also been held to be inadmissible[179].

Following are some of the other typical grounds, based on the rulings given by the Speaker from time to time, on which consent to moving of an adjournment motion may be *withheld,* if:

In the opinion of the Speaker, it contravenes the spirit of the rules[180]; it seeks to obtain information[181];

Wide questions of policy are sought to be discussed[182];

Interpretation of the provisions of the Constitution is desired (the proper forum for that being the High Courts or the Supreme Court)[183];

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171. *H.P. Deb. (II)*, 13-5-1954, cc. 7304, 7305 and 7361.

172. *Ibid.*

173. *L.S. Deb.,* 6-3-1954, c. 1385; 14-3-1960, cc. 5679-87.

174. *Ibid.,* 20-3-1956, c. 3159.

175. *Ibid .,*13-12-1954, c. 2767; 10-12-1955, c. 2213; 23-3-1956, cc. 3492-93.

176. Rule 59, proviso.

177. *L.S. Deb.,* 25-3-1971, cc. 13-21.

178. Discussions on an entire inquiry report is not a specific matter for adjournment motion. A matter on which inquiry is pending is also inadmissible. *C.L.A. Deb.,* 26-8-1937, cc. 611-16; *L.S. Deb.,* 12-3-1958, cc. 4526-27. *See L.S. Deb.,* 3-9-1956, cc. 5335-40; 26-11-1956, cc. 987- 99, *L.S. Deb.,* 11-11-1957, cc. 64-68; 1-12-1959, cc. 2464-67; 14-12-1959, cc. 4851-56; 21-11-1960, cc.1350-53; 24-4-1961, cc. 13353-57.

179. *L.S. Deb.,* 7-8-1961, cc. 174-75.

180. *L.A. Deb.,* 21-2-1928, pp. 569-76.

181. *L.S. Deb.,* 3-12-1959, cc. 3167-69; 4-12-1959, c. 3818. *See* also *H.C. Deb.,* 9-4-1951, cc. 660-61.

182. *L.A. Deb.,* 2-11-1944, pp. 142-43.

183. *H.P. Deb. (II)*, 14-11-1952, c. 515.

Infringement of the provisions of the Constitution by a State Government is alleged[184];

Failure of Government to comply with the provisions of the Constitution in respect of a particular Bill is alleged[185];

It raises matters entailing legislation[186];

It refers to fast undertaken by an individual or a body of people[187];

It seeks to raise matters where the redress of the grievances complained of, is available under the existing law[188];

It relates to a day-to-day administrative matter[189]. It relates to a frivolous or trivial matter[190];

It refers to matters where Ministers carry out treaty obligations under international law[191];

It refers to industrial disputes such as lock-outs and strikes of a normal character, apprehended lock-out or threat of strike[192];

It relates to action taken by the authorities in due administration of law[193]; It refers to any matter of day-to-day policy[194];

It refers to demonstrations to get an Act of Parliament modified[195];

It relates to unsatisfactory reply given to a question[196]; or refusal by Government to answer a question on the ground of public interest[197];

It refers to orders promulgated under section 144 of the Code of Criminal Procedure, 1898[198];

It refers to a discussion on the freedom of individual Members of Government (now Ministers) to express personal opinion[199]; and

It refers to Government's alleged failure to formulate an agreed programme of business in the House[200];

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184. *L.S. Deb.,* 29-8-1959, c. 5086.
185. *Ibid.,* 2-2-1960, cc. 3582-93.
186. *L.A. Deb.,* 4-9-1935, pp. 343-47; 23-3-1936, pp. 3057-59.
187. *Ibid.,* 22-2-1939, p. 1316; *H.P. Deb. (II)*, 8-12-1952, cc. 1823-24; 6-8-1953, c. 209; *L.* S. *Deb.,* 16-8-1961, cc. 2389-93.
188. *L.A. Deb.,* 27-7-1943, pp. 82-83.
189. *L.S. Deb.,* 28-8-1959, c. 4872.
190. *Bn. (II)* 31-8-1959, p. 2916.
191. *H.P. Deb.,* 23-2-1953, cc. 1287-88.
192. *L.A. Deb.,* 10-3-1928, pp. 1239-41.
193. *Ibid.,* 22-2-1941, pp. 539-40; 3-3-1941, pp. 917-18; 5-3-1941, p. 1023.
194. *P. Deb.,* 15-11-1950, cc. 18-20.
195. *L.S. Deb.,* 18-12-1958, cc. 6055-68.
196. *L.A. Deb.,* 4-9-1933. pp. 782-83.
197. *Ibid.,* 27-9-1937, p. 2493.
198. *H.P. Deb. (II)*, 30-5-1952, c. 861.
199. *L.A. Deb.,* 16-9-1936. pp. 1155-61, 17-9-1936, pp. 1457-58.
200. *L.S. Deb.,* 4-9-1974, cc. 1-28.

In deciding the admissibility of an adjournment motion, the Speaker is not precluded from consulting, in the House, with the Minister concerned or the Minister of Law[201].

If an adjournment motion has been admitted by the Speaker and later if he feels that he should not have left the matter to the decision of the House, he may accordingly inform the House and advise the member to withdraw his motion before he moves it[202].

Consent of Speaker

The Speaker gives his consent to the moving of an adjournment motion if he is satisfied that the matter sought to be raised is definite, urgent, and of public importance. Because the matter proposed to be discussed is a definite matter of urgent public importance, the Speaker is not, as a matter of course, bound to rule the motion in order. A matter may be urgent, it may be definite, it may be of public importance, and yet the Speaker may, in a proper case, disallow such a motion[203]. The refusal to give consent is in the absolute discretion of the Speaker and he is not bound to give any reason[204].

Where the Speaker is satisfied that the matter proposed to be discussed is *prima facie* in order under the Rules, he gives his consent to the moving of the motion[205].

Once consent to the moving of an adjournment motion on a subject has been given, it cannot be changed for another subject[206].

Where, however, the Speaker is satisfied that the notice of an adjournment motion is *prima facie* inadmissible, he refuses his consent without bringing the matter before the House[207], and the member concerned is informed of the Speaker's decision. Where it is a border-line case or the Speaker is not in possession of full facts to decide the admissibility of a notice, he may mention in the House the receipt of the motion and after hearing a brief statement from the member and/or the Minister concerned whether the matter sought to be raised is within the Rules, give his decision on merit.

When the Speaker withholds his consent to the moving of an adjournment motion in his Chamber, it is neither obligatory to read out the motion to the House nor to give the reasons for refusing the consent[208]. After a member is informed of the Speaker's

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201. *Ibid.,* 10-8-1962, cc. 1284-85.

202. *L.A. Deb.,* 4-9-1928, pp. 152-54.

203. *Ibid.,* 4-9-1928, p. 152.

204. *L.S. Deb.,* 17-2-1961, c. 611; 21-2-1961. cc. 1100-01.

205. On 3 August 1973, the Speaker gave his consent to the moving of an adjournment motion after the Minister had made a statement on a subject even though the stage for taking up adjournment motion had passed-*L.S. Deb.,* 3-8-1973, cc. 231-36, 245-64.

206. On 17 November 1980, the Speaker informed the House that he had given consent to adjournment motion on notice of some members on the subject of Railway accidents. Several members, thereupon, submitted that they would like to withdraw the adjournment motion on Railway accidents and requested the Speaker to admit another adjournment motion *re*. rise in prices in its place. The Speaker, thereupon, observed that he had already announced the decision and it could not be changed in that manner nor was there any precedent. He would, however, allow a discussion on rise in prices under rule 184, etc. On their names being called, one by one, to move for leave of the House, to discuss Railway accidents, members concerned were found not present, having walked out earlier.– *L.S. Deb.,* 17-11-1980, cc. 322-28.

207. *P. Deb.,* 7-3-1950, p. 1178: *see* also *L.S. Deb.,* 9-8-1956, cc. 2537-53.

208. *L.S. Deb.,* 13-2-1968, cc. 308-11; 16-4-1968, cc. 891-92; 15-12-1972, cc. 224-25, 21-3-1980, cc. 239-43; 9-6-1980, cc. 265-76; 18-11-1980, cc. 309-10; 27-11-1980, cc. 217-29; 6-4-1981, cc. 285-93.

decision withholding his consent, no question is permitted to be raised in the House either on the subject matter of the notice or the reasons for disallowance thereof [209]. If, however, a member would like to make a submission to the Speaker to reconsider his decision, he can do so either in person to the Speaker in his Chamber later during the day or by submitting a written representation to the Speaker in that behalf [210]. In case the Speaker is satisfied on the submission of the member that there are adequate grounds to bring up the matter before the House, he would either mention it or permit the member to raise it on the following day, irrespective of the fact that the notice had been given on the previous day.

When an adjournment motion is brought before the House, it is not necessary for the Speaker to read out the names of all the members who have signed the notice or have given separate notices on the subject. The Speaker also decides whether the full text of an adjournment motion should be read out to the House or only as much of it as he deems fit[211]. The Speaker may dispose of an adjournment motion in the House by referring briefly to its subject matter without reading the text[212]. Motions containing defamatory statements are neither read out by the Speaker nor allowed to be mentioned in the House. Such statements, if read out in the House by the members, may be expunged from the proceedings of the House[213].

In an appropriate case, the Speaker may admit a calling attention notice[214] *in lieu* of the notice of an adjournment motion either on the same day or on a subsequent day depending upon the nature and urgency of the matter sought to be raised. Where this is done, the member is required to submit a regular notice of calling attention under the rules, a copy of which is made available to the Minister concerned in order to enable him to make a statement in response thereto.

Leave of the House

Consent of the Speaker alone does not entitle the member giving notice of an adjournment motion to move for the adjournment of business of the House; it has to be followed by leave of the House.

When the Speaker gives his consent to the moving of an adjournment motion, he, at the appropriate time, *i.e.,* after the questions have been disposed of, calls upon the member concerned to rise in his place and ask for leave to move the adjournment of the House[215]. The member giving notice of an adjournment motion must be present at the time the adjournment motion is taken up in the House. When asking for leave of the House, the member has to confine himself to a mere statement to that effect.

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209. *H.P. Deb.,* (II) 16-11-1953. c. 6; *L.S. Deb.,* 23-12-1954, cc. 3827; 9-8-1956, cc. 9551-53; *L.S. Deb.,* 23-4-1958, c. 11077; 11-9-1958, cc. 5956-57; 24-9-1958. c. 8349; 9-2-1960, cc. 100-01, 105-6.

210. *Ibid.,* 27-4-1953, c. 5152.

211. *Ibid.,* 30-6-1952, cc. 2820-21; 28-11-1995, c. 256; 10-7-1996, c. 379; 25-5-2000, 20-11-2001, cc. 430-31; 11-3-2002, 7-4-2003, c. 30; 1-3-2005, cc. 11-12.

212. *P. Deb.,* (II), 5-3-1952, cc. 1993-94.

213. *L.S. Deb.,* 1-9-1954, c. 742.

214. Rule 197. *L.S. Deb.,* 11-6-1980, cc. 179-82.

215. Rule 60.

He cannot make a speech at that stage[216]. If objection to the leave being granted is taken by any member, the Speaker requests those members who are in favour of leave being granted to rise in their seats[217]. A count is then taken of such members but their names are not recorded. If not less than fifty members rise in favour of the motion, the Speaker declares that leave is granted[218].

Objection to the leave being granted to the moving of an adjournment motion must be taken before the Speaker declares that leave of the House is granted[219]. The question can not afterwards be reopened by any member on the ground that he could not follow the proceeding[220].

Hour at which Motion is to be taken up

An adjournment motion, for the moving of which, leave of the House has been granted, is taken up at 16.00 hours or, if the Speaker so directs, at an earlier hour, having regard to the state of business in the House[221]. However, when the House meets only after 16.00 hours, no adjournment motion can be taken up on that day[222].

In 1922, the Standing Orders of the Legislative Assembly were amended to provide that if leave to moving of an adjournment motion had been granted, it could be taken up at an hour earlier than 16.00 hours if the Speaker, with the consent of the Government Member concerned, so directed[223]. In 1937, the Legislative Assembly met at 17.00 hours for the presentation of the Budget. The Speaker ruled that the request for moving an adjournment motion received for that day could not be considered since the motion, if it was in order, could be taken up, only at 16.00 hours or earlier[224]. In 1947, the provision regarding consent of the Minister was dispensed with on the ground that Parliament was sovereign and the Speaker should, therefore, have unfettered authority in matters relating to internal procedure of the House. A provision was, however, made that the Speaker could ascertain the convenience of the Leader of the House before directing that the adjournment motion be taken up at an hour earlier than 16.00 hours.

If the business before the House demands that the adjournment motion must not be taken up earlier than 16.00 hours, the Speaker is bound to reject the request, if made, for taking up the motion earlier than 16.00 hours[225]. On the other hand, where some important business has to be gone through, the Speaker may, with the concurrence

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216. *L.S. Deb.,* 18-11-1963, c. 102.

217. *Ibid.,* 3-8-1957, cc. 6721-23; 18-8-1958, cc. 1356-68; 12-3-1959, cc. 5841-43; 18-2-1975, cc. 225-32.

218. *Ibid.,* 15-3-1960, cc. 5907-09; 29-3-1977, cc. 2-3. *See* also *L.A. Deb.,* Vol. III, 1922, pp. 501-03; Vol. I, 1930, pp. 627-31.

219. *L.A. Deb.,* Vol. I, 1921, p. 410.

220. *L.S. Deb.,* 18-11-1963, c. 102.

221. Rule 61; *L.A. Deb.,* 5-9-1939, pp. 361-74 and 387-88; 21-1-1927, 16 and 18-40; *L.S. Deb.,* 15-2-1966, cc. 201, 296; 22-7-1968, cc. 358-48; 3-9-1974, cc. 1-11; 19-11-1974, c. 247, 21-2-1986, cc. 271-78, 28.11.2005, cc. 455-56; 29.11.2006, c. 350; 12-8-2015.

222. *L.A. Deb.,* 27-2-1937, p. 1153.

223. Amendment to s. 23 of the Standing Order of the Legislative Assembly.

224. *L.A. Deb.,* 27-2-1937, p. 1153.

225. *L.A. Deb.,* 26-1-1932, p. 73.

of the House, or after suspending the rule, direct that the motion would be taken up at an hour later than 16.00 hours[226], and if it becomes necessary, in an exceptional case, even on a subsequent day[227].

After leave of the House to the moving of an adjournment motion has been granted and hour fixed for its discussion, the Speaker has to allow the motion to be moved[228], except where some new situation has arisen due to which discussion on the motion cannot take place without infringing the Rules[229]. It is, however, open to a member not to move the motion even though leave of the House has been granted and time for its discussion fixed[230].

Commencement of discussion on the motion is normally not delayed beyond the scheduled hour unless it is absolutely necessary to do so, *e.g.,* to complete a division already in progress[231], or with the consent of the mover[232].

Manner and Scope of Discussion

At the appointed hour, the member who has earlier obtained leave of the House to the moving of his adjournment motion, moves "That the House do now adjourn[233]".

After the mover has spoken on the definite matter which he wants the House to consider, other members speak followed by the Minister concerned. In special circumstances, the Speaker, in his discretion, may permit the mover to move the motion without making a speech and ask the Minister concerned to speak and give information in his possession to the House to provide a basis for the debate to follow[234]. In such a case, the mover makes his speech after the Minister has spoken and the Minister is allowed an opportunity to speak again at the end.

The time allotted for discussion on an adjournment motion is two hours and thirty minutes unless the debate concludes earlier. The Speaker may, if he is satisfied that there has been adequate debate, put the question at 18.30 hours or at such other hour not being less than two hours and thirty minutes from the time of commencement of the debate[235]. Discussion on an adjournment has, however, to be concluded on the same day[236].

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226. *H.P. Deb.,* 18-2-1954, c. 248; *L.S. Deb.,* 12-3-1959, c. 5853; 20-7-1967, c. 13425; 29-3-1977, cc. 2-3.

227. *L.A. Deb.,* 24-2-1938, p. 1134; 22-3-1946, p. 2792; 25-3-1946, p. 2878; 6-11-1944, pp. 264-65 and 285; *LS. Deb.,* 13-11-1972, cc. 242-53; 14-11-1972, cc. 283-389; 21-3-1978, cc. 505-14; 22-3-1978, cc. 329-95; 26-4-1983, cc. 342-47, 516; 27-4-1983, cc. 379-496; 24-2-1984, cc. 300-13; 27-2-1984, cc. 433-36; 28-2-1984, cc. 513-686.

228. *L.A. Deb.,* 4-9-1928, p. 153.

229. Discussion on an adjournment motion fixed at 16.00 hours was not taken up as the matter had become *sub Judice,– L.A. Deb.,* 24-3-1938, p. 1104; 25-3-1931, pp. 120-21.

230. On 18 September 1935, leave of the House had been granted to the moving of an adjournment motion but at 16.00 hours, *i.e.* at the time fixed for its discussion, the Speaker announced in the House that the member had intimated that he did not propose to move the motion.-L.A. *Deb.,* 18-9-1935. pp. 1194-97.

231. *L.A. Deb.,* 4-2-1939, pp. 169 and 200; 10-2-1939, p. 691

232. *Ibid.,* 6-11-1944, p. 285.

233. There have been instances when, with the permission of the Chair, opening speech on adjournment motion was made by a member other than the mover.- L.S. *Deb.,* 27-4-1983; cc. 379-400.

234. *L.A. Deb.,* 1-4-1946, pp. 3313-14.

235. Rule 62.

236. *L.S. Deb.,* 11-11-1974, cc. 434-37.

"Talking out" of adjournment motions

On 5 July 1967, a member raised a question regarding procedure for disposal of adjournment motions which were not pressed for vote and *inter alia* referred that such motions should be declared as "talked out".

In the Standing Orders of the Central Legislative Assembly, there existed a provision for adjournment motions being "talked out"[237]. In 1950, when the Constituent Assembly (Legislative) Rules, in force immediately before the commencement of the Constitution, were modified and adapted by the Speaker so as to bring them in conformity with the Constitution, current practice and decisions taken by the Speaker from time to time, the provision for adjournment motions being "talked out" was omitted from Rule 53 (present Rule 62) by deleting the words "provided that, if the debate is not concluded by 6 p.m., it shall automatically terminate and no question shall be put", therefrom.

The present procedure, as is provided under Rule 62, read with Rule 339 is that, the Speaker has to put the question to the vote of the House unless a member who has moved the motion has withdrawn it by leave of the House. In terms of Direction 44, if the mover of the motion informs the Speaker that he does not want to press it, the motion is not put to the vote of the House and it is deemed to have been withdrawn by leave of the House. Any member can, however, request the Speaker to put the motion to the vote of the House.

The question of procedure raised in the House was referred to the Rules Committee which decided that in view of the provisions of Rule 62 and Direction 44, there was no need to change the present procedure regarding disposal of adjournment motions[238]. In arriving at this decision, the Committee were guided by the following considerations:

An adjournment motion involves an element of censure against the Government. Therefore, normally, it would but be proper that there should be a specific decision of the House on such a motion[239].

For discussion of matters of importance under an adjournment motion, the House is free to take its own time, only the minimum time-limit being fixed under the Rules. If a "talk out" procedure was introduced, the minimum time would become the maximum time and, not infrequently, adequate discussion might not take place and the discussion might remain incomplete, as was the experience of the Central Legislative Assembly.

Further, in case a provision for the adjournment motions being "talked out" was made in the Rules, the temptation on the part of the Government party to see that such motions were talked out and no decision was reached by the House could not be completely ruled out, as used to happen very frequently in the days of the Central Legislative Assembly.

To ensure that members in adequate number are able to take part in the debate and various points of view are placed before the House and further that the debate is

237. S.O. 24(1), Proviso.

238. *See* Min. (RC-4 L.S.), 10-7-1967.

239. If only a discussion on a particular matter was desired, the Committee felt that recourse could be had to the procedure for raising a short duration discussion under Rule 193 or motion under Rule 342.

normally concluded within time, the Speaker prescribed a time-limit for speeches[240]. Generally, a time-limit is prescribed for members other than the mover and the Minister concerned who may be given more time[241].

The debate on the motion is strictly restricted to the specific matters stated in the notice and mentioned to the House by the Speaker[242].

The mover of an adjournment motion has a right to reply[243]. In this matter although there is no special procedure prescribed governing the right of reply in regard to adjournment motions, the general rule[244] on the right of reply applicable to all other motions is held to be applicable to adjournment motions also[245]. The Minister concerned may, with the permission of the Speaker, speak (whether he has previously spoken in the debate or not) after the mover has replied[246].

An adjournment motion is put to the House and may be pressed to a division. However, except in a case of acute disagreement between the Opposition and the Government, the motion may be withdrawn after discussion[247].

> If at the end of the debate, the mover of the motion informs the Speaker that he does not want to press it and if thereupon the motion is not put by the Speaker to the vote of the House, the Speaker declares that such motion is deemed to have been withdrawn by leave of the House. However, on a request made by any member that the motion should be put to the vote of the House, the Speaker puts it to the vote of the House for its decision[248].

When the motion "that the House do now adjourn" is being discussed, that is, from the hour the discussion on an adjournment motion has commenced to the time the motion is disposed of, the Speaker has no power to adjourn the House for the day because during that time such power vests only in the House to take a decision on its adjournment. The Speaker cannot also postpone the voting to the next sitting even if a request is made to him to that effect. The House may, however, adjourn for lunch as usual[249] for brief intervals. Discussion on the motion may be interrupted by disposal of formal items like laying of papers[250] but the motion has to be disposed of before the House is adjourned for the day. In case the motion is adopted, the House automatically stands adjourned in pursuance of the adoption of the motion. If the

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240. Rule 63.

241. On 18 August 1958, a time-limit of 15 minutes was prescribed.- *L.S. Deb.,* 18-8-1958, c. 1470. On 12 March 1959, a time-limit of 10 minutes was prescribed.- *L.S. Deb.,* 12-3-1959, c. 6009. On 19 March 1962, a time-limit of 10 minutes for members and 30 minutes for the Ministers was fixed.- *L.S. Deb.,* 19-3-1962, cc. 467-69. 12-3-1959, c. 6012.

242. *L.S. Deb.,* 19-11-1963, cc. 407-69; 12-3-1959, c. 6012.

243. *L.A. Deb.,* 25-2-1926, p. 1868; *L.S. Deb.,* 18-8-1958, cc. 1534-37; 3-8-1967, c. 6920; 18-2-1975, cc. 297-456, 26-7-2005, c. 716, 25-7-2006, c. 354.

244. Rule 358(3).

245. *L.A. Deb.,* 25-2-1926, p. 1868.

246. *Ibid.,* 25-8-1925, p. 194.

247. *Ibid.,* 24-2-1921, pp. 400-06; *L.S. Deb.,* 29-3-1977, c. 240.

248. Dir. 44 and Speaker's ruling, *L.S. Deb.,* 12-7-1967, c. 11232.

249. On 4 November 1986, the discussion was interrupted by lunch. *L.S. Deb.,* 9-1-1991, c. 518; 22-2-1991, c. 480; 15-3-1993, c. 573. On 8 August, 2012, the discussion was interrupted by lunch.- *L.S. Deb.,* 8.8.2012 c. 40; on 12 August 2015, the discussion was interrupted by lunch. *L.S. Deb.* 12.8.2015 (page nos. 84-85).

250. *L.S. Deb.,* 18-7-1989; cc. 487-89.

motion is negatived, discussion on the business which had been interrupted by the adjournment motion is resumed or the next item on the Agenda taken up for a short while and then the House is adjourned by the Speaker for the day. When the motion is withdrawn by leave of the House, the House may be adjourned without resuming further business if it is time for the House to have adjourned in the normal course[251].

On 24 July 1997, Atal Bihari Vajpayee, the Leader of the Opposition, moved an adjournment motion regarding serious situation arising out of passive attitude of the Central Government over recent developments in Bihar. After some discussion, at the end of the day, with the consent of the mover and the House, the adjournment motion was converted into motion under Rule 184. The motion under Rule 184 was discussed later on 25, 28 and 29 July 1997 and was negatived[252].

251. *LS. Deb.,* 18-2-1954, c. 309; 18-8-1958; c. 1539; 19-3-1959, c. 6040; 26-5-1967, cc. 1195-1223; 22-7-1968, c. 682.

252. *L.S. Deb.,* 24-7-1997, c. 462.

CHAPTER 22

Legislation

An important function of Parliament, although not the only function, is to make laws. The term 'law', according to the most generally accepted definition, is an imperative direction embodied in an Act which in the form of a Bill has been regularly debated and passed by a duly constituted Legislature in the prescribed manner and assented to by the Head of the State, and is binding on every citizen, and which the courts charged with the duty to ensuring respect for law are bound to enforce[1]. The term 'law' covers any rule, regulation, bye-law, or sub-rule made by a subordinate authority under powers delegated to it expressly in pursuance of the provisions of the Act and within limits specified therein.

All legislative proposals have to be brought in the form of Bills before Parliament. A Bill is a statute in draft, and no Bill, whether it be introduced by the Government or a private member, can become law until it receives the approval of both the Houses of Parliament and assent of the President. Each Bill undergoes three readings:

The *First Reading* means: motion for leave to introduce a Bill on the adoption of which the Bill is introduced, or introduction of a Bill already published in the Gazette or laying on the Table of the House of a Bill, as passed by the other House, where it originated.

The *Second Reading* consists of two stages: "First Stage" constitutes discussion on the principles of the Bill and its provisions generally on any of the following motions: that it be taken into consideration; that it be referred to a Select Committee of Lok Sabha; that it be referred to a Joint Committee of the Houses with the concurrence of Rajya Sabha; that it be circulated for the purposes of eliciting opinion; and "Second Stage" signifies the clause-by-clause consideration of the Bill as introduced or as reported by a Select or Joint Committee, as the case may be.

The *Third Reading* refers to the discussion on the motion that the Bill (or the Bill as amended) be passed.

Classification of Bills

Bills may be classified into Government Bills and Private Members' Bills, depending upon whether they are sponsored by a Minister or a private member.

On the basis of their contents, they may further be classified into:

Original Bills (Bills embodying new proposals, ideas or policies);

Amending Bills (Bills which seek to modify, amend or revise existing Acts);

Consolidating Bills (Bills which seek to consolidate existing law on a particular subject);

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1. S.L. Shakdher: The Process of Legislation, in *The Indian Parliament,* (Ed.) A.B. Lal, 1956, p. 95.

Expiring Laws (Continuance) Bills (Bills to continue an expiring Act);

Repealing Bills (Bills seeking to repeal existing Acts);

Bills to replace Ordinances[2]; and

Constitution (Amendment) Bills[3].

Money and Financial Bills, because of their special features, are treated separately from other Bills. These are dealt with in details as follows:

Money Bills and Financial Bills

Money Bills

A Money Bill has been defined as under:

"(1) A Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely:

(a) the imposition, abolition, remission, alteration or regulation of any tax;

(b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India;

(c) the custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such Fund;

(d) the appropriation of moneys out of the Consolidated Fund of India;

(e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure;

(f) the receipt of money on account of the Consolidated Fund of India or the public account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State; or

(g) any matter incidental to any of the matters specified in sub-clauses (a) to (f).

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes[4]."

Implications of the Leading Terms: The implications of the leading terms used in the Constitution with regard to a Money Bill were carefully examined in connection with the Estate Duty Bill, 1953 and are explained as under:

The leading terms used in the Constitution are: 'dealing with', 'imposition', 'regulation' and 'incidental', and should be construed not only in their ordinary sense, but with reference to the special meanings attached to them in the context in which they are used[5].

2. For details, *see* Chapter 23—*Ordinances and Proclamations by the President.*

3. *See* this Chapter, under the heading 'Amendment to the Constitution', *infra.*

4. Art. 110.

5. *See Federal Commissioner of Taxation vs. Munro,* 1926 *Commonwealth Law Reports,* Vol. 38, pp. 184-95.

A distinction has to be made between the terms 'imposition' and 'dealing with imposition'. Whereas 'imposition' may mean rate, field and area of tax, the term 'dealing with imposition' is comprehensive, meaning to include matters directly connected with collection of tax such as machinery and procedure of collection, provisions for representation, appeals, etc. The term 'regulation' used in the Constitution of India is still wider in its import. It envisages a complete scheme to give effect to the imposition, alteration, remission or abolition of a tax. 'To regulate' means, in the ordinary dictionary meaning, to prescribe and in relation to a tax, it means, therefore, to prescribe all matters connected with that tax.

In addition to these comprehensive terms, there is further a provision in article 110 that other matters which may be 'incidental' to the imposition and regulation of tax may also be deemed to come within the definition of Money Bill. Thus the article taken as a whole is comprehensive enough to include not merely the rates, area and field of tax, but also complete machinery for assessment, appeals, revisions, etc. It is in this light that Finance Bills, which, in addition to rates contain provisions regarding machinery for collection, etc., have been certified as Money Bills[6].

Speaker Mavalankar observed as follows:

Prima facie, it appears to me that the words of article 110 (imposition, abolition, remission, alteration, regulation of any tax) are sufficiently wide to make the Consolidated Bill, a Money Bill. A question may arise as to what is the exact significance or scope of the word 'only' and whether and how far that word goes to modify or control the wide and general words 'imposition, abolition, remission, etc.'.

I think, *prima facie*, that the word 'only' is not restrictive of the scope of the general terms. If a Bill substantially deals with the imposition, abolition, etc., of a tax, then the mere fact of the inclusion in the Bill of other provisions which may be necessary for the administration of that tax or, I may say, necessary for the achievement of the objective of the particular Bill, cannot take away the Bill from the category of Money Bills. One has to look to the objective of the Bill. Therefore, if the substantial provisions of the Bill aim at imposition, abolition, etc., of any tax then the other provisions would be incidental and their inclusion cannot be said to take it away from the category of a Money Bill. Unless one construes the word 'only' in this way it might lead to make article 110 a nullity. No tax can be imposed without making provisions for its assessment, collection, administration, reference to courts or tribunals, etc., one can visualise only one section in a Bill imposing the main tax and there may be fifty other sections which may deal with the scope, method, manner, etc., of that imposition.

6. The Indian Income-tax Amendment Bill was certified as a Money Bill. In connection with that Bill the opinion given by the Ministry of Law on 24 April 1953, was as under:

"The whole of the Income-tax Act may be regarded as a law which contains only provisions relating to one or more of the matters specified in clause (a) of article 110(1) of the Constitution. The amending Bills as introduced in the House of the People (Lok Sabha) like the parent Act, similarly dealt only with one or more of the matters specified in the same clause. Here and there one or two provisions may be found in the amending Bill dealing with appointment of authorities, the defining of the powers, etc., but in this context it would be correct to assume that these amendments are also for or incidental to the purpose of the imposition or regulation of income- tax [*see* also clause (g) of article 110(1)]. The Bill as amended by the Select Committee, has not changed the position in any respect in this regard and the amended Bill should, therefore, also be continued to be treated as a Money Bill."

Further, we have also to consider the provisions of sub-clause (2) of article 110; and these provisions may be helpful to clarify the scope of the word 'only', not directly but indirectly.

Certification of a Money Bill

In case any question arises whether a Bill is a Money Bill or not, the decision of the Speaker thereon is final[7]. When a Bill is held by the Speaker to be a Money Bill, he endorses a certificate thereon signed by him to the effect that it is a Money Bill before the Bill is sent to Rajya Sabha or presented to the President for assent[8].

In 1953, a point arose in Rajya Sabha over the categorization as a Money Bill of the Indian Income-tax (Amendment) Bill, 1952, as reported by the Select Committee where the Bill had undergone many changes[9]. It led to a controversy between the two Houses, and the matter was eventually resolved when the Prime Minister made it clear that—

The Speaker's authority is final in declaring that a Bill is a Money Bill; the Speaker's certificate, when given, cannot be challenged; and the Speaker has no obligation to consult anyone in coming to a decision or in giving his certificate that a Bill is a Money Bill[10].

The certificate regarding a Money Bill can be endorsed only by the Speaker so long as the Office of the Speaker is not vacant[11].

The Voluntary Surrender of Salaries (Exemption from Taxation) Amendment Bill, 1955, was passed by Lok Sabha on 18 February 1956. The

7. Article 110(3). During Seventeenth Lok Sabha, a Private Members' Bill, namely: The Goods and Services Tax (Compensation to States) Amendment Bill, 2021 by Dr. V. Sivadasan, M.P. (R.S.) was referred by Rajya Sabha Secretariat for placing before the Hon'ble Speaker, Lok Sabha for a decision as to whether the bill was a Money Bill or not. Hon'ble Speaker certified the Bill as a Money Bill under Art. 110 of the Constitution.

   In K.S. Puttaswamy *vs.* Union of India and Others (a five Judge Bench)/2019 (SCC), three Judges CJI Dipak Mishra, Justice A.K. Sikri and Justice A.M. Khanwilkar observed:—

   "Judicial review means the Supremacy of law. It is the power of the court to review the actions of the Legislature, the Executive and the Judiciary itself and to scrutinize the validity of any law or action. It has emerged as one of the most effective instruments of protecting and preserving the cherished freedoms in a constitutional democracy and upholding principles such as separation of powers and rule of law. The Judiciary, through judicial review, prevents the decisions of other branches from impinging on the constitutional values. The fundamental nature of the Constitution is that of a limiting document, it curtails the powers of majoritarianism from hijacking the State. The power of review is the shield which is placed in the hands of the most judiciaries of constitutional democracies to enable the protection of the supreme document."

   Justice Ashok Bhushan concurring with the majority opinion observed that:—

   "When a Bill does not fulfil the essential constitutional condition under Article 110(1), the said requirement cannot be said to be evaporated only on certification by Speaker. Accepting the submission that certification immunes the challenge on the ground of not fulfilling the constitutional condition, Court will be permitting constitutional provisions to be ignored and bye-passed. We, thus, are of the view that decision of Speaker certifying the Bill as Money Bill is not only a matter of procedure and in event, any illegality has occurred in the decision and the decision is clearly in breach of the constitutional provisions, the decision is subject to Judicial Review."

8. Art. 110(4); Rules 96(2) and 128(1).
9. Before the Speaker had certified the Bill as a Money Bill, a reference was made to the Ministry of Law whether the Bill as reported by the Select Committee continued to be a Money Bill.
10. *See H.P. Deb. (II)*, 6-5-1953, cc. 5881-84.
11. *See* art. 110(4) read with Art. 95(1).

Speaker was away from Delhi at that time. The Bill was to be certified as a Money Bill, and although the Deputy Speaker was available, the Bill was transmitted to Rajya Sabha without a certificate that it was a Money Bill, as the Office of the Speaker was not vacant.

On the other hand, when the Office of the Speaker fell vacant with the demise of Speaker Mavalankar on 27 February 1956, the Deputy Speaker, who is empowered under article 95(1) of the Constitution to perform the duties of the Office of Speaker, certified a Money Bill (the Appropriation Bill, 1956), and also endorsed assent copies of a Bill (the University Grants Commission Bill, 1956), submitted to the President for assent.

During Ninth Session of Thirteenth Lok Sabha also, when the Office of the Speaker fell vacant due to sudden demise of Speaker Balayogi on 3 March 2002, the Deputy Speaker, who was performing duties of the Office of Speaker, certified the following Bills as Money Bills before their transmission to Rajya Sabha and also endorsed assent copies before their submission to the President:

> The Appropriation (Railways) Vote on Account Bill, 2002; the Appropriation (Railways) Bill, 2002; the Appropriation Bill, 2002; the Appropriation (No. 2) Bill, 2002; the Appropriation (Vote on Account) Bill, 2002; the Appropriation (Vote on Account) Bill, 2002; the Uttar Pradesh Appropriation (Vote on Account) Bill, 2002; the Uttar Pradesh Appropriation Bill, 2002; the Jute Manufactures Cess (Amendment) Bill, 2002; the Appropriation (Railways) No. 2 Bill, 2002; and the Appropriation (No. 3) Bill, 2002.

In Punjab, the Legislative Assembly was adjourned for two months by the Speaker on 7 March 1968. This led to a serious crisis as the Budget had to be passed before 31 March. In order to overcome this unprecedented situation, the Governor prorogued the Assembly on 11 March and two days later promulgated the Punjab Legislature (Regulation of Procedure in Relation to Financial Business) Ordinance, section 3 of which provided that the sitting of either House of the Legislature will not be adjourned without the consent of that House until conclusion of the financial business. When the Assembly met on 18 March as summoned, the Speaker, after holding the order of the Governor summoning the House to meet as 'illegal, unconstitutional and void', reaffirmed his earlier ruling adjourning the House for two months and left the Chamber. However, the House continued to sit as directed by the Ordinance with the Deputy Speaker in the Chair and transacted its business. Two Appropriation Bills were passed by the House and then transmitted to the Legislative Council certified by the Deputy Speaker that they were Money Bills. After the Bills had been passed by the Council, they were placed before the Governor with another certificate by the Deputy Speaker and the Governor signified his assent.

If the Speaker, forsaking his duty, creates a situation as in Punjab, whereby the constitutional and administrative machinery of the State is seriously endangered, the Deputy Speaker can certify a Money Bill although there is no express provision to that effect in the Constitution. In the case of Punjab, the action of the Deputy Speaker in certifying the Bills was upheld by the Supreme Court which *inter alia* observed:

> Wherein the absence of the Speaker at the time of the passing of the Money Bills, the Deputy Speaker acts as the Speaker under article 180(2), he can

effectively certify the Money Bills under article 199(4), though article 199(4) mentions only the Speaker of the Legislative Assembly[12].

In another case, the Patna High Court observed:

> If a Money Bill is transmitted to the Legislative Council without a certificate of the Speaker, as required by article 199(4), and instead contains a certificate from the "Presiding Member acting as Speaker", the contention that the Bill has not been validly passed by the State Legislature and so must be held constitutionally invalid cannot be accepted in view of article 212 which states that the validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure[13].

Special Procedure Regarding Money Bills

A Money Bill can be introduced only in the Lok Sabha[14]. After it has been passed by Lok Sabha, it is transmitted to Rajya Sabha for its recommendations and that House is, within a period of fourteen days from the date of the receipt of the Bill, required to return the Bill to Lok Sabha with its recommendations, if any.

The Lok Sabha may either accept or reject all or any of the recommendations made by Rajya Sabha. If Lok Sabha accepts any of the recommendations made by Rajya Sabha, the Bill is deemed to have been passed by both the Houses with the amendments recommended by Rajya Sabha and accepted by Lok Sabha. If, however, Lok Sabha does not accept any of the recommendations of Rajya Sabha, the Money Bill is deemed to have been passed by both the Houses of Parliament in the form in which it was passed by Lok Sabha without any of the amendments recommended by Rajya Sabha[15].

There have been instances when Money Bills were returned by Rajya Sabha with recommendations and the recommendations made by Rajya Sabha, which were of a formal nature, were accepted by Lok Sabha[16].

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12. *State of Punjab vs. Satya Pal Dang,* A.I.R. 1969 S.C. 903. The implications of the judgment of the Supreme Court in the case were discussed by a Committee of Presiding Officers, under the Chairmanship of Raghavji Leuva, Speaker of Gujarat Legislative Assembly. The Committee came to the conclusions that—under the Constitution, delegation of Speaker's power to certify a Money Bill is not contemplated; it is the Speaker's personal discretion to certify a Bill as a Money Bill or not; and the Supreme Court judgment is in respect of the circumstances of a particular case only and has no general application—*Leuva Committee Report,* para 8.

13. *Patna Zilla Truck Owners Association vs. State of Bihar,* A.I.R. 1963 Patna 16.

14. Art. 109.

    A Bill seeking to amend the Indian Income-tax Act, 1922, given notice of by a member of Rajya Sabha, was referred by the Chairman, Rajya Sabha on 5 April 1956, to the Speaker for his decision whether the Bill was a Money Bill. Speaker Ayyangar held it to be a Money Bill. The Chairman, Rajya Sabha, was informed accordingly and the Bill was not introduced in Rajya Sabha.

15. In case of the Finance (No. 2) Bill, 1977 and the Finance Bill, 1978, the recommendations made by Rajya Sabha were not accepted by Lok Sabha on 2 August 1977 and 11 May 1978, respectively. The Bills were deemed to have been passed by the Houses in the form in which these were passed by Lok Sabha and sent for Presidential assent.

16. In case of the Travancore-Cochin Appropriation (Vote on Account) Bill, 1956, and the Union Duties of Excise (Distribution) Bill, 1957**,** the recommendations made by Rajya Sabha were accepted by Lok Sabha on 3 May 1956 and 12 December 1957, respectively. Similarly, on 30 January 1985, recommendations made by Rajya Sabha in the Appropriation (Railways) Bill, 1985; the Appropriation (Railways) No. 2 Bill, 1985; the Appropriation Bill, 1985; the Appropriation (No. 2) Bill, 1985; and the Punjab Appropriation Bill, 1985 relating to the change in the republic year, *i.e.* from thirty-fifth to thirty-sixth**,** were accepted by Lok Sabha.

If the Rajya Sabha does not return the Bill within the prescribed period of fourteen days, the Bill is deemed to have been passed by both the Houses of Parliament at the expiry of the period in the form in which it was passed by the Lok Sabha[17].

17. The following Bills, as passed by Lok Sabha, were transmitted to Rajya Sabha with messages on the dates mentioned against them:–

(i) The Appropriation (Railways) No. 4 Bill, 1978 — 21-12-1978.

(ii) The Appropriation (Railways) No. 5 Bill, 1978 — 21-12-1978.

(iii) The Appropriation (No. 5) Bill, 1978 — 22-12-1978.

The Rajya Sabha was, however, prorogued on 26 December 1978 without considering any of the above Bills. Accordingly, these Bills were deemed to have been passed by the Houses at the expiration of a period of fourteen days from the date of their receipt in the Rajya Sabha Secretariat under Cl. (5) of art. 109 of the Constitution, *i.e.* on the following dates:–

(i) The Appropriation (Railways) No. 4 Bill, 1978 on 5-1-1979.

(ii) The Appropriation (Railways) No. 5 Bill, 1978 on 5-1-1979.

(iii) The Appropriation (No. 5) Bill, 1978 on 6-1-1979.

In computing the period of fourteen days, the dates of receipt of Bills by the Rajya Sabha Secretariat were excluded in accordance with the provisions of section 9(1) of the General Clauses Act, 1897 which applies to interpretation of the Constitution *vide* article 367 thereof. Accordingly, the Bills at (i) and (ii) above were submitted on 6 January 1979 and the Bill at (iii) above on 8 January 1979 (7 January 1979 being a Sunday) to the President through the Ministry of Law for assent.

During the Sixteenth Session of the Tenth Lok Sabha, the following Money Bills, as passed by the House, were transmitted to the Rajya Sabha along with messages on 12 March 1996:–

(i) The Appropriation (Vote on Account) Bill, 1996.

(ii) The Appropriation Bill, 1996.

(iii) The Finance Bill, 1996.

(iv) The Appropriation (Railways) Vote on Account Bill, 1996.

(v) The Appropriation (Railways) No. 2 Bill, 1996.

(vi) The Appropriation (Railways) Bill, 1996.

(vii) The Uttar Pradesh Appropriation (Vote on Account) Bill, 1996.

(viii) The Uttar Pradesh Appropriation Bill, 1996.

(ix) The Jammu and Kashmir Appropriation (Vote on Account) Bill, 1996.

(x) The Jammu and Kashmir Appropriation Bill, 1996.

The Rajya Sabha was adjourned *sine die* on 12 March 1996 without considering any of the above Bills. Accordingly, these Bills were deemed to have been passed by the Houses at the expiration of a period of 14 days from the date of their receipt in the Rajya Sabha Secretariat under cl. (5) of art. 109 of the Constitution on 27 March 1996. All the aforesaid Bills were submitted on 27 March 1996 to the President through the Ministry of Law for assent. The Bills were assented to on the same day.

During the Tenth Session of the Sixteenth Lok Sabha, the following Money Bills, as passed by the House, were transmitted to the Rajya Sabha along with Messages on 29 November, 2016; 8 December, 2016 and 8 December, 2016, respectively:–

(i) the Taxation Laws (Second Amendment) Bill, 2016;

(ii) the Appropriation (No. 4) Bill, 2016;

(iii) the Appropriation (No. 5) Bill, 2016.

The period of fourteen days is computed from the date of receipt of a Money Bill in the Rajya Sabha Secretariat and not from the date on which it is laid on the Table of Rajya Sabha. A Money Bill is transmitted to Rajya Sabha as soon as it is passed by Lok Sabha, unless the Speaker has given a direction to the contrary[18].

The Rajya Sabha did not consider these Bills within the period of 14 days from their receipt. Accordingly, these Bills were deemed to have been passed by the Houses at the expiration of a period of 14 days from the date of their receipt in the Rajya Sabha Secretariat under clause (5) of article 109 of the Constitution on 14 December, 2016; 23 December, 2016 and 23 December, 2016 respectively. The Bills were submitted to the President for assent and assented to on 15 December, 2016; 27 December, 2016 and 27 December, 2016 respectively.

[F. Nos. l/6(3)/96/L-l, 1/6(2)/96/L-1, l/6(l)/96/L-l, l/14(l)/96/L-l, l/14(3)/96/L-l, 1/14(2)/ 96/L-l, l/6(5)/96/L-l, l/6(4)/96/L-1, 1/6(7)/96/L-1, and l/6(6)/96/L-l.]

During the Fourth Session of the Twelfth Lok Sabha, the following Money Bills, as passed by the House on 17 March 1999 were transmitted to the Rajya Sabha along with message on the same days—

(i) The Appropriation (Vote on Account) Bill, 1999.

(ii) The Appropriation Bill, 1999.

(iii) The Appropriation (No. 2) Bill, 1999.

The Rajya Sabha was adjourned on 19 March 1999 to meet again on 12 April 1999 without considering the above Bills. Accordingly, these Bills were deemed to have been passed by both the Houses on 1 April 1999 at the expiration of 14 days from the day the messages regarding passing of the Bills were received in the Rajya Sabha Secretariat. The Bills were also assented to by the President on 1 April 1999.

Also, the Bills were deemed to have come into force immediately on the expiration of 31 March 1999, *i.e.* on the expiration of the day preceding its commencement, as per the provision of section 5 of the General Clauses Act, 1897.

During the Fourteenth Lok Sabha, the Supreme Court (Number of Judges) Amendment Bill, 2008 was passed by Lok Sabha on 22 December 2008 and transmitted to Rajya Sabha with a message on the same day. The Rajya Sabha could not consider the Bill during its 214th Session and was adjourned *sine die* on 23 December 2008. As the Bill was certified by the Speaker as Money Bill, it was deemed to have been passed by both the Houses on 6 January 2009 at the expiration of 14 days from the day following the date of receipt of message in Rajya Sabha. The Bill was assented to by the President on 5 February 2009.

18. In the case of the Indian Tariff (Amendment) Bill, 1955, a Money Bill, which was passed by Lok Sabha on 26 July 1955, when Rajya Sabha was not in session but was due to assemble sometime later, Speaker Mavalankar made a statement on the floor of the House in the course of which he said that according to legal interpretation, even when Rajya Sabha was not in session, a Bill could be sent to the Secretary of Rajya Sabha and it would be deemed to have been received by Rajya Sabha and added that he was, however, directing the Secretary not to transmit the Bill to Rajya Sabha immediately, but a little later so that the period of fourteen days did not terminate before the commencement of the session of Rajya Sabha. This would enable Rajya Sabha to have an opportunity to discuss the Bill—*L.S. Deb.,* 1-8-1955, cc. 8950-53.

Similarly, the Travancore-Cochin Appropriation (Vote on Account) Bill, 1956, a Money Bill, which was passed by Lok Sabha on 29 March 1956, was withheld under directions of the Speaker as Rajya Sabha was not in session at the time. In order to enable Rajya Sabha to consider and return the Bill within fourteen days, it was transmitted to that House when it re-assembled.

During the Fourteenth Session of Fourteenth Lok Sabha, the following three Money Bills were passed by Lok Sabha on 24 October 2008:

(i) The President's Emoluments and Pension (Amendment) Bill, 2008;

(ii) The Vice-President's Pension (Amendment) Bill, 2008; and

(iii) The Salaries and Allowances of Officers of Parliament (Amendment) Bill, 2008.

By the time the above three Bills were passed by the Lok Sabha, Rajya Sabha had already been adjourned to meet again on 10 December 2008. In order to give an opportunity to Rajya Sabha to debate and return the Bills to Lok Sabha within the prescribed time period of 14 days, the messages in respect of the above three Bills were withheld from transmitting to the other House under the Direction of the Speaker till 8 December 2008 and were returned to Lok Sabha without any recommendation on 15 December 2008.

The recommendation of the President is required for the introduction of a Money Bill. Where, however, a Bill deals only with any matter incidental to any of the matters specified in article 110(1), sub-clauses (a) to (f), recommendation of the President is not necessary for introduction of that Bill[19].

The Indian Income-tax (Amendment) Bill, 1956, introduced in Lok Sabha on 16 May 1956, sought to add an explanation to sub-section (7A) of section 5 of the Indian Income-tax Act, 1922. In clarification of the meaning of the word 'case', occurring in that sub-section, it was held that as the Bill in question clarified the meaning of the word 'case' occurring in the Act, the provisions of this Bill might be regarded as incidental to the purpose of imposition or regulation of income-tax. Since the Bill dealt with matters specified in sub-clause (g) of article 110(1), it was held to be a Money Bill but the recommendation of the President under clause (1) of article 117 was not considered necessary for its introduction.

A Money Bill cannot be referred to a Joint Committee of the Houses.

The Income-tax Bill, 1961, which was introduced on 24 April 1961, sought to amend and consolidate the law relating to income-tax and super-tax. On 19 April 1961, the Minister of Finance had given notice of a motion for reference of the Bill to a Joint Committee of the Houses. As the Bill was held to be a Money Bill by the Speaker, the Minister of Finance was informed that the Bill could not be referred to a Joint Committee. Thereafter, the Minister gave a revised notice for reference of the Bill to a Select Committee of the House.

When a point for reference of the Bill to a Joint Committee was raised on 26 April 1961 in the Rajya Sabha by a member, the Chairman explained that only Financial Bills could be referred to a Joint Committee and not Money Bills. As the Income-tax Bill, 1961, had been certified to be a Money Bill by the Speaker, the question of referring it to a Joint Committee did not arise.

Earlier, on a reference from the Government of Madras whether a Money Bill could be referred to a Joint Committee of the Houses of a State Legislature, the Minister of Law had held:

So far as Money Bills are concerned, the intention as disclosed by the various articles of the Constitution is clear. The Legislative Council comes into the picture only when the Assembly had dealt with it and not before that. Sanctioning the Joint Select Committee procedure, even before the Assembly has considered the Bill on its merits, seems to me to be quite contrary to both the letter and the spirit of the Constitution. The Constitution has laid down a very special procedure about Money Bills and that procedure must be strictly followed. A reference to a Joint Select Committee will not be in consonance with that procedure... The Constitution never intended that the Legislative Council or its Committees should be called in to deal with a Money Bill at any stage prior to its passing by the Assembly[20].

19. For instance, the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill, 2021 was classified as a Money Bill under art. 110(1)(g). In terms of Art. 117(1) read with art. 110(1)(g), the Bill was introduced in Lok Sabha on 30-11-2021, without President's recommendation.

20. Min. (RC-1LS), 15-4-1953.

The Speaker has directed that the Ministries should make every effort to separate taxation measures (including levy of a cess) from other matters and draft Bills accordingly. In case, however, it becomes impossible on constitutional or legal grounds to do so in any particular case, a memorandum giving reasons why a composite Bill should be brought before the House, should be furnished for the consideration of the Speaker. After considering the memorandum, if the Speaker gives his permission, only then the Bill would be put down in the List of Business for leave to introduce it[21].

Financial Bills

The Constitution distinguishes Money Bills from Financial Bills[22]. The latter may be divided into two categories: firstly, those which make provision for any of the matters specified to make a measure a Money Bill but do not consist solely of those matters[23]; and secondly, those which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India[24]. For facility of reference, the former may be called Financial Bills of Category 'A', and the latter, Financial Bills of Category 'B'.

Financial Bills of Category 'A'

A Financial Bill, falling under Category 'A', can be introduced only in the Lok Sabha and requires the recommendation of the President for its introduction[25]. Such a Bill has to be withdrawn in case it is introduced without this recommendation, but may be reintroduced with the necessary recommendation[26]. Prior to 1989, such Bills could not be referred to a Joint Committee of the Houses. However, Lok Sabha,

21. During Thirteenth Session of Fourteenth Lok Sabha, notice for introduction of the Sugar Development Fund (Amendment) Bill, 2008 was received from the Minister-in-charge of the Bill on 26 February 2008. The Bill sought to amend the Sugar Development Fund Act, 1982 and the Sugar Cess Act, 1982. The Bill also sought to replace the Sugar Development Fund (Amendment) Ordinance, 2008. Since the Bill contained provisions relating to both taxation and other matters, the Ministry was asked to furnish Memorandum for perusal of the Speaker stating reasons as to why the portion relating to taxation matters could not be separated from other matters by introducing two separate Bills. On receipt of requisite Memorandum from the Ministry, the Speaker, while permitting the Bill for introduction, directed that in future, while drafting Bills (including Ordinances), matters relating to taxation should not, unless absolutely necessary, be clubbed with other provisions in a single Bill. Orders of the Speaker were communicated in writing to the administrative Ministry and the Ministries of Parliamentary Affairs and Law and Justice.

22. Article 117 of the Constitution covers cases where Bills can be brought before Parliament containing not only taxation proposals (including levying of a cess) but also other matters. These Bills cannot be called Money Bills under Art. 110. Therefore, there is no bar against any Bill of a composite or hybrid nature to be brought under Art. 117. However, as far as possible, Bills of composite or hybrid nature should be rare and only in cases where the proposed taxation and other matters connected therewith are inseparable—Speaker's ruling on points of order raised in regard to the Oil Industry (Development) Bill, 1974. *L.S. Deb.,* 19-8-1974, cc. 247-57.

23. That is Bills which come under cl. (1) of art. 117. For instances, *see* the Merchant Shipping (Amendment) Bill, 1977; the Estate Duty (Amendment) Bill, 1984 and the Central Road Fund (Amendment) Bill, 2006.

24. That is Bills which fall under cl. (3) of Art. 117.

25. In case of doubt whether a Bill introduced in and passed by Rajya Sabha attracted Art. 117 (1) of the Constitution requiring President's recommendation on account of a particular clause of the Bill which appeared to hit cl. (a) of Art. 110 (1), the Chair left it to the House either to throw out or accept the clause. The Payment of Bonus (Amendment) Bill, 1976, as passed by Rajya Sabha, was passed by Lok Sabha — *L.S. Deb.,* 4-2-1976, cc. 73-85.

26. For instance, the Employees' State Insurance Bill, 1951 had to be withdrawn on 28 April 1951, but was reintroduced on the same day, after the President's recommendation had been obtained.

in special cases, referred such Bills to a Joint Committee after adopting a motion for suspension of the relevant rule[27], *i.e.* first proviso to rule 74. On one occasion, Financial Bill of Category 'A' was referred to the Joint Committee without suspending the said proviso[28] .

The First proviso to rule 74 was amended *w.e.f.* 9 May, 1989 and its ambit was restricted to only Money Bills[29]. As a result, Financial Bills under category 'A' can be referred to Joint Committee of the Houses[30].

Financial Bills of Category 'B'

Where a Bill contains, *inter alia*, a proposal or proposals involving expenditure from the Consolidated Fund of India, *e.g.*, by providing for the appointment of officers or other authorities or for the establishment of an institution, it becomes a Financial Bill of Category 'B'. Examples of such Bills are:

> The State Bank of India Bill, 1955[31]; the Forward Contracts (Regulation) Amendment Bill, 1960[32]; the Supreme Court Judges (Number of Judges) Amendment Bill, 1977[33]; the Brahmaputra Board Bill, 1980[34]; the National Security Guards Bill, 1986[35]; the Essential Commodities (Special Provisions) Continuance Bill, 1987[36]; the Maintenance and Welfare of Parents and

27. For instance, in the case of the following Financial Bills, the first Proviso to Rule 74 was suspended and the Bills were thereafter referred to Joint Committees of the Houses: the State Reorganisation Bill, 1956— *L.S. Deb.,* 23-4-1956; the Delhi Municipal Corporation Bill, 1957, *Ibid.,* 9-9-1957; the Merchant Shipping Bill, 1958, *Ibid.,* 25-2-1958; the State Bank of India Subsidiary Banks Bill, 1959, *Ibid.,* 29-4-1959; the Companies (Amendment) Bill, 1959, *Ibid.,* 6-5-1959; the Tripura Land Revenue and Land Reforms Bill, 1959, *Ibid.,* 11-12-1959; the Manipur Land Revenue and Land Reforms Bill, 1959, *Ibid.,* 15-12-1959; the General Insurance Business (Nationalisation) Bill, 1972, *Ibid.,* 30-5-1972; the Public Financial Institutions Laws (Amendment) Bill, 1973, *Ibid.,* 25-3-1974; the Life Insurance Corporation Bill, 1983, *Ibid.,* 21-12-1983; and the Lok Pal Bill, 1985, *Ibid.,* 28 August 1985.

28. In the case of the Multi-State Cooperative Societies Bill, 1977, Proviso to Rule 74 was not suspended as the Speaker held that the Proviso to Rule was superfluous and in case of Financial Bills its suspension was not necessary. On the same day, another Financial Bill of Category 'A', the Mental Health Bill, 1978 which was listed for reference to Joint Committee after suspending the Proviso to Rule 74, was referred to the Joint Committee without suspension of the Proviso— *L.S. Deb.,* 15-5-1978, cc. 265-77.

29. Lok Sabha Bulletin Part II dated 9.5.1989, para 2930.

30. During the Sixteenth Lok Sabha, the Enforcement of Security Interest and Recovery of Debts Laws and Miscellaneous Provisions (Amendment) Bill, 2016, which was introduced in Lok Sabha on 11.5.2016 and categorised as a Financial Bill under Category 'A', was referred to the Joint Committee of the Houses. During the Seventeenth Lok Sabha, the Personal Data Protection Bill, 2019. which was introduced in Lok Sabha on 11.12.2019 and categorised as a Financial Bill under Category 'A', was referred to the Joint Committee of the Houses.

31. The Bill provided *inter alia* for making of contributions by the Union Government to the Integration and Development Fund to be maintained by the State Bank of India, and also for appointment of auditors to examine and report on the accounts of the Bank.

32. There was likelihood of some increase in the workload of the Forward Markets Commission, which might necessitate the strengthening of the Commission by appointment of a fourth member and some additional staff.

33. The Bill provided for an increase in the maximum strength of the Supreme Court by four more Judges.

34. The Bill contemplated, *inter alia,* the establishment of a Board for the planning and integrated implementation of measures for the control of floods and erosion of banks of the river in the Brahmaputra Valley.

35. The Bill provided for the constitution of an armed force of the Union for combating terrorist activities named the National Security Guards and for deeming the existing force as a statutory one.

36. The Bill provided for extending the term of the expiring law from five to ten years. The Union Government had to bear expenditure in regard to the enforcement machinery set up under the parent Act for five more years.

Senior Citizens Bill, 2007[37] and the Rajiv Gandhi National Institute of Youth Development Bill, 2011[38].

Unlike a Money Bill or a Financial Bill of Category 'A', a Financial Bill containing proposals which involve expenditure from the Consolidated Fund of India, *i.e.*, of Category 'B' may be introduced in either House and it does not require any recommendation of the President for its introduction. However, a separate recommendation of the President is essential for its consideration by each House and unless such recommendation has been received, the House can not pass the Bill[39].

Where a Bill introduced as an ordinary Bill is passed by the originating House with such amendments as have the effect of involving expenditure out of the Consolidated Fund of India, the Bill, as passed by the originating House, may be re-categorised as a Financial Bill under article 117(3).[40]

In case a Bill of Category 'B' passed by Lok Sabha with the President's recommendation is returned by Rajya Sabha with amendments, a fresh recommendation would not be necessary for consideration of the amendments made by Rajya Sabha even if there is an increase in the expenditure involved. Likewise, a fresh recommendation of the President for consideration of a Bill, as reported by Select Committee/Joint Committee and a revised financial memorandum thereto, are not necessary even if the expenditure involved is likely to increase as a result of the changes made by the Committee in the Bill.

The recommendation of the President for the consideration of a Bill has to be obtained by the member in-charge before a motion for consideration of the Bill is made.

The Minister of Law has expressed the view that although the constitutional requirements would be met if the recommendation of the President is obtained before the motion for passing of a Bill is moved, the possibility of the President refusing to recommend could not be ruled out. Hence, immediately before the stage of consideration begins, the mover should produce the recommendation so that the House might not engage itself on labours which ultimately might turn out to be fruitless[41].

In the case of a Government Bill, the recommendation of the President may, however, be obtained while discussion on the Bill continues[42].

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37. The Bill provided, *inter alia,* for setting up of appropriate mechanism to provide need-based maintenance to the parents and senior citizens, provisions of better medical facilities and setting up of old age homes in every district.

38. The Bill provided *inter alia* for incorporation of the Rajiv Gandhi National Institute of Youth Development and to declare it as an institution of national importance.

39. Art. 117 (3); *see* also *L.S. Deb.,* 29-9-1955, cc. 15760-813.

40. The Child Labour (Prohibition and Regulation) Amendment Bill, 2012 was introduced in Rajya Sabha on 4 December, 2012. On examination of the Bill in Lok Sabha Secretariat, it was categorised as an ordinary Bill. The Bill was passed by Rajya Sabha on 19 July, 2016 with amendments. The amendments, *inter alia,* inserted a new clause which on enactment involved expenditure out of the Consolidated Fund of India. The Bill, as passed by Rajya Sabha, was re-categorised as a Financial Bill under article 117(3) and President's recommendation under article 117(3) for consideration of the Bill by Lok Sabha was conveyed by the concerned Ministry.

41. *P. Deb.,* (II), 12-4-1951, cc. 6727-28.

42. For instance— *see L.S. Deb*., 1-12-1960, cc. 3405-23 in regard to the Preventive Detention (Continuance) Bill, 1960.

In case of doubt as to whether a Bill, if enacted, would involve expenditure from the Consolidated Fund of India, the Minister concerned is asked to furnish the recommendation of the President for consideration of the Bill or, in the alternative, a no-expenditure certificate.

The recommendation of the President for consideration of a Bill is required even where the Bill would, if enacted, involve expenditure indirectly[43].

A Financial Bill (of Category 'A'), if enacted, may also involve expenditure from the Consolidated Fund of India. In such a case, the recommendation of the President would be required both for its introduction and consideration[44].

Financial Memoranda to Bills involving Expenditure

A Bill involving expenditure from the Consolidated Fund of India is required to be accompanied by a financial memorandum which outlines the objects on which the expenditure is likely to be involved. The memorandum has to invite particular attention to the clauses involving expenditure and also to give an estimate of the recurring and non-recurring expenditure involved in case the Bill is passed into law. However, where, it is not possible to give the estimates of recurring and non-recurring expenditure, the Speaker may permit the introduction/consideration of the Bill[45]. Such clauses or provisions in the Bill are printed in thick type or in italics. Where, however, a clause in a Bill involving expenditure has not been printed in thick type or in italics, the member in-charge of the Bill shall, with the permission of the Speaker, bring such clauses to the notice of the House[46].

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43. *L.S. Deb.,* 1-12-1960, cc. 3418-22.

44. Examples of such Bills are: the Companies (Amendment) Bill, 1959; the Displaced Persons (Compensation and Rehabilitation) Second Amendment Bill, 1959; the Tripura Land Revenue and Land Reforms Bill, 1960; the Estate Duty (Amendment) Bill, 1960; the National Housing Bank Bill, 1987; the Interest on Delayed Payments to Small Scale and Ancillary Undertakings Bill, 1993; the National Tax Tribunal Bill, 2004; the Science and Engineering Research Board Bill, 2008; the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill, 2008; the Life Insurance Corporation (Amendment) Bill, 2008; the Companies Bill, 2011; and the Agricultural Biosecurity Bill, 2013.

45. On 9 September 1965, during the discussion on motion for consideration of the Union Territories (Direct Election to House of People) Bill, 1965, an objection was raised by a member that the Financial Memorandum appended to the Bill did not give an estimate of recurring and non- recurring expenditure involved. The Speaker held that normally such estimate should be given but failure to do so did not throw out the Bill – *L.S. Deb.*, 9-9-1965, cc. 4769-72.

    The Financial Memorandum appended to the Universities for Research and Innovation Bill, 2012 *inter alia* stated that at that stage it was difficult to make any estimate of the expenditure which might be involved as it would depend upon the number of public funded Universities for Research and Innovation that the Government might decide to establish. Though the Financial Memorandum did not give estimates of recurring and non-recurring expenditure, in view of the ruling given by the Speaker and the position stated in the Financial Memorandum, revised Financial Memorandum was not asked for and the Bill was allowed to be introduced on 21 May 2012.

46. Rule 69.

    The Chair has, in his discretion, permitted the consideration of a Bill [The West Bengal State Legislature (Delegation of Powers) Bill, 1968 as passed by Rajya Sabha], the clauses of which involving expenditure from the Consolidated Fund of India were not printed in thick type or in italics — *L.S. Deb.,* 22-3-1968 and 25-3-1968.

    In the case of the Shipping Development Fund Committee (Abolition) Amendment Bill, 1987, the Minister, while introducing the Bill, brought clause 2, which involved expenditure from the Consolidated Fund of India but not printed in thick type, to the notice of the House.—*L.S. Deb.,* 24-8-1987.

If the financial memorandum is not appended to a Bill involving expenditure from the Consolidated Fund of India or where the financial memorandum is appended to the Bill but it is found to be incomplete, the Ministry concerned is asked to furnish copies of the requisite financial memorandum or the revised financial memorandum, as the case may be, giving all the necessary details and the copies of such financial memorandum/revised financial memorandum are circulated to the members separately for their information.[47]

In a case where recurring expenditure is involved but no non-recurring expenditure or *vice versa*, and this fact is not mentioned in the financial memorandum appended to the Bill, the Minister is asked to furnish a letter to that effect and the letter, on receipt, is published in the Bulletin[48].

If no financial memorandum is attached to a Bill and later at the consideration stage the Speaker holds that the same is necessary, the financial memorandum may be permitted to be read out by the Minister in the House[49] and, in exceptional cases,

47. In the case of the State Finance Corporations (Amendment) Bill, 1965, the financial memorandum attached to the proof copy of the Bill was incomplete as it did not give an estimate of the recurring and non-recurring expenditure involved in case the Bill was passed into law. The Minister was asked to furnish a detailed statement giving the particulars of recurring expenditure. The original memorandum was, however, printed with the Bill and circulated to members. When the revised financial memorandum was received, it was also circulated to members.

    During discussion on the motion for reference of the Essential Commodities (Second Amendment) Bill, 1967 to a Select Committee, a point of order was raised that the financial memorandum appended to the Bill was incomplete as it did not give an estimate of the recurring and non-recurring expenditure involved. The point of order was upheld by the Chair and further consideration of the Bill was postponed with a view to enabling the Government to furnish a revised financial memorandum giving particulars of recurring and non-recurring expenditure involved. The revised financial memorandum furnished by Government was circulated to members separately. A letter conveying fresh recommendation of the President for consideration of the Bill received from the Minister was also published in the Bulletin. *L.S. Deb.,* 29-11-1967, cc. 3631-68; Bn. (II), 4-12-1967, para 399. On examination of the Commodities Board and Development Authorities (Exemption from Income-tax) Bill, 1998, copies of which had already been circulated to the Members, it was found that provisions of the Bill involved expenditure from Consolidated Fund of India. On the matter being brought to notice of the Government, the Financial Memorandum furnished by the Government was separately circulated to members on 16 December 1998 and the Bill was introduced on 21 December 1998.

    During Fifteenth Session of Fourteenth Lok Sabha, in view of the recommendation of the Standing Committee of Transport, Tourism and Culture in their report on the National Waterway (Lakhipur-Bhanga Stretch of the Barak River) Bill, 2007, the Minister-in-charge of the Bill furnished a revised Financial Memorandum. The revised Financial Memorandum was circulated to the members on 12 February 2009.

    The Code on Wages, 2019, which was introduced in Lok Sabha on 23 July, 2019 during the first session of the Seventeenth Lok Sabha, was not accompanied by a financial memorandum as required under rule 69. The concerned Ministry was requested to furnish the requisite financial memorandum. Upon receipt, the financial memorandum was circulated to the members on 27 July, 2019.

    The Occupational Safety, Health and Working Conditions Code, 2019, which was introduced in Lok Sabha on 23 July, 2019 during the first session of the Seventeenth Lok Sabha, involved expenditure out of the Consolidated Fund of India but the financial memorandum appended to the Bill was in the nature of a no expenditure certificate. The concerned Ministry was requested to furnish a revised financial memorandum. The revised financial memorandum received from the Ministry was circulated to the members on 27 July, 2019.

48. *See,* for instance, Bn. (II), 29-7-1968, 26-8-1968, and 31-5-1971.

49. *L.S. Deb.,* 22-11-1956, cc. 729-31.

the rule regarding financial memorandum may be suspended in its application to the introduction of a Bill[50].

Salient Features of a Bill

Title

Every Bill has a title succinctly describing the nature of the proposed measure. The title, generally referred to as the long title, is prefixed to the Bill and retained in the Act, and is different from the short title which is embodied in the first section of the Act itself. Care is taken to see that the title is sufficiently wide to cover all the provisions of the Bill, and that it is not vague, for, otherwise it may invite amendments outside the scope of the proposed measure.[51]

Preamble

The preamble is a clause at the beginning of a Statute, following the title and preceding the enacting clause. The proper function of the preamble is to explain certain facts which are necessary to be explained before the enactments contained in the Act can be understood. Inclusion of a preamble in a Bill has now become out of fashion; rarely a preamble is now-a-days added to a Bill[52].

At one time the preamble was not considered to be a part of the Bill, but later a contrary view was taken[53]. A preamble is subject to amendment like any part of the Bill[54].

Enacting Formula

The enacting formula is a short paragraph preceding the clauses of a Bill. The form of the enacting formula, adopted by the Lok Sabha in 1954, is:

'Be it enacted by Parliament in the year ... of the Republic of India as follows....'

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50. *Ibid.,* 30-8-1957, cc. 10920-32.

51. General Clauses Act, 1987—Notes by J. Bartley, p. 159.

52. Shakdher, *op. cit.,* p. 96.

    Since the coming into force of the Constitution, only a few Bills have been passed containing preambles: *e.g.* the Chartered Accountants Bill, 1949; the Hyderabad Export Duties (Validation) Bill, 1955; the Prize Competitions Bill, 1956; the Public Debt (Amendment) Bill, 1956; the Kerala Local Authorities Laws (Amendment) Bill, 1959; the Small Coins (Offences) Bill, 1971; the Asian Refractories Ltd. (Acquisition of Undertaking) Bill, 1971; the Defence of India Bill, 1971; the Emergency Risks (Goods) Insurance Bill, 1971; the Urban Land (Ceiling and Regulation) Bill, 1976; the Caltex [Acquisition of Shares of Caltex Oil Refining (India) Limited and of the Undertakings in India of Caltex (India) Limited] Bill, 1977; the Bengal Chemical and Pharmaceutical Works Limited (Acquisition and Transfer of Undertakings) Bill, 1980; the Commission of Sati (Prevention) Bill, 1987; the Acquisition of Certain Area at Ayodhya Bill, 1993; the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Bill, 1995; the National Capital Territory of Delhi Laws (Special Provisions) Bill, 2007 ; the Tyre Corporation of India Limited (Disinvestment of Ownership) Bill, 2007; the Prohibition of Employment as Manual Scavengers and their Rehabilitation Bill, 2012; the Biotechnology Regulatory Authority of India Bill, 2013; the Agricultural Biosecurity Bill, 2013 and the New Delhi International Arbitration Centre Bill, 2019.

    Previously, the general practice was to prefix one or more preambles to a Bill. For instance, the Murshidabad Estate Administration Act, 1933, contained as many as five preambles.

53. Bartley, *op. cit.,* p. 161.

54. The Indian Tariff (Amendment) Act, 1924; the Indian Naval Armament (Amendment) Act, 1931; and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Bill, 1993 contained preambles which were adopted in amended form.

prior to 1950, the enacting formula used to be in one of the following forms:

Be it enacted that....[55]

It is enacted as follows....[56]

It is hereby enacted that or as follows....[57]

During the Budget Session, 1950, the following form was adopted:

Be it enacted by Parliament as follows....[58]

On 27 April 1954, on the suggestion of the Ministry of Law, it was decided to have the following enacting formula:

Be it enacted by Parliament in the year... of the Republic of India as follows...

The Speaker, soon after, suggested that the words 'the Republic of India' be substituted for 'our Republic' as the expression 'our' was, he said, imperial in character. A few days later, on an amendment formally moved in and adopted by the House, the words 'the Republic of India' were substituted for the words 'our Republic' occurring in the enacting formula of the Himachal Pradesh and Bilaspur (New State) Bill, 1954[59].

Short Title

Every Bill has a short title. It has to be short for it is merely a label or index-heading to the enactment in question and has also to be apposite. It is cited in the first clause of the Bill—'This Act may be called the....Act, 20 '.

An enactment is cited by reference to the short title conferred thereon or by reference to the number and year thereof. Where in any enactment it is necessary to cite or refer to another Act, its short title is cited in the body and reference to the number and year thereof made in the margin.

Where two or more Bills seek to amend the same principal Act and are passed in the same year, the amending Acts are numbered consecutively[60].

Extent Clause

A law passed by Parliament is applicable throughout the country except where it is otherwise expressly provided for in the Statute itself. It is, however, usual and convenient and at times necessary to specify the extent explicitly[61].

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55. *See* the Dekhan Assistant Agents Appointment Act, 1835.
56. *See* the Sea Customs Act, 1878.
57. *See* the Dower Act, 1839 and the Indian Tariff (Amendment) Act, 1949.
58. *See* the Rehabilitation and Finance Administration (Amendment) Bill, 1950.
59. The expression, 'Our Republic' occurred in the following three Bills only which had already been passed and assented to by the President: the Prevention of Disqualification (Parliament and Part C States Legislatures) Amendment Bill, 1954; the Voluntary Surrender of Salaries (Exemption from Taxation) Amendment Bill, 1954; and the Factories (Amendment) Bill, 1954.
60. For example, the Representation of the People (Amendment) Bill, 1987 and the Representation of the People (Second Amendment) Bill, 1987. However, in the case of Acts amending the Constitution, the numbers in the short titles are given consecutively irrespective of the year, *e.g.* the Constitution (First Amendment) Act, 1951; the Constitution (Second Amendment) Act, 1952; the Constitution (Third Amendment) Act, 1954, and so on.
61. Bartley, *op. cit.,* p. 164.

With regard to their extent, Acts may be divided into the following categories:

Acts which apply to the whole of India[62];

Acts which apply only to Union territories; and

Acts pertaining to matters enumerated in List II of the Seventh Schedule to the Constitution, which are applicable only to those States the Legislatures of which have passed resolution to that effect[63].

An extent clause may, however, be rendered unnecessary by the nature of the Act when it indicates the areas to which it will apply, or denotes the persons who will be subject to it, or signifies things which will come under its purview[64].

Commencement Clause

The commencement clause forms an important provision of a Bill. The practice is to place the short title, the extent clause and the commencement clause, if any, in a single section divided into three sub-sections[65].

The general rule regarding the coming into operation of enactments is that in the absence of any express provision to the contrary an Act comes into operation on the day on which it receives the assent of the President[66]. In view of the above general provision, Acts which are intended to take effect at once need not, and do not usually, have a commencement clause[67].

In some cases, it is necessary to give retrospective effect to an enactment. The form usually adopted for this purpose is—

"This Act shall be deemed to have come into force on the...."[68].

In certain other cases it may be necessary to postpone the operation of an Act and bring it into force on some convenient date in the future. However, it may not always be possible or convenient to fix the date at the time the Act is passed by Parliament; the device adopted in such cases is to give power to the Government to appoint, by notification in the Gazette, the date when the Act shall come into operation.

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62. Before the enactment of the Jammu and Kashmir Reorganisation Act, 2019, the entries in the Union List of the Seventh Schedule to the Constitution in respect of which Parliament has power to make laws for the erstwhile State of Jammu and Kashmir were set out in the Constitution (Application of Jammu and Kashmir) Order, 1954, as amended. Central laws relating to some of these matters had been extended to the erstwhile State under the State of Jammu and Kashmir (Extension of Laws) Act, 1956. After the enactment of the Jammu and Kashmir Reorganisation Act, 2019, Central laws are being made applicable to the whole of India, including the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh.

63. *See* art. 252–Examples of such Acts are the Estate Duty Act, 1953 (in its application to agricultural lands situated in the States mentioned in the First Schedule to the Act); the Prize Competitions Act, 1955; the Indian Veterinary Council Act, 1984; the Estate Duty (Amendment) Act, 1986; and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.

64. For instance, the Indian Air Force Act, 1950; the Naga Hills Tuensang Area Act, 1958; the Government Savings Certificates Act, 1959.

65. Bartley, *op. cit.,* p. 164.

66. General Clauses Act, 1897, s. 5(1).

67. For instance, the Public Premises (Eviction of Unauthorised Occupants) Act, 1958; the Banaras Hindu University (Amendment) Act, 1958; and the Supreme Court Judges (Conditions of Service) Act, 1959.

68. For instance, the Customs Tariff (Amendment) Bill, 1995 was introduced on 14 February 1995 and came into force with retrospective effect from 1 January 1995.

In all these cases the Act becomes operative only on the specified date or the date appointed by notification, although the Act was all the time on the Statute Book[69].

In respect of laws which become operative on a future date, whether that date is specified in the Act itself or is to be notified by the Government, different wordings are adopted in the commencement clause depending on the needs and circumstances of each case. The variation is due to the fact that all the provisions of the Act may not be intended to be brought into force at the same time or in all the areas to which the Act extends. In such cases, if the exact date or dates could not be foreseen, power is, of course, taken to fix the date or dates by notification[70].

When an Act is to be brought into force on a future date by notification, it does not seem necessary that the section under which the notification is to be issued should be expressed to come into force at once, although the practice in regard to this matter has not been uniform[71].

Interpretation or Definition Clause

The interpretation or definition clause usually comes immediately after the short title or the citation clause[72]. Where the expressions defined occur only in a single section, the definitions are given in that section[73] and where the definitions are necessary only for a particular part or chapter, they are given in that part or chapter[74].

Definitions are required to avoid tedious paraphrases, explain terms which are of ambiguous or uncertain meaning, give to a term which has been judicially interpreted a sense other than that given by such interpretation[75] or include or exclude, for the purposes of the Act, something in regard to the inclusion or exclusion of which there might otherwise be doubt. The definitions are arranged in alphabetical order.

Most of the definitions in common use are now contained in section 3 of the General Clauses Act, 1897 and apply *mutatis mutandis* to Acts and Regulations, unless expressly excluded[76].

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69. For instances, the Railway Claims Tribunal Act, 1987; the All India Council for Technical Education Act, 1987; the Mahatma Gandhi Antarrashtriya Hindi Vishwavidyalaya Act, 1996; the Life Insurance Corporation (Amendment) Bill, 2011 and the Prevention of Money-Laundering (Amendment) Bill, 2012.
70. The National Housing Bank Act, 1987; the Commission of Sati (Prevention) Act, 1987; the Factoring Regulation Bill, 2011; and the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2012.
71. It has been held by the Supreme Court in *T.K. Mudaliar vs. Potti* that the section under which the notification is to be issued comes into force immediately on the passing of the Act — S.C.J. 1956, 333-34.
72. In earlier Indian Acts, *i.e.* those passed before 1859, interpretation clause was included at the end of the Act. — Bartley, *op. cit.,* p. 172. Deviating from the usual practice in the Direct Taxes Code, 2010, introduced in Lok Sabha on 30 August 2010, the definition clause was included at the end of the Bill.
73. *See sec*. 45 of the Delhi Municipal Corporation Act, 1957, sec. 23 of the Mines and Minerals (Regulation and Development) Act, 1957, and sec. 441 of the Merchant Shipping Act, 1958.
74. *See* sections 357 and 390 of the Merchant Shipping Act, 1958.
75. *See* the Himachal Pradesh Legislative Assembly (Validation of Constitution and Proceedings) Act, 1958.
76. Bartley, *op. cit.*

Duration Clause

Certain laws are of limited duration and are enacted for a short stipulated period. Such enactments cease to be effective after the expiry of the period stipulated therein[77].

The duration clause is embodied as one of the sub-clauses in the first clause of a Bill. The form used may be different in different Bills, as the situation demands.

Declaratory Clause

Certain Bills also contain a declaratory clause[78]. The declaratory clause, which comes after the citation clause (clause 1) of the Bill, is that part of the statute "which declares or states the need or requirement which the statute was framed to fulfil"[79].

Rule-making Clause

The provisions delegating the power to the Executive to make rules and regulations for administering the various laws are contained in the rule-making clause of a Bill;

The general principles on which the rule-making clause is based are— That the rules or regulations should be laid before Parliament;

That the rules, etc., should be laid before Parliament for a specified period before, or as soon as possible after, their publication; that the rules should be subject to modification by Parliament.

Now-a-days, all Bills involving delegation of power contain the following clause[80]—

Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified

77. Whenever it is desired to continue a Temporary Act, an Expiring Law Continuance Bill extending its life to a specified date is brought before Parliament. The duration clause of the expiring Act is amended so as to alter the date originally fixed for its expiry. For instance, the Essential Commodities (Special Provisions) Continuance Act, 1987 and the Essential Commodities (Special Provisions) Amendment Bill, 1993.

    An Act limited in duration is made permanent by means of an amending Act which seeks to omit the duration clause of the expiring Act with the result that the expiring Act is no more limited in duration. For examples of such amending Acts, *see* the Criminal Law (Amendment) Act, 1935; the Foreign Exchange Regulation (Amendment) Act, 1957; the Prevention of Corruption (Amendment) Act, 1957.

78. Generally, legislation contemplated under the following eight entries in the Union List of the Seventh Schedule to the Constitution contains a declaratory clause: Entries 7, 23, 27, 52, 53, 54, 56 and 67.

79. There is no set form of a declaratory clause. For specimen of the different forms used, *see* the Industries (Development and Regulation) Act, 1951: the Ancient and Historical Monuments and Archaeological Sites and Remains (Declaration of National Importance) Act, 1951; the Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Act, 1952; the Inflammable Substances Act, 1952; the National Highways Act, 1956; the Mines and Minerals (Regulation and Development) Act, 1957; the Indian Statistical Institute Act, 1959; the Rampur Raza Library Act, 1975, etc.

80. Model clause drafted by the Ministry of Law and circulated to State Governments (*vide* para 45 of the Seventh Report of the Committee on Subordinate Legislation, presented to Lok Sabha on 22 December, 1959).

form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule[81].

The Speaker may refer the points arising out of the rule-making clause to the Committee on Subordinate Legislation for examination and report[82].

The rules made under an Act have statutory force[83].

The power to make rules conferred by the rule-making clause includes the power to add, amend, vary or rescind the rules[84]. The definitions given in the Act are imported into the rules made under it so that it is not necessary to repeat them in the rules[85]. Rules made under an enactment which is repealed cease to have effect and are themselves virtually repealed. If rules have been made under an Act which is repealed and re-enacted, they will continue in force so far as they are not inconsistent with the provisions so re-enacted and are superseded by fresh rules[86].

Repeal and Savings Clause

The provisions regarding both repeal and savings are embodied in the same clause. The clause is invariably placed at the end of a Bill, so that the structure of the enactment in which it is contained may remain unimpaired when the clause itself is repealed[87].

When an enactment is repealed, the repeal, unless a different intention appears from the context, does not —

Revive anything not in force or existing at the time at which the repeal takes effect; or

Affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or

Affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

Affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

Affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and

Any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the Repealing Act had not been passed[88].

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81. For scrutiny of these rules, *see* Chapter 30—Parliamentary Committees, etc. under Committee on Subordinate Legislation.
82. *L.S. Deb.,* 12-12-1968, cc. 182-93; 14-12-1968, c. 2; 17-12-1968, c. 266.
83. This is also borne out by the definition of "existing law" as given in the Constitution *vide* art. 366(10).
84. The General Clauses Act, 1897, s. 21.
85. *Ibid.,* s. 20.
86. *Ibid.,* s. 24.
87. Bartley, *op. cit.,* p. 179.
88. The General Clauses Act, 1897, s. 6.

With the repeal of an enactment, all rules, etc., made thereunder are *ipso facto* repealed, unless provision is made to the contrary in the Repealing Act.

The savings clause reserves something which would be otherwise included in the words of the enacting part. This clause only preserves things which were in *esse* at the time of its enactment and therefore cannot affect transactions which were complete on the date of the Repealing Statute. It is inserted in the Statute in order to protect or save a person as regards rights which he may have acquired under the then existing law[89].

Schedules

Some Bills have Schedules appended to them. As a rule, matters of detail are relegated to Schedules, e.g., illustrations of forms, agreements and plans. When the constitution of an organization is declared in the Bill itself, the mode of appointment and rules governing meetings of that organisation are placed in a Schedule. It is sometimes convenient to indicate in a Schedule where several Acts or parts of several Acts are being repealed or where a considerable number of minor amendments are being made[90].

The expression used is 'First Schedule', 'Second Schedule', etc., and not 'Schedule I', 'Schedule II'. Where a Schedule is referred to in the Bill or Act, it is spelt with a capital letter 'S' to catch the reader's eye and to distinguish this Schedule from any other Schedule which may be referred to in the Bill or Act, for the sake of facility, a reference to the clause or clauses of the Bill which refer to a Schedule is inserted at the head of the Schedule.

The Schedule is as much a part of the statute and as much an enactment as any other part. It must be read together with the other provisions of the Act for all purposes of construction[91].

Apart from the salient features described above, a Bill is accompanied by a Statement of Objects and Reasons and, wherever necessary, by Notes on Clauses, a Financial Memorandum[92], a Memorandum on Delegated Legislation, a Memorandum regarding modifications contained in the Bill to replace an Ordinance and an Annexure reproducing extracts from the provisions of an Act sought to be amended, all of which, though not forming part of a Bill, serve a positive purpose. These appended documents to a Bill are omitted when the Bill is passed by the Lok Sabha and transmitted to the Rajya Sabha for consideration and *vice versa*.

Statement of Objects and Reasons

It has been the uniform practice since 1862 to append to every Bill a Statement of Objects and Reasons, briefly explaining the purpose of the proposed legislation. The Statement is explanatory of the contents and objects of a Bill and helps in understanding the necessity and scope of the Bill but the courts cannot rely on it in

89. *Gulabchand v. Kudilal,* A.I.R. 1951 Madhya Bharat 1, 38 F.B.

90. For example, *see* the Trade and Merchandise Bill, 1958 and the Trade Marks Bill, 1993.

91. *Dhonessur Kooer v. Roy Gooder Sahoy,* I.L.R. 2 Calcutta 337, 339 F.B.; *Altap Ali v. Jamsur Ali,* A.I.R. 1926 Calcutta 638.

92. For Financial Memorandum, *see* this Chapter *under* Financial Memoranda to Bills involving Expenditure, *supra*.

construing an Act for the reason that it refers to the Bill as introduced and the Bill may undergo considerable alteration before it is passed. The meaning of the legislation must be deduced from the language it has actually used, and not from its presumed intentions. It has, therefore, to be excluded from consideration when construing an Act.[93]

The Statement of Objects and Reasons has to be framed in non-technical language. It should not be unduly long nor should it contain anything of an argumentative character, and it can be revised if the Speaker so desires[94]. Moreover, it is to be signed by the member in-charge of the Bill.

The Statement can be amended by the member in-charge of the Bill with the permission of the Speaker at the time of introducing the Bill[95]. Any lacuna in the Statement of Objects and Reasons must be pointed out at the time of introduction of the Bill; a point raised in that regard at the consideration stage of the Bill is not valid[96]. However, changes suggested by a Parliamentary Committee in the Statement of Objects and Reasons while making a report on the Bill may be incorporated in the Statement and revised copies thereof circulated to the Members[97].

Notes on Clauses

In some cases, Bills are also accompanied by Notes on Clauses which explain the various provisions in a Bill and their significance. They outline the basis on which particular provisions of the Bill are framed. The Notes are elucidatory in nature and facilitate consideration of the clauses in their right perspective.

Memorandum Regarding Delegated Legislation

All Bills involving proposals for the delegation of subordinate legislative power are required to be accompanied by a memorandum explaining such proposals. The memorandum draws attention to the scope of the proposals and also states whether they are of normal or exceptional character.

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93. *Mahalakshmi v. Shamrangini,* I.L.R. (1941) 1 Calcutta 499; A.I.R. 1941 Calcutta 673.

    The Supreme Court observed that nevertheless such a statement can certainly be looked at for the purpose of seeing any alleged infringement of Article 14 (dealing with equality before law) *Jullundhar Rubber Goods Manufacturers Association vs. Union of India,* A.I.R. 1970 S.C. 1589.

94. Rule 65(1), Proviso.

95. *L.S. Deb.,* 16-12-1960, cc. 5983-6006.

    In the case of the Constitution (One Hundred and Fourth Amendment) Bill, 2005, which was listed for introduction on 14 December 2005, the Minister-in-charge requested the Speaker to permit some changes in the Statement of Objects and Reasons. Introduction of the Bill was deferred. Revised Statement was circulated to members on 19 December 2005 and the Bill was introduced on 20 December 2005.

96. *Ibid.,* 5-8-1968, c. 248.

97. (i) The Salaries, Allowances, Leave and Pensions of the Officers and the Servants of the Supreme Court Bill, 1994 and the Salaries, Allowances, Leave and Pensions of the Officers and the Servants of the Delhi High Court Bill, 1994 were introduced in Rajya Sabha on 19 August 1994. The Bills were referred to the Standing Committee on Home Affairs for examination and report. The Committee in their Reports on the Bills recommended modification of the Statement of Objects and Reasons to these Bills. The copies of the revised Statement of Objects and Reasons received from the Ministry of Law through Rajya Sabha Secretariat were circulated to members of Lok Sabha.

    (ii) The Joint Committee on the Central Vigilance Commission Bill, 1999 recommended for omission of para 7 of the Statement of Objects and Reasons appended to the Bill. In consonance with the recommendation of the Joint Committee, the Minister-in-charge forwarded a revised Statement of Objects and Reasons, which was circulated to members.

In case a Bill involving proposals for the delegation of subordinate legislative power is received without a memorandum explaining such proposals, the Minister concerned is asked to furnish the relevant memorandum and in case the memorandum is received after the Bill has been printed, copies thereof are circulated to members separately[98].

In case memorandum regarding delegated legislation is sought to be revised by the Government, a copy thereof shall be laid on the Table of Lok Sabha and thereafter circulated to members[99].

Memorandum *re.*: Modifications contained in a Bill to replace an Ordinance

Whenever a Bill seeking to replace an Ordinance with modifications of the provisions of that Ordinance is introduced in the House, the modifications contained in the Bill are explained in a memorandum appended to the Bill[100].

Annexure

Where certain sections of the parent Act are sought to be amended, the text thereof is generally appended to every amending Bill in the form of an annexure. In case the number of sections involved is large, on request made by the Minister incharge of the Bill, the sections may not be reproduced as an annexure but copies of the original Act are supplied by the Ministry concerned for circulation to members[101]. But where the original Acts themselves are bulky, copies of the acts are not circulated to members but a few copies of the Acts received from the Ministry concerned are placed in the Parliament Library for reference by members[102]. A para in this regard is issued in the *Bulletin-Part II.*

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98. Universities being autonomous bodies, nothing hard and fast is laid down to restrict the scope of their functioning. *See* the University of Hyderabad Bill, 1974.—*L.S. Deb.,* 7-8-1974, cc. 196-285.

    The Direct Tax Vivad se Vishwas Bill, 2020; and the Medical Termination of Pregnancy (Amendment) Bill, 2020, which were introduced in Lok Sabha during the third session of the Seventeenth Lok Sabha, were not accompanied by Memorandum regarding Delegated Legislation as required under rule 70. The concerned Ministries were requested to furnish the requisite Memorandum. Upon receipt, the Memoranda were circulated to the members separately for their information.

99. In the case of the Foreign Trade (Development and Regulation) Bill, 1992, as introduced in the Lok Sabha, the Ministry of Commerce requested that a revised Memorandum regarding Delegated Legislation as per recommendations of the Committee on Subordinate Legislation, might be circulated to members. The Ministry were informed that revised Memorandum should first be laid on the Table. The revised Memorandum was accordingly laid on the Table on 16 July 1992 by the Deputy Minister of Commerce and thereafter, copies thereof were circulated to members the same day.

100. (i) For instance, *see* the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Bill, 1976; the Disputed Elections (Prime Minister and Speaker) Bill, 1977; the Finance (Amendment) Bill, 1987; the Acquisition of Certain Area at Ayodhya Bill, 1993; and the Patents (Amendment) Bill, 1995.

    (ii) The Criminal Law (Amendment) Bill, 2013 sought to replace the Criminal Law (Amendment) Ordinance, 2013 with certain modifications. As the Memorandum containing the modifications was not appended to the Bill, the Ministry was asked to provide the requisite Memorandum. Upon receipt of the Memorandum, it was circulated to the members on 18 March 2013. The Bill was introduced, considered and passed by Lok Sabha on 19 March 2013.

101. *See L.S. Deb*., 5-5-1954, cc. 6570-71. Similarly, in the case of the Dowry Prohibition (Amendment) Bill, 1984, copies of the parent Act, received from the Ministry, were circulated to members.

102. For example, the Customs Tariff (Amendment) Bill, 1985 and the Direct-Tax Law (Amendment) Bill, 1987.

Before 1950, the text of sections of an Act sought to be amended by an amending Bill was not printed along with the Bill.

On 14 August 1950, when the Bill further to amend the Essential Supplies (Temporary Powers) Act, came up for consideration before the House, a point was raised that along with an amending Bill the relevant sections of the original Act which are sought to be amended should also be printed for the purpose of facilitating the work of members. On this, the Speaker directed:

> In future whenever amending Bills are presented to amend original Acts, a schedule of the relevant sections from the original Acts should be given with the Bill[103].

Such an annexure is, however, not added to a secret Bill[104].

Legislative Competence of the House

The Constitution provides for a three-fold distribution of legislative power between the Union and the States: the Union List enumerates topics of legislation with respect to which Parliament has exclusive power to make laws; the State List enumerates topics of legislation with respect to which the Legislature of a State has exclusive power to make laws; and the Concurrent List enumerates topics with respect to which both Parliament and the Legislature of a State have the power to make laws[105]. The residuary power of legislation, i.e. the power to make law with respect to any matter not enumerated in the Concurrent List or the State List is vested in Parliament, and this power includes the power of making a law imposing any tax not mentioned in either of those Lists[106].

In the hierarchy of legislation, a higher place is accorded to laws passed by Parliament. Inconsistency between laws made by Parliament and those made by a State Legislature, both acting under the Concurrent List, is resolved by making the law made by Parliament to prevail over the law made by the Legislature of the State which, to the extent to repugnancy, will be void[107]. However, if the law made by the State Legislature has been reserved for the consideration of the President and received his assent, it shall prevail in that State notwithstanding the inconsistency[108].

The entries in the three Lists are only legislative heads or fields of legislation: they demarcate the area over which the appropriate Legislatures can operate. The widest amplitude is given by the Courts to the language of the entries, the reason being that the allocation of subjects is not by way of scientific or logical definition but is a mere enumeration of broad and comprehensive categories. Where entries in the different Lists or in the same List overlap or appear to be in direct conflict with each other,

103. *P. Deb.,* 14-8-1950. cc. 1010-14.

An annexure was for the first time appended to the Assam Rifles (Amendment) Bill, 1950, introduced on 15 November 1950.

104. For example, annexures were not appended to the Indian Tariff (Second Amendment) Bill, 1957; the Estate Duty (Amendment) Bill, 1958; the Reserve Bank of India (Amendment) Bill, 1959; the Finance Bill, 1960; and the Compulsory Deposit Scheme (Income-tax Payers) Amendment Bill, 1985.

105. Art. 246.

106. Art. 248(1) and Entry 97 of the Union List.

107. Art. 254(1).

108. Art 254(2).

the Courts reconcile the entries and bring about a harmonious construction, by reading the two entries together and by interpreting and, where necessary, modifying the language of the one by that of the other[109].

The legislative power includes the subsidiary or auxiliary power to validate laws found to be invalid for one infirmity or another. It is competent to the appropriate Legislature to cure the said infirmity and pass a validating law so as to make the provisions of the said earlier law effective from the date when it was passed[110]. Likewise, the power to legislate for validating actions taken under a statute which were not sufficiently comprehensive is ancillary or subsidiary to the power to legislate on any subject within the competence of Parliament or a State Legislature[111].

Arising from the classification or matters into the three Lists, points of order have been raised, time and again, regarding the competence of the Lok Sabha to legislate on a particular matter before the House.

The question of 'vires' was raised for the first time in the Central Legislative Assembly in 1937[112] with the coming into force of Part III of the Government of India Act, 1935, relating to Provincial Autonomy. Earlier such a question could not be raised because the power to decide whether a matter related to a Central or Provincial subject, transferred subject or reserved subject, was vested in the Governor-General in Council, or the Governor, as the case might be, and the jurisdiction of the courts over these matters was barred.

It is the accepted practice in Lok Sabha that the Speaker does not give any ruling on a point of order raised whether a Bill is constitutionally within the legislative competence of the House or not. The House also does not take a decision on the specific question of vires of a Bill. It is open to members to express their views in the matter and to address arguments for and against the vires for the consideration of the House. The members take this aspect into account in voting on the motion for leave to introduce the Bill or on the subsequent motions on the Bill[113].

Before 1942, whenever a question was raised in the Central Legislative Assembly as to whether a Bill, clause or amendment fell outside the competence of the House to enact, the Speaker took upon himself to uphold or rule out the point of order after hearing arguments on both sides. Ruling that a question of legislative competence of the Assembly should not be decided by the House itself, Speaker Abdur Rahim observed as under:

A question relating to the legislative competence of the Assembly which may often involve much difficulty and complexity should not be summarily settled

109. *Harakchand Ramanchand Banthia vs. Union of India,* A.I.R. 1970 S.C. 1453; *see* also *Calcutta Gas Co. Ltd. vs. State of West Bengal,* A.I.R. 1962 S.C. 1044; *State of Bombay vs. Narottamdas Jethabhai.* A.I.R. 1951 S.C. 69.

110. *Rai Ramkrishna vs. State of Bihar,* A.I.R. 1963 S.C. 1667.

111. *Metal Corporation of India Ltd. vs. Union of India,* A.I.R. 1970 Calcutta 19.

112. *L.A. Deb.,* 1-4-1937, pp. 2546-48. The question of legislative competence again arose in October 1937.—*Ibid.,* 6-10-1937. pp. 4145-52; 7-10-1937. pp. 3197-202.

113. *L.S. Deb.,* 22-4-1963, cc. 11211-12; 2-8-1965, c. 3914; 14-11-1968, cc. 304-05; 21-3-1969, cc. 323-24; 19-8-1974, cc. 270-72; 23-2-1981, cc. 361-65; 2-3-1981, cc. 364-69; 23-4-1981, cc. 265-70.

by the Chair on a point of order. In fact, the Federal Court has been established for the very, purpose of dealing with these questions and the Chair has really not the facilities or the time and the material on which to come to a satisfactory conclusion on a point of this character so as to be able to hold finally whether the Assembly should or should not consider the particular legislative proposal.

I, therefore, hold that this is not a question which should be settled by a ruling of the Chair on a point of order[114].

There have, however, been occasions when the Speaker, leaving the ultimate decision on the matter to the House, has expressed his own views on the vires of Bills[115].

If the motion for leave to introduce a Bill is opposed on the ground of legislative competence of the House, a full discussion on the point may be permitted[116].

Where the fulfilment of a constitutional requirement is essential for the passing of a Bill, the Speaker may permit discussion on the Bill for the intervening stages and ask the Government to meet that requirement in the meantime.

On 25 April 1958, when the motion for reference of the Estate Duty (Amendment) Bill to a Select Committee was under discussion, a member contended that as the Bill proposed to levy estate duty in respect of agricultural land which was a State subject, Parliament could proceed in the matter only after resolution, as required under the Constitution, had been passed by two or more States[117].

After hearing arguments on both sides, the Speaker upheld the contention. However, he felt that the constitutional prohibition referred only to the 'passing' of the Act. Since the House was at the time only at the stage of referring the Bill to a Select Committee, it could proceed with the matter so that in the meanwhile Government could ensure that at least two State Legislatures passed resolutions as contemplated by the Constitution whereafter the Bill could be passed by the House in conformity with constitutional provisions[118].

In order to help the Lok Sabha and the Speaker to decide issues with reference to legislative proposals before the House, the Attorney-General has on occasions addressed the House at the suggestion of the Speaker or of the House and given his

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114. *L.A. Deb.,* 17-2-1942, pp. 280-83. For elaboration of this ruling, *see Ibid.,* 25-3-1942, p. 1533.

115. *See* for instance *L.S. Deb.,* 30-9-1955, cc. 15962-75; 28-2-1956, cc. 1031, 1048-55; 7-8-1956, cc. 2426-31; 18-8-1958, cc. 1400-23; 9-8-1961. cc. 1016-17 and 1033; 1-9-1976, c. 14.

116. Rule 72. *L.S. Deb.,* 13-4-1963, cc. 9463-71; 2-3-1981, cc. 314-21.

117. *See* Art. 252.

118. *L.S. Deb.,* 25-4-1958, cc. 11499-529. During consideration of clause 2 of the Essential Services Maintenance Bill, 1968, a point was raised that transport services for carriage of passengers or goods by land, water or air referred to in sub-clause (1) of clause 2 were mostly State subjects and were not necessarily within the Central field. The Chair upheld the objection and suggested that the clause might be made clear and precise. Consequently, the Minister moved an amendment for insertion in the clause of the words 'with respect to which Parliament has power to make laws' alter the word 'air', which was adopted by the House. *L.S. Deb.,* 16-12-1968; cc. 223-339, 17-12-1968, cc. 217-25 and 227-370.

opinion on the legal and constitutional aspects of the matters before the House[119].

Bills Originating in Lok Sabha

Examination of Bills before Introduction

Two authenticated proof copies of a Bill[120] except in the case of a secret Bill, are received from the Ministry of Law about a week before the day on which the Bill is proposed to be introduced in the Lok Sabha.

The proof copy is scrutinized in the Secretariat with a view to ensuring that the Bill conforms to the various constitutional provisions and the rules, *viz.*:

Whether the Bill contains a Statement of Objects and Reasons[121];

Whether recommendation of the President is required either for introduction or consideration of the Bill under any of the provisions of the Constitution and, if so, whether it has been received from the Minister concerned[122];

Whether other constitutional requirements have been complied with[123];

Whether clauses or provisions in the Bill involving expenditure from public funds have been printed in italics or in thick type[124];

Whether the Bill requires a Financial Memorandum and, if so, whether it has been attached to the Bill[125];

Whether a Memorandum on Subordinate Legislation, if necessary, has been appended to the Bill[126];

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119. For instance, the Attorney-General has addressed the House in connection with the following Bills: The Preventive Detention Bill, 1950, on 25-2-1950:

    The Vindhya Pradesh Legislative Assembly (Prevention of Disqualification) Bill, 1953, on 9-5-1953;

    The Indian Cattle Preservation Bill, 1952 (a private member's Bill), on 1-5-1954. The Sales Tax Validation Bill, 1956, on 28-2-1956;

    The Compulsory Deposit Scheme Bill, 1963, on 29-4-1963.

    The Finance Bill, 1969 (to give clarification on his opinion pertaining to clause 24 thereof), on 1-5-1969.

120. One copy is marked "original" and the other "duplicate".

121. Rule 65.

122. For details of these constitutional provisions. *See* Chapter XXXI–'General Rules of Procedure' under the sub-heading *Recommendation of the President.*

123. For instance, if a Bill relates to any matter specified in the State List, it has to be seen whether the Statement of Objects and Reasons indicates that the procedure laid down in Art. 249 and 252 has been followed. Further, such a Statement (in the case of a Bill providing for any of the matters mentioned against Entries 7, 23, 52-54, 56 and 67 of the Union List) is required to contain an explanation as to why it has been found expedient for Parliament to legislate on that matter. Moreover, a Bill creating an All-India Service, common to the Union and the States, is required, under art. 312 to be based on a specific resolution passed by Rajya Sabha by a specified majority.

    In the case of a Bill dealing with any of the provisions of Art. 3, a further point for examination is whether the Bill has been referred by the President to the State Legislature or Legislatures concerned for expressing views thereon within the period specified in the reference.

    The Urban Land (Ceiling and Regulation) Bill, 1976, the Estate Duty (Amendment) Bill, 1986, the Water (Prevention and Control of Pollution) Amendment Bill, 1988, and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Bill, 1993, were brought forward in pursuance of resolutions passed under article 252 by the States mentioned in sub-cl.(2) of cl. 1 of the Bill.

124. Rule 69(2).

125. Rule 69(1).

126. Rule 70.

Whether a Memorandum re. modifications contained in the Bill to replace an Ordinance, if necessary, has been appended to the Bill;

Whether sections of the parent Act sought to be amended, in the case of an amending Bill, have been reproduced in the Annexure;

Whether the 'Arrangement of Clauses', where a Bill contains more than 25 clauses, accompanies the Bill;

Whether the corrections carried out in the proof copies bear the seal of the Ministry of Law.

When the Bill satisfies all these requirements, a 'Bill Number' is indicated at the top of the Bill[127] and the docket page is prepared and attached to the Bill[128]. The 'original' proof copy is then sent to the press with instructions to print copies with the numbers.

Copies of the Bill are printed in two lots; copies with superscription "To be introduced in Lok Sabha" are printed first for circulation to members at least two days before the date of introduction[129]; and as soon as the date of introduction is fixed but before the Bill is actually introduced, copies of the Bill "As introduced in Lok Sabha" are printed with the date of introduction shown on the cover page[130].

On receipt of printed copies, a copy is minutely compared with the original proof copy. A corrected copy is then sent to the Draftsman, Ministry of Law, for scrutiny. If necessary, a corrigendum (including the corrections pointed out by the Draftsman) is circulated to members, either with the Bill or separately thereafter[131].

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127. Bill number is indicated as follows:

"Bill No....of 20...."

Serial number are allotted to Bills consecutively for one calendar year.

128. Prior to 1963, the Bills used to have a cover page which contained the Bill number, its short title and an indication of the stage of the Bill, *i.e.* "To be introduced in Lok Sabha" or "As introduced in Lok Sabha". However, since January 1963, the cover page has been dispensed with as an economy measure.

The docket page contains the word "Lok Sabha" at the top, the long title of the Bill in the middle and name and designation of the Minister in-charge in the right hand corner of the bottom.

Since April 1963, the letter from the Ministry concerned, conveying the recommendation or sanction of the President, is reproduced *in extenso* after the Statement of Objects and Reasons of the Bill and no indication is given on the docket page of a Bill.

129. In order to give a fillip to various measures being taken to reduce the use of paper, the circulation of hard copies of Private Members' Bills (To be Introduced in Lok Sabha) has been dispensed with *w.e.f.* 5 December, 2016. Instead copies of the Private Members' Bills (To be Introduced in Lok Sabha) are being uploaded on the e-portal launched exclusively for the members.

130. Since February 1963, copies with both the superscriptions "To be introduced in Lok Sabha" and "As Introduced in Lok Sabha" are printed in one lot. The date of introduction is left blank and is stamped on the copies with the subscription "As Introduced in Lok Sabha" after the Bill has been introduced.

131. Only printing mistakes, grammatical, arithmetical or patent errors can be corrected through corrigenda. For other changes, additions or alterations, amendments should be moved in the House—*L.S. Deb.,* 19-8-1974, cc. 265-66. In the case of the Export-Import Bank of India Bill, 1981 and the Motor Vehicles Bill, 1987, major corrections other than grammatical, arithmetical and patent mistakes were not accepted. In the latter case, the Bill had to be withdrawn on the ground that it contained numerous mistakes.

Two copies of proof of the Hindi version of a Bill, authenticated by the Draftsman, are also received from the Official Language Wing[132], Ministry of Law.

As and when proof copies of the Hindi version of a Bill are received, they are printed and circulated to those members who get their parliamentary papers in Hindi. Copies are also sent to the Rajya Sabha Secretariat, the Ministry concerned and the Official Language Wing of the Ministry of Law.

Publication of Bills before Introduction

On a request made by the member in-charge of a Bill, the Speaker may order the publication of a Bill in the Gazette although no motion for leave to introduce it in the House has been made[133]. It is not the practice to publish a Bill before introduction when the House is in session, but in special cases, the Speaker may so permit.

The Code of Criminal Procedure (Amendment) Bill, 1953, was permitted to be published when the House was in session to enable the Minister to release contents of the Bill to the public at his press conference and collect opinions thereon so that, if necessary, an amended Bill might be introduced during the following session.

In the case of the Suppression of Immoral Traffic in Women and Girls Bill, 1954, permission was granted subject to the condition that it might be published only after the termination of the session, if the Bill had not been introduced meanwhile. However, this Bill was not published in the Gazette before introduction.

When a Bill has been published in the Gazette before introduction, members cannot, later on, oppose its introduction in the House[134].

It is not necessary to move a motion for leave to introduce a Bill which has already been published in the Gazette under orders of the Speaker. The next step in respect of such a Bill is for introduction as distinguished from leave to introduce. However, if changes are made in the Bill after it has been published, it becomes a new Bill and the motion for leave to introduce the Bill has to be moved as in the case of any other Bill.

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132. The Hindi version of a Bill was received for the first time during the Sixth Session of the Third Lok Sabha 1963 in respect of the Delhi (Delegation of Powers) Bill, 1963.

133. Rule 64. The Bill is published along with the Statement of Objects and Reasons, Notes on Clauses, Memorandum on Subordinate Legislation and Financial Memorandum, etc., if any. The contents page (Arrangement of Clauses) and annexure to the Bill, containing extracts from the Parent Act sought to be amended are, however, not published in the Gazette.

    In the following cases, requests for publication of the Bill in the Gazette were received from the Ministers in-charge of the Bills and were acceded to–

    (1) The Motor Vehicles (Amendment) Bill, 1955, published on 12-11-1955.

    (2) The Taxation Laws (Amendment) Bill, 1969, published on 20-5-1969.

    (3) The Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Bill, 1969, published on 20-5-1969.

    In the case of the Life Insurance Corporation Bill, 1983, the request of the Minister of Finance for publication of the Bill before introduction was not acceded to on the ground that Government had ample time to bring forward the Bill in the preceding session as the decision to reorganize the Life Insurance Corporation was announced in 1981 and the Minister had even sent the notice of introduction of the Bill and the President's recommendation for its being taken into consideration by the Lok Sabha in the Monsoon Session, 1983 itself.

134. *L.A. Deb.,* 18-8-1926, p. 66.

If advance publicity is considered desirable regarding a Bill which is proposed to be introduced in the House, the Speaker may permit the issue of a press communique during the inter-session period.

During the inter-session following the First Session of the Second Lok Sabha, the Speaker permitted the Minister of Finance to issue a press communique pending introduction in Lok Sabha of a Bill to amend the Indian Income-Tax Act which sought to provide for exemption from income-tax, in certain circumstances, interest paid to non-residents on loans advanced by them and brought into India[135].

Advance publicity to the provisions of a Bill by a member before its introduction in the House is contrary to established parliamentary conventions.

Introduction of Government Bills

A Minister who desires to introduce a Bill has to give seven days' notice in writing of his intention to move for leave to introduce the Bill.

The Speaker may, however, allow the motion for leave to introduce to be made at a shorter notice[136].

Notice of intention to move for leave to introduce a Bill does not lapse upon prorogation of the House and a fresh notice is not necessary if the Bill is sought to be introduced in the next session[137]. However, a fresh notice is required in the case of a Bill in respect of which sanction or recommendation granted under the Constitution has ceased to be operative[138].

Introduction of a Bill by another Minister is not invalid where the Minister who had originally given notice for introduction of the Bill and had conveyed the President's recommendation therefor was no longer a Minister[139].

A Bill is not included in the List of Business for introduction until copies of the Bill have been made available to members at least two days before the day on which it is proposed to be introduced[140]. This requirement is waived by the Speaker in respect of

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135. *Bn.* (*II*), 27-6-1957, para 285.

136. Dir. 19A.

Till the end of the First Lok Sabha, there was no uniform practice for giving of notices by Ministers for introduction of Bills. In some cases notice was received, while in others no notice was received but only the proof copy of the Bill was received from the Ministry of Law and the item was included in the List of Business at the instance of the Department of Parliamentary Affairs. In the First Session of the Second Lok Sabha, it was decided that practice should be uniform for giving notices for introduction of Bills, whether they were Bills from Ministers or from private members. Accordingly, this Direction was issued by the Speaker. Since then, Ministers also give notice in writing to the Secretary-General in respect of all Bills for introduction.

137. Rule 335.

138. *Ibid.,* Proviso.

139. *L.S. Deb.,* 23-7-1969, cc. 214-16.

140. Dir. 19B.

Prior to the issue of this Direction in 1957, the practice was to circulate copies of Bills to members after their introduction in the House although a few copies were kept in the Lobby at the time of introduction for the information of members. Since provision existed under Rule 72 for any member to oppose a motion for leave to introduce a Bill, demand was made now and then that Bills for introduction should be circulated in advance so that members might be aware of the contents of a Bill at the time of voting on the motion for introduction; in compliance with the wishes of the House, this Direction was issued by the Speaker on 13 September 1957.

If the Minister is absent from the House, his Deputy or any other Minister may move the motion on his behalf if the Speaker has permitted him to do so on a written request from the Minister.

Appropriation Bills, Finance Bills and such secret[141] Bills as are not included in the List of Business. In case of other Bills, if the Minister concerned gives adequate reasons in a memorandum for consideration of the Speaker as to why the Bill is proposed to be introduced without copies being made available to members, the Speaker may permit introduction of the Bill without prior circulation or after circulation for a shorter period[142].

Since Fourth Session of Seventeenth Lok Sabha, Government Bills are being circulated to Members in digital format only through an e-transmission portal.

141. Dir. 19B. For instance, the Oil Industry (Development) Bill, 1974 and the Compulsory Deposit Scheme (Income-tax Payers) Amendment Bill, 1985 were introduced as secret Bills– *L.S. Deb.,* 22-7-1974 and 16-3-1985, respectively.

142. Some instances of Bills put down for introduction with less than two days' prior circulation of copies are:

(1) The Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Amendment Bill, 1976 *(L.S. Deb.,* 23-3-1976);

(2) The Departmentalisation of Union Accounts (Transfer of Personnel) Bill, 1976 *(L.S Deb.,* 23-3-1976);

(3) The Life Insurance Corporation (Modification of Settlement) Bill, 1976 (*L.S. Deb.* 31-3-1976, 1-4-1976);

(4) The Coal Mines (Nationalisation) Amendment Bill, 1976 *(L.S. Deb.,* 7-5-1976);

(5) The Constitution (Forty-second Amendment) Bill, 1976 *(L.S. Deb.,* 21-5-1976);

(6) The Scheduled Castes and Scheduled Tribes Orders (Amendment) Bill, 1976 *(LS. Deb.,* 21-5-1976);

(7) The Banking and Public Financial Institutions Laws (Miscellaneous Provisions) Amendment Bill, 1976 *(L.S. Deb.,* 24-5-1976);

(8) The Central Excise Tariff Bill, 1985 *(L.S. Deb.,* 13-12-1985);

(9) The State of Arunachal Pradesh (Amendment) Bill, 1987, *(L.S. Deb.,* 8-5-1987);

(10) The Motor Vehicles Bill, 1987 *(L.S. Deb.,* 11-5-1987);

(11) The Motor Vehicles Bill, 1988 *(L.S. Deb.,* 13-5-1988);

(12) The Delhi Municipal Corporation (Amendment) Bill, 1993 *(L.S. Deb.,* 14-5-1993);

(13) The Human Rights Commissions Bill, 1993 *(L.S. Deb.,* 14-5-1993);

(14) The Authority for Advance Rulings on Central Taxes Bill, 2007;

(15) The Central Universities (Amendment) Bill, 2012 (*L.S. Deb.,* 26-11-2012);

(16) The Constitution (Scheduled Tribes) Order (Second Amendment) Bill, 2012 (*L.S. Deb.,* 14-12-2012);

(17) The Criminal Law (Amendment) Bill, 2013 (*L.S. Deb.,* 19-3-2013);

(18) The Direct Tax Vivad se Vishwas Bill, 2020 (*L.S. Deb.*, 5-2-2020);

(19) The Delhi Municipal Corporation (Amendment) Bill, 2022, introduced in Lok Sabha on 25-3-2022; and

(20) The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Amendment Bill, 2022, introduced in Lok Sabha on 5-4-2022.

As per usual practice, copies of Bills, to be introduced in either House, are circulated amongst Members of other House after its introduction in the originating House. However, there have been instances when on the request made by the Minister in-charge/Minister of Parliamentary Affairs, Government Bills, to be introduced in Lok Sabha, were made available to Rajya Sabha Secretariat for circulation to Members of Rajya Sabha before introduction of Bills in Lok Sabha[143]. Similarly, there have been instances when on the request made by the Minister in-charge/Minister of Parliamentary Affairs, Government Bills, to be introduced in Rajya Sabha, were made available to Lok Sabha Secretariat for circulation to Members of Lok Sabha before introduction of Bills in Rajya Sabha[144].

The proof copies of the Essential Commodities (Amendment) Bill, 1957, were received on 29 May 1957, and the Bill was sought to be introduced on 30 May 1957. Printed copies were accordingly obtained and distributed to members in the Chamber on 30 May 1957 during the Question Hour. When a point of order was raised, the Speaker explained that he had permitted the Bill to be introduced on a representation made to him by the Government about the urgency of the measure. The Bill was, thereafter, introduced.

On the day appointed for introduction of the Bill, the Speaker calls the Minister in-charge who moves the motion for leave to introduce the Bill. After the Speaker has put the question and the motion is adopted, the Bill is introduced by the Minister. At the introduction stage, the Minister who has given notice for leave to introduce a Bill can alone introduce it, unless he has previously written to the Speaker to allow another Minister to move for leave to introduce the Bill on his behalf.

Since the Minister in whose name the India Tariff (Amendment) Bill, 1969, stood was not present in the House and had not previously written to the Speaker, the Deputy Minister concerned was not permitted to introduce the Bill on behalf of the Minister[145]. If the motion for leave to introduce the Bill is opposed, the Speaker, after permitting, if he thinks fit, brief statements from the member who opposes the motion

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143. Such instances are:–

(i) The Citizenship (Amendment) Bill, 2019;

(ii) The Constitution (One Hundred and Twenty-sixth Amendment) Bill, 2019;

(iii) The National Forensic Sciences Universities Bill, 2020;

(iv) The Rashtriya Raksha University Bill, 2020;

(v) The Foreign Contribution (Regulation) Amendment Bill, 2020;

(vi) The Jammu and Kashmir Official Languages Bill, 2020;

(vii) The Constitution (One Hundred and Twenty-seventh Amendment) Bill, 2021;

(viii) The National Commission for Indian System of Medicine (Amendment) Bill, 2021;

(ix) The National Commission for Homoeopathy (Amendment) Bill, 2021;

(x) The Criminal (Identification) Bill, 2022;

(xi) The Delhi Municipal Corporation (Amendment) Bill, 2022.

144. Such instances are:–

(i) The Salaries and Allowances of Ministers (Amendment) Bill, 2020;

(ii) The Jammu and Kashmir Reorganisation (Amendment) Bill, 2021.

145. *L.S. Deb.,* 13-12-1969, cc. 196-97; *see* also *L.S. Deb.,* 22-7-1968, c. 353.

and the member who moved the motion, may, without further debate, put the question[146]. Where the motion is opposed on the ground that the Bill initiates legislation outside the legislative competence of the House, a full discussion may be permitted thereon[147]. A motion for leave to introduce a Finance Bill or an Appropriation Bill is, however, forthwith put to vote[148].

By convention, the motion for introduction is not ordinarily opposed, but there have been several instances when motions for introduction of Government Bills were opposed in the House[149]. The member who wishes to oppose must give notice, addressed to the Secretary-General, Lok Sabha, in advance (before the commencement of the sitting by 10.00 hrs.), on the day the Bill has been included in the List of Business for introduction, to the Secretary-General. With effect from 10 December 2004, sub-rule (2) of rule 72 has been amended making it mandatory for members, who wish to oppose the introduction of a Bill, to specify clearly and precisely the objections to be raised in the notice[150]. Members who table notices for opposing the Bills after 10.00 hours are not normally permitted to oppose the introduction[151]. However, in exceptional cases, the Speaker may permit a member to oppose the introduction of the Bill even if his notice has been received after 10.00 hours[152]. The Minister in-charge of the Bill and the Minister of Parliamentary Affairs are informed by the Lok Sabha Secretariat as soon as a notice for opposing the Bill has been received. In case two or more members have given such notices, the Speaker

146. Rule 72.

147. *Ibid.,* First Proviso–For instance, *see L.S. Deb.,* 13-4-1963. cc. 9463-71 and 2-3-1981, cc. 314-21.

148. *Ibid.,* Second Proviso–For instance, *see L.S. Deb.,* 28-2-1974, cc. 311-13.

149. For instance, in the case of the Constitution (Ninth Amendment) Bill, 1960, the Acquired Territories (Merger) Bill, 1960, the Constitution (Forty-third Amendment) Bill, 1977, the Constitution (fifty-second Amendment) Bill, 1984, the Essential Services Maintenance (Amendment) Bill, 1985, the Muslim Women (Protection of Rights on Divorce) Bill, 1986, the Illegal Migrants (Determination by Tribunals) Amendment Bill, 1987, the Oilfield (Regulation and Development) Amendment Bill, 1993, the Constitution (Eightieth Amendment) Bill, 1993, the Representation of the People (Amendment) Bill, 1993, the Biotechnology Regulatory Authority of India Bill, 2013, the Muslim Women (Protection of Rights on Marriage) Bill, 2019 and the Direct Tax Vivad Se Vishwas Bill, 2020.

150. During the Third Session of the Fourteenth Lok Sabha, K. Yerrannaidu, a member, tabled a notice to oppose introduction of Andhra Pradesh Legislative Council Bill, 2004 listed for introduction on 16 December 2004. As the notice did not specify reasons for opposing introduction, the Speaker did not admit the notice. When the member desired to oppose the motion to introduce the Bill in the House, Speaker did not permit the member and observed:–

"... we have consciously changed the Rules, and you were a party to it. It has been stated that merely giving notice of opposition is not sufficient. The hon. Member has to indicate the grounds on which he is opposing. You have not chosen to do so, and you want me to violate the Rules. We have already amended it, and you were a party to it. You cannot expect me to violate it."

On 17 May 2007, several members gave notices at the Table to oppose introduction of the Tyre Corporation of India Limited (Disinvestment of Ownership) Bill, 2007. As notices did not specify reasons for opposing introduction, members were not permitted to oppose introduction of the Bill—*L.S. Deb.* 17-5-2007, c. 336.

151. On 1 December 1983 a member who had tabled a notice for opposing the introduction of the Merchant Shipping (Amendment) Bill, 1983 at 10.25 hours was not permitted to oppose the introduction. In another instance, on 25 January 1985, a member who had tabled notice to oppose the introduction of the Administrative Tribunals Bill, 1985 at 10.50 hours was not permitted to oppose the introduction of the Bill.

152. Some members who had tabled notices to oppose the introduction of the Muslim Women (Protection of Rights on Divorce) Bill, 1986 after 10.00 hours on the day the Bill was included in the List of Business were permitted to oppose the introduction— *L.S. Deb.,* 25-2-1986, cc. 321-56.

In another instance, a member who had tabled notice to oppose the introduction of the National Security (Amendment) Bill, 1987 after 10.00 hours was allowed to oppose it—*L.S. Deb.,* 31-7-1987, cc. 253-73.

Again, a member who had tabled notice to oppose the introduction of the Constitution (Sixty-eighth Amendment) Bill, 1990 at 10.40 hours was allowed to oppose it—*L.S. Deb.,* 23-5-1990, c. 420.

calls the member whose intimation was received first in point of time and if intimation from all the members is received at the same point of time, their names are balloted[153]. In exceptional cases, more than one member may be allowed to oppose introduction of the Bill[154]. When motion for leave to introduce a Bill is sought to be opposed by a large number of members, normally, the Speaker permits the members of major Parties and other Groups to oppose the introduction.

On 18 May 1979, when a large number of members who had given notices for opposing the introduction of the Constitution (Fiftieth Amendment) Bill, 1979, the Chair allowed only two members each from major Parties and one or two members from other Groups (eleven members in all) to make submissions to oppose the introduction of the Bill. After the Minister had clarified the points raised by the members, motion for introduction was adopted after a division and the Bill was introduced.

When the Bill is sought to be opposed on the ground of legislative competence of the House, a full discussion is held thereon. Members are permitted to make brief statements without going into the merits of the Bill[155].

A Bill cannot be introduced if it is substantially identical with another Bill on which the House has given a decision in the same session. Such a Bill can be introduced only after the House agrees to suspend the Rule barring the repetition of identical motions[156].

Bills dealing with the same subject but different in substance may, however, be allowed to be introduced during the same session[157].

Normally, a Bill before the House cannot be withdrawn to facilitate the Government to re-introduce the same Bill without any change in the same session. However, in the case of the Constitution (Twenty-second Amendment) Bill, the Speaker gave his consent, as a special case and not to be taken as a precedent for the future, to the moving of a

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153. On an occasion, the names of members from whom intimations had been received were balloted and the member whose name was drawn at the ballot was allowed to oppose the motion for leave to introduce the Bill—*L.S. Deb.,* 22-7-1975, c. 15.

154. The Essential Services Maintenance Bill, 1981 was allowed to be opposed by twenty-five members. The Bill was introduced after division—*L.S. Deb.,* 10-9-1981, cc. 348-423.

The Citizenship (Amendment) Bill, 1985 was allowed to be opposed by six members—*L.S. Deb.,* 18-11-1985, cc. 353-58.

The Muslim Women (Protection of Rights on Divorce) Bill, 1986 was allowed to be opposed by ten members. The Bill was introduced after division—*L.S. Deb.,* 25-2-1986, cc. 321-56.

155. The Disturbed Areas (Special Courts) Amendment Bill, 1981, the Essential Services Maintenance Bill, 1981 and the Muslim Women (Protection of Rights on Divorce) Bill 1986—*L.S. Deb.,* 22-4-1981, cc. 246-70; 23-4-1981, cc. 315-74; 10-9-1981, cc. 343-439; 25-2-1986, cc. 321-26.

156. Rule 338, read with Rule 388.

For instance where Rule 338 was suspended to enable introduction of Bills, *see L.S. Deb.,* 18-12-1958, cc. 4999-5001; 23-8-1984. cc. 309-14; 4-4-1990. c. 962.

157. *See* the Hindu Mutts Bill, 1950 (two Bills) — *P. Deb.,* (II), 12-12-1950, cc. 1548 and 1552-53. These were Private Members' Bills.

motion for suspension of the rules which stood in the way of its withdrawal[158].

A Bill which is dependent wholly or partly on another Bill pending before the House may be introduced in anticipation of passing of the Bill on which it is dependent, but the second Bill can be taken up for consideration and passing only after the first Bill has been passed by Parliament and assented to by the President[159].

The Constitution (Twenty-second Amendment) Bill, passed by the Lok Sabha on 15 April 1969, and by the Rajya Sabha on 30 April 1969, was pending assent by the President. A Bill which sought to amend it and of which notice had been given by a private member, on 24 April, was allowed to be introduced on 25 July 1969 although the other Bill, on which it was dependent, had not, by then, been assented to.

Bills which are inter-dependent have been considered and passed by suspending the proviso to the relevant rule[160]; where a Bill is dependent upon a Bill seeking to amend the Constitution and both the Bills are required to be taken up together, the Constitution (Amendment) Bill has to be disposed of before the other Bill[161].

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158. *L.S. Deb.,* 2-4-1969, cc. 151-59. On 25 March 1969, clause 2 of the Constitution (Twenty-second Amendment) Bill was not adopted by the House, as on division it did not get the special majority required for the purpose. Subsequently, in order to enable the Government to re-introduce the same Bill without making any change therein, the motion for suspension of Rule 110(c) in its application to the said Bill was included in the List of Business for 2 April 1969.

    In another instance, on 22 August 1984, Motion for consideration of the Constitution (Forty- seventh Amendment) Bill, 1982 was not adopted as on division it did not get the special majority required for the purpose. Subsequently, two motions under Rule 388 for suspension of Rule 338 in its application to the introduction and consideration of the Bill were adopted. On 23 August 1984, however, it enabled the Government to re-introduce the same Bill without making any change therein except of the title, *viz*., the Constitution (Fifty-third amendment) Bill, 1984.— *L.S. Deb.,* 23-8-1984, cc. 619-60.

    In yet another instance, on 30 March 1990, Motion for consideration of the Constitution (Sixty-fourth Amendment) Bill, 1990, as passed by Rajya Sabha, was not adopted as on division it did not get the special majority required for the purpose. Subsequently, on 4 April 1990, a Motion under Rule 388 for suspension of Rule 338 in its application to the introduction and consideration of that Bill was adopted in order to facilitate the Government to re-introduce the same Bill without making any change therein except of the title, *viz.* the Constitution (Sixty-fifth Amendment) Bill. 1990.—*L.S. Deb.,* 4-4-1990, c. 962.

159. Rule 66. *P. Deb,* (*II*), 24-8-1953, cc. 1368-70.

160. Rule 66, Proviso.—The Constitution (Thirteenth Amendment) Bill, 1962 and the State of Nagaland Bill, 1962, were considered and passed together— *L.S. Deb.,* 28-8-1962, cc. 4483-98 and 4498-648; 29-8-1962, cc. 4794-813. Similarly, the Technology Development Board Bill, 1995 and the Research and Development Cess (Amendment) Bill, 1995 were considered and passed together— *L.S. Deb.,* 25-8-1995, cc. 376-94.

    The Iron Ore Mines and Manganese Ore Mines Labour Welfare Cess Bill, 1976, and the Iron Ore Mines and Manganese Ore Mines Labour Welfare Fund Bill, 1976, which were inter-dependent, were considered and passed together—*L.S. Deb.,* 25-3-1976, c. 224 and 26-3-1976, cc. 152-53. The Beedi Workers Welfare Cess Bill, 1976, and the Beedi Workers Welfare Fund Bill, 1976, which were inter-dependent, were considered and passed together—*L.S. Deb.,* 26-3-1976, c. 153. The Jute Manufacturers Cess Bill, 1983 and the Jute Manufacturers Development Council Bill, 1983, which were inter-dependent, were considered and passed together—*L.S. Deb.,* 5-8-1983, cc. 368-69; 8-8-1983, cc. 388-415 and 9-8-1983, cc. 404-16. The Constitution (Fifty-third Amendment) Bill, 1986 and the State of Mizoram Bill, 1986, which were inter-dependent, were considered and passed together—*L.S. Deb.,* 5-8-1986, cc. 259-414.

161. The Constitution (Twenty-first Amendment) Bill, 1966 and the Representation of the People (Amendment) Bill, 1966.—*L.S. Deb.,* 8-11-1966, c. 1963. The Constitution (Fifty-fifth Amendment) Bill, 1986 and the State of Arunachal Pradesh Bill, 1986—*L.S. Deb.,* 8-12-1986, cc. 24-141.

In exceptional cases, a Bill which is dependent on another Bill pending before the House may be allowed to be considered and passed before the Bill on which it is dependent is passed by both the Houses and assented to by the President, after a motion for suspension of the Proviso to the Rule in its application to the Bill is adopted by the House[162].

A motion for leave to introduce a Bill may be made and the Bill introduced on a day notwithstanding that day has been allotted for financial business[163].

There is no restriction on the number of Government Bills which may be introduced on any particular day, or by any one Minister.

Publication of Government Bills after Introduction

As soon as possible after a Bill has been introduced, unless it has already been published before introduction, the Bill is sent for publication in the Gazette of the same date on which the Bill is introduced[164]. If a Bill is introduced on the recommendation of the President or the President has recommended to the Lok Sabha for consideration of a Bill, the letter from the Minister conveying the President's recommendation is reproduced *in extenso* after the Statement of Objects and Reasons of the Bill and is published in the same manner in the Gazette.

Identical Bills when re-introduced on the ground that recommendation of the President had not been obtained in the first instance are not required to be re-published in the Gazette.

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162. The Emergency Risks (Goods) Insurance Bill and the Emergency Risks (Factories) Insurance Bill, where the latter was dependent on the former, were considered together and passed—*L.S. Deb.,* 5-12-1962, c. 4388; 7-12-1962, cc. 4760-837.

    The Departmentalisation of Union Accounts (Transfer of Personnel) Bill, 1976, was considered and passed after a Motion for suspension of the Proviso to Rule 66 was adopted by the House— *L.S. Deb.,* 25-3-1976, cc. 199-200.

    Again, due to emergency in 1971, the same procedure was adopted in respect of; (i) the Emergency Risks (Goods) Insurance Bill and the Emergency Risks (Undertakings) Insurance *Bill.—L.S. Deb.,* 8-12-1971, cc. 57-58; (ii) the Personal Injuries (Emergency Provision) Amendment Bill and the Personal Injuries (Compensation Insurance) Amendment Bill—*L.S. Deb.,* 15-12-1971, c. 12; and 16-12-1971, c. 131; (iii) the Constitution (Twenty-seventh Amendment) Bill, 1971.— (*L.S. Deb*., 21-12-1971, cc. 7-8), which was dependent on the North-Eastern Areas (Reorganisation) Bill, 1971 passed by Lok Sabha on 15 December 1971 and not assented to by the President on the date of consideration of the dependent Bill; (iv) the Government of Union Territories (Amendment) Bill, 1971 (*L.S. Deb*., 21-12-1971), which was dependent on the North- Eastern Areas (Reorganisation) Bill, 1971 and the Constitution (Twenty-seventh Amendment) Bill, 1971 passed by Lok Sabha on 15 December 1971 and 21 December 1971, respectively, and not assented to by the President on the date of consideration of the dependent Bill; and (v) the North- Eastern Council Bill, 1971 (*L.S. Deb*., 22-12-1971, c. 47), which was dependent on the North- Eastern Areas (Reorganisation) Bill, 1971; the Constitution (Twenty-seventh Amendment) Bill, 1971 and the Government of Union Territories (Amendment) Bill, 1971 passed by Lok Sabha on 15 December 1971, 21 December 1971, respectively, and not assented to by the President on the date of consideration of the dependent Bill.

163. Rule 220. There have been several instances when Bills were introduced on the days allotted for financial business. On 15 March 1954, the day allotted for discussion of the Budget (General) 1954-55, a Government. Bill, *viz.,* the Untouchability (Offences) Bill, 1954, was introduced and on 23 March 1985, the day allotted for discussion of the Budget (General) 1985-86, the National Security (Amendment) Bill, 1985 was introduced. On 23 March 1987, the Prevention of Corruption Bill, 1987 was introduced when the Budget (General) for 1987-88 was being discussed.

164. Rule 73; Bills are published in *Gaz. Ex. (II)(2)*.

    As in the case of a Bill directed by the Speaker to be published before introduction, the contents page and annexure to the Bill are not published in the Gazette.

Publication of a Bill in the Gazette does not obviate the necessity of circulating copies of the Bill to members[165].

Reference of Bills to Departmentally Related Standing Committees

The year 1993 ushered in a new era in the history of Indian Parliament when 17 Departmentally Related Standing Committees were constituted. Each Committee had 45 members, 30 members nominated by the Speaker from amongst the members of Lok Sabha and 15 members nominated by the Chairman, Rajya Sabha from amongst members of Rajya Sabha. In order to facilitate the Standing Committee to expeditiously examine and make report to the Houses on executive policies, legislative and budgetary proposals, etc., the number of Standing Committees has been increased from 17 to 24 in the year 2004. Each Standing Committee now consists of 31 members, 21 members to be nominated by the Speaker from amongst the members of Lok Sabha and 10 members to be nominated by the Chairman, Rajya Sabha, from amongst the members of Rajya Sabha[166]. All the Ministries/Departments have been brought under the jurisdiction of these Standing Committees[167]. Out of the 24 Departmentally Related Standing Committees, 8 are under the jurisdiction of Rajya Sabha and 16 under the jurisdiction of Lok Sabha.

Besides consideration of Demands for Grants of each Ministry/Department, these Committees have been entrusted with the task of examining such Bills pertaining to a Ministry/Department falling under their jurisdiction, as are referred to them by the Chairman, Rajya Sabha or the Speaker, Lok Sabha, as the case may be[168]. The following procedure shall be followed by each of the Standing Committees in examining the Bills and making a report thereon[169].

(a) the Committee shall consider the general principles and clauses of the Bills referred to them and make report thereon;

(b) the Committee shall consider only such Bills[170] introduced[171] in either of the Houses as are referred to them by the Chairman, Rajya Sabha or the Speaker, as the case may be; and

(c) The Committee shall make report on the Bills in the given time. Before the 14th Lok Sabha, Bills were referred to the Standing Committees without any stipulation as to the time within which the Report of the Standing

165. *See L.A. Deb.,* 6-9-1928, pp. 299-305.

166. Rule 331 D.

167. Rule 331 C.

168. Rule 331 E (1) (b). Before May 2005, while referring the Bills to Standing Committees, no time was fixed for presentation of the report on Bills. In May 2005 it was decided by Speaker that at the time of reference of the Bill, the Committee may be requested to make a report on the Bill within three months. The Committee would, however, be at liberty to make a report earlier than three months and may also seek extension of time for presentation of report from the Presiding Officer if it requires more than three months time.

169. Rule 331H.

170. All Bills except Bills of technical and trivial nature are referred to the Committees. Ordinances replacing Bills and Bills of urgent nature are also not referred to the Committees, as these are required to be enacted by a target date. However, during the Fourth Session of the Eleventh Lok Sabha, an exception was made when the Electricity Laws (Amendment) Bill, 1995 seeking to replace the Electricity Laws (Amendment) Ordinance, 1997 was referred to the Standing Committee on Energy for examination and to report upon, on a demand made by several members in the House. The Committee, however, could not present its report on the Bill before the dissolution of the Eleventh Lok Sabha on 4 December 1997.

171. The Public Sector Iron and Steel Companies (Restructuring) and Miscellaneous Provisions (Amendment) Bill, 1993 was referred to the Committee even before introduction.

Committee might be presented. However, in some cases, a time limit was prescribed for presentation of Reports of the Standing Committees[172]. During 14th Lok Sabha, the Speaker ordered that a time limit of three months might be prescribed for presentation of Reports of the Standing Committees. Since then the Standing Committees are normally given three months time to present their Reports on the Bills referred. The Committees may seek extension of time in case it is not possible to present the Report within the stipulated time. However, in exceptional cases, Bills have been referred to the Standing Committees for examination and report within a shorter period[173].

In case a Bill is introduced in the Lok Sabha and is to be referred to a Committee which falls under the jurisdiction of the Rajya Sabha, the Bill will be referred by the Chairman, Rajya Sabha on a request being made to that effect by the Speaker, Lok Sabha and *vice versa*[174].

The reports of the Standing Committees shall have persuasive value and shall be treated as considered advice by the Committees. In case the Government accepts any of the recommendations of the Committee, it may bring forward official amendments at the consideration stage of the Bill, or it may withdraw the Bill and bring forward a fresh Bill incorporating the recommendations of the Committee[175].

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172. During the Twelfth Lok Sabha, the Essential Commodities (Amendment) Bill, 1998; and the Finance (Amendment) Bill, 1998, as introduced in Lok Sabha, were referred to the Standing Committees on Food, Civil Supplies and Public Distribution; and Finance respectively, for examination and report by 3 July, 1998. [LS Bulletin-Part II dated 9-6-1998]

173. During the Fifteenth Lok Sabha, the Securities Laws (Amendment) Bill, 2013, as introduced in Lok Sabha, was referred to the Standing Committee on Finance for examination and report within two months. [LS Bulletin-Part II dated 17.9.2013]

During the Sixteenth Lok Sabha, the Motor Vehicles (Amendment) Bill, 2016, as introduced in Lok Sabha, was referred to the Standing Committee on Transport, Tourism and Culture for examination and report within two months. [LS Bulletin-Part II dated 18.8.2016]

174. To begin with, letter of requests for reference of such Bills were exchanged at the Presiding Officers' level; later on, it was decided to exchange such letters at the level of Secretaries-General of both the Houses.

175. A. Instances when official amendments were brought forward in pursuance of recommendations of the Standing Committees:—

(i) The National Commission of Safai Karamcharis Bill, 1993.

(ii) The Payment and Settlement Systems Bill, 2006.

(iii) The Banking Laws (Amendment) Bill, 2012;

(iv) The Unlawful Activities (Prevention) Amendment Bill, 2012; and

(v) The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Bill, 2013.

B. Instances when new Bill was introduced after incorporating the recommendations of the Standing Committee:—

(i) The Securities Contracts (Regulation) Amendment Bill, 2005 was introduced in Lok Sabha on 16 December 2005 and referred to the Standing Committee on Finance. Since the approach recommended by the Standing Committee and agreed to by the Government was different from that envisaged in the Bill, the Government withdrew the earlier Bill and introduced on the same day a fresh Bill, namely, the Securities Contracts (Regulation) Amendment Bill, 2006, after incorporating the recommendations of the Committee.

(ii) The Competition (Amendment) Bill, 2006 was introduced in Lok Sabha on 9 March 2006 and referred to the Standing Committee on Finance. Keeping in view a large number of amendments required in the Bill as a result of the recommendations of the Committee, the Bill was withdrawn and the Competition (Amendment) Bill, 2007 was introduced on 29 August 2007.

(iii) The Companies (Amendment) Bill, 2009 was introduced in Lok Sabha on 3 August 2009 and referred to the Standing Committee on Finance. In view of large number of amendments required to be carried into the Bill due to recommendations of the Standing Committee and the suggestions of various stakeholders, the Bill was withdrawn and a fresh Bill, namely, the Companies (Amendment) Bill, 2011, was introduced on 14 December 2011.

Motions after Introduction of Bills

After a Bill has been introduced, the member in charge of the Bill concerned may move any of the following motions[176].

> that the Bill be taken into consideration; or that the Bill be referred to Select Committee of the House; or that the Bill be referred to a Joint Committee of the Houses with the concurrence of Rajya Sabha; or that the Bill be circulated for the purpose of eliciting opinion thereon.

Any member may object to any such motion being moved by the Minister if copies of the Bill have not been made available to the members at least two days before the day on which the motion is made, and such objection prevails, unless the Speaker allows the motion to be made[177]. Since copies of a Bill are required to be circulated to members two days before its introduction[178], the next motion can technically be made on the day the Bill is introduced. However, by convention, the next motion in respect of a Bill is not made on the same day on which the Bill is introduced[179].

Where copies of a Bill are circulated after introduction, e.g., in the case of Finance Bills and secret Bills, or in any other case where it has not been possible to circulate the copies two days before introduction, the next motion after introduction can be moved only when copies of the Bill have been in the hands of members for at least two days. Where, however, a request is made to the Speaker by the member in-charge of a Bill for moving the next motion earlier than two days after making available to members copies thereof, the Speaker may, in his discretion, waive the period of notice and allow the motion to be moved after taking all the facts into consideration as also the sense of the House.

> The Reserve Bank of India (Amendment) Bill was introduced as a secret Bill. The House agreed to its consideration the following day, on the Minister explaining the urgency of the measure. However, when the motion for consideration of the Bill was moved the next day, objection was taken to its consideration, and further consideration thereof was accordingly postponed[180].

176. Rule 74.

177. Rule 74, Second Proviso.

178. Dir. 19B.

179. There are instances where the convention that the next motion in respect of a Bill should not be made on the same day on which it is introduced, was not adhered to:

Private Members' Bills: the Temple Entry Bill—*L.A. Deb.,* 24-3-1933, pp. 2532-39; The Indian Motor Vehicles (Amendment) Bill—*L.S. Deb.,* 3-9-1936, p. 394; and The Muslim Intestate Succession Bill—*L.A. Deb.,* 15-9-1939, pp. 605 and 607. Govt. Bills:

The Salaries and Allowances of Members of Parliament (Amendment) Bill, 1975—*L.S. Deb.,* 6-8-1975; cc. 4-54;

The Constitution (Fortieth Amendment) Bill, 1975—*L.S. Deb.,* 7-8-1975, cc. 6-116;

The Salary, Allowances and Pension of Members of Parliament (Amendment) Bill, 1983.—*L.S. Deb.,* 26-8-1983, c. 438;

The Constitution (Fifty-third Amendment) Bill, 1984—*L.S. Deb.,* 23-8-1984, c. 619; The President's Pension (Amendment) Bill, 1985—*L.S. Deb.,* 19-12-1985, c. 393; The Criminal Law (Amendment) Bill, 2013 – *L.S. Deb.,* 19-3-2013.

180. *L.S. Deb.,* 27-4-1959, cc. 13504, 13664-66; 28-4-1959, cc. 13766-80. The Constitution (Seventy-eighth Amendment) Bill, 1992—*L.S. Deb.,* 20-8-1992, cc. 8-70.

In the case of Appropriation Bills, however, the requirement of prior circulation of copies is not insisted upon by the Speaker on grounds of urgency and the convention that the next motion in respect of a Bill should not be made on the same day on which it is introduced is also generally waived by the Speaker on requests made by Minister-in-charge of Appropriation Bills. Accordingly, the Speaker normally allows Appropriation Bills to be introduced, considered and passed on the same day on specific requests made in this behalf by the Minister concerned[181].

Motion for Consideration

When the motion 'that the Bill be taken into consideration' is moved or on any subsequent day to which the discussion thereof is postponed, the principle of the Bill and its provisions are discussed generally, but the details of the Bill are not discussed further than is necessary to explain its principles[182]. In the case of amending Bills, the discussion is confined to the provisions of the amending Bill, and other substantive provisions of the principal Act are not touched upon unless the clauses of the amending Bill necessarily lead to the amendment or modification of any other section of the parent Act[183].

Where two Bills of a similar nature are pending before the House, a joint discussion on motions for consideration of the two Bills is permissible, but the motions are put to the vote of the House separately[184].

Circulation for eliciting public opinion

When a Bill has been introduced, the member in-charge of the Bill may move that the Bill be circulated for the purpose of eliciting opinion thereon. If so, no amendment can then be moved to the effect that the Bill be taken into consideration or that it be referred to a Select Committee of the House or a Joint Committee of the Houses[185].

A motion that the Bill be circulated for eliciting opinion thereon can also be moved by way of an amendment to a motion moved by a member in-charge either for consideration of the Bill or for its committal to a Select or Joint Committee.

> It is permissible for a member to move a motion for circulation of a Bill which requires the President's recommendation for consideration, but which has not been obtained at that stage by the member in-charge or which has been withheld by the President[186].

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181. For instance, the Appropriation (No. 5) Bill, 1957, the Appropriation (No. 2) Bill, 1959, the Appropriation (Vote on Account) Bill, 1960, the Appropriation (No. 4) Bill, 1962, the Appropriation (Railways) No, 4 Bill, 1962, the Appropriation Bill, 1985, the Appropriation (Railways) Bill, 1987, the Appropriation (Vote on Account) Bill, 1991, the Appropriation (Railways) Bill, 1993, the Appropriation (Vote on Account) Bill, 1995, the Appropriation Bill, 1995, the Appropriation (Vote on Account) Bill, 2007, the Appropriation (No. 4) Bill, 2007, the Appropriation (Vote on Account) Bill, 2013 and the Appropriation (Railways) Vote on Account Bill, 2013 were introduced, considered and passed on the same day.

182. Rule 75.

183. *H.P. Deb.* (*II*), 15-7-1952, c. 3894; *L.S. Deb. (II)*, 27-4-1954, cc. 5823-24.

184. *L.S. Deb.,* 9-12-1955, cc. 2016-32 and 10-12-1955, cc. 2101-55; 5-12-1956, cc. 1987-92; 7-12-1956, cc. 2079-132; 11-12-1956, cc. 2574-630; 12-12-1956, cc. 2648-781; 19-12-1960, cc. 6233-351; 20-12-1960, cc. 6480-6610; 26-3-1976, cc. 210-20; 19-8-1981. cc. 394-416; 24-8-1981, cc. 444-524; 25-8-1981, cc. 315-24 and 360; 3-5-1984, cc. 293-361.

185. Rule 75 (2).

186. *L.S. Deb.,* 26-5-1967, cc. 1251-75.

Previously where the President had withheld his recommendation for consideration of a Bill, notice of a motion for circulation of the Bill was held to be out of order. The member in-charge of the Bill could, however, apply to the President for reconsideration of his decision.

Adoption of the motion for circulation of a Bill does not commit the House to the principle of the Bill, and if that motion is negatived by the House, the Bill is not killed[187].

The motion for circulation of a Bill specifies the period for eliciting public opinion[188]. After the motion has been adopted, no variation can be made in the specified date except with the consent of the House.

The Bill is circulated to the State Governments who are asked to publish it in their Gazettes and to forward in duplicate their opinion on the provisions of the Bill, and the opinions of members of the State Legislatures and of such public bodies, selected officers and any other persons as the State Governments may think fit to consult, within the period specified in the motion. In certain cases, the State Governments may also be asked to obtain the views of the High Courts[189].

After opinions on a Bill have been received, they are examined in the Secretariat[190] to see that they do not contain any statements which are defamatory or libellous or derogatory to the dignity of Parliament or State Legislatures. Opinions are edited to eliminate redundant matter and to ensure that the language used is decorous and temperate. After editing and consolidation, these opinions are printed as 'Papers to the Bill'[191] and are laid on the Table by the members in-charge of the Bill. All opinions so laid are printed and copies thereof are made available to members of both the Houses. If Lok Sabha is not in session, the opinions are circulated to members before they are laid on the Table, under orders of the Speaker. In that case, the opinions are laid on the Table as soon as possible after the commencement of the next session of Lok Sabha[192].

In the case of opinions received by the State Governments in a language other than Hindi or English, they are required to have such opinions translated into either Hindi or English before forwarding the same to the Secretariat. If, however, any State Government omits to comply this requirement, such opinions are treated as representations on the Bill and are kept in the Parliament Library after showing them to the Ministry concerned of the Government of India. Members are informed about such representations through a paragraph in the Bulletin[193].

187. *L.A. Deb.,* 10-1-1922, p. 1452.

188. Dir. 21.

189. The Minister of Law is consulted as to the desirability or otherwise of obtaining the views of the High Courts and the Supreme Court when a Bill is to be circulated on a motion adopted by the House.

190. The Secretariat is responsible for collection of opinions, etc. on Bills circulated by the direction of the House. If a Bill has been circulated under an Executive order, this responsibility devolves on the Ministry concerned.

    Bills are mainly circulated for eliciting public opinion by the direction of Lok Sabha. Bills that have been circulated for eliciting public opinion under an Executive order are: the Code of Criminal Procedure (Amendment) Bill, 1953; and the Hindu Succession Bill, 1954.

191. Dir. 22.

192. Dir. 24.

193. Dir. 23.

At the time of laying 'Papers to the Bill', the member in-charge confines himself to a statement to that effect and, if he wishes to proceed with the Bill thereafter, moves that the Bill be referred to Select Committee of the House or a Joint Committee of the Houses[194], unless the Speaker allows a motion to be made that the Bill be taken into consideration[195].

After the Bill circulated for the purpose of eliciting opinion thereon by the direction of the House has been referred to a Select or Joint Committee, opinions laid on the Table are summarized and the precis is made available to members of the Committee on the Bill[196].

Motion for Reference to Select or Joint Committee

According to the general practice, the motion for reference of a Bill to a Select Committee sets out the names of members of the House proposed to be appointed on the Committee. When a Bill has already been referred to a Select Committee additional members can subsequently be appointed to the Committee by a motion moved to that effect by the member in-charge of the Bill and adopted by the House[197].

Consent of the members whose names are included in the motion for reference of a Bill to a Select or Joint Committee is not presumed but has to be expressly obtained by the mover of the motion[198].

In the motion for reference of a Bill to a Select Committee, names of members of Lok Sabha only are included. However, names of Ministers who are members of Rajya Sabha may also be included in the motion but the Ministers so appointed as members of the Committee have no right to vote.

In the case of a Government Bill, the name of the Minister in-charge is always included in the motion for reference of the Bill to a Select or Joint Committee, while in the case of Private Members' Bills, the names of both the member in-charge and the Minister to whose Ministry the subject matter of the Bill pertains are included in the motion. The number of members whose names may be set out in the motion for appointment on the Committee is not fixed and varies from committee to committee. The composition of the Committee, as reflected in the motion, generally represents the Party and Group divisions in the House.

It is not obligatory that the name of the member who moves the motion for reference of a Bill to a Select or Joint Committee be included in the list of members

194. If a Bill is circulated for eliciting public opinion by the direction of the House, a motion for reference of the Bill to a Select Committee is inadmissible until the date by which the opinions have been called for, has expired.

195. Rule 75(3).

196. Dir. 26.

197. On 30 August 1939, a motion was moved and adopted in the Central Legislative Assembly for adding a member to the Select Committee on the Indian Rubber Control (Amendment) Bill – *L.S. Deb.,* 30-8-1939, p. 149. Similarly on 25 August 1956, a motion was moved and adopted in Lok Sabha for the appointment of additional members on the Select Committee on Women's and Children's Institutions Licensing Bill, 1953—*L.S. Deb.,* 25-8-1956, cc. 4400-01.

198. *L.S. Deb.,* 26-11-1956, c. 1064; 11-2-1959, cc. 413-16.

The motion to refer the Official Languages (Amendment) Bill to a Joint Committee of the Houses was not put to vote as the consent of certain members whose names were included in the motion had not been taken. *L.S. Deb.,* 13-12-1969, cc. 6714-16; 26-10-1976. cc. 85-88.

embodied in the motion for appointment of the Committee[199].

It is a convention that members proposed to be appointed on the Committee are not permitted to speak on the motion for reference of the Bill to a Select or Joint Committee[200]. However, in exceptional cases, a departure from the convention has been made[201].

The motion for reference of a Bill to a Select or Joint Committee may include instructions to the Committee to consider matters other than those dealt with in the Bill but relating to the subject-matter of the Bill[202].

Instructions to the Committee for amendment of such sections of the parent Act as are not covered by the amending Bill, whenever given, are to be specific and clear[203].

The motion appointing the Committee mentions a specific date by which, or indicates the period within which, its report is to be presented to the House. Where a specific date is not mentioned, the usual instructions are for the Committee 'to report by the last day of the first week of the next session' or "to report on the opening day of the next session".

A private member's Bill may be referred to the same Select or Joint Committee to which a Government Bill or Bills dealing with a cognate subject has/have been referred or, *vice versa*, by means of a single motion[204] or separate motions[205].

A combined discussion on motions for reference to Select or Joint Committee in respect of two Bills of a similar nature is permissible[206].

As already stated, a motion for reference to a Joint Committee cannot be moved in respect of Money Bills or Financial Bills containing any of the provisions calculated to make a Bill a Money Bill[207].

A Select or Joint Committee becomes *functus officio* as soon as it presents its final report to the House and thereafter a motion to refer another Bill to that Committee cannot be moved[208]. The Joint Committee also becomes defunct in case the Government does not reconstitute it with the intention of discontinuing with the Committee after dissolution of Lok Sabha[209].

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199. *H.P. Deb. (II)*, 4-5-1954, c. 6479.

200. *Ibid.,* 30-4-1954, c. 6140.

201. *P. Deb. (II)*, 21-11-1950, cc. 351-52; *H.P. Deb.,* 6-11-1952, cc. 89-90; *L.S. Deb.,* 17-7-1957, cc. 3900-01; 15-11-1960, cc. 341, 348-59.

202. *See L.S. Deb*., 24-9-1955. cc. 15080-93.

203. *Ibid.,* 2-8-1955. cc. 9141-46.

204. *H.P. Deb. (II)*, 8-5-1954, cc. 6855-57.

205. *L.S. Deb.,* 24-8-1956, cc, 4370-71; 25-8-1956, cc. 4395-400; 29-4-1959, cc. 14118-19, 30-4-1959, 14271-72; 15-12-1959, cc. 5141-44.

206. *L.S. Deb.,* 20-9-1955, cc. 14586, 24-9-1955, 15091-96.

207. Bills seeking to amend or consolidate the law relating to income-tax and super-tax are certified as Money Bills.

208. *L.S. Deb.,* 16-7-1956. cc. 8-9.

209. The Acquired Immuno Deficiency Syndrome (AIDS) Prevention Bill, 1989 was introduced in the Rajya Sabha on 18 August 1989 and referred to the Joint Committee on 8 January 1991. The motion for concurrence was adopted by the Lok Sabha on 11 January 1991. On the dissolution of the Ninth Lok Sabha on 13 March 1991, the Committee became defunct and it remained defunct even after the constitution of the Tenth Lok Sabha as the Government with the intention of discontinuing with the Committee did not reconstitute the same. The Bill was withdrawn in the Rajya Sabha on 12 August 1992.

After the motion for reference of a Bill to a Select or Joint Committee is adopted by the House, the House is committed to the principle of the Bill[210].

When a motion for reference of a Bill to a Joint Committee is adopted by Lok Sabha, it is transmitted to Rajya Sabha for concurrence along with a message. The motion gives the names of members of Lok Sabha appointed to the Committee and also fixes the number of members from Rajya Sabha who may join the Committee. The Rajya Sabha is requested to nominate their members on the Committee and communicate their names to the Lok Sabha. The proportion of members on a Joint Committee from Lok Sabha and Rajya Sabha is generally 2:1.

While concurring in the recommendation of the Lok Sabha to refer a Bill to a Joint Committee if the Rajya Sabha makes a recommendation extending the time for presentation of the report of the Joint Committee, then such recommendation is concurred in by the Lok Sabha through a motion moved by the Minister in-charge of the Bill. After the motion is adopted, a message to that effect is transmitted to the Rajya Sabha[211].

Amendments to Motions Moved after Introduction of Bills

When the member in-charge moves that the Bill "be taken into consideration", or "be referred to a Select or Joint Committee", or "be circulated for the purpose of eliciting opinion", the principle of the Bill and its provisions are discussed generally but the details of the Bill are not discussed further than is necessary to explain its principles. At this stage amendments to any of the clauses of the Bill are not permitted to be moved. But if the member in-charge moves that the Bill be taken into consideration, any other member may move as an amendment that the Bill be referred to a Select Committee of the House or to a Joint Committee of the Houses with the concurrence of Rajya Sabha, or that the Bill be circulated for the purpose of eliciting opinion thereon by a date specified in the amendment. If the member in-charge moves that the Bill be referred to a Select Committee of the House, any member may move as an amendment that it may be referred to a Joint Committee of the Houses and *vice versa*, or that it may be circulated for eliciting opinion[212].

An amendment for reference of a Bill to a Select or Joint Committee, or for its circulation, has to be moved immediately after the motion for consideration of the Bill is moved[213]. After the motion for consideration of a Bill and certain clauses thereof have been adopted by the House, an amendment for referring the Bill to a Select Committee is out of order[214].

On some occasions after the motion for consideration of a Bill had been moved and part-discussed, the member in-charge of the Bill, in deference to the suggestions made by certain members, himself moved an amendment for reference of the Bill to a

210. *L.S. Deb.,* 30-7-1956, cc. 1527-32.

211. *L.S. Deb.,* 9-5-1956, cc. 7825-26; 17-5-1956, cc. 3671-72; *R.S. Deb.,* 16-5-1956, cc. 2362-63.

212. Rule 75.

213. If such an amendment has not been moved at that stage, it can be moved at a later stage only by suspending sub-rule (2) of Rule 75—*L.S. Deb.,* 3-4-1969, c. 402; 18-4-1969, c. 366.

214. *L.S. Deb.,* 14-11-1968, c. 256.

Joint or Select Committee[215].

When an amendment seeking circulation of the Bill for eliciting opinion, moved to the motion for consideration, is dilatory and defeats the purpose of the Bill, it is ruled out of order[216]. Further, in the case of Expiring Laws Continuance Bills, amendments for circulation thereof for eliciting opinion by dates falling after the dates of expiry of the principal Acts are inadmissible[217].

If the motion before the House is that the Bill be referred to a Select Committee of the House or to a Joint Committee of the Houses, an amendment can be moved that the House give instructions to the Select or Joint Committee, as the case may be, to make some particular or additional provision in the Bill and, if necessary or convenient, to consider and report on amendments that may be proposed to the original Act which the Bill seeks to amend. Such an amendment can also be moved if the motion before the House is that the Bill be taken into consideration and a member has moved an amendment for reference of the Bill to a Select or Joint Committee[218]. An amendment to motion for reference of Bills to Select/Joint Committee can be moved but in such case first the amendment is disposed of and then the main motion is put to vote[219].

An amendment seeking reference of a Bill to a Joint Committee may be put by the Chair in an amended form after taking the sense of the House[220].

An amendment for reference of a Bill to a Select Committee which does not propose the names of members for appointment on the Committee is ruled out of order[221].

A member whose name has been proposed in the motion for reference of a Bill to a Select or Joint Committee is not permitted to move an amendment to the motion[222].

When a motion for reference of a Bill to a Joint Committee has been moved, it is not permissible to move an amendment that the Bill be taken into consideration forthwith[223].

Procedure after Presentation of Report of the Select or Joint Committee

After the Report of the Select or Joint Committee on a Bill has been presented to the Lok Sabha, the member in-charge may make any one of the following motions[224]:

that the Bill, as reported, be taken into consideration; or

that the Bill, as reported, be recommitted to the same Committee or to a new Committee, either without limitation or with respect to particular clauses or

215. *Ibid.,* 17-8-1961, cc. 2845 and 2857-80; 18-9-1961, c. 3067; 17-11-1971. cc. 200-07; 11-12-1993, cc. 9-12.

216. *Ibid.,* 27-11-1959, c. 2229.

217. *Ibid.,* 9-12-1957, cc. 4235-45.

218. Rule 75. First Proviso—*see* also *H.P. Deb. (II)* 8-5-1954, cc. 6854-57.

219. The Constitution (Eightieth Amendment) Bill, 1993, *L.S. Deb.,* 3-8-1993, cc. 536-64.

220. *L.S. Deb.,* 18-11-1957, cc. 1106-31.

221. *H.P. Deb. (II)*, 10-3-1954, c. 1746.

222. *L.S. Deb.,* 27-8-1956. cc. 4627-29.

223. *L.S. Deb.,* 30-4-1959. cc. 12464-65.

224. Rule 77(1).

amendments only, or

with instructions to the Committee to make some particular or additional provision in the Bill; or

that the Bill, as reported, be circulated or recirculated, as the case may be, for the purpose of eliciting opinion or further opinion thereon.

In case the member in-charge seeks to move that the Bill, as reported by the Select or Joint Committee, be taken into consideration, any member may object to the motion being made on the ground that copies of the report of the Committee, as required, have not been made available to the members at least two days before the day on which the motion is made[225]. The objection prevails but the Speaker may allow the report of the Committee to be taken into consideration in urgent cases.

The debate on the motion that the Bill as reported by the Select or Joint Committee be taken into consideration is confined to the consideration of the report of the Committee and the matters referred to therein, but members can advance any alternative suggestions consistent with the principle of the Bill[226]. It has been ruled that the scope of the discussion on the Bill as reported is limited to the Bill as reported by the Committee, and the principle of the Bill is not open to discussion again[227].

Members other than those who served on the Committee are generally given preference to speak during the discussion on the Bill as reported by the Committee. Members of the Committee may be given a chance to speak if a reply is called from them to the points raised by other members[228].

If the member in-charge moves that the Bill, as reported, be taken into consideration, any member can move an amendment that the Bill be recommitted or be circulated or recirculated for eliciting opinion or further opinion, as the case may be[229]. However, such an amendment is inadmissible if it is of a dilatory nature.

Notice of motion that a clause (or clauses) of a Bill be referred or recommitted to a Select Committee is in order provided the notice specifies the points on which the Committee has to apply its mind. Such a motion may be moved by the member concerned at the stage when the particular clause (or at the first stage where a number of clauses or inter-connected clauses) is before the House. In such a case the motion is first disposed of before other amendments to the clauses or clause are taken up. Sometimes the discussion on an inter-dependent clause may be postponed until the main clause or clauses to which the notice relates are reached[230].

Amendments for restoration of clauses of a Bill which have been omitted by the Select or Joint Committee are in order during the consideration of the Bill as reported

225. *Ibid.,* Proviso to sub-rule (1)(a).
226. Rule 78.
227. *H.P. Deb. (II)*, 25-7-1952, c. 4573; 1-8-1952, c. 4998.
228. *L.S. Deb.,* 12-8-1959. cc. 2050-51.
229. Rule 77(2).
230. *R.S. Deb.,* 2-12-1968, cc. 2246-64.

by the Committee[231]. An amendment can also be moved to restore *status quo* if the Select Committee has, by going beyond the scope of an amending Bill, deleted a section or sections from the principal Act[232].

If the motion before the House is that the Bill be recommitted to the same Committee an amendment to the effect that a particular clause be deleted and rest of the Bill be recommitted cannot be moved[233]. In fact, no further amendment to such a motion can be moved[234].

Clause-by-Clause Consideration of the Bill

After the motion that the Bill, or the Bill as reported by the Select or Joint Committee, be taken into consideration has been voted upon and carried, the Bill is taken up for consideration clause-by-clause[235]. The Speaker may call each clause separately and when the amendments relating to a particular clause are disposed of, he puts the question[236].

The Speaker may, if he thinks fit, postpone consideration of a clause[237], or direct some part of a clause of a Bill to be considered and voted separately before the clause as a whole is put to the vote of the House.

Where discussion on a clause of a Bill has concluded, the voting thereon may be postponed under certain circumstances.

> Discussion on clause 4 of the Hindu Succession Bill, 1956, was concluded on 2 May 1956. But voting thereon was deferred till the next day to enable the Government to examine the necessity of making provisions so as to avoid anomaly due to difference in customs prevalent in the Punjab and other States regarding the right of a son to enforce partition of Mitakshara coparcenary property[238].

In exercise of his inherent powers, the Speaker may not put a clause of a Bill or a motion in respect of a Bill to the vote of the House[239].

> During the clause-by-clause consideration of the Hindu Succession Bill, 1956, it was brought to the notice of the Speaker that clauses 12 and 13 of the Bill were not necessary in view of the clauses 8(c) and 8(d) which had already been adopted by the House. Accordingly, the Speaker did not put clauses 12 and 13 of the Bill to the vote of the House[240].

231. *L.A. Deb.,* 3-2-1923, pp. 1858-59.

232. *L.S. Deb.,* 20-12-1958, cc. 6708, 6715.

233. *L.A. Deb.,* 23-9-1921, pp. 916-17.

234. *P. Deb. (II)*, 4-9-1951, cc. 1903-04.

235. At the time of clause-by-clause consideration of the Bill, the speeches of members are confined to the clause before the House—*L.S. Deb.,* 6-2-1951, c. 2426.

236. Rule 88.—The form of the question is:

"That this clause (or, that this clause as amended, as the case may be) stand part of the Bill."

237. Rule 89.

238. *Ibid.,* 2-5-1956, c. 7054.

239. During Ninth Session of Fifteenth Lok Sabha, on 27 December 2011, motion for consideration of the Constitution (One Hundred Sixteenth Amendment) Bill, 2011 was carried by a special majority. However, the motions for adoption of the operative clauses 2 and 3 and clause 1 could not be carried by a special majority in accordance with the provisions of Rule 155. Since all the clauses of the Bill were negatived, the motion for passing of the Bill having become infructuous was not permitted to be moved by the Speaker.

240. *Ibid.,* 7-5-1956, cc. 7391-92.

If the member in-charge of the Bill desires to omit a clause from the Bill, the normal procedure is to put the clause to the vote of the House and have it negatived[241].

In the case of the Government Bill, the Minister concerned is informed in writing to get such clauses negatived by the House. It is not permissible to move for withdrawal of a clause, because after a Bill has been introduced the Bill as a whole is before the House[242].

Schedule or Schedules, if any, are generally taken up for consideration after the clauses are disposed of[243]. Schedules may be amended in the same manner as clauses. Consideration of new schedules follows consideration of the original schedules. However, the Speaker may permit any schedule or schedules being considered before the clauses are disposed of or along with a clause or otherwise as he may think fit[244]. Where a clause of a Bill relates to certain amendments embodied in the schedule, the schedule is disposed of first and then the clause[245]. On occasions, when consideration of particular clauses are dependent on any relevant schedule, the clauses and the related schedule are taken up and considered together.

In the case of the State Reorganisation Bill, 1956, which contained 114 clauses and 6 schedules, clauses 16-49 and schedules I, II and III and clauses 71-114 and schedules IV, V and VI were taken up for consideration together.

Clauses of a Bill, its schedules, or both of them, may be put together as one question by the Speaker to the vote of the House if he thinks fit unless a request by a member is made for any clause or schedule to be put separately[246].

Clause one, the Enacting Formula, the Preamble, if any, and the title of the Bill are taken up for consideration after other clauses and schedules (including new clauses and new schedules) have been disposed of[247] and can be amended in the same manner as any other clause of the Bill. Thereafter, the Speaker puts the question.

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241. An amendment to omit a clause is not in order, being negative in character. Clause 7 of the Displaced Persons (Compensation and Rehabilitation) Second Amendment Bill, 1959, and Clause 7 of the Administration of Evacuee Property (Amendment) Bill, 1959, were accordingly got negatived—*L.S. Deb.,* 9-12-1960, cc. 180-221; 10-2-1960, cc. 337-428; 11-12-1960, cc. 537-87. In another instance, amendments seeking to omit clauses 49 and 53 of the Finance Bill, 1987 were held to be not in order, being negative in character. The Prime Minister, who was holding the Finance portfolio also was apprised of the position and requested in writing to get these clauses negatived by the House. Accordingly, these clauses were got negatived by the House—*L.S. Deb.,* 4-5-1987, cc. 433-34. Similarly, amendments seeking to omit Clauses 59, 74 and 101 of the Finance Bill, 1992 were held to be not in order, being negative in character. Ministry of Finance was informed to get these clauses negatived by the House and accordingly, these clauses were got negatived by the House on 6 May 1992—*L.S. Deb.,* 6-5-1992, cc. 584-659. The Minister of Home Affairs tabled a notice to get clause 29 of the Criminal Law (Amendment) Bill, 2013 negatived by the House. Accordingly, clause 29 was got negatived at the time of clause-by-clause consideration - *L.S. Deb.,* 19-3-2013.

242. *See P. Deb. (II)*, 21-12-1950. cc. 2213-15; *L. S. Deb.,* 21-2-1956, cc. 451-531; 6-12-1961, cc. 5565-66.

243. Rule 90.

244. *Ibid.,* Proviso.

245. *L.A. Deb.,* 1931, Vol. III, p. 2443.

246. Rule 91.

247. Rule 92—The reason for taking up clause one at the end is to ensure that it is worded appropriately so as to conform to the various provisions of the Bill which might have undergone changes.— *P. Deb*., 5-12-1951, c. 2362.

Amendments to Bills

Notice of Amendments

Notice of an amendment to a Bill, like any other notice, is required to be given in writing, addressed to the Secretary-General, duly signed by the member giving notice and handed in at the Parliamentary Notice Office between the notified hours[248]. With effect from 18 July, 2016 members can also table notices in electronic form through e-portal specially developed for the purpose.

It is open to members to give notice of amendments to a Bill as soon as it is introduced without waiting for inclusion of the next motion in regard to that Bill in the List of Business.

Amendments tabled by members suspended from the service of the House are not accepted during the period of their suspension even though they relate to the Bills which are likely to be taken up after the period of suspension is over.

Period of Notice

Notice of an amendment is required to be given at least one day before the day on which the Bill is to be considered in Lok Sabha[249]. Any member may object to the moving of an amendment of which the requisite notice has not been given and such objection prevails unless the Speaker allows the amendment to be moved[250]. In the case of Bills taken up for consideration at short notice, the period of notice of amendments has been waived by the Speaker[251].

As amendments are circulated to members both in English and Hindi simultaneously, the Rules Committee (Fourth Lok Sabha) decided that members might be requested to table notices of amendments at least two days before the day the Bill was to be taken up in the House. Accordingly, a few days before the commencement of each session, members are requested through Bulletin to table such notices at least two days before the day the Bill is to be taken up in the House[252].

An amendment of which due notice has not been given may be allowed to be moved when adequate notice of an identical amendment has been given by another

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248. The Parliamentary Notice Office (P.N.O.) of the Secretariat receives notices from members between 10.00 and 15.15 hours on all working days. Notices left at the Notice Office after 15.15 hours are treated as given at 10.00 hours on the next working day. Rule 332; *Bn*. (*II*), 30-1-1988, para 2048.

    Standard printed forms for giving notices are kept in the P.N.O. for use of members. The practice of giving notices on scraps of paper or written in pencil has been deprecated by the Speaker.—*L.A. Deb.,* 10-4-1934; p. 3495; 11-4-1934, pp. 3559-60.

249. Rule 79.

250. *L.S. Deb.,* 28-4-1958, cc. 11997-99

251. *Ibid.,* 21-3-1955; cc. 2761-62; 31-5-1957. cc. 3254-55; 20-11-1962, cc. 2564-2600; 2-8-1968, cc. 3934-35; 29-8-1970. cc. 12-13; 6-8-1974, c. 210. Copies of the Salary, Allowances and Pensions of Members of Parliament (Amendment) Bill, 2006 were circulated to members on 22 August, 2006 in the House itself just before its introduction. The Bill was listed for consideration and passing on 23 August 2006. As the members did not get sufficient time to study the Bill and table amendments thereto, Speaker waived the notice period and allowed members to table notices of amendments to the Bill upto the day of its consideration.

252. *Bn. (II),* 18-2-1988, para. 2103, 20-7-1994, p. 3202.

member and that member declines to move his amendment[253].

The Speaker may also waive the notice period for an amendment provided the House is agreed upon it[254]. Government amendments may be allowed to be moved even without notice[255] unless public interest is vitally affected in any way. Where Government amendments are allowed to be moved at short notice, amendments to these amendments have also been permitted at short notice[256]. A last-minute amendment to a Bill may also be admitted, if agreed to and accepted by the mover of the Bill[257].

Form of Amendments

An amendment to a motion on a Bill or to a clause (or schedule) of a Bill should be in a form in which it can be put by the Speaker to obtain a complete and clear decision from the House[258].

If a member does not give notice of an amendment in the proper form, the amendment is suitably edited by the Secretariat in consultation with the member concerned[259] before it is printed and circulated to members.

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253. *L.A. Deb.,* Vol. VII. 1938, p. 3680.

254. *H.P. Deb.,* (II), 11-7-1952. c. 3611; *L.S. Deb.,* 23-11-1956, cc. 2688-96.

255. On 23 August 2006, Minister-in-charge of the Salary, Allowances and Pension of Members of Parliament (Amendment) Bill, 2006, handed over an amendment to the Bill at the Table shortly before the clause by clause consideration of the Bill was to commence. Due to paucity of time, the amendment was examined at the table and verbal approval of Secretary-General for its admittance was obtained. The amendment was circulated in the House, put to vote and adopted. The Bill, as amended, was passed the same day.

    On 18 December 2012, the Minister of State for Home Affairs gave notice of an amendment to the Constitution (One Hundred-Eighteenth Amendment) Bill, 2012 at the Table shortly before the clause-by-clause consideration of the Bill was to commence. The amendment was consequential in nature and after seeking verbal approval of Secretary-General, it was admitted and circulated in the Chamber. The Bill, as amended, was passed the same day.

256. In the case of the Land Acquisition (Amendment) Bill, amendments of which notice was given after 15.15 hours on 29 August as well as on 30 August 1962, were permitted to be moved on 30 August 1962, as the notice of Government amendments to which there were amendments or with which they were directly connected was given on the same date, *i.e.* 30 August 1962— *L.S. Deb.,* 10-9-1991, cc. 21291-98. On 23 August 2005, Minister-in-charge of the National Rural Employment Guarantee Bill, 2004 tabled an amendment which was admitted and circulated in the House as the Bill was listed for further consideration and passing on that day. While clause- by-clause consideration of the Bill was in progress, a member tabled an amendment to this Government amendment. The amendment was admitted but could not be circulated for want of sufficient time. The amendment to the Government amendment was negatived by the House.

257. *L.S. Deb.,* 27-5-1957, cc. 2158-59; 29-2-1957, cc. 10793-94; 5-9-1957, c. 12145; 18-6-1971, cc. 224-26; 28-11-1978; cc. 344-45; 15-12-1987, cc. 140-41.

    The Minister of Rural Development tabled an amendment to the National Rural Employment Guarantee Bill, 2004 on the day the Bill was listed for further consideration and passing. The amendment was circulated in the Chamber. Prof. Vijay Kumar Malhotra tabled in the House, an amendment to this Government amendment. The amendment to Government amendment tabled by Prof. Malhotra was admitted, but could not be circulated due to paucity of time. Amendment to Government amendment moved by Prof. Malhotra was put to vote and negatived. *L.S. Deb.,* 23-8-2005.

    During the consideration of the Lokpal and Lokayuktas Bill, 2011 on 27 December 2012, last minute amendments tabled by Sushma Swaraj, V. Narayanasamy (Minister-in-charge) and Vishnu Pada Ray were admitted and circulated in the Chamber.

258. *L.A. Deb.,* 21-3-1923, p. 3816.

259. Generally, the members agree to the change in the form suggested by the Secretariat. There have, however, been cases where the members have requested that the amendments be circulated in the form in which they had given notice, in such cases, the amendments are circulated in the same form.

Admissibility of Amendments

The following conditions govern the admissibility of amendments to clauses and schedules of a Bill:

(a) Amendments should be within the scope of the Bill and relevant to the subject matter of the clause to which it relates[260].

An amendment must not introduce new or foreign matter into the Bill[261]. Amendments enlarging the scope of the Bill or going beyond its intentions have been ruled out of order[262]. However, amendments limiting the scope of a Bill can be moved provided the limitation is not of such a character as to destroy altogether the whole basis and scope of the Bill[263].

The Speaker has in certain cases permitted the moving of motion for suspension of Rule 80(i) to enable the Minister-in-Charge to move amendments which were beyond the scope of the Bill[264].

An amendment should not be inconsistent with any previous decisions of the House on the same question[265].

Amendments to insert new provisions inconsistent with the provisions of a clause of the same Bill already adopted by the House have been ruled out of order[266]. Thus, an amendment to Clause 1 of a Bill which is inconsistent with a decision taken on other clauses of the Bill is out of order[267].

(b) An amendment should not be such as to make the clause which it proposes to amend unintelligible or ungrammatical[268].

If an amendment refers to, or is not intelligible without, a subsequent amendment or schedule, notice of the subsequent amendment or schedule has to be given before the first amendment is moved so as to make the series of amendments intelligible as a whole[269].

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260. Rule 80(i).

261. *L.A. Deb.,* 27-5-1924, p. 2293.

262. *Ibid.,* 14-9-1925, p. 1216; *H.P. Deb.* (II), 20-8-1953, cc. 1190-91; *L.S. Deb.,* 31-5-1957, c. 3315; 27-4-1960, c. 14232; 15-4-1969, c. 241; 5-8-1969, cc. 202-3, 305.

On 10 May 2002, the Minister of State for Finance gave notice of 18 amendments to the Negotiable Instruments (Amendment) Bill, 2001 seeking to amend Negotiable Instruments Act, 1881. The notice of amendments given by the Minister sought to amend, in addition to the above Act, "the Bankers' Books Evidence Act, 1891" and "the Information Technology Act, 2000". The Ministers' request for waiving the requirement of the Rule 80(i) in respect of the amendments which were outside scope of the Bill, was not acceded to since the Negotiable Instruments (Amendment) Bill, 2001, as introduced, did not touch the above two Acts and extracts of the said Acts had not been appended to the Bill. The concerned Ministry was asked to withdraw the Bill and to bring forward a fresh comprehensive Bill incorporating amendments.

263. *L.A. Deb.,* 4-6-1924, pp. 2572-73; 5-6-1924, p. 2708; 19-3-1925, pp. 2655-56.

264. Finance Bill, 1976.—*L.S. Deb*., 17-5-1976, cc. 47-48, 51-55; 9-5-1983, cc. 401-04; 11-12-1993, c. 165; Maintenance and Welfare of Parents and Senior Citizens Bill, 2007.—*L.S. Deb.,* 5-12-2007.

265. Rule 80 (ii).

266. *H.P. Deb.,* (II), 10-9-1953, cc. 3168-71.

267. *L.S. Deb.,* 29-8-1962, cc. 4807-12.

268. Rule 80 (iii).

269. Rule 80 (iv).

(c) An amendment should not be frivolous or meaningless[270].

(d) An amendment which has merely the effect of a negative vote is not allowed[271].

On this principle, amendments purporting to omit a clause of a Bill are disallowed[272]; the proper course is to vote against the clause. Amendments seeking to omit certain words from a clause which would, in effect, mean the omission of the clause are also out of order.

(e) An amendment should not be dilatory in nature[273].

Normally, the Chair does not disallow an amendment on the ground that it is ultra vires the Constitution[274].

Amendments to the schedule of a Bill which confirms an international agreement are inadmissible. The House can reject the agreements as a whole but alterations in the agreement by way of amendments are not allowed[275].

Amendments to marginal headings to a Bill are not permissible, as marginal headings do not form part of a Bill[276].

An amendment to an Appropriation Bill for omission of a grant is out of order on the ground that the demand for grant has already been voted by the House[277].

An amendment may be moved to an amendment which has already been proposed by the Speaker[278].

Amendments to Amending Bills

The scope of amendments to a Bill seeking to amend an Act is limited. Normally, amendments to sections of the principal Act which are not touched by the amending Bill are inadmissible[279]. Even in the case of amendments to sections which are touched,

270. Rule 80 (vi); *see* also *L.S. Deb.,* 10-12-1957, cc. 4517-18.

271. Rule 344 (2).

272. *L.A. Deb.,* 19-2-1946, p. 1153, 28-11-1978, cc. 345-52; 24-11-1981, c. 453;

Two amendments tabled by the Prime Minister who was also the Minister of Finance for omission of clauses 49 and 53 of the Finance Bill, 1987 were withheld from circulation. Later clauses 49 and 53 were negatived by the House on 4 May 1987.

273. *See L.S. Deb.,* 11-4-1955, cc. 4846-47; 21-8-1958, cc. 1024-34.

274. *H.P. Deb.* (II), 28-8-1953, cc. 1789-90; *see* also this Chapter *supra* under the heading 'Legislative Competence of the House'.

275. *L.S. Deb.,* 24-9-1958, c. 8448.

276. *P. Deb.* (II), 10-2-1950, pp. 409-10. On 8 August 2001, the Minister-in-Charge of the Protection of Plant Varieties and Farmers' Rights Bill, 2000, as reported by Joint Committee, tabled notice of amendments, some of which either sought to amend chapter heading, sub-heading or were related to insertion/omission of sub-headings. The amendments relating to chapter heading, sub- heading or those related to insertion/omission of sub-headings tabled by the Minister were not admitted and withheld from circulation on the ground that such changes do not form part of the clauses. These changes were later allowed to be incorporated in the Bill by the Speaker, on the request made by the Draftsman, as consequential changes.

A member (Basudeb Acharia), tabled amendments to the Lokpal and Lokayuktas Bill, 2011 which, *inter alia*, sought to amend chapter heading of the Bill. The amendment was not admitted on the ground that such changes do not form part of the clauses of the Bill.

277. *L.S. Deb.,* 18-3-1970, c. 261.

278. Rule 80 (vii). *See L.S. Deb.,* 10-9-1991, cc. 21291-98.

279. *L.S. Deb.,* 23-11-1954; 23-4-1959, cc. 13056-59; 29-11-1960, c. 2840; 31-8-1965, cc. 3003-05; 3024-32.

it is essential that such amendments should be within the scope of the amending Bill[280]. Thus, if there are several parts of a "definition" section of the principal Act and the amending Bill touches only one particular definition which has no relation to the other parts, an amendment relating to the other parts or seeking to insert an operative part in the definition which is sought to be amended is out of order[281].

If an amending Bill seeks to amend a clause of a section in the principal Act, the other clauses of that section are not automatically open to amendment unless the amendment proposed is ancillary to, or dependent on, provisions in the amending Bill, or is consequential[282].

> Amendments to sections of the principal Act which are not touched by the amending Bill have, therefore, been allowed, if such amendments are consequential upon the amendments sought to be made through the amending Bill or, being intimately connected, fall within the scope of the Bill[283].
>
> In the case of a Repealing and Amending Bill, it has been held that amendments to the Acts which are sought to be repealed or amended do not come within the scope of the Bill[284].

Amendments to Expiring Laws Continuance Bills

When it is desired to continue a temporary Act, a separate Bill extending its life to a specified date is brought before Parliament. The scope of amendments to such Bills is very limited. Amendments which seek to amend the sections of the Parent Act not covered by the Bill are outside the scope of the Bill[285]; but it is open to the House to criticize the working of the Act and to suggest directions in which it should be improved as it is the only opportunity when members can ventilate their grievances in this regard.

Amendments seeking to circulate an Expiring Law Continuance Bill for the purpose of eliciting opinion thereon by a date before the date of expiry of the Expiring Law are admissible[286]. However, amendments seeking to refer such Bills to a Select or Joint Committee with or without instructions to the Committee have been disallowed on the ground that a Bill can be referred to a Select or Joint Committee only when the

280. *H.P. Deb.* (*II*), 11-7-1952, cc. 3609-10; *L.S. Deb.,* 22-11-1955, cc. 233-37.

281. *H.P. Deb. (II),* 12-3-1954, cc. 2010-12.

282. *L.S. Deb.,* 21-6-1962, c. 12359; *see* also 30-8-1962, c. 5152; 21-1-1963. cc. 5551-54.

283. *Ibid.,* 8-8-1962, c. 763; 24-8-1962, cc. 3772-75.

284. *H.P. Deb.,* 11-12-1953, cc. 1943-48.

285. *P. Deb.* (*II*), 20-3-1951, cc. 4859-62.

During the consideration of the Delhi and Ajmer-Mewar Rent Control (Amendment) Bill, 1951, when a member sought to move amendments for substitution of certain clause in the original Act, Speaker Mavalankar observed:

"I have come to the conclusion that, broadly speaking in cases where a Bill is brought to continue an expiring law, it would not be competent to move any amendments seeking to alter or modify the substantive provisions of the expiring law. To this general rule, there are some exceptions depending upon the nature of the continuing Bill which seeks to continue the expiring law. But, they are of a very limited and also of a procedural character; the vital point being that, no expiring law sought to be continued can be taken as an occasion to amend or alter the substantive provisions of the law, which is sought to be continued."

286. *L.S. Deb.,* 9-12-1957, cc. 4235-45.

principles of the Bill are accepted by the House[287].

Amendments seeking to curtail the period of operation of the Expiring Law mentioned in the Continuance Bill are admissible[288].

If a Bill, apart from seeking to extend the life of the Expiring Act, also seeks to make certain amendments in that Act, amendments to those sections of the Expiring Act which are sought to be amended may also be moved. Amendments relating to matters outside the particular section sought to be amended but closely related to the new scheme of the Act and arising from sections sought to be amended may also be permitted if they are otherwise in order[289].

Amendments Requiring President's Recommendation

In certain cases, amendments to Bills cannot be moved in the House or in the Committee without the recommendation of the President[290]. In the event of a member desiring to move such an amendment, the recommendation conveyed through a Minister is required to be annexed to the notice and the notice is not treated as valid until this requirement is complied with[291].

Members generally apply to the Secretariat for obtaining recommendation of the President on their behalf. A copy of the member's letter along with a copy of the amendment requiring recommendation is forwarded to the Ministry concerned for obtaining the requisite recommendation. The order of the President granting/withholding the recommendation is communicated to the Secretariat by the Minister concerned which is then published in the Bulletin[292].

The recommendation of the President is required for moving, *inter alia*, an amendment which seeks—

to impose a new tax[293];

to increase the imposition of tax[294];

to prevent the proceeds from the duty imposed in the Bill from being carried to the Consolidated Fund in order to appropriate these for other purpose[295];

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287. *Ibid.*

288. *Ibid.,* c. 4236; 10-12-1957, c. 4517.

289. *H.P. Deb.* (II), 21-7-1952, cc. 4209-14.

290. The recommendation of the President for such amendments is necessary under articles 117 and 274.

291. Rule 81. Generally, in actual practice, such amendments are printed and circulated to members but are ruled out of order if sought to be moved without the requisite recommendation of the President—*See L.S. Deb.,* 19-1-1976, cc. 260-61, 265-66.

292. On 8 August 1986 and 11 August 1986. several members tabled certain amendments to some clauses of the High Court and Supreme Court Judges (Conditions of Service) Amendment Bill, 1986, which required the President's recommendation. The requests of members for obtaining the President's recommendation were sent to the concerned Ministry. As the recommendation was not received when clause to which notice of amendment had been given was taken up for consideration on 12 August 1986 at 1700 hrs., the Speaker did not allow members to move their amendments. Members insisted that it was for the Minister to obtain and communicate the President's recommendation. Agreeing with the views of the members, the Speaker postponed the discussion on the Bill. Further discussion was resumed at 18 00 hrs. on the same day after the recommendation of the President was communicated to the Speaker by the Minister. Members were then allowed to move their amendments.

293. *L.S. Deb.,* 21-4-1956, c. 6009.

294. *L.S. Deb.,* 31-8-1957, c. 11094.

295. *LA. Deb.,* 21-2-1927, p. 1095.

to extend the tax indefinitely, when the Bill proposes a tax for a particular period[296];

to transfer one item from one part of the Schedule of a Finance Bill to another, which has the effect of increasing the duty[297]; and to raise the incidence of tax[298];

Further, amendments which seek to impose or vary a tax or duty in which States are interested cannot be moved in the House without the recommendation of the President[299]. Such amendments, when sought to be moved without the requisite recommendation, have been ruled out of order by the Speaker[300].

In respect of income-tax or excise duty on certain items, amendments seeking to vary the tax or the duty, *i.e.*, either raising or lowering the rate prescribed in the Bill before the House, would require the recommendation of the President[301].

Recommendation of the President is, however, not necessary for moving, *inter alia*, an amendment which seeks—

to abolish or reduce the limits of the tax proposed in the Bill, or increase such tax upto the limits of an existing tax[302];

to maintain *status quo*, *i.e.*, if a Bill proposes to remove an existing duty an amendment for the deletion of that provision would maintain the *status quo* although the apparent effect of the amendment would be to increase taxation[303];

to increase the rate of duty in one particular item but reduce it in another so that the total effect of the amendment is to reduce the tax[304]; and

to restore provisions in a Bill which have been modified by the Select Committee, thus appearing to have the effect of increasing the tax[305].

Fresh recommendation of the President is not required for moving amendments to a Bill by a member when recommendation has already been received in respect of identical amendments tabled by other members[306].

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296. *Ibid.*

297. *Ibid.,* 19-2-1928, pp. 3718-19.

298. *L.S. Deb.,* 3-9-1957, cc. 11613 and 11644.

299. Art. 274(1).

For determining whether an amendment to a Bill seeking to vary a tax or duty in which States are interested would require the recommendation of the President for moving, the provisions of the Bill, and not of the parent Act which it seeks to amend, are to be taken into consideration— *L.S. Deb.,* 1-9-1958, cc. 3993-94.

300. *L.S. Deb.,* 22-4-1959, cc. 12920-60; *see* also 11-8-1960, c. 2201.

301. *Ibid.,* 22-4-1959, cc. 12899-900.

302. Rule 81.

303. *L.A. Deb.,* 22-2-1934, p. 2583.

304. *Ibid.,* 22-3-1933, pp. 2381-83.

305. *L.S. Deb.,* 3-9-1957, cc. 11664-67.

306. On 26 April 1969, President's recommendation under arts. 117(1) and 274(1) was received for moving of amendments tabled by a member to the Finance Bill, 1969. It was held that fresh recommendation would not be necessary for moving identical amendments tabled by other members if the member for whose amendments recommendation had been received was not present in the House to move them or did not want to move them.

As notices of amendments lapse on prorogation, fresh recommendation of the President is required even for moving identical amendments tabled in a subsequent session[307].

Amendments which, if adopted, would involve expenditure from the Consolidated Fund of India do not require further recommendation if the President has already recommended the consideration of the Bill.

List of Amendments

Amendments of which notice has been given are, as far as practicable, arranged in the list of amendments issued from time to time in the order in which they may be called in House. In arranging amendments which seek to raise the same question at the same point of a clause, precedence is given to the amendment of which a notice has been received from the member in-charge of the Bill; if no notice has been received from him, then in respect of such notices from others, precedence is given to the amendment of which notice has been received earlier. Subject to this, amendments are arranged in the order in which notices thereof have been received[308].

Amendments are arranged in the list in the following order—

> Dilatory motions; motions to refer a Bill to the President for obtaining the opinion of the Supreme Court under article 143 of the Constitution; amendments to circulate a Bill for the purpose of eliciting opinion thereon; amendments to refer a Bill to a Select or Joint Committee; amendments to substitute a new clause for an existing clause; amendments to omit a sub-clause or a sub-paragraph; amendments to substitute a sub-clause or sub-paragraph for an existing sub-clause or sub-paragraph; amendments to omit certain words; amendments to add or insert certain words; and amendments to add or insert a new clause.

If a member tables an amendment which is identical with the one admitted earlier in the name of another member, the names of the members are bracketed.

Amendments relating to clauses and schedules of a Bill are listed separately from those to the motion for consideration of the Bill.

> Indications of the President's recommendation required in respect of amendments is given in the list of amendments in case the intimation thereof is received before the list is sent for printing[309]. Several lists of amendments may be issued in respect of a Bill but, as far as practicable, amendments received on a day may be consolidated and issued as one list[310].

307. *L.S. Deb.,* 9-11-1970, cc. 244-45.

308. Rule 84.

309. The following indication is given as a foot-note to the list of amendments:

> "The President has, in pursuance of clause (1) of article 117 and clause (1) of article 274 of the Constitution of India, recommended to Lok Sabha the moving of amendments contained in this List."
>
> In case such recommendation is received after the list has been printed, necessary indication is given in the Speaker's and Officers' sets of agenda papers. Time permitting, the recommendation is also published in the Bulletin.

310. All amendments of which notices have been received in the Secretariat by 15.15 hours and which are otherwise admissible, are ordinarily printed the same night if the Bills to which these relate have been included in the List of Business, and the amendments are circulated to members at their residences.

The lists of amendments are supplied to all Ministers, members of Lok Sabha and the Ministries concerned with the Bills.

Where a large number of amendments is received to a Bill which has a large number of clauses, one day before the day on which clause-by-clause consideration is taken up, a key to amendments showing the order in which amendments are to be moved is prepared and circulated to all members. This also indicates the position about amendments requiring the President's recommendation[311].

Selection of Amendments and New Clauses

The Speaker is empowered to select the new clauses or amendments to be proposed and may, if he thinks fit, call upon any member who has given notice of an amendment to give such explanation of the object of the amendment as may enable him to form a judgment upon it[312].

Where a particular amendment is selected by the Speaker from amongst several similar amendments, his decision is to be accepted by the House[313].

Mode of Moving Amendments

When a motion that a Bill be taken into consideration has been carried, any member may, when called upon by the Speaker, move an amendment to the Bill of which he has previously given notice of. In order to save time and repetition of arguments, a single discussion is generally allowed to cover a series of inter-dependent amendments[314].

Amendment to a clause of a Bill has to be moved immediately after the clause is placed before the House[315]. The mere intimation from a member that he would move an amendment to a particular clause is not enough for treating it as moved. The member should be present in the House to move his amendment when the clause to which it relates is taken up[316]. No amendment can be moved by a member on behalf of another[317]. Likewise, an amendment of which notice has been given by a Minister cannot be moved by another Minister[318], unless advance notice therefor is given by him[319].

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311. A star is put on the amendment and foot-note given in the case of amendments which need the President's recommendation which is not till then received or which has been received.

312. Rule 83.

313. *L.A. Deb.,* 8-9-1922, p. 286; *see* also *P. Deb.,* 5-10-1951, cc. 4324-25; *L.S. Deb.,* 5-8-1957, cc. 7035-37; 23-8-1957, c. 9637.

314. Rule 86.

315. *P. Deb. (II)*, 10-3-1950, cc. 1364-65.

316. *L.S. Deb.,* 24-11-1960, c. 2151.

317. *Ibid.,* 5-9-1957, cc. 12142-43; 6-9-1957, c. 12382.

If a member, when called by the Speaker to move his amendments, is not present in the House, he loses his chance to move them—*L.S. Deb.,* 9-9-1957, c. 12889; *see* also *C.A.* (*Leg.*) *Deb. (II)*, 2-12-1949, c. 200.

On one occasion, an amendment in the name of an absent member was, with the consent of the House, allowed to be moved by another member on his behalf as the amendment in question was acceptable to the Government.—*L.S. Deb.,* 2-12-1968, c. 299.

318. *L.S. Deb.,* 18-3-1968, cc. 1287-88.

319. *Ibid.,* 20-11-1968, c. 220.

When a large number of amendments to a Bill have been circulated, in order to save the time of the House, members are asked by the Speaker to hand over at the Table slips indicating the serial numbers of the amendments sought to be moved. The Speaker, thereafter, announces the numbers of the amendments which are taken as moved[320].

Moving of identical amendments is not in order, but members who have tabled identical amendments can speak in support of the amendments moved earlier[321].

While moving his amendment, the mover can, with the permission of the Chair, amend it[322].

Consideration of Amendments

When amendments to a particular clause have been moved, the members who catch the Speaker's eye speak on the clause to which the amendments relate and on the amendments. Although tabling of an amendment does not confer a right on the member to speak[323], members tabling amendments do, if time permits, get an opportunity to speak in favour of their amendments[324].

Amendments are ordinarily considered in the order of the clauses of the Bill to which they relate. After the discussion on a clause is over, the Speaker puts the amendments which have been moved to the vote of the House. First the Government amendments are put to vote. The Speaker then puts as one question all the remaining amendments to a clause which are not barred by adoption of Government amendment, unless a member requests that his amendments be put separately[325]. Where a clause of a Bill relates to certain amendments embodied in a schedule to the Bill, the schedule is disposed of first and then the clause[326].

Withdrawal of Amendments

An amendment which has been moved can be withdrawn only by leave of the House, on specific request to that effect by the mover. If leave to withdraw the amendment is opposed, it has to be put to the vote of the House for disposal. If an amendment has been proposed to an amendment, the original amendment cannot be

320. In the proceedings, these amendments are shown as having been moved by members individually.

321. *L.S. Deb.,* 3-9-1957, c. 11634.

322. *Ibid.,* 29-8-1962, c. 4807.

323. *H.P. Deb.,* (II), 28-11-1952, c. 1370; *L.S. Deb.,* 24-9-1955, cc. 15107-09. On 31 July 2006, during clause by clause consideration of the Parliament (Prevention of Disqualification) Amendment Bill, 2006, Deputy Speaker allowed some members to speak while moving their amendments.

324. There has been an instance when certain members who could not get an opportunity to speak on their amendments were allowed to submit a written memorandum each in support of their amendments.

On 2 August 1956, during the clause-by-clause consideration of the States Reorganisation Bill, 1956 a member who for want of time could not get an opportunity to speak on his amendments requested the Speaker that he might be allowed to submit a written memorandum. The Speaker agreed to the suggestion and announced in the House that members who could not get an opportunity to speak on their amendments might send written memoranda, not exceeding two pages, containing arguments in support of their amendments. Certain members submitted memoranda which were forwarded to the Ministry of Home Affairs so that the Minister might reply to them or take them into consideration. *L.S. Deb.,* 2-8-1956, c. 2044.

325. Rule 85(2).

326. *L.A. Deb.,* 31-3-1931, p. 2443.

withdrawn until the amendment proposed to it has been disposed of[327].

Third Reading of the Bill

When all the clauses and schedules, if any, of the Bill have been considered and voted upon by the House, the member in-charge of the Bill can move that the Bill be passed[328]. Where a Bill has undergone amendments, the motion that the Bill, as amended, be passed is not generally moved on the same day on which the consideration of the Bill has concluded[329]. An objection can be taken to the motion being moved on the same day on the ground that members would like to study the Bill as amended, and if such an objection prevails the motion is brought forward on any future date[330].

However, in normal cases, the Speaker has permitted the motion to be moved on the same day[331].

No amendments, except formal, verbal or consequential upon amendments adopted by the House, can be moved to the motion that the Bill be passed[332].

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327. Rule 87.

328. Rule 93(1). In April 1977, in the Rajya Sabha, the Minister of Home Affairs did not move the motion that the Bill as amended be passed in the case of the Government of Union Territories (Amendment) Bill, 1977, as passed by Lok Sabha, and the Delhi Administration (Amendment) Bill, 1977, as passed by Lok Sabha.—*L.S. Deb.,* 11-4-1977.

329. Rule 93(2); *L.S. Deb.,* 2-12-1968, c. 305.

330. The restriction applies only when a large number of substantial amendments have been carried out in the Bill at the second reading stage and time is needed for members to become familiar with those changes and get ready to make their comments on the Bill during the third reading.— *L.S. Deb.,* 2-6-1964, cc. 682-84; 16-12-1967, cc. 7573-78; 4-8-1969, c. 440.

331. *See L.S. Deb.,* 9-8-1956 *re:* the States Reorganisation Bill, 1956; 6-9-1956, *re*: the Constitution (Ninth Amendment) Bill, 1956; 10-9-1956, *re*: the Scheduled Castes and Scheduled Tribes Orders (Amendment) Bill, 1956; 6-8-1968, *re* : the Banking Laws (Amendment) Bill, 1968; 9-12-1968, *re*: the Insurance (Amendment) Bill, 1968, *re*: the Banking Companies (Acquisition and Transfer of Undertakings) Bill, 1969; 28-8-1972, *re*: the General Insurance Business (Nationalisation) Bill, 1972; 11-12-1974, *re*: the Sick Textile Undertakings (Nationalisation) Bill, 1974, 23-11-1987, *re:* the National Housing Banking Bill, 1987; 2-5-1988, *re*: Finance Bill, 1988; 6-5-1992. *re*: the Finance Bill, 1992.

    The motion for passing a Bill which has been reported by a Select or Joint Committee, with or without amendments, and has not been amended by the House, is in the following form:

    "That the Bill, as reported by Select/Joint Committee, be passed."

    When a Bill has been amended by the House irrespective of whether it has been amended or not by the Committee, the form of the motion is:

    "That the Bill, as amended, be passed."

332. Rule 93(3).

    Amendments must be verbal in the sense that they do not materially alter the effect of the Bill if it becomes a statute. Whether an amendment alters the effect of the Bill or not is a point to be decided by the Speaker *H.C. Deb.,* 22-2-1961, cc. 724-25.

    For instance, consequential amendments were moved and adopted at the third reading stage in the case of the Special Marriage Bill, 1954.—*L.S. Deb.,* 17-9-1954; the Code of Criminal Procedure (Amendment) Bill, 1954—*L.S. Deb.,* 18-12-1954; the State Bank of India Bill, 1955—*L.S. Deb.,* 30-4-1955; the Banking Companies (Acquisition and Transfer of Undertakings) Bill, 1969 —*L.S. Deb.,* 4-8-1969, cc. 460-61; the Taxation Laws (Amendment) Bill, 1969—*L.S. Deb.,* 17-11-1970, c. 316.

    At this stage, only the amendments are put to vote. After amendments are adopted, clauses to which they pertain are not put to vote as these having been adopted are already part of the Bill to be passed.

    On an occasion, Rule 93(3) was suspended to enable the House to reopen discussion on certain clauses of the Salaries and Allowances of Members of Parliament (Amendment) Bill, 1969, which had been adopted by the House earlier—*L.S. Deb.,* 7-8-1969, c. 257.

If the Government desires any amendments of substantial character to be considered, they may, after the Bill has been passed but before it is assented to by the President, cause a message to be sent to the House by the President for consideration of such amendments.

The discussion on the motion "that the Bill (or the Bill as amended) be passed" is confined to the submission of arguments either in support of or for the rejection of the Bill as a whole. Members must not refer to the details of the Bill further than is necessary for the purpose of their arguments which should be of a general character[333].

Correction of Patent Errors

No alteration can be made in a Bill as introduced or as reported by a Select or Joint Committee except by way of an amendment adopted in the House. However, the Speaker has the power to correct any obvious printing or clerical error at any stage of a Bill by issue of a corrigendum to the Bill, provided such a correction does not relate to an error affecting taxation in a secret Bill printed by the Ministry concerned before introduction[334].

After introduction of the Finance Bill, 1956, a written request was made to the Speaker by the Government for carrying out corrections of certain printing errors, one of which had the effect of altering the duty on certain goods from 55 per cent to 155 per cent. The Speaker did not accept this correction.

With the permission of the Chair, the Minister of Finance made a statement on the floor of the House drawing attention to the printing error[335].

Later, during the clause-by-clause consideration of the Bill, he moved a formal amendment for substituting the figure "155" for "55" which was adopted by the House[336].

Major corrections in the nature of drafting improvements suggested by the Draftsman are not accepted for inclusion in the corrigenda. In such cases, the Draftsman is requested to advice the Ministry concerned to sponsor official amendments.

The Motor Vehicles Bill, 1987 was allowed to be introduced in the Lok Sabha without its scrutiny on 11 May 1987 as a special case. The Draftsman made major corrections in the scrutinized copy which were in the nature of drafting improvements. Most of the corrections suggested by the Draftsman were not accepted and hence not included in the corrigenda. The Draftsman was requested to advise the Ministry concerned to sponsor official amendments.

Government had to table three hundred and five amendments to rectify such mistakes. The Bill could not be considered and passed during the session in which the amendments were tabled. In the Winter Session, 1987, the Minister of Surface Transport gave a notice for withdrawal of the Bill on the ground that it contained

333. Rule 94; *see* also *L.A. Deb.,* 24-2-1932, p. 1154; 28-2-1946, p. 1691; *P. Deb.,* (II), 31-3-1950, p. 237; 19-12-1950, cc. 876-77; 29-2-1952, c. 1551; *L.S. Deb.,* 8-8-1962. c. 700.

334. Dir. 32. For instances, *see* the Finance (No. 2) Bill, 1980, the Finance Bill, 1982, the Drugs and Cosmetics (Amendment) Bill, 1982 and the Motor Vehicles Bill, 1987.

335. *L.S. Deb.,* 3-3-1956, cc. 1460-61; 30-8-1965, cc. 2641-42.

336. *Ibid.,* 21-4-1956, cc. 5999-6000; 1-9-1965, c. 3176.

numerous printing mistakes. The Bill was withdrawn by leave of the House on 15 December 1987.

Even after a Bill has been passed by the Lok Sabha, the Speaker has the authority to correct patent errors and make such other changes in the Bill as are consequential upon the amendments accepted by the House.[337]

On occasions when a number of new clauses are inserted in or the existing clauses are omitted from a Bill, the Speaker, after the Bill has been passed, orders re-serialisation of the clauses wherever required[338].

Bills passed by the Lok Sabha are referred to the Draftsman, Ministry of Law, for scrutiny with a view to assisting the Speaker in correcting such patent errors, etc. On occasions, the Speaker may, on a request by the Minister-in-charge accept correction of printing errors of patent nature in the copies of a Bill during debate on the Bill[339]. As a rule, patent errors pointed out by—

> the Draftsman and accepted by the Speaker are carried out in Bills before they are transmitted to Rajya Sabha. In urgent cases, the Bill is transmitted immediately after being passed by Lok Sabha, and any suggestions or corrections pointed out by the Draftsman and accepted by the Speaker are thereafter communicated to the Rajya Sabha Secretariat. Bills passed by both the Houses and last in possession of Lok Sabha are invariably scrutinized before they are presented to the President for assent[340].

All corrections suggested by the Draftsman must be authenticated by him.

The power of the Speaker to carry out consequential alterations in a Bill or a motion cannot extend beyond the decisions of the House in respect of that Bill or motion; it is exercised only to give effect to those decisions[341]. Substitution of words in an amendment accepted by Lok Sabha, by way of correction, is permissible only on an authority given by the House therefor. In the nature of things it is not proper to

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337. Rule 95.

An amendment *re*: consequential renumbering of clauses and of internal references, tabled by the Minister of Law to the Election Laws (Amendment) Bill, 1975, was not moved "as the Speaker was authorised to make the necessary corrections—*L.S. Deb.,* 5-8-1975, c. 39. In another instance, amendment regarding consequential renumbering of clauses to the Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Amendment Bill, 1981 was not tabled by the Minister and not pressed by the Lok Sabha Secretariat as the Speaker was authorised to make the necessary corrections.—*L.S. Deb.,* 24-11-1981, cc. 418-55.

338. See *L.S. Debate* dated 19-3-2013, cc. 687-89 on the Criminal Law Amendment Bill, 2013; *L.S. debate* dated 30-4-2013, cc. 781-820 on the Finance Bill, 2013.

339. On 2 May 2002, while replying to the combined debate on the motion for consideration of the Constitution (Scheduled Castes) Order (Amendment) Bill, 2002 and the Constitution (Scheduled Castes and Scheduled Tribes) Orders (Amendment) Bill, 2002, the Minister-in-charge informed that there was a printing error in the English version of the Constitution (Scheduled Castes) Order (Amendment) Bill, 2002, as introduced in Lok Sabha, which may be accepted as patent error. Thereupon, Speaker agreed to accept the error as patent error— *L.S. Deb*., 2-5-2002, cc. 306-78.

340. Since the Fourth Session of Second Lok Sabha, a practice has been started to send the Bill to the Draftsman for scrutiny a second time after the assent copy has been finally printed and before it is signed by the Speaker. At this stage, the Draftsman can point out only printing errors in the Bill.

341. *P. Deb.,* (II), 9-6-1951, cc. 10610-14.

permit any recasting of a clause as that would be tantamount to legislating[342]. However, re-wording of a formula to a clause to make it more clear may be permitted by the Speaker[343].

The exercise of power to alter is thus limited to correcting formal, verbal, grammatical and printing errors, to rectifying obvious omission or errors in the numbering of clauses, sub-clauses, etc., and to effecting changes which are purely consequential and clarificatory in nature.

When a Bill which originated in Rajya Sabha is returned to that House by Lok Sabha with amendments, no consequential or patent error is corrected except when it may occur in the amendments made by Lok Sabha. It is only in exceptional cases that corrections suggested by the Draftsman in portions of the Bill not amended by Lok Sabha are accepted as patent errors by the Speaker[344].

Consequential Corrections in Debates

Where an amendment to a clause has been moved in and adopted by the House and subsequently any correction relating to the amendment has been accepted by the Speaker as a patent error, the correction is incorporated in the body of the amendment itself without any foot-note in the printed debates[345].

Where the Speaker has accepted a correction relating to a clause and not to an amendment thereto and the clause has been adopted by the House, the correction is indicated with an appropriate foot-note in the printed debates[346].

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342. Consent was withheld by the Speaker on this ground to the suggestion of the Draftsman for re- drafting clause 45 of the Vishva Bharati Bill, 1951.

343. During Fifteenth LS, the Draftsman, Ministry of Law suggested the following improvement in the assent copy of the National Council for Teacher Education (Amendment) Bill, 2011.

    For "(ii) after clause (k), insert"

    substitute "(ii) after clause (k), the following clause shall be inserted, namely:—"

    As the suggestion of Draftsman was only technical in nature and did not make any substantial change, request of Draftsman was accepted as patent error by the Speaker.

344. Instances in which an exception was made:

    The Hindu Succession Bill, 1956, as passed by Rajya Sabha was passed with amendments by Lok Sabha on 8 May 1956. A copy of the Bill as passed by Lok Sabha was sent for scrutiny to the Draftsman who made certain corrections in portions of the Bill not amended by Lok Sabha. The Speaker accepted these corrections as patent errors and they were incorporated in the Bill returned to Rajya Sabha along with the message.

    The Minimum Wages (Amendment) Bill, 1961, as passed by Rajya Sabha was passed with an amendment by Lok Sabha, on 10 August 1961. While scrutinizing the Bill, the Draftsman made a correction in the portion of the Bill not amended by Lok Sabha. The Speaker accepted the correction as a patent error and it was incorporated in the Bill which was returned to Rajya Sabha along with the message.

    In the Merchant Shipping (Amendment) Bill, 1965, and the Banaras Hindu University (Amendment) Bill, 1965, the Draftsman suggested certain corrections in the portions of the Bills not amended by Lok Sabha. The Speaker accepted the corrections as patent errors and these were incorporated in the Bills which were returned to Rajya Sabha along with the messages.

    In these cases, a separate communication was also sent to the Rajya Sabha Secretariat requesting that the changes made in the Bills might be brought to the notice of the Chairman.

345. Dir. 33.

346. *Ibid.*

    The following are some of the instances where such foot-notes were given:

    The Companies Bill, 1955, *L.S. Deb.,* 6-9-1955, cc. 12440, 12444, 12560, and 12570; 7-9-1955, cc. 12728 and 12755. The Hindu Adoption and Maintenance Bill, 1956 — *L.S. Deb.,* 14-12-1956, c. 3031; The Territorial Councils Bill, 1956—*L.S. Deb.,* 20-12-1956, c. 3779.

    The Code of Criminal Procedure (Amendment) Bill, 1978—*L.S. Deb*., 8-11-1978, cc. 345-52. The Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Bill. 1981.—*L.S. Deb.,* 24-11-1981, cc. 453-54.

Adjournment of Debates on Bills

At any stage of a Bill which is under consideration in the House, a motion that the debate on the Bill be adjourned can be moved with the consent of the Speaker[347].

The Speaker may withhold his consent[348]. He may permit more than one member to oppose the motion for adjournment of debate on a Government Bill[349]. When a motion for adjournment of debate on a Bill is negatived, discussion on the Bill continues[350].

Motions for adjournment of debate on a Bill may be moved more than once during the same session[351] and it can be moved even though motion for consideration of the Bill has not actually been moved[352].

Debates on private members' Bills have been adjourned on motions moved in and adopted by the House[353]. The requests for such adjournments were based on the assurance that the Government contemplated bringing forward, in due course, a similar or comprehensive piece of legislation incorporating the provisions sought to be enacted by the Bill in question. In certain cases, debate was postponed on a request made by the Minister concerned and agreed to by the House and no motion, as such, was moved in the House[354].

Further discussion on a private member's Bill has been adjourned on an amendment adopted by the House to the motion for adoption of the report of the Committee on Private Members' Bills and Resolutions which related *inter alia* to allocation of time for further discussion on that Bill[355].

There have also been occasions when the debate on a Government Bill was adjourned, either on a motion or without a motion having been moved and adopted, in order to enable the Government to have informal discussion with the members interested in the Bill[356], or to meet the demands of the House for the supply of certain data or additional information[357], or to consider the suggestions and criticisms offered by members during the discussion on a Bill[358], or to consider the suggestion for reference

347. Rule 109—Such a motion has been allowed to be moved even at the introduction as third reading stage of a Bill—*L.S. Deb.,* 8-5-1975, cc. 260-69; 31-8-1966, cc. 8134-36; 6-8-1969, c. 231; 24-8-1993, cc. 389-92.

348. *See,* for instance *L.S. Deb*., 21-11-1968, cc. 215-18; 26-11-1968, c. 329; 2-12-1968, cc. 263-65.

349. *L.S. Deb.,* 15-11-1956, cc. 3022-37.

350. *Ibid.,* 14-11-1968, cc. 308-11.

351. *Ibid.,* 25-11-1965, cc. 8866-70; 14-11-1968, cc. 258-61, 283-84; 25-11-1985, cc. 357-58; 2-12-1985, cc. 347-48.

352. *See* case of the Constitution (Eightieth Amendment) Bill, 1993 and the Representation of the People (Amendment) Bill, 1993—*L.S. Deb.,* 24-8-1993, cc. 358-92.

353. For some of the instances, *see L.S. Deb.,* 26-3-1954, cc. 2261-79; 10-12-1954, cc. 2492-2513; 24-12-1954. cc. 4084-93, cc. 4098-100, and 4100-17; *L.S. Deb.,* 16-11-1962, cc. 2093-94; 6-12-1985, cc. 349-50.

354. The discussion on the motion for consideration of a Private Member's Bill, *viz.* the Hindu Succession (Amendment) Bill, 1962, was postponed on a request made by the Deputy Minister in the Ministry of Law and agreed to by the House.—*L.S. Deb.,* 17-8-1962, cc. 2420-22.

355. *L.S. Deb.,* 13-12-1968, cc. 272-82; 21-12-1969, cc. 278-92.

356. The Constitution (Eighth Amendment) Bill, 1955—*L.S. Deb.,* 12-12-1955, cc. 2254-67; the Constitution (Seventy-second Amendment) Bill, 1991; and the Constitution (Seventy-third Amendment) Bill, 1991— *L.S. Deb.,* 3-12-1992, cc. 68-70.

357. The State Financial Corporations (Amendment) Bill, 1956—*L.S. Deb.,* 24-8-1956, cc. 4284-303; *see* also *Ibid.,* 16-11-1956, cc. 294-302.

358. The Land Acquisition (Amendment) Bill, 1962—*L.S. Deb.,* 21-8-1962**,** cc. 3313-16; the Sick Industrial Companies (Special Provisions) Bill, 1985—*L.S. Deb.,* 25-11-1985, cc. 357-58, and the Salary, Allowances and Pension of Members of Parliament (Amendment) Bill, 1992—*L.S. Deb.,* 20-8-1992, cc. 70-109.

of the Bill to a Joint Committee[359].

Motion to adjourn debate on an item of business in order merely to enable another item to be taken up earlier is not allowed[360]. However, there has been an occasion when on a request made by Shri Vincent H. Pala and agreed to by the House, further discussion on the motion for consideration of the Rights of Transgender Persons Bill, 2014, as passed by Rajya Sabha, was postponed till disposal of the next Bill *i.e.* the Sixth Schedule to the Constitution (Amendment) Bill, 2015 by Shri Pala.

It is for the Speaker to decide whether reasonable time has elapsed since the motion for adjournment of debate was made last[361].

The mere fact that the attendance in the House is very thin is not sufficient ground for the Speaker to accept the motion for adjournment of debate[362].

Resumption of Adjourned Debate

On a motion being carried, the debate on a private member's Bill is adjourned to the next day allotted for private member's Bills in the same or next session, but it is not set down for further discussion unless it has gained priority at the ballot[363].

Where the debate on a private member's Bill is adjourned *sine die*, the member in-charge of the Bill may, if he wishes to proceed with that Bill on a subsequent day allotted for private members' Bills, give notice for resumption of the adjourned debate and on receipt of such notice the relative precedence of such notice is determined by ballot[364].

Where notice of resumption of the adjourned debate on a Bill is received after a ballot has been held, such Bill is entered in the List of Business below the Bills balloted earlier[365].

However, where debate on a private member's Bill is adjourned to a specific date and time allotted for Government Business, no motion for resumption of the adjourned debate may be moved[366].

In the case of a Government Bill, it is necessary to give notice of a motion for resumption of debate only if the debate thereon was adjourned in pursuance of a motion adopted by the House[367].

Dilatory Motion

If the Speaker is of the opinion that a motion for the adjournment of a debate on a motion relating to a Bill is an abuse of the rules, he may either forthwith put the question thereon or decline to propose the question[368].

Where the Speaker is of the opinion that a motion for re-circulation of a Bill to elicit further opinion thereon is in the nature of a dilatory motion in as much as the

359. *L.S. Deb.,* 23-5-1972, cc. 24-42.

360. *L.A. Deb.,* 20-3-1924, p. 2041; *see* L.S. Deb., 5.8.2016, cc. 162-177, Bn.(I), 28.12.2018.

361. *Ibid.,* 9-12-1926, pp. 971-72.

362. *Ibid.,* 1-4-1937, p. 2515.

363. Rule 30(1).

364. Rule 30(2).

365. Dir. 4.

366. *L.S. Deb.,* 24-4-1970, cc. 244-58; 5-12-1985, cc. 349-50.

367. *Ibid.,* 11-5-1965, cc. 14385-410; 18-8-1965, cc. 785-815; 15-2-1966, cc. 265-67; 22-11-1966, c. 4687; 4-12-1992, cc. 607-08.

368. Rules 109 and 341(1).

original circulation was adequate or comprehensive or that no circumstance has arisen since the previous circulation to warrant recirculation of the Bill, he may forthwith put the question thereon or decline to propose the question[369].

Similarly, if the Speaker is of the opinion that a motion for recommittal of a Bill to a Select or Joint Committee or for circulation or re-circulation of the Bill after the Select or Joint Committee has reported thereon is in the nature of a dilatory motion in as much as the Select or Joint Committee, as the case may be, has dealt with the Bill in a proper manner or that no unforeseen or new circumstance has arisen since the Bill emerged from such Committee, he may forthwith put the question thereon or decline to propose the question[370].

When the Speaker is of the opinion that a motion is of a dilatory character, he has in his discretion put the motion forthwith to the vote of the House[371].

Amendments for reference of a Bill replacing an Ordinance to a Select or Joint Committee or for circulation with a view to eliciting opinion thereon by a date later than the date by which the Bill must be passed have not been held to be dilatory in nature.

Amendments seeking postponement of discussion on a Bill or its reference to a Select Committee are not of a dilatory nature if the effect of such amendments is not to delay the passage of the Bill but to 'kill' the Bill[372].

Withdrawal of Bills

The member in-charge of a Bill may, at any stage[373]of the Bill, move for leave to withdraw the Bill on the ground that—

the legislative proposal contained in the Bill is to be dropped; or the Bill is to be replaced subsequently by a new Bill which substantially alters the provisions contained therein; or

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369. Rule 341(2).

370. Rule 341(3).

371. *L.S. Deb.*, 25-7-1955, cc. 8400-10; 10-8-1955, cc. 4148-52; 18-2-1956, cc. 282-84; 20-2-1956, cc. 402-17.

372. A member gave notice of two amendments to the motion for consideration of the Prevention of Corruption (Amendment) Bill, 1957, as passed by Rajya Sabha. The first amendment sought to postpone the consideration of the Bill to the next session, while the second amendment sought to refer the Bill to a Select Committee with instructions to report before the first day of the next session. In view of the impending dissolution of Lok Sabha, the acceptance of either amendment would have in effect amounted to the killing of the Bill. It was held that the amendments were not of a dilatory nature inasmuch as the effect of these amendments was not to delay the passage of the Bill but to 'kill' it under the parliamentary procedure where on dissolution all pending Bills lapse. The amendments were circulated but were, however, not moved in the House on the assurance given by the Government that a comprehensive Bill would be brought forward at the earliest possible opportunity— *L.S. Deb.,* 28-2-1957, cc. 1248-54.

373. During clause-by-clause consideration of the Insurance Regulatory Authority Bill, 1996, after a few clauses were adopted, the Minister, after taking the sense of the House, moved a motion for leave to withdraw the Bill. The motion was adopted and the Bill was withdrawn—*L.S. Deb.,* 6-8-1997, cc. 252-53. The Indian Post Office (Amendment) Bill, 1986, passed by Lok Sabha and Rajya Sabha on 18 November 1986 and 10 December 1986, respectively, was returned to the Rajya Sabha on 7 January 1990 by President under article 111 of the Constitution for reconsideration by the Houses. The Bill was not reconsidered by Rajya Sabha in terms of Presidential message for more than 12 years. On 13 March 2002, Rajya Sabha adopted a motion recommending to Lok Sabha that Lok Sabha do agree to leave being granted by Rajya Sabha to withdraw the Bill. On 16 March 2002, Lok Sabha concurred in the motion. The Bill was ultimately withdrawn in Rajya Sabha on 21 March 2002.

the Bill is to be replaced subsequently by another Bill which includes all or any of its provisions in addition to other provisions;

and if such leave is granted, no further motion is made with reference to the Bill[374].

After a Bill has been withdrawn, a new Bill can be introduced immediately thereafter—the expression "subsequently" being held to include 'immediately after'[375].

Where a Bill is under consideration by a Select Committee of the House or a Joint Committee of the Houses, as the case may be, notice of any motion for the withdrawal of the Bill automatically stands referred to the Committee and after the Committee has expressed its opinion in a report to the House, the motion is set down in the List of Business[376].

If a Bill passed by Rajya Sabha is pending in Lok Sabha, a motion recommending withdrawal of the Bill, on being adopted by the House, is transmitted to Rajya Sabha for concurrence. If Rajya Sabha concurs in the motion, the motion for withdrawal of the Bill is moved in Lok Sabha and proceeded with in the usual manner[377], and when the motion is adopted, a message to that effect is sent to Rajya Sabha.

When a Bill pending in Lok Sabha is sought to be withdrawn by Government, a statement containing the reasons for which the Bill is being withdrawn is circulated to members by the Minister concerned sufficiently in advance of the date on which the motion for withdrawal is sought to be made[378].

If a motion for leave to withdraw a Bill is opposed, the Speaker permits, if he thinks fit, the member who moves and the member who opposes the motion to make

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374. Rule 110—Before the introduction of clause (c) of this Rule in August, 1956, the Speaker on some occasions permitted motion for withdrawal of a Bill, failing in this category, to be moved in exercise of his residuary powers—*see L.S. Deb.,* 18-4-1956, cc. 5640-50; 15-3-1956, cc. 2657- 59; 30-4-1956, cc. 6702-10.

375. (i) *L.S. Deb.,* 8-8-1966, c. 3275; 18-2-1969, cc. 216-18; 3-8-1984, cc. 427-32; 6-8-1984, cc. 406-12.

(ii) Some instances when a new Bill was introduced immediately after a Bill has been withdrawn:

(a) On 13 March 2003, the Minister of Law moved for leave to withdraw the Election and Other Related Laws (Amendment) Bill, 2002. Leave was granted and Bill withdrawn. A new Bill, namely, the Election and Other Related Laws (Amendment) Bill, 2003 was introduced on the same day.— *L.S. Deb.,* 13-3-2003, cc. 363-64.

(b) On 19 March 2013, the Minister of Home Affairs moved for leave to withdraw the Criminal Law (Amendment) Bill, 2012. Leave was granted and Bill withdrawn. A new Bill, namely, the Criminal Law (Amendment) Bill, 2013 was introduced on same day. *L.S. Deb.,* 19-3-2013, cc. 687-89.

376. Rule 110, First Proviso; *see* also *CA (Leg.) Deb. (II),* 5-10-1949, p. 8.

377. Rule 110, Second Proviso.

For motions *re*. withdrawal of the Advocates (Second Amendment) Bill, 1968 and the Arms (Amendment) Bill, 1981 as passed by Rajya Sabha, *see L.S. Deb.,* 18-8-1970, cc. 254-58; 23-11-1970, cc. 218-21; 26-7-1983, cc. 749-71; 2-8-1983, cc. 382-86, respectively. For further instances, *see* cases of the Indian Medical Council (Amendment) Bill, 1992, the Dentists (Amendment) Bill, 1992 and the Multimodal Transportation of Goods Bill, 1992 as passed by Rajya Sabha—*L.S. Deb.,* 23-2-1993, cc. 637-38; 1-3-1993, cc. 587-88; 25-2-1993, c. 416; 3-3-1993, cc. 536-37, respectively.

378. Dir. 36. The Election Laws (Reservation of Seats for the Scheduled Tribes in certain North-Eastern and Union Territories) Amendment Bill, 1986; the Motor Vehicles Bill, 1987; the Essential Commodities (Special Provisions) Amendment Bill, 1992; the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Bill, 1992; the Securities and Exchange Board of India (Amendment) Bill, 2009; the Enemy Property (Amendment and Validation) Bill, 2010; and the Criminal Law (Amendment) Bill, 2012.

brief explanatory statements and thereafter puts the question without further debate[379].

Register of Pending Bills

For proper record, the Secretariat maintains a Register of Bills pending in the House for each session. Bills pending include—

a Bill introduced in the House and not disposed of[380] a Bill transmitted to Rajya Sabha and returned by Rajya Sabha with amendment or recommendation, as the case may be, and laid on the Table[381]; a Bill originating in Rajya Sabha and transmitted to Lok Sabha and laid on the Table[382]; and a Bill returned by the President with a message[383].

A Bill introduced in Rajya Sabha and referred to a Joint Committee by that House in respect of which a message requesting Lok Sabha to concur in the motion and communicate the names of members to serve on the Joint Committee has been received, is not classified as a Bill pending before Lok Sabha, and as such, is not included in the statement of Bills pending before Lok Sabha, issued after the prorogation of the House.

Where any of the motions in regard to the various stages of a Bill is made by the member in-charge and is rejected by the House, such Bill is removed from the Register of Bills pending in the House[384]. A Bill pending before the House is also removed from the Register of Bills in case a measure substantially identical is passed by the House or the Bill is withdrawn[385]. Where a pending Bill seeks to amend an Act which is

379. Rule 111; *see* also *L.S. Deb.*, 15-3-1956, cc. 2657-59; 2-8-1983, c. 386.

380. *See* Rules 112 and 113.

381. *See* Rules 98 and 104.

382. *See* Rules 114 and 122—if the Lok Sabha has been prorogued by the time a Bill is transmitted by the Rajya Sabha, the originating House, it is not treated as a pending Bill as the Bill has not been laid on the Table.

383. Under Art. 111.

384. Rule 112(1). Motion for consideration of the Constitution (Forty-seventh Amendment) Bill, 1982 was not carried by requisite special majority on 22 August 1984. The Bill was consequently removed from the Register of Pending Bills. The Ravi and Beas Waters Tribunal Bill, 1986 was withdrawn by leave of the House on 18 March 1986. The Bill was, therefore, removed from the Register of Pending Bills.

385. Rule 112(2).

The Constitution (Twenty-eighth Amendment) Bill, 1971, introduced in Lok Sabha on 22 December 1971, was removed from the Register of Pending Bills as provisions thereof had been incorporated in the Constitution (Forty-fourth Amendment) Bill, 1976, which was enacted as the Constitution (Forty-second Amendment) Act, 1976—*See* Bn. (II), 27-12-1976, para 3020.

The Forest (Conservation) Amendment Bill, 2004 (*Insertion of new section 2A*) by C.K. Chandrappan, member was removed from Register of Bills pending in Lok Sabha as its object was achieved by Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Bill, 2006 (Government Bill) passed by Lok Sabha on 15 December 2006.

The High Court of Tripura Bill, 2010 by a member (Khagen Das) was removed from Register of Bills pending in Lok Sabha as its object was achieved by North-Eastern Areas (Reorganisation) and Other Related Laws (Amendment) Bill, 2012 (Government Bill) passed by Lok Sabha on 11 May 2012.

The Rights of Transgender Persons Bill, 2014, as passed by Rajya Sabha, and laid on the Table of Lok Sabha on 29 April, 2015 was discussed on 26 February, 11 March, 29 April and 5 August, 2016. On 5 August, 2016 on a request made by Shri Vincent H. Pala and agreed to by the House, further discussion on the Bill was postponed till disposed of the next Bill in the agenda, *i.e.,* the Sixth Schedule to the Constitution (Amendment) Bill, 2015 by Shri Pala. The Bill by Shri Pala was discussed on several days and withdrawn by leave of the House on 28 December, 2018. When the part-discussed Bill, namely the Rights of Transgender Persons Bill, 2014 as passed by Rajya Sabha was to be taken up for further discussion in the House on 28 December, 2018, Deputy Speaker observed that we should not further proceed with this Private Member Bill, as passed by Rajya Sabha, in view of the provision laid down in sub-rule(2) of rule 112 read with third part of the explanation thereto. Therefore, if the House agrees, the Bill may be removed from the Register of Pending Bills as its object has been achieved with the passing of the Government Bill ["The Transgender Persons (Protection of Rights) Bill, 2016" on 17 December, 2018] on the same subject." Bn.(I), 28.12.2018.

subsequently repealed, it is removed from the Register of Bills[386].

Bills other than Money Bills Returned by Rajya Sabha with Amendments

If a Bill other than a Money Bill passed by Lok Sabha and transmitted to Rajya Sabha is returned to Lok Sabha with amendments, it is laid on the Table[387], and the amendments made by Rajya Sabha are circulated to members on the same night the Bill is so laid. Printed copies of the Bill, as passed by Lok Sabha, are also made available to members.

After the amended Bill has been laid on the Table, any Minister in the case of a Government Bill, or in any other case, any member may, after giving two days' notice, or with the consent of the Speaker without notice, move that the amendments be taken into consideration[388]. When notice of motion regarding consideration of amendments is received, it is included in the List of Business[389] and circulated to members.

If a motion that the amendments made by Rajya Sabha be taken into consideration is carried, the Speaker puts the amendments to the House, in such manner as he thinks most convenient for their consideration[390].

An amendment relevant to the subject matter of an amendment made by Rajya Sabha may be moved, but no further amendment can be moved to the Bill unless it is

386. Dir. 37.

For removal of the private members' Bill from the Register of Bills, *see* this Chapter under Private Members' Bills.

387. Rule 98.

The following are some of the Bills passed by Lok Sabha which were returned by Rajya Sabha with amendments:

The Faridabad Development Corporation Bill, 1955; the Insurance (Amendment) Bill, 1957; the Estate Duty and Tax on Railway Passenger Fares (Distribution) Bill, 1957; the Parliament (Prevention of Disqualification) Bill, 1957; the Dowry Prohibition Bill, 1959; the Telegraph Laws (Amendment) Bill, 1960; the Motor Transport Workers Bill, 1960; the Payment of Bonus (Amendment) Bill, 1980; the High Court at Bombay (Extension of Jurisdiction to Goa, Daman and Diu) Bill, 1981; the Oilfields (Regulation and Development) Amendment Bill, 1984; the Goa, Daman and Diu Reorganisation Bill, 1987; the Prevention of Money-Laundering Bill, 1999; the Institutes of Technology (Amendment) Bill, 2012; the National Institutes of Technology (Amendment) Bill, 2012; the Constitution (One Hundred Eighteenth Amendment) Bill, 2012; the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Bill, 2013; the National Medical Commission Bill, 2019; and the Central Sanskrit Universities Bill, 2020.

388. Rule 99.

Amendment made by Rajya Sabha in the Payment of Bonus (Amendment) Bill, 1980, were taken up for consideration in Lok Sabha without two days' notice with the consent of the Speaker— *L.S. Deb.,* 2-2-1980, cc. 192-93.

389. The Prevention of Money-Laundering Bill, 1999, which was passed by Lok Sabha on 2 December 1999, was returned by Rajya Sabha with 235 amendments on 25 July 2002. As number of amendments to be considered and agreed to by Lok Sabha was quite large, instead of the usual practice of including the text of amendments (given notice of by the Minister) in the List of Business, amendments were circulated separately to the members and indication thereof was given in the List of Business.—*L.S. Deb.*, 28.11.2002, cc 411-510. It was also decided that if the amendments could not be disposed of on the day they were listed for consideration, list of amendments may be circulated separately each time the Bill is listed for consideration of amendments.

390. Rule 100(1).

consequential upon, or an alternative to, an amendment made by Rajya Sabha[391].

In certain cases amendments were allowed to be moved not only to the amendments made by Rajya Sabha but also to other clauses of the Bill as being consequential upon the amendments made by Rajya Sabha[392], or which were necessitated by the efflux of time[393].

If Lok Sabha agrees to the amendment made in a Bill by Rajya Sabha, it sends a message to Rajya Sabha to that effect, but if it disagrees with that amendment or proposes further amendment or an alternative amendment, it returns the Bill or the Bill as further amended to Rajya Sabha with a message to that effect[394].

If the Lok Sabha makes further amendment besides agreeing to the amendment made in the Bill by the Rajya Sabha, it sends a message with message copy after including further amendment to the Rajya Sabha so that the Rajya Sabha may agree to the further amendment made by the Lok Sabha[395].

If the Bill is returned to Lok Sabha with a message that Rajya Sabha insists on an amendment or amendments to which Lok Sabha has disagreed, the Houses are deemed to have finally disagreed as to the amendment or amendments[396]. In such a case, the President may notify his intention to summon both the Houses to meet in joint sitting for the purpose of deliberating and voting on the Bill[397].

If more than six months elapse from the date of receipt of the Bill by the other House without the Bill being passed by it, the President may also summon a joint

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391. Rule 100(2).

During the Sixteenth Lok Sabha, the Constitution (One Hundred and Twenty-third Amendment) Bill, 2018 was passed by Lok Sabha on 10 April, 2017 and transmitted to Rajya Sabha. Rajya Sabha, at its sitting held on 31 July, 2017, passed the Bill with an amendment and returned it to Lok Sabha. The Minister-in-charge of the Bill tabled notice of amendment alternative to the amendment made by Rajya Sabha and a further amendment regarding change of year from "2017" to "2018. The motion for consideration of the amendments made by Rajya Sabha, the alternative amendment, the further amendment and two private amendments to the amendment made by Rajya Sabha were moved on 3 January, 2018 but discussion thereon remained inconclusive. The motion and the amendments were again listed on 2.8.2018 along with another further amendment tabled by the Minister-in-charge regarding the change of the year of republic from "Sixty-eighth" to "Sixty-ninth". The motion, the alternative amendment and the further amendments moved by the Minister were adopted while the amendments to amendment made by Rajya Sabha, moved by a private member were negatived. Since it was a Constitution Amendment Bill, the Bill, as amended by the alternative amendment and the further amendments, was also considered and passed by Lok Sabha in accordance with the provisions of article 368. The Bill was accordingly, returned to Rajya Sabha. Rajya Sabha at its sitting held on 6.8.2018, agreed to the alternative amendment and the further amendments made by Lok Sabha and passed the Bill, as amended by the alternative amendment and the further amendments, in accordance with the provisions of article 368. The Bill was submitted to the President and was assented to on 11 August, 2018 as the Constitution (One Hundred and Second Amendment) Act, 2018. (LS Deb., 3-1-2018 and 2-8-2018).

392. *L.S. Deb.,* 28-9-1955, cc. 15532-53.

393. *Ibid.,* 24-2-1959, cc. 2751-824.

394. Rule 101.

395. The Commissions of Inquiry (Amendment) Bill, 1990, as passed by the Lok Sabha was passed as amended by the Rajya Sabha on 10 April 1990, which was again passed by the Lok Sabha on 31 May 1990 with further amendments, besides agreeing to amendments made by the Rajya Sabha. The Rajya Sabha agreed to the further amendments made by the Lok Sabha on 17 August 1990.

396. Rule 102.

397. There have been only three instances of a joint sitting of the two Houses being convened, namely, in regard to the Dowry Prohibition Bill, 1959, the Banking Service Commission (Repeal) Bill, 1978 and the Prevention of Terrorism Bill, 2002. For details, *see* Chapter IV—*Relations between the Houses*.

sitting of the two Houses[398]. However, this is only an enabling provision and there have been instances when Bills passed by Rajya Sabha and laid on the Table were passed by Lok Sabha after expiry of six months from the date of receipt of the Bills in Lok Sabha[399], or even lapsed at the dissolution of Lok Sabha[400].

Money Bills Returned by Rajya Sabha

If a Money Bill passed by Lok Sabha and transmitted to Rajya Sabha is returned to Lok Sabha without any recommendation, the message to that effect is reported to the House by the Secretary-General; if the House is in session otherwise it is published in the Bulletin. In case of urgency, messages received when the House is not sitting are also published in the Bulletin[401]. After such reporting or publication, the Bill is presented to the President for his assent[402].

A money Bill returned by Rajya Sabha with amendments recommended by Rajya Sabha is, on receipt, laid on the Table by the Secretary-General[403].

The amendments recommended by Rajya Sabha are circulated to members on the same day in a separate list with an appropriate foot-note indicating the dates on which the Bill was passed by Lok Sabha, considered by Rajya Sabha and returned to Lok Sabha with recommendations[404].

After the Bill with amendments recommended by Rajya Sabha is laid on the Table, the Minister in-charge may, after giving two days' notice or with the consent of the

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398. Art. 108(1) (c).

399 (i) The Indian Railways (Amendment) Bill, 1953, passed by Rajya Sabha on 1 September 1953, and laid on the Table on 3 September 1953, was passed by Lok Sabha on 25 August 1956.

(ii) The Railway Stores (Unlawful Possession) Bill, 1954, passed by Rajya Sabha on 31 August 1954, and laid on the Table on 2 September 1954, was passed by Lok Sabha with amendments on 1 December 1955.

(iii) The Rampur Raza Library (Amendment) Bill, 1980, passed by Rajya Sabha on 20 November 1980 and laid on the Table of Lok Sabha on 24 November 1980, was passed by Lok Sabha on 30 November 1981.

(iv) The Sales Promotion Employees (Conditions of Service) Amendment Bill, 1980, passed by Rajya Sabha on 11 December 1980 and laid on the table of Lok Sabha on 15 December 1980, was passed by Lok Sabha on 16 October 1982.

400. The Indian Sale of Goods (Amendment) Bill, 1960, as passed by Rajya Sabha on 29 February 1960, and laid on the Table on 4 March 1960, lapsed on the dissolution of the Second Lok Sabha on 4 April 1962.

The Constitution (Forty-first Amendment) Bill, 1975, as passed by Rajya Sabha on 9 August 1975 and laid on the Table on 5 January 1976, lapsed on the dissolution of the Fifth Lok Sabha on 18 January 1977.

401. Rule 103.

402. Art. 111.

403. Rule 104.

404. The Travancore-Cochin Appropriation (Vote on Account) Bill, 1956, the Union Duties of Excise (Distribution) Bill, 1957, returned by Rajya Sabha recommending amendments, were laid on the Table on 30 April 1956, and 19 December 1957, respectively, and amendments recommended by Rajya Sabha were circulated to the members in separate lists on the same dates.

In 1985, five Appropriation Bills, namely, the Appropriation (Railways) Bill, 1985, the Appropriation (Railways) No. 2, Bill, 1985, the Appropriation Bill, 1985, the Appropriation (No.2) Bill, 1985 and the Punjab Appropriation Bill, 1985, returned by Rajya Sabha recommending amendments in each of the Bills, were laid on the Table on 30 January 1985 and amendments recommended by Rajya Sabha was circulated to the members on the same day.

Speaker without notice, move that the amendments recommended by Rajya Sabha be taken into consideration[405].

On the adoption of the motion, the Speaker puts the amendments as recommended by Rajya Sabha to the House for consideration in such manner as he thinks most convenient[406]. For this purpose, a motion is moved that the amendments recommended by Rajya Sabha be agreed to[407]. The Lok Sabha may either accept or reject all or any of the amendments recommended by Rajya Sabha[408]. If the motion is adopted and Lok Sabha accepts any of the amendments recommended by Rajya Sabha, the Bill is deemed to have been passed by both the Houses with the amendment or amendments recommended by Rajya Sabha and accepted by Lok Sabha[409].

If the House does not accept any of the amendments recommended by Rajya Sabha, the Bill is deemed to have been passed by both the Houses in the form in which it was passed by Lok Sabha without any of the amendments recommended by Rajya Sabha[410].

A message is sent to Rajya Sabha intimating the decision of Lok Sabha in regard to the amendments recommended by Rajya Sabha[411].

Procedure in Lok Sabha regarding Bills originating in Rajya Sabha

Any Bill, excepting a money Bill or a Bill making provision for any of the matters specified in regard to a Money Bill, can be introduced in Rajya Sabha[412].

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405. Rule 105; *see* also *L.S. Deb.,* 3-5-1956, cc. 7091-92; 30-1-1985, cc. 280-86.

406. Rule 106.

407. On 3 May 1956, after the motion for consideration of the amendment recommended by Rajya Sabha to the Travancore-Cochin Appropriation (Vote on Account) Bill, 1956, was adopted by the House, the following motion was moved by the Minister of Revenue and Civil Expenditure:

    "That the amendment recommended by Rajya Sabha be agreed to."

    The motion was put to the vote of the House and adopted—*L.S. Deb.,* 3-5-1956, cc. 7093-100; 30-1-1985, cc. 280-86.

408. Art. 109 (2).

409. Art. 109(3). The Finance Bill, 2023, *as passed by Lok Sabha,* was returned by Rajya Sabha with a recommendation on 27.3.2023. The recommendation was accepted by Lok Sabha and the Bill was deemed to have been passed by both Houses with amendment recommended by Rajya Sabha and accepted by Lok Sabha.

410. Art. 109(4). The Finance Bill, 1978 was passed by Lok Sbaha on 29 April 1978 and transmitted to Rajya Sabha. The Bill was returned by Rajya Sabha with one amendment on 9 May 1978. The amendment recommended by Rajya Sabha was considered and rejected by Lok Sabha on 11 May 1978. A message to that effect was sent to Rajya Sabha on the same day. The Bill was deemed to have been passed by both the Houses of Parliament in the form in which it was passed by Lok Sabha and was assented to by the President on 12 May 1978—*L.S. Deb.,* 11-5-1978, cc. 8-34.

    During the Seventh Session of the Sixteenth Lok Sabha, the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Bill, 2016, which was classified as a Money Bill, was passed by Lok Sabha on 11 March, 2016 and transmitted to Rajya Sabha. Rajya Sabha returned the Bill with five amendments recommended by that House on 16 March, 2016. The amendments recommended by Rajya Sabha were considered and rejected by Lok Sabha on 16 March, 2016. The Bill was deemed to have been passed by the Houses of Parliament under clause (4) of article 109 in the form in which it was passed by Lok Sabha.

    During the Eleventh Session of the Sixteenth Lok Sabha, the Finance Bill, 2017, which was classified as a Money Bill, was passed by Lok Sabha on 22 March, 2017and transmitted to Rajya Sabha. Rajya Sabha returned the Bill with five amendments recommended by that House on 29 March, 2017. The amendments recommended by Rajya Sabha were considered and rejected by Lok Sabha on 30 March, 2017. The Bill was deemed to have been passed by the Houses of Parliament under clause (4) of article 109 in the form in which it was passed by Lok Sabha.

411. Rules 107 and 108. For the form of message, *see* Chapter 4—*Relations between the Houses.*

412. Arts. 109 and 117(1). *See* also this Chapter under the headings 'Money Bills' and 'Financial Bills', *supra.*

After a Bill has been introduced in the Rajya Sabha, copies thereof are, as soon as possible, circulated[413] to members of Lok Sabha for their information.

Before a Bill introduced in the Rajya Sabha is passed by that House, the Rajya Sabha may adopt a motion referring the Bill to a Joint Committee of the Houses and recommending to Lok Sabha to join in the Joint Committee. The message from the Rajya Sabha to that effect is reported to the House by the Secretary-General. Subsequently, the Minister in-charge of the Bill may move, after due notice, a motion that Lok Sabha do concur in the recommendation of the Rajya Sabha and resolve at the same time that such and such members of Lok Sabha be nominated to serve on the Joint Committee.

In case it is considered necessary to amend the names of members as given in a motion already adopted by the House for concurrence in the recommendation of Rajya Sabha for reference of a Bill to a Joint Committee, the following motions are required to be moved in the Lok Sabha:

motion for suspension of Rule 338 in its application to the motion for concurrence adopted by the House;

motion for rescinding the decision of the House on the motion for concurrence adopted by the House; and

motion amending the motion for concurrence as originally moved— the motion as originally moved to be circulated to members in advance[414].

The motion, while concurring in the recommendation of the Rajya Sabha to join in the Joint Committee, may also make recommendations to the Rajya Sabha[415]. The motion for concurrence adopted by the Lok Sabha and communicated to the Rajya Sabha by means of a message may be amended by a further motion adopted by the Lok Sabha[416]. The subsequent motion is also communicated to the Rajya Sabha by a message.

By concurring in the motion of the Rajya Sabha to refer the Bill to a Joint Committee, the Lok Sabha is not committed to the principle of the Bill[417].

When a Bill originating in the Rajya Sabha has been passed by that House and transmitted to the Lok Sabha, the message forwarding the Bill as passed by Rajya Sabha is reported by the Secretary-General and the Bill is laid on the Table. Thereafter, copies of the Bill as passed by Rajya Sabha are circulated to members of Lok Sabha[418].

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413. An arrangement exists between the two Houses of Parliament wherein copies of the Bills as introduced in one House are sent to the other House for circulation to the members of that House.

414. *L.S. Deb.,* 13-8-1968, cc. 2044-45; 28-8-1968, c. 5207; 29-8-1968, cc. 2986-89; 13-5-1988, c. 302.

415. *L.S. Deb.,* 8-12-1954, cc. 2232-76.

416. *L.S. Deb.,* 7-9-1962, cc. 6787-95, regarding the Limitation Bill, 1962; *L.S. Deb.,* 13-5-1988, c.302, regarding the Shipping Agents Licensing Bill, 1987.

417. *L.S. Deb.,* 17-12-1953, cc. 2427-28.

418. Rule 114—If a new Lok Sabha has been constituted after the general election when a Bill as passed by Rajya Sabha is laid on the Table; copies of the Bill, as introduced in Rajya Sabha, are also made available to the members.

If the message is received while Lok Sabha is not in session, the message is published in the Bulletin. In that case copies of the Bill may be circulated to members before the Bill is laid on the Table on the commencement of the next session.

At any time after the Bill has been laid on the Table, the Minister concerned may give notice of his intention to move that the Bill be taken into consideration[419]. Unless the Speaker otherwise directs, the motion is not included in the List of Business earlier than two days from the receipt of the notice[420].

On the day the motion is set down in the List of Business, the Minister moves that the Bill be taken into consideration. On that day, or on any subsequent day to which the discussion is postponed, the principle of the Bill and its general provisions are discussed. At this stage, the details of the Bill further than what is necessary to explain its principle are not discussed[421].

If the Bill has not already been referred to a Joint Committee of the Houses, any member can at this stage move an amendment that it may be referred to a Select Committee[422]. If the amendment is adopted by the House, the Bill stands referred to the Select Committee and undergoes the same process in the Committee as any other Bill introduced in Lok Sabha and referred to a Select Committee[423].

If the motion that the Bill as passed by Rajya Sabha be referred to a Select Committee (and not the amendment moved by a member) is negatived, the Bill is deemed to have been rejected by the Lok Sabha[424].

Amendment for recommittal[425] of the Bill to a Select or Joint Committee or for circulation[426] of the Bill for eliciting opinion thereon are out of order.

If the motion that the Bill as passed by Rajya Sabha be taken into consideration is negatived, the Bill is deemed to have been rejected by the House[427]. If the motion is carried, the Bill is taken up clause-by-clause for consideration. The procedure regarding consideration of the amendments and passing of the Bill is the same as provided in the Rules relating to Bills originating in the Lok Sabha[428]. If the Bill is passed without any amendment, the Rajya Sabha is informed by means of a message that the House has

419. Rule 115.

420. Rule 116.

421. Rule 117.

422. Rule 118.

423. The following Bills introduced in Rajya Sabha and passed by that House were referred to Select Committees of Lok Sabha:

The Railway Stores (Unlawful Possession) Bill, 1954. The Children Bill, 1954.

The Seeds Bill, 1964.

The Indian Penal Code (Amendment) Bill, 1967 by Diwan Chaman Lal. The Advocates (Second Amendment) Bill, 1968.

The Transplantation of Human Organs Bill, 1993.

424. Rule 127(ii).

425. *L.S. Deb.*, 27-4-1956, cc. 6609-10.

426. *H.P. Deb.* (*II*), 8-12-1953, cc. 1666-67; 8-5-1954; cc. 6860, 6891-92.

427. Rule 127—There has been no occasion since the Constitution came into force when the motion for consideration of a Bill, passed by Rajya Sabha, was negatived by Lok Sabha.

428. Rule 120.

agreed to the Bill without any amendment. If the Bill is passed with amendments, it is returned to Rajya Sabha with a message asking the concurrence of that House in the amendments. The Bill is returned to the Rajya Sabha for concurrence even if purely consequential or formal amendments are adopted by the Lok Sabha. The amendments adopted by the Lok Sabha are carried out in the copy of the Bill returned to the Rajya Sabha along with the message. No consequential or patent errors are corrected in the Bill unless the Lok Sabha specifically adopts amendments to that effect[429].

If the Rajya Sabha disagrees with the amendments made by the Lok Sabha or with any of them, or agrees to any of the amendments made by the Lok Sabha with further amendments, or proposes further amendments in place of the amendments made by the Lok Sabha, the Bill, as further amended is, on receipt by the House, laid on the Table. Thereafter, any Minister in the case of a Government Bill, or, in any other case, any member, after giving two days' notice or with the consent of the Speaker without notice, may move that the amendments be taken into consideration[430].

If the motion that the amendments be taken into consideration is carried, the Speaker puts the amendments to the House for consideration in such manner as he thinks most convenient. Amendments relevant to the subject matter of the amendments made by the Rajya Sabha may be moved but no further amendments can be moved to the Bill, unless they are consequential upon, or alternative to, amendments made by the Rajya Sabha[431]. The Lok Sabha may either agree to the Bill as originally passed by the Rajya Sabha or as further amended by the Rajya Sabha, as the case may be, or may return the Bill with a message that it insists on the amendment or amendments to which the Rajya Sabha has disagreed. If a Bill is returned to the Rajya Sabha with a message intimating that the Lok Sabha insists on amendment or amendments to which the Rajya Sabha is unable to agree, the Houses are deemed to have finally disagreed as to the amendments[432].

Assent to Bills

After a Bill has been passed by both the Houses of Parliament, it is presented to the President for his assent[433].

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429. *See* this Chapter under 'Correction of Patent Errors', *supra.*

430. Rules 122 and 123.

431. Rule 124.

432. Rules 125 and 126.

433. Art. 111.

The Lok Sabha Secretariat obtains assent of the President on Bills in the following cases: All Money Bills;

Bills originating in and transmitted by Rajya Sabha and passed by Lok Sabha without any amendment;

Bills originating in Lok Sabha and returned by Rajya Sabha with amendments and finally passed by Lok Sabha; and

Bills passed at joint sittings of both Houses.

Two assent copies are endorsed by the Speaker with a certificate to the effect that the Bill has been passed by the Houses of Parliament.

In the absence of the Speaker from New Delhi, the Secretary-General may, in case of urgency, authenticate the Bill on behalf of the Speaker. This was done in the case of the Delhi Road Transport Authority (Amendment) Bill, 1953, and the Prevention of Disqualification (Parliament and Part C State Legislatures) Bill, 1953.

The President may either assent to the Bill[434], withhold his assent[435], or return the Bill if it is not a Money Bill with a message for reconsideration of the Bill, or any specified provisions thereof, or for consideration the desirability of introducing any such amendments as he may recommend in his message[436].

In case the Bill has originated in Lok Sabha, the procedure is that the message of the President is read out by the Secretary-General in the House if the Lok Sabha is in session; otherwise it is published in the Bulletin. The Bill as passed by the Houses and returned by the President is, thereafter, laid on the Table[437]. If the Bill is returned by the President without specifying definite amendments thereto, the procedure applicable to the Bill after introduction applies *mutatis mutandis* in the case of such a Bill. Where amendments have been recommended by the President, any Minister in the case of a Government Bill or any member in the case of a Private member's Bill may give notice of his intention to move that the amendments be taken into consideration[438] and the procedure that would follow thereafter is similar to that in the case of any ordinary Bill.

If the motion that the amendments recommended by the President be taken into consideration is not carried, the member giving notice of the motion may at once move that the Bill as originally passed by the Houses be passed again without amendment[439]. When the Bill is passed again by the Lok Sabha with or without amendment, as the case may be. It is transmitted to the Rajya Sabha for concurrence along with a message to that effect[440]. The procedure thereafter corresponds to that in the case of any ordinary

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434. The assent is given in the following form: "I assent to this Bill. President."

If for any reasons, the functions of the President are being discharged by the Vice-President or the Vice-President acts as President, for the word "President", the following words are substituted in the above endorsement:

"Vice-President discharging the functions of the President," or "The Vice-President acting as President", as the case may be.

435. The President withheld his assent to the Patiala and East Punjab States Union Appropriation Bill, 1954, passed by the Houses of Parliament, as the President had revoked the Proclamation assuming to himself the function of the Government of the Patiala and East Punjab States Union before the Bill was submitted to him for assent.

In the case of a Bill seeking to amend the Constitution within the meaning of article 368, the President has no option but to accord his assent to the Bill passed by the Houses by the requisite special majority.

436. Art. 111, Proviso.

The Constitution is silent on the points as to the time for which the President can keep the Bill pending with him. The Indian Post Office (Amendment) Bill, 1986 was presented to the President on 19 December 1986 for his assent by the Rajya Sabha Secretariat. The President returned the Bill along with a message to reconsider the Bill, specifically clause 16 thereof, to the Rajya Sabha on 7 January 1990. The Bill was not reconsidered by the Rajya Sabha in terms of Presidential message for more than 12 years. On 13 March 2002, Rajya Sabha adopted a motion recommending to Lok Sabha that Lok Sabha do agree to leave being granted by Rajya Sabha to withdraw the Bill. On 16 March 2002, Lok Sabha concurred in the motion. The Bill was ultimately withdrawn in Rajya Sabha on 21 March 2002.

The Parliament (Prevention of Disqualification) Amendment Bill, 2006, as passed by Houses, was returned by President on 30 May 2006 for reconsideration of Houses with a message containing his observations. The Bill was reconsidered and passed again by Rajya Sabha on 27 July 2006. The Bill, as passed again by Rajya Sabha, was laid on the Table of Lok Sabha on 28 July 2006.

As the Bill was being reconsidered in the light of observations made in the President's Message, it was decided that only those amendments which were within the scope of matters referred to in the President's Message would be admitted. The Bill, as passed again by Rajya Sabha, was passed by Lok Sabha on 31 July 2006. The Bill was assented to by the President on 18 August 2006.

437. Rule 129(2).

438. *See* Rule 130.

439. Rule 136.

440. Rule 137.

Bill until the Bill is passed by the two Houses or they are deemed to have finally disagreed as to the amendment or amendments.

When the Bill so returned by the President has been reconsidered by the Houses and is again passed by the Houses with or without amendment and presented to the President for assent, the President shall not withhold assent therefrom[441].

When a Bill is passed again by the Houses and is in possession of the Lok Sabha, it is signed in duplicate by the Speaker and presented to the President in the following form[442]:

"The above Bill has been passed again by the Houses of Parliament in pursuance of the proviso to article 111 of the Constitution.

Dated the.....Speaker".

An assented or authenticated[443] copy of each Bill is laid on the Table by the Secretary-General[444].

Special Procedural Features regarding Private Members' Bills

As regards Bill sponsored by private members, while the general procedure is the same as in the case of Government Bills, there are some special procedural features which are described below.

Notice of Bills

The period of notice of a motion for leave to introduce a private member's Bill is one month unless the Speaker allows the motion to be made at shorter notice[445].

441. In *Purushothaman v. State of Kerala,* the Supreme Court held that a Bill passed by a Legislative Assembly pending assent of the President does not lapse on dissolution of the Assembly. If such a Bill is returned for reconsideration, the successor House can reconsider it and if it is passed by the successor House (with or without amendments), it will be deemed to have been passed "again"—A.I.R. 1962 S.C. 694.

442. Rule 154.—In the absence of the Speaker from New Delhi, Secretary-General may authenticate the Bill on his behalf, in case of urgency.

443. In the case of a Bill to which assent is obtained by the Rajya Sabha Secretariat, the Bill, as assented to by the President, is authenticated by the Secretary-General of Rajya Sabha and supplied to the Secretariat for being laid on the Table.

444. Dir. 35.

445. Rule 65(3).

The summons for the Twelfth Session of the Fourteenth Lok Sabha were issued on 5 November 2007 and the second day allotted to Private Members' Bills during that session was 30 November 2007. As interval between date of issue of summons and the day allotted to Private Members' Bills was less than a month, the Speaker waived prescribed notice period of one month for Bills. Accordingly notices of Bills for introduction received till 8 November 2007 were accepted, and the Bills were permitted to be introduced on 30 November 2007.

A similar relaxation was also made in the First Session of the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth and Ninth Lok Sabha in 1957, 1962, 1967, 1971, 1977, 1980, 1984, 1989 and 1991, respectively.

Summons for the first session of the Sixteenth Lok Sabha were issued on 30 May, 2014. No day was allotted to Private Members' Business during the session. However, twenty notices of Bills were received till the prorogation of first session.

Summons for the second session of the Sixteenth Lok Sabha were issued on 24 June, 2014. Three days i.e. 11 and 25 July and 8 August, 2014 were allotted for transaction of Private Members' Bills during the session. Out of twenty notices received during first session, eight notices were received on 12 June, 2014 and fell short of one month notice period by one day for introduction on the first day (*i.e.* 11 July, 2014) during second session. Also, only one day was available for the members to table notice of Private Members Bills for the second allotted day (*i.e.* 25 July, 2014) during the second session.

Speaker waived prescribed notice period of one month in respect of eight Bills received on 12 June, 2014 during first session for introduction on 11 July, 2014 and for all notices received upto 26 June, 2014 for introduction on the second allotted day (*i.e.* 25 July, 2014) during second session.

The period of notice is counted from the date on which the notice of a Bill is received in the Secretariat. In the case of Bills which under the Constitution cannot be introduced without the recommendation of the President, the period of notice is reckoned from the date of receipt in the Secretariat of the President's recommendation where the date of receipt of the President's recommendation is later than the date of receipt of the notice of the Bill.

As in the case of a Government Bill, the notice of a Bill from a private member is accompained by a copy of the Bill together with the Statement of Objects and Reasons. A Bill not accompained by the Statement of Objects and Reasons is returned to the member. In such a case, the period of one month is counted from the date on which the Statement of Objects and Reasons is received from him[446]. In case it is considered necessary to revise the Statement of Objects and Reasons attached to the Bill, it is revised under the directions of the Speaker and the concurrence of the member concerned is invariably obtained[447].

Till first session of 17th Lok Sabha, a member was permitted to give notices of not more than four Bills during a session.[448] In practice, members were permitted to introduce only four Bills in a session although they might give more than four notices of Bills in a session. Also, in case Private Members' Business (Bills) could not be transacted in a session due to any reason, a member was permitted to introduce not more than four Bills in a subsequent session.[449]

However, on 3 August, 2019, a Direction, *viz.*, Direction 27 was incorporated in the 'Directions by the Speaker Lok Sabha', which provides that "A member shall be permitted to introduce not more than three private member's Bills during a session.

A similar relaxation was also made in the Seventeenth Session of the Sixteenth Lok Sabha. Summons were issued on 16 January, 2019 and the only day allotted to Private Members' Bills during that session was 8 February, 2019. Notices of Bills for introduction received till 18 January, 2019 were accepted for introduction on 8 February, 2019 during that session.

Summons for the first session of Seventeenth Lok Sabha were issued on 3 June, 2019 and the days allotted to Private Members' Bills during that session were 21 June, 12 and 21 July, 2019. Notices of Bills for introduction received till 4 June, 2019 by 3.15 PM were accepted for introduction on 21 June, 2019 during that session.

446. Instances: (i) The Pensions Bill, 1982; and (ii) The Muslim Women (Protection of Rights on Divorce) Amendment Bill, 1988.

447. For instance, the Statements of Objects and Reasons in the following cases were revised and concurrence of the members obtained:

the Old Marriage Restraint Bill, 1958; the Union Territories (Laws) Amendment Bill, 1958; the All India Maternity Benefit Bill, 1958; the Displaced Persons (Compensation and Rehabilitation) Amendment Bill, 1959; the Code of Criminal Procedure (Amendment) Bill (Amendment of Sections 207-A and 437) 1967; the Tobacco Board (Amendment) Bill, 1987 (Amendment of Section 8, etc.); and the Youth Bill, 1987.

448. Recommendation to this effect was made by the Committee on Private Members' Bills and Resolutions of the Third Lok Sabha in their 14th Report, presented to the House on 7 March 1963 and adopted on 8 March 1963.

449. During 6th Session (15LS), three days *i.e.* 12 and 26 Nov. and 10 Dec., 2010 were allotted for transaction of Private Members Business (Bills). However, due to continued interruption in the House, Private Members' Business (Bills) could not be taken up on those days. In the subsequent session (7th Session), members were permitted to introduce not more than four Bills.

Similarly during 10th Session (16LS), three days *i.e.* 18 Nov., 2 and 16 Dec., 2018 were allotted for transaction of Private Members Business (Bills). However, Private Members' Business (Bills) could not be taken up on those days. Not more than four Bills given notice of by any member were included in List of Business on 10 Mar. 2017 during 11th Session.

Where notices of Bills received from a member are in excess of three, the first three admissible notices shall be taken into consideration, unless the member has indicated the preference". Accordingly, not more than three notices of Bills of each member are being included in the List of Business for introduction *w.e.f.* second session of 17th Lok Sabha.

Also, in case Private Members' Business (Bills) is not transacted in a session due to any reason, a member is permitted to introduce not more than three Bills in a subsequent session— the practice being followed from second session of 17th Lok Sabha onwards.[450]

When different members give notices separately or conjointly to introduce an identical Bill, the names of all those members are appended to the Bill in the order in which the notices have been received in point of time, and are included in the List of Business against the motion for leave to introduce the Bill. However, if two or more members give notices of an identical Bill at the same point of time, a ballot is held to determine their inter se priority[451]. The member whose name appears first is called to move the motion for leave to introduce the Bill. In case the first member is absent, the second member or the third member and so on, as the case may be, who is present moves the motion[452]. The member who moves the motion becomes the member in charge of the Bill.

When a Bill is pending before Lok Sabha, notice of an identical Bill, whether received before or after the introduction of the pending Bill, is removed from, or not entered in, the list of pending notices, as the case may be, unless the Speaker otherwise

450. During 2nd Session (17LS), two days *i.e.* 22 Nov. and 6 Dec., 2019 were allotted for transaction of Private Members' Business (Bills). On 22 Nov., 2019, 28 Private Members' Bills were introduced. However, PMB (Bills) could not be transacted on 6 Dec., 2019 due to early adjournment of House. Notices of three Private Members' Bills each by Shri Sunil Kumar Singh and twenty-five other members, which were listed for introduction on 6 Dec., 2019 during 2nd Session but could not be introduced were carried forward to next session and included in LOB on 7 Feb., 2020 during 3rd Session. Notices given by these members in excess of three were not considered for next session.

451. Notices of "The Railway Protection Force (Amendment) Bill, 1994 *(Substitution of new Long Title for Long Title, etc.)"* were given by 10 members on 28 February 1994 at 1650 hours; identical notices of the Bill were also given by two more members on 4 March 1994 at 1625 hours. Since all the Bills were due for introduction on the same date (22 April 1994), two separate ballots were held to determine the *inter se* priority of the names of members from whom notices were received on the same date and at the same point of time.

During 8th Session (17LS) notices of (i) The Criminal Law (Amendment) Bill, 2021 (Amendment of section 2, etc.); and (ii) The Code of Criminal Procedure (Amendment) Bill, 2021 were given by Dr. T. Sumathy (a) ThamizhachiThangapandian and Shri Anubhav Mohanty on 21 and 22 January, 2021, respectively. On examination, it was found that both notices of Bills were identical and also Money Bills. Accordingly, notices of both Bills were forwarded to Ministry of Home Affairs for conveying President's recommendation under articles 117(1) and 117(3) of the Constitution for introduction and consideration of Bill in Lok Sabha, respectively. As per rule 65, notices of Bills requiring President's recommendation for introduction becomes valid only after receipt of President's recommendation in the Secretariat. The President's recommendation in case of both Bills was received on the same date *i.e.* 26 March, 2021. Hence, both Bills became valid for introduction on first date allotted to Private Members' Business (Bills) *i.e.* 4 February, 2022 during Eighth Session of 17th Lok Sabha. A ballot was held on 25 January, 2022 in order to determine the inter-se priority under rule 27(2) read with direction 28 in which both the notices of Bills should appear in the List of Business for 4 February, 2022 against the motion for leave to introduce the Bill. Notice of Bill by Dr. T. Sumathy (a) Thamizhachi Thangapandian secured first priority in the ballot. Accordingly, the notice of the above Bill was listed first in name of Dr. T. Sumathy (a) ThamizhachiThangapandian and second by Shri Anubhav Mohanty in the List of Business for 4 February and 1 April, 2022 for introduction. Dr. T. Sumathy (a) Thamizhachi Thangapandian introduced the above mentioned Bill (title changed) *i.e.* "The Code of Criminal Procedure (Amendment) Bill, 2022 (Amendment of section 2, etc.)" on 1 April, 2022. [Bn.(I), 1-4-2022.]

452. Dir. 28.

directs[453].

Bills dealing with the same subject have, however, been allowed to be introduced[454] and there is no bar to a Bill being introduced in Lok Sabha when an identical Bill is pending before Rajya Sabha.

Drafting of Bills

The primary responsibility for drafting of private members' Bills is that of the members concerned. Nevertheless, the Secretariat renders all possible technical assistance and advice to members so that the Bills are not rejected on technical grounds[455].

Where a Bill has not been properly drafted by the member and is too obscure to be edited and the member is not willing to revise that Bill when requested to do so, the procedure is to print the Bill in the form in which it was received from the member[456].

Introduction of Bills

On the day allotted for the disposal of private members' Bills, Bills for introduction are set down as the first item in the List of Private Members' Business for that day[457]. Where in respect of a Bill the motion is that leave be granted to withdraw it, the Bill is set down immediately after the Bill for introduction[458].

A member who has given notice of introduction of a Bill may authorise another member to introduce it on his behalf provided the authority is given in writing and specifically states that all subsequent motions in respect of the further stages of the Bill will be made by the member so authorised[459]. Thus, the person who introduces the Bill becomes the member in-charge of the Bill. Where a Bill is sought to be introduced by another member, the letter of authority must be sent to the Secretary-General in advance[460].

By convention, the motion for introduction of a Bill is not opposed, but there are several instances where motions for introduction of private members' Bill were opposed and also negatived by the House[461].

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453. Rule 67.

Before 1953, *i.e.,* before this rule was framed, notices of identical private members' Bills were permitted because all private members' Bills were then balloted even for introduction. With the abolition of ballot for introduction of private members' Bills in that year, every private member's Bill was assured introduction. This created an anomalous position, for although identical Bills could not be introduced in the same session, there was no bar to the introduction of an identical Bill in a subsequent session. The result was that the House could be seized simultaneously of a number of identical private members' Bills at various stages of progress. The present Rule thus avoids such a situation while at the same time it vests power in the Speaker to entertain in his discretion notices of identical Bills in special cases where such a course is necessary.

454. *See P. Deb.* (*II*), 12-12-1950, cc. 1548, 1552-53; *L.S. Deb.,* 24-8-1956, cc. 4330-31; 27-3-1987, cc. 232-33.

455. The Secretariat takes no responsibility for the contents of the Bill whatever the nature or quantum of the secretarial help rendered.

456. The same procedure was followed in the case of the Income-Tax (Amendment) Bill, 1985 *(Amendment of Section 2, etc.) by* Mool Chand Daga, M.P.

457. Rule 27 (I) (a)—In exceptional cases, members have, however, been allowed to introduce Bills after the disposal of private members' business for the day. *See L.S. Deb.,* 7-3-1958; 2-5-1958; 27-3-1987, cc. 276-77; 24-4-1987, c. 332.

458. Dir. 47: *see L.S. Deb.,* 15-3-1985, cc. 210-16; 31-7-1987, c. 327, 26-2-1988, cc. 355-56.

459. Dir. 29.

460. *See L.S. Deb.,* 7-12-1956, cc. 2133-34.

461. *See* for instance *L.A. Deb.,* 17-1-1922, pp. 1652-57; 20-9-1922, pp. 712-20; 20-2-1923, pp. 2586-600; 3-7-1923, pp, 4250-58; 21-2-1924, pp. 875-78; 28-2-1924, pp. 1060-63; 23-9-1924, pp. 4023-36; *C.A. (Leg.) Deb.,* 16-12-1949, pp. 704-05, 707; *P. Deb.* (*II*), 14-8-1953, cc. 840-42, 844, 846-48; *L.S. Deb.*, 13-3-1987, cc. 284-87; 8-5-1987, cc. 353-54; 30-8-1991, cc. 470-90, 13-9-1991, cc. 546-47; 8-5-1992, cc. 431-442; 4-3-1999, c.1095; 27-7-2001, cc. 349-59; 10-8-2001, cc. 373-74. 18-12-2015, cc. 149-157.

In case the introduction of a private member's Bill is opposed on the ground that the Bill initiates legislation outside the legislative competence of the House, it may be referred to the Committee on Private Members' Bills and Resolutions for examination, if the Speaker considers such objection *prima facie* tenable[462].

Motions after Introduction

As in the case of Government Bills, the next motion in respect of a private member's Bill is not made on the same day on which it has been introduced. The relative precedence of private members' Bills after their introduction, as regards the subsequent legislative stages, is determined by ballot held in accordance with the directions of the Speaker[463].

There is one ballot each month for determining the relative precedence of pending private members' Bills covering two consecutive days allotted for such Bills and the ballot is held at least seven days before the first day so allotted[464]. Depending upon the priority secured in the Ballot, the member in-charge may move any of the next motions in respect of his Bill.

Since the relative precedence of private member's Bills after their introduction is determined by ballot, notices have to be given by members in advance as to the next motion which they desire to move in respect of their Bills[465]. However, in actual practice only such members whose Bills have secured the first twenty places in the ballot are requested to give notices of next motions. Where notices of next motions are received after the List of Business for the first of the two allotted days has been finalised, the Bills concerned are included in the List of Business for the next allotted day at their appropriate places as determined by the ballot held in respect of the two days.

All private members' Bills are balloted category-wise in the following order:

Bills classified by the House on the recommendation of the Committee on Private Members' Bills and Resolutions under category 'A'.

Bills classified [likewise] as category 'B'.

Bills which have been introduced but not yet classified by the Committee on Private Members' Bills and Resolutions. The result of the ballot is announced in the Bulletin.

However, if there are more than twenty Bills in category 'A', ballot of only category 'A' Bills is held and ballot of category 'B' Bills is not held[466].

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462. Rule 294(1) (d); *see* also *L.S. Deb.,* 15-4-1955, cc. 5321-24 and this Chapter under the heading 'Legislative Competence of the House' for procedure regarding *vires* of Bills in general.

463. Rule 27 and Dirs. 3-8.

464. Dir. 3.

Prior to August 1955, when this and other cognate directions were issued by the Speaker, ballot was held with respect to each day allotted for discussion of private members' Bills, necessitating a constant reshuffling of the relative priorities of Bills as a result of which a Bill which had gained priority for a particular day allotted to Bills lost the same for the next sitting.

465. Dir. 8. Members are reminded at different stages to give such notices through the Bulletin.

466. Dirs. 5 and 6.

Of all the Bills balloted, it is the practice to include in the List of Business[467] only four Bills[468] (excluding any part-discussed Bill, or Bills for withdrawal or Bills requiring the President's recommendation, but of which recommendation has not been received) in the order of priority determined by ballot in respect of which the next motions have been received and for the moving of which the members in-charge have also intimated their intention to be present in the House[469].

An unclassified Private Members' Bill which has been balloted and subsequently classified as Category 'A' is set down in the List of Business after the Bills in Category 'A'. However, an unclassified Bill which has not been balloted, but which is subsequently classified as category 'A', is set down in the List of Business for the next allotted day after the part-discussed Bill in case there are no other category 'A' Bills balloted earlier and set down in that list, and the member in-charge gives notice of the next motion in respect thereof.

In the case of Bills falling under the same category, a Bill which has been balloted is given precedence in the List of Business over a Bill which has not been balloted.

A member who has introduced a Bill may at a subsequent stage, with the permission of the Speaker, nominate another member to pilot the remaining stage or stages of the Bill[470].

A Private Member's Bill may be referred to the same Select or Joint Committee to which a Government Bill dealing with a cognate subject has been referred[471].

In a case where a Bill sponsored by a private member requires the recommendation of the President, it is open to the member concerned to apply direct to the President for such recommendation. Where, however, a request is received by the Secretariat from the member for obtaining the recommendation of the President, a copy of the letter is forwarded to the Ministry concerned for necessary action. It is open to the President's Secretariat or the Minister concerned to communicate the orders of the President to the member direct under intimation to the Secretariat. Where intimation regarding the President's order is received by the Secretariat through the Minister concerned, it is communicated to the member and published in the Bulletin.

Allotment of Time to Private Members' Bills

Allotment of time for discussion of private members' bills included in the List of Business for a particular day is recommended by the Committee on Private Members' Bills and Resolutions. Initially, two hours are allotted for discussion for each Private

467. Rule 27(2), Proviso.

468. On 9 November 1962, in view of the Emergency, it was decided by the House that only four resolutions would be included in the List of Business for private members' resolutions. Under directions of the Speaker, the same principle was applied to private members' Bills.

469. *See* Dir. 7 and 50R and 65R (CPB-1LS).

470. Dir. 30. Such permission was given by the Speaker during the Seventh Session of the Second Lok Sabha in respect of the Institution of Chartered Engineers Bill, and, during the Tenth Session of the Second Lok Sabha, in respect of the Catholic Church Premises and Ecclesiastic Order (Restriction of Political Activity) Bill; during the Third Lok Sabha in respect of the Code of Criminal Procedure (Amendment) Bill and during Thirteenth Lok Sabha in respect of the Slums and Jhuggi Jhopri Areas (Bare Amenities and Clearance) Bill, 2001.

471. *See L.S. Deb.,* 8-5-1954, cc. 6856-57.

Member's Bill. However, time allotted to a Bill may be increased with the consent of the House.

Adjournment of Debate

At any stage of a private member's Bill which is under consideration in the House, the debate thereon may be adjourned on a motion moved to that effect with the consent of the Speaker and adopted by the House[472]. On 4 May, 1979, debate on a Private member's Bill, namely the Aligarh Muslim University (Amendment) Bill, 1977 (Amendment of sections 2 and 5), as passed by Rajya Sabha, was adjourned to the first day allotted to Private Members' Bills in the next session on a motion moved and adopted by the House. *See* L.S. Deb., 4.5.1979, cc. 355-359.

However, on one occasion, debate on a Private Member's Bill was postponed without formal motion being moved and adopted by the House.[473]

Register of Pending Bills

In addition to the rules applicable to Government Bills in this connection, a private member's Bill pending before the House is also removed from the Pending Bills Register in case the member in-charge ceases to be a member of the House or is appointed a Minister[474].

A private member's Bill in respect of which the recommendation of the President for its consideration has been withheld is not removed from the Register but is excluded from the ballot.

Amendment to the Constitution

The scope of Parliament's power to amend the Constitution has been a subject of controversy[475]. Until the case of I.C. Golak Nath *vs.* State of Punjab, the Supreme Court had been holding that no part of the Constitution was unamendable and that Parliament might, by passing a Constitution Amendment Act in compliance with the requirements of article 368, amend any provision of the Constitution[476]. But in Golak Nath's Case, the Supreme Court, by a majority of 6:5 held that the earlier decisions had not properly interpreted the scope and effect of article 368 and that the said article did not confer

472. On 6 December 1985, debate on the Code of Criminal Procedure (Amendment) Bill, 1985 (Amendment of Sections 125 and 127) was adjourned to the next day allotted to Private Member Bills, *i.e.* 20 December 1985, by suspending Proviso to Rule 29 and Rule 30(1), see also *L.S. Deb.*, 12-3-1993, cc. 388-89; 23-4-1993, cc. 295-97; 1-12-1995, c. 340; 2-5-1997, cc. 160-62.

On 12 March 1993, debate on the Railway Protection Force (Amendment) Bill, 1991 *(Substitution of new Long Title for Long Title, etc.)* was adjourned to the next day allotted to Private Members' Bills, *i.e.* 26 March 1993, by suspending Proviso to Rule 29 and Rule 30(1). Debate on the same Bill was again adjourned on 23 April 1993 to the next day allotted to Private Members' Bills, *i.e.* 7 May 1993 by suspending the same rules.

473. On 5th August, 2016, on a request made by Shri Vincent H. Pala and agreed to by the House, further discussion on the motion for consideration of the Rights of Transgender Persons Bill, 2014, as passed by Rajya Sabha on 12 December, 2014 and laid on table of Lok Sabha on 29 April, 2015, was postponed till disposal of the next Bill in the agenda, *i.e.,* the Sixth Schedule to the Constitution (Amendment) Bill, 2015 by Shri Pala.

474. Rule 113.

475. *See,* Constitution Amendment in India, Lok Sabha Secretariat, New Delhi, 2007.

476. A.I.R. 1967 S.C. 1643.

power on Parliament to amend Part III of the Constitution in any event[477].

As a result of the judgement of the Supreme Court in Golak Nath Case, Parliament thought it necessary to pass, in 1971, the Constitution (Twenty-fourth Amendment) Act. This Act amended the Constitution to provide expressly that Parliament has power to amend any part of the Constitution, including the provisions relating to Fundamental Rights. In *His Holiness Kesavananda Bharati Sripadagalvaru vs. State of Kerala*[478], the Supreme Court reviewed the decision in the *Golak Nath's Case* and held that Article 368 does not enable Parliament to alter the basic structure or framework of the Constitution. The theory of basic structure of the Constitution was reaffirmed and applied by the Supreme Court in *Smt. Indira Nehru Gandhi vs. Raj Narain*[479] and certain amendments to the Constitution were held void[480].

Subsequently, in *Minerva Mills Ltd. v. Union of India*[481], the Supreme Court, while declaring section 55[482] of the Constitution (Forty-second Amendment) Act, 1976 as unconstitutional and void, held:

> "Since the Constitution had conferred a limited amending power on the Parliament, the Parliament cannot under the exercise of that limited power enlarge that very power into an absolute power. Indeed, a limited amending power is one of the basic features of our Constitution and, therefore, the limitations on that power cannot be destroyed. In other words, Parliament cannot, under article 368, expand its amending power so as to acquire for itself the right to repeal or abrogate the Constitution or to destroy its basic and essential features. The donee of a limited power cannot by the exercise of that power convert the limited power into an unlimited one."
>
> It has also been observed that the claim of any particular feature of the Constitution to be a 'basic' feature would be determined by the court in each case that comes before it. The concept of 'basic structure' has been further developed by the Supreme Court in subsequent cases. More and more new essential features of basic structure have been added in *Waman Rao vs. Union of India*[483], *Bhim Singhi vs. Union of India*[484], *S.P. Gupta vs. President of India*[485],

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477. In *Shankari Prasad Singh Deo vs. Union of India* (A.I.R. 1951 S.C. 458), the Supreme Court unanimously held that the terms of article 368 are perfectly general and empower Parliament to amend the Constitution without any exception whatever.

    In *Sajjan Singh vs. State of Rajasthan* (A.I.R. 1965 S.C. 845), the Supreme Court reiterated the same view by a majority of three judges and held that when article 368 confers on Parliament the right to amend the Constitution, the power in question can be exercised over all the provisions of the Constitution.

478. A.I.R. 1973 S.C. 1461.

479. Also known as *Election Case* A.I.R. 1975 S.C. 2299.

480. In this case came up for challenge article 329A inserted by the Constitution (Thirty-ninth Amendment) Act, 1975. Article 329A put the Prime Minister's and the Lok Sabha Speaker's elections outside the purview of the Judiciary and provided for determination of disputes concerning their elections by an authority to be set up by a legislation. The Supreme Court struck down clauses (4) and (5) of the article 329A which made the existing election law inapplicable to the Prime Minister's and Speaker's elections and declared the pending proceedings in respect of such elections null and void.

481. A.I.R. 1980 S.C. 1789.

482. *Vide* s. 55, Parliament had inserted Cl. (4) and Cl. (5) in article 368 so as to provide that no amendment of the Constitution made under the said article "shall be called in question in any court on any ground" [Cl. (4)] and that "there shall be no limitation whatever on the constituent power of Parliament to amend by way of addition, variation or repeal the provisions of this Constitution under this article" [Cl. (5)].

483. A.I.R. 1981 S.C. 271.

484. A.I.R. 1981 S.C. 234.

485. Also known as *Transfer of Judges Case,* A.I.R. 1982 S.C. 149.

S.P. Sampath Kumar vs. Union of India[486], *P. Sambamurthy vs. State of A.P.*[487], *and in Kihota Hollohan vs. Zachillhu and others*[488]. *L. Chandra Kumar vs. Union of India*[489], *P. V. Narsimha Rao vs. State (CBI/SPE)*[490],

I.R. Coelho vs. State of Tamil Nadu and Others[491], *Raja Ram Pal vs. The Hon'ble Speaker, Lok Sabha and Others*[492].

Unlike many written constitutions which have one uniform procedure for effecting "any change of any kind in any part of the Constitution", the Constitution of India provides for a variety in the amending process — a feature which has been commended for the reason that uniformity in the amending process imposes "quite unnecessary restrictions" upon the amendment of parts of a Constitution[493].

The Constitution provides for three categories of amendments: articles which are open to amendment by simple majority; articles which require special majority for their amendment; and articles amendments to which are required to be passed by special majority and are also to be ratified by Legislatures of not less than one-half of the States[494].

In addition, there are several articles in the Constitution which leave matters subject to laws made by Parliament[495]. By passing ordinary laws Parliament may, in effect, modify or annul the operation of certain provisions of the Constitution, without actually amending them[496]. However, as such laws do not in fact make any change whatsoever in the letter of the Constitution, they cannot be regarded as amendments of the Constitution nor categorised as such.

In India, the procedure for the amendment of the Constitution is distinguished by the following special features:

There is no separate constituent body for the purposes of amendment of the Constitution, constituent power also being vested in Parliament.

Except that Parliament cannot alter the basic structure or framework of the Constitution, there is no other limitation placed upon the amending power.

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486. A.I.R. 1987 S.C. 386.
487. A.I.R. 1987 S.C. 663.
488. (1992) 1 S.C.C. 309.
489. A.I.R. 1997 S.C. 1125.
490. A.I.R. 1998 S.C. 2120.
491. (2007) 2 S.C.C. 1.
492. JT 2007 (2) S.C. 1.
493. K.C. Wheare: *Modern Constitutions,* London, 1951, p. 143.
494. *Shankari Prasad vs. Union of India,* S.C.R. 1952, 89.
495. *C.A. Deb.,* Vol. IX, p. 1660; *see* also Chapter I, *The Authority and Jurisdiction of Parliament*.
496. For instance. Parliament may, under article 11, make any provision relating to citizenship notwithstanding anything in arts. 5 to 10.

    For further examples of similar articles, *see*: Part XXI of the Constitution — "Temporary, Transitional and Special Provisions" whereby "notwithstanding anything in this Constitution" power is given to Parliament to make laws with respect to certain matters included in the State List (Art. 369); Art. 370(1)(d) which empowers the President to modify by order provisions of the Constitution in their application to the State of Jammu and Kashmir: provisos to Arts. 83(2) and 172(1) empower Parliament to extend the life of Lok Sabha and of the State Legislative Assemblies beyond the period of five years during the operation of a proclamation of Emergency; and Art. 171(2) which provides that the composition of Legislative Councils of the States as laid down in clause (3) of the same article will hold good only "until Parliament by law otherwise provides".

The role of the States in regard to amendment of the Constitution is limited. Apart from being associated in the process of constitutional amendment by the ratification procedure laid down in the Constitution, all that is open to them is:

(i) to give their views on a proposed Bill seeking to affect the area, boundaries or name of any State or States[497] which has been referred to them by the President—a reference which does not fetter the power of Parliament to make any further amendments to the Bill[498]; and (ii) to initiate the process for creating or abolishing Legislative Councils in their Legislatures[499].

Bills seeking to amend the Constitution

A Bill seeking to amend the Constitution may be brought forward by a Minister or private member. In the latter case, the Bill, apart from being subject to the normal rules applicable to private members' Bills, has also to be examined and recommended by the Committee on Private Members' Bills and Resolutions before a motion for leave to introduce, it is included in the List of Business[500].

However, there have been instances when orders of Hon'ble Speaker were obtained for inclusion of the Constitution (Amendment) Bills in the List of Business for introduction when the Committee on Private Members' Bills and Resolutions was not constituted.[501]

It is a well-settled convention that Bills seeking to amend the Constitution brought forward by Ministers are introduced in the Lok Sabha[502].

Bills to amend the Constitution introduced by Ministers are distinguished by consecutive numbers irrespective of the year of their introduction. This applies equally to the Bills when they are passed and become Acts of Parliament.

Amendment by Simple Majority

A Bill in respect of any of the following subjects is treated as an ordinary Bill, that is, it is passed by simple majority:

> admission or establishment of new States, formation of new States and alteration of areas, boundaries or names of existing ones[503];

497. Art. 3, Proviso.

498. *See* Ruling by the Speaker in Lok Sabha—*L.S. Deb.,* 7-8-1956, cc. 2426-32.

499. Art. 169(1). *See* also Chapter 1, *supra.*

500. Rule 294(1).

501. For instance, *see* CHAPTER –Parliamentary Committees- Examination of Bills Seeking to amend the Constitution.

502. The Constitution (Forty-first Amendment) Bill, 1975, was, however, introduced in Rajya Sabha. The Bill, as passed by Rajya Sabha, lapsed on the dissolution of the Fifth Lok Sabha on 18-1-1977. The Constitution (Fifty-ninth Amendment) Bill, 1988 was also introduced in Rajya Sabha. The Bill, as passed by Rajya Sabha, was laid on the Table of Lok Sabha on 16-3-1988 and passed by Lok Sabha on 23-3-1988. The Constitution (Seventy-ninth Amendment) Bill, 1992 was introduced in the Rajya Sabha on 22-12-1992.

503. Art. 4. In pursuance of this article, the undermentioned Acts (involving amendment of the Constitution) have been passed by Parliament as ordinary laws:

The Assam (Alteration of Boundaries) Act, 1951; the Andhra State Act, 1953; the Himachal Pradesh and Bilaspur (New State) Act, 1954; the Chandernagore (Merger) Act, 1954; the States Reorganisation Act, 1956; the Bihar and West Bengal (Transfer of Territories) Act, 1956; the Rajasthan and Madhya Pradesh (Transfer of Territories) Act, 1959; the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959; the Bombay Reorganisation Act, 1960; the Acquired Territories (Merger) Act,

creation or abolition of Legislative Councils in the States[504], administration and control of Scheduled Areas and Scheduled Tribes[505]; and

administration of Tribal Areas in the States of Assam, Meghalaya and Mizoram[506].

Though normal legislative procedure holds good so far as this class of amendments is concerned, certain conditions, however, do attach to Bills providing for the formation of new States and for the alteration of areas, boundaries or names of existing States. No Bill of this nature can be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affect the area, boundaries or name of any of the States, the Bill has been referred by the President to the Legislature of that State for expressing its views thereon within such period as may be specified in the reference or within such further period as the President may allow and the period so specified or allowed has expired[507].

Further, Parliament's power to provide by law for the abolition or creation of Legislative Council in the States is exercisable only if the Legislative Assembly of the particular State passes a resolution to that effect by a majority of not less than two-thirds of the members of the Assembly present and voting[508].

Where such a resolution has been passed by Legislative Assembly of a State and Parliament is seized of it, Parliament is not bound blindly to implement the

1960; the State of Nagaland Act, 1962; the Reorganisation of Punjab Act, 1966; the Bihar and Uttar Pradesh (Alteration of Boundaries) Act, 1968; the Andhra Pradesh and Mysore (Transfer of Territory) Act, 1968; the Madras State (Alteration of Name) Act, 1968; the State of Himachal Pradesh Act, 1970; the North-Eastern Areas (Reorganisation) Act, 1971; the Haryana and Uttar Pradesh (Alteration of Boundaries) Act, 1979; the State of Mizoram Act, 1986; the State of Arunachal Pradesh Act, 1986; the Goa, Daman and Diu Reorganisation Act, 1987**;** the Madhya Pradesh Reorganisation Act, 2000; the Uttar Pradesh Reorganisation Act, 2000**;** the Bihar Reorganisation Act, 2000 and the Orissa (Alteration of Name) Act, 2011.

504. Art. 169. The Legislative Assembly of Andhra Pradesh passed a resolution on 5 December 1956, in accordance with this article, recommending the creation of a Legislative Council for that State. The Legislatures of Bombay, Madhya Pradesh, Madras, Mysore, Punjab and Uttar Pradesh passed resolutions for increasing the strength of the Legislative Councils in their Legislatures. To provide for these matters, a Bill was introduced in the Second Session of the Second Lok Sabha which *inter alia* contained provisions (cl. 3) for amendment of article 168. This Bill was passed by Parliament as the Legislative Councils Act, 1957, by a simple majority. Similarly, the West Bengal Legislative Council (Abolition) Bill, 1969, the Punjab Legislative Council (Abolition) Bill, 1969, the Andhra Pradesh Legislative Council (Abolition) Bill, 1985, the Tamil Nadu Legislative Council (Abolition) Bill, 1986 and the Andhra Pradesh Legislative Council Bill, 2005 were brought forward and passed by Parliament in pursuance of a resolution for abolition of the Legislative Councils passed by the respective State Assemblies in accordance with this article. The Tamil Nadu Legislative Council Bill, 2010 was brought forward and passed by Parliament in pursuance of a resolution passed on 12 April 2010 in the Tamil Nadu Assembly for creation of a Legislative Council in the State.

505. Para 7 of the Fifth Schedule to the Constitution. This Schedule was amended by the Fifth Schedule to the Constitution (Amendment) Bill, 1976, which was passed by simple majority.

506. Para 21 of the Sixth Schedule to the Constitution.

The Sixth Schedule was amended by the following Bills which were passed by a simple majority: the Lushai Hills District (Change of Name) Bill, 1954; the Naga Hills — Tuensang Area Bill, 1957; the North-Eastern Areas (Reorganisation) Bill, 1971; the State of Mizoram Bill, 1986; and the Sixth Schedule to the Constitution (Amendment) Bill, 2003, to create an autonomous self- governing body to be known as Bodoland Territorial Council (BTC) within the State of Assam.

507. Article 3.

508. Art. 169 (1).

resolution but has to exercise its discretion and judgment; because the word used in the constitutional provisions is 'may' and not 'shall'. Parliament may not only choose the time for implementation of the resolution but also decide against it. If the Legislative Assembly of the State concerned were to revoke or modify its earlier resolution, before Parliament has approved the proposal made by the Legislative Assembly, it shall be more appropriate for Parliament not to invoke the constitutional provisions in this regard[509].

The resolution passed by a Legislative Assembly does not lapse if the Lok Sabha is dissolved before Lok Sabha has considered it or given its decision thereon.

There is no time-limit within which Parliament is required to consider the resolution which may remain pending indefinitely.

Amendment by Special Majority

Barring the specific articles and schedules of the Constitution which can be amended by simple majority, a Bill seeking to amend any other of the part of Constitution has to be passed in either House of Parliament by a special majority, *i.e.*, a majority of the 'total membership' of that House and by a majority of not less than two-thirds of the members of that House present and voting[510]. Except for the conditions as to the special majority and ratification of certain Bills by the State Legislatures, the Constitution does not lay down any other procedure to be followed with respect to Bills amending the Constitution in their legislative stages through the two Houses of Parliament[511].

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509. Statement of the Minister of Law and Social Welfare. *L.S. Deb.,* 8-12-1970, cc. 216-18. The Andhra Pradesh Legislative Assembly had passed a resolution under article 169 for the abolition of the Legislative Council in that State on 24 March 1983 and sent the same to the Union Government. Government did not bring forward a Bill in Parliament to give effect to the resolution. A question of privilege was referred to the Committee of Privileges of the Legislative Assembly against the then Union Minister of Law, Justice and Company Affairs, who was a member of Lok Sabha, for turning down the resolution passed by the Assembly. On a question of privilege raised by a member in the Lok Sabha, the Speaker observed *inter alia* that article 169 of the Constitution, under which the resolution for abolition of the Legislative Council of Andhra Pradesh was passed by the Legislative Assembly, does not have the effect of imposing any obligation on the Government of India to take action for initiating legislation in Parliament for the purpose. It was exclusively for the Government to choose the time and occasion to initiate legislation on a particular subject and bring it before Parliament.

510. Art. 368.

'Total membership' stipulated in the Constitution has been defined to mean the total number of members comprising the House irrespective of the fact whether there are vacancies or absentees on any account—Rule 159, Explanation.

'Abstentions' in any voting are not taken into consideration in declaring the result on any question. A member who votes "abstention" either through the electronic vote recorder or on a voting slip or any other manner, does so only to indicate his presence in the House and his intention to abstain from voting; he does not record his vote within the meaning of the words "present and voting". The expression "present and voting" refers to those who vote for "ayes" or for "noes"—Min. (RC), 8-9-1970.

511. It has been held by the Supreme Court that "having provided for the constitution of a Parliament and prescribed a certain procedure for the conduct of its ordinary legislative business to be supplemented by rules made by each House (article 118), the makers of the Constitution must be taken to have intended Parliament to follow that procedure so far as it may be applicable, consistently with the express provisions of article 368 when they entrusted to it the power of amending the Constitution"—*Shankari Prasad vs. Union of India,* S.C.R. 1952, 102-03.

Taking a strict interpretation of the constitutional provision, the special majority prescribed therein may be required only for voting at the third reading stage, but by way of caution the requirement for special majority has been provided for in the rules in respect of all the effective stages of the Bill, *e.g.*, motion that the Bill be taken into consideration; motion that the Bill as reported by the Select or Joint Committee be taken into consideration; for passing of clauses and schedules to the Bill; and the motion that the Bill be passed. Thus, motions that the Bill be circulated for eliciting public opinion thereon or that the Bill be referred to a Select or Joint Committee are passed by simple majority only[512].

Whenever a motion has to be carried by a special majority, voting is always by division[513]. The Speaker, while announcing the result of the voting, makes a special mention of the fact that the motion has been earned by a special majority[514].

Each clause or schedule is put to the vote of the House separately and earned by a special majority[515].

512. Rule 157. In reply to reference made in May 1951 by Speaker Mavalankar on the interpretation of article 368, the Attorney-General gave his opinion as follows:

"The expression 'when the Bill is passed in each House' has reference to the passing of the Biil at the final stage. The majority insisted upon by article 368 is, therefore, applicable only to the voting at the final stage. It is, however, better to err on the safer side and take stricter view insisting on the requisite majority at all stages of the passage of the Bill. The expression 'by majority of the total membership of that House' means that it is not actual number of members existing as at a given point of time which has to be considered but the membership meaning the totality of the members that should exist whether they in fact do exist or not.

This aspect is emphasised by the use of the words 'the total' and also by omission of the qualifying words 'present and voting'."

Before the rule was amended to its present form in 1956, a special majority was insisted upon in the case of motions for circulation of the Bill for eliciting opinion and for reference of the Bill to Select or Joint Committee as well. Special majority at these stages was dispensed with as (i) in the case of the motion for circulation, the House was not committed to the principle of the Bill by such circulation, and (ii) in the case of the motion for reference of the Bill to Select or Joint Committee, the report of the Select or Joint Committee would in any case be subsequently considered by the House, and further, as a convention the Constitution Amendment Bills are always referred to Select or Joint Commiitee—*Min.* (RC), 17-4-1956.

513. In connection with voting on the clauses of the Constitution (Forty-fourth Amendment) Bill, 1976, the House agreed with the suggestion made by the Minister of Parliamentary Affairs that on each day the clauses disposed of might be put to vote between 17.30 and 18.00 hours—*L.S. Deb.,* 28-10-1976, cc. 64-65.

514. Rule 158.

515. Rule 155. The reason behind this rule is that "in the case of omnibus Bills involving amendments of articles on different aspects or subjects of the Constitution, members might be divided on the different provisions on different lines. In such a case, if voting by a special majority was taken only at the last stage, the position of the members would become anomalous and their vote would not reflect their true views on the different provisions". Min. (RC-1LS), 17-4-1956, para 7.

A matter was raised in the House regarding the *vires* of Rules of 155, 157 and 158 on the contention that according to article 368 special majority was required only at the stage of *passing.* The matter was referred to the Rules Committee which came to the conclusion that in accordance with the correct legal interpretation of articles 100(1) and 368, special majority for Bills seeking to amend the Constitution should be required only at the final stage of passing the Bill when the motion in respect of such a Bill is "that the Bill, or the Bill as amended, as the case may be, be passed". However, the Committee warned that in the case of a Constitution Amendment Bill which included more than one matter, it might be difficult for members opposed to certain parts of the Bill to vote truly and correctly at the final stage, which facility they have if special majority is on clauses separately. The Committee suggested that in case voting by special majority was to be taken only at the final stage, the Bill should be confined to one matter only.—5R (RC-4LS), laid on the table on 9 December 1970. However, the report lapsed with the dissolution of the Lok Sabha on 23 December 1970, and no effect could be given to its recommendations.

In December, 1959, clause 2 of the Constitution (Eighth Amendment) Bill, 1959, when put to the vote of the House, failed to secure the special majority. However, clause 3 was adopted by the special majority, as also the motion 'that the Bill with the omission of clause 2 be passed'[516].

The Speaker may, with the concurrence of the House, put any group of clauses or schedules together to the vote of the House.

On 23 September 1954, before the resumption of discussion on the Constitution (Third Amendment) Bill 1954, the Speaker made the following observation regarding the procedure for voting on the clauses of the Bill:

> Though there is more than one clause, practically the matter is one and I propose to put before the House all the clauses, the Enacting Formula, and the Title at the same time, so that we shall be saving time on divisions.

On the motion for adoption of clauses 1, 2, the Enacting Formula and the Long Title, the House divided. The motion was carried by special majority.

On 6 September 1956, during the clause-by-clause consideration of the Constitution (Ninth Amendment) Bill, groups of clauses, namely, clauses 17, 19, 21, 22, 23 and the Schedule, as amended, and clauses to which no amendments had been moved, namely, clauses 18, 20 and 26 to 29, were put together to the vote of the House and adopted by the special majority prescribed, and the result of the division was made applicable separately to individual clauses and the schedule.

On 23 July 1975, clauses 2 to 8 of the Constitution (Thirty-ninth Amendment) Bill, 1975, were put to vote together and adopted by the special majority prescribed, and the result of division was made applicable separately to individual clauses.

On 1 November 1976, the House agreed that in view of the very large number of divisions involved, the remaining clauses of the Constitution (Forty-fourth Amendment) Bill might be put together to vote, unless members wanted any particular clause or clauses to be put separately. Accordingly, (i) clauses 13 to 16; (ii) 18 to 20, clause 21 as amended, clauses 22 to 28, clauses 29 and 30 as amended, clauses 31 to 33, clause 34 as amended, clauses 35 to 41, clause 42 as amended; and (iii) clauses 47 to 50 and clauses 51 and 52 as amended, were put to the vote of the House in three separate groups and adopted by the special majority prescribed and the result of the division was made applicable separately to individual clauses[517].

However, the Short Title[518], Enacting Formula and the Long Title of the Bill as also amendments to clauses or schedules are adopted by a simple majority[519].

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516. *L.S. Deb.,* 1-12-1959, cc. 2759-69.

517. *L.S. Deb.,* 1-11-1976, cc. 199-384.

518. Special majority is required for adopting clause 1 if, in addition to Short Title, it also contains, the provision regarding commencement of the Act.—Min. (R.C.), 28-11-1955; *L.S. Deb.,* 2-9-1970, cc. 221-304; 4-9-1974, cc. 59-107.

519. Rules 155 (Third Proviso) and 156.

Constitution Amendment Bills passed by one House and returned by the other House with amendments

During Sixth Lok Sabha, the Constitution (Forty-fifth Amendment) Bill, 1978 was passed by Lok Sabha on 23 August 1978 and transmitted to Rajya Sabha on the same day. The Bill, as passed by Lok Sabha, was passed by Rajya Sabha with six amendments on 31 August 1978 and returned to Lok Sabha on 12 September 1978.

A reference was made to the Ministry of Law regarding the procedure which might be followed for disposal of amendments made by Rajya Sabha in the Bill. On receipt of opinion of the Ministry of Law, it was decided to follow the following procedure:

(i) motion that the amendments made by Rajya Sabha be taken into consideration to be moved by the Minister shall require special majority for adoption;

(ii) after adoption of motion at (i), amendments made by Rajya Sabha to be proposed by the Chair shall require special majority for agreeing to by Lok Sabha; and

(iii) after amendments made by Rajya Sabha are agreed to by Lok Sabha, the Minister shall move that the Bill, as amended by amendments agreed to, be passed, which shall also require special majority for adoption.

The Bill was enacted as the Constitution (Forty-fourth Amendment) Act, 1978. Similar procedure was followed while agreeing to the amendments in respect of other Constitution Amendment Bills[520].

Amendment of the Constitution by Special Majority and Ratification by States

If an amendment of the Constitution seeks to make any change in articles relating to—

the election of the President[521]; or

the extent of the executive power of the Union and the States[522];

or

the Supreme Court and the High Courts[523]; or

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520. (i) The Constitution (Seventy-sixth Amendment) Bill, 1992 was passed by Rajya Sabha on 29 April 1992 as the Constitution (Seventy-first Amendment) Bill, 1992. Lok Sabha returned the Bill with amendments on 7 May 1992, which were agreed to by Rajya Sabha on 12 May 1992. The Bill was enacted as the Constitution (Seventieth Amendment) Act, 1992.

(ii) The Constitution (Ninety-third Amendment) Bill, 2001 was passed by Lok Sabha on 28 November 2001 and returned by Rajya Sabha with amendments on 14 May 2002, which were agreed to by Lok Sabha on 27 November 2002. The Bill was enacted as the Constitution (Eighty-sixth Amendment) Act, 2002.

(iii) The Constitution (One Hundred and Thirteenth Amendment) Bill, 2010 was passed by Lok Sabha on 9 November 2010 and returned by Rajya Sabha with amendments on 24.3.2011, which were agreed to by Lok Sabha on 6 September 2011. The Bill was enacted as the Constitution (Ninety-sixth Amendment) Act, 2011.

(iv) The Constitution (One Hundred Eighteenth Amendment) Bill, 2012 was passed by Lok Sabha on 18 December 2012 and returned by Rajya Sabha with amendments on 19.12.2012, which were agreed to by Lok Sabha on 20 December 2012. The Bill was enacted as the Constitution (Ninety-eighth Amendment) Act, 2012.

(v) *See* footnote 391.

521. Arts. 54 and 55.

522. Arts. 73 and 162.

523. Art. 241, Chapter IV of Part V and Chapter V of Part VI of the Constitution.

distribution of legislative powers between the Union and the States[524];

or

representation of States in Parliament; or

the very procedure for amendment as specified in the Constitution[525];

the amendment, after it is passed by the special majority, has also to be ratified by Legislatures of not less than one-half of the States by resolutions to that effect passed by those Legislatures before the Bill making provision for such an amendment is presented to the President for assent[526].

The Constitution does not contemplate any time-limit within which the States must signify their ratification or disapproval of the amendments referred to them[527].

The method to be adopted by the Lok Sabha Secretariat in connection with ratification of Constitution Amendment Bills by State Legislatures was examined by the Rules Committee of the House which was of the opinion that the procedure of sending direct communication from the Secretariat to the Secretariats of Legislatures of States would be preferable to the procedure of getting the amendments ratified through the Ministry of Law[528], especially "in a contingency where there was a difference of

524. Chapter I of Part XI and Seventh Schedule to the Constitution.

525. Art. 368.

526. When a Bill seeking to amend the Constitution is before a State Legislature for ratification, "there is no scope for moving any amendment to the Bill and no such amendment (is) allowed. Similarly, no amendment to the statutory motion as such is admissible, because the only thing before the House is whether the motion for ratification should or should not be accepted". —Ruling of the Chairman of the Maharashtra Legislative Council (*J.P.I.,* April 1970, pp. 23-8-39).

The resolution of a State Legislature ratifying a Bill for amendment of the Constitution does not require the assent of the Governor.—*Jatin Chakrovarty vs. Mr. Justice Himansu Kumar Bose,* A.I.R. 1964. Calcutta 500.

527. As regards the corresponding provision in the U.S. Constitution, article V,which also does not prescribe any time-limit for ratification, the U.S. Supreme Court has held that the ratification must be within a reasonable time after the proposal (*Dillon vs. Gloss,* 65 Law Ed. 9945), but that the Court has no power to determine what is a reasonable time (*Coleman vs. Miller,* 83 Law Ed. 1385).

528. Except in case of the Constitution (Forty-fifth Amendment) Bill, 1978, and the Constitution (Ninety-Fifth Amendment) Act, 2009, Rajya Sabha has so far been in last possession of Bills to amend the Constitution. Prior to the Constitution (Twenty-fourth Amendment) Bill, 1971, after such a Bill was passed by Rajya Sabha, it was sent to the Ministry of Law for taking necessary steps to get it ratified by the State Legislatures as required under article 368. The Ministry of Law informed the Rajya Sabha Secretariat when the required number of State Legislatures had ratified the Bill, enclosing copies of the letters received from the Governments of these States indicating that the necessary resolutions had been passed by the respective Legislatures. Thereafter, the Bill, duly endorsed by the Chairman, Rajya Sabha, was sent to the President for his assent, through the Secretary, Ministry of Law. In the case of the Constitution (Twenty-fourth Amendment) Bill, 1971 and subsequent Bills, the necessary ratification was obtained by the Rajya Sabha Secretariat direct.

In case of the Constitution (Forty-fifth) Amendment Bill, 1978, necessary ratification was obtained by the Lok Sabha Secretariat. The Bill was introduced in and passed by Lok Sabha. The Rajya Sabha, however, returned the Bill after six amendments. These amendments were considered and agreed to by the Lok Sabha on 7 December 1978. While forwarding the Bill to the State Legislatures for ratification, the following form of resolution was also communicated to them;

'That this House ratifies the amendments to the Constitution of India falling within the purview of the proviso to clause (2) of article 368 thereof, proposed to be made by the Constitution (45th Amendment) Bill, 1978, as passed by the two Houses of Parliament and the Short Title of which has been changed into "The Constitution (44th Amendment) Bill, 1978".'

opinion with the States in the ratification of amendments and where, as a result of resolutions received from the States, they had to be reconsidered by Parliament and an agreement reached through messages between Parliament and the State Legislatures. It would also be a more suitable procedure in case of a Bill introduced by a private member and passed by both the Houses in spite of the opposition by the Government and where Government might not be interested in pushing the Bill through". The Committee came to the conclusion that "ratification of amendments to the Constitution by the States, where required, should be obtained by direct communication between the House and the Secretariats of the State Legislatures" and desired that "this procedure which was more appropriate should be followed by Lok Sabha[529]".

Moreover, for the purposes of proviso to clause (2) of Article 368, Union Territories with legislatures are also to be included while counting "one-half of the States"[530].

After intimation regarding ratification of the Bill had been received from 13 States out of the then total of 22 States (more than one-half of the State Legislatures), assented copies of the Bill were submitted to the President. Two photostat copies each of the letters received from the State Legislatures ratifying the Bill were also sent to the Ministry of Law alongwith assented copies of the Bill.

529. Min. (RC-*ILS*), 18-3-1957.

In the case of the Constitution (One Hundred and Ninth Amendment) Act, 2009 [enacted as the Constitution (Ninety-fifth Amendment) Act, 2009] also, necessary ratification was obtained by Lok Sabha Secretariat through direct communication with the States.

530. In case of the Constitution (One Hundred and Twenty Second Amendment) Bill, 2014, opinion of the Ministry of Law and Justice was sought as to whether the ratification by the Legislative Assembly of NCT of Delhi *vide* its resolution dated 24.8.2016, may be counted in reckoning "one-half of the States" as laid down in the proviso to clause (2) of Article 368.

The Ministry opined that since there is no express or implied exclusion of Union Territories under proviso to clause 2 of Article 368 of the Constitution, there appears to be no legal objection to consider the resolution passed by the Legislative Assembly of National Capital Territory of Delhi.

CHAPTER 23

Ordinances and Proclamations by the President

Ordinances

The Ordinance-making power of the President has been discussed in the Lok Sabha on a number of occasions. Members have objected to the frequent resort to this power by the Government, particularly on dates too close to a session of Parliament, and expressed the view that Ordinances should be promulgated only when it is absolutely necessary. Strong objection has been taken to the issue of fiscal Ordinances[1] on the ground that no impost partaking of the nature of a tax can be levied by the Government without coming before the House and taking its approval. Anyway, the test of emergency in the case of a fiscal Ordinance, it has been said, should be much stricter than in the case of other Ordinances.

The Speaker has held that the promulgation of an Ordinance depends on the satisfaction of the President that immediate action is called for. While advising the President of the need for immediate action, Government cannot share the responsibility with anyone; the power of Parliament to look into the desirability or otherwise of the Ordinance is only *ex post facto*[2].

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1. Instances when Ordinances were promulgated by the President for the purpose of levying taxes or duties include the Dhoties (Additional Excise Duty) Ordinance, 1953; the Uttar Pradesh Terminal Tax on Railway Passengers Ordinance, 1954; the Uttar Pradesh Terminal Tax on Railway Passengers (Amendment) Ordinance, 1954; the Madras Terminal Tax on Railway Passengers Ordinance, 1956; the Mineral Oils (Additional Duties of Excise and Customs) Ordinance, 1958; the Sugar (Special Excise Duty) Ordinance, 1959; the L.J.P. Sugarcane Cess (Validation) Ordinance, 1961; the Mineral Products (Additional Duties of Excise and Customs) Amendment Ordinance, 1966; the Stamp and Excise Duties (Amendment) Ordinance, 1971; the Railway Passenger Fares Ordinance, 1971; the Tax on Postal Articles Ordinance, 1971; the Inland Air Travel Tax Ordinance, 1971; the Income-tax (Amendment) Ordinance, 1972; the Central Excise and Salt (Amendment) Ordinance, 1973; the Income-tax (Amendment) Ordinance, 1975; the Additional Duties of Excise (Textiles and Textile Articles) Ordinance, 1978; the Punjab Excise (Delhi Amendment) Ordinance, 1979; the Central Excise and Salt and Additional Duties of Excise (Amendment) Ordinance, 1979; the Compulsory Deposit Scheme (Income-tax payers) Amendment Ordinance, 1981; the Income Tax (Amendment) Ordinance, 1981; the Customs Tariff (Amendments) Ordinance, 1981; the Central Excise Laws (Amendment and Validation) Ordinance, 1982; the Finance (Amendment) Ordinance, 1987; the Union Duties of Excise (Distribution) Ordinance, 1995, and the Additional Duties of Excise (Goods of Special Importance) Amendment Ordinance, 1995. For details, also *see* Presidential Ordinances, Lok Sabha Secretariat, New Delhi, 2015.

2. *L.S. Deb.,* 16-11-1953, cc. 34-35; c. 4925; 14-5-1957, cc. 223-26; c. 2932. 19-12-1953, cc. 2578-82; 16-2-1954, cc. 84-136;13-8-1958, cc. 726-30; 18-8-1958, cc. 1380-87; 17-4-1954, 16-8-1958.

   Referring to the issue of Ordinances as far back as in 1947, Speaker Mavalankar observed at the Presiding Officers Conference:

   "It was obviously a wrong convention for the Executive Government to promulgate Ordinances merely because of shortage of time. That power was to be exercised only when there was an emergency and the Legislature could not meet. It was not a desirable precedent to promulgate Ordinances for want of time, as inconvenient legislation might also be promulgated in that manner."

   For Speaker Mavalankar's observations on the floor of the House regarding promulgation of Ordinances, *see P. Deb.* (I), 22-2-1952, cc. 280-81 and *L.S. Deb.* (II), 19-12-1953, cc. 2580-82.

   A suggestion was made by some members to set up a Parliamentary Committee which might be consulted before an Ordinance was promulgated or which might review an Ordinance already issued—*L.S. Deb.,* 16-2-1954, cc. 12-32. The suggestion was considered by the Rules Committee but the question of appointment of the Committee was subsequently postponed—Min. (RC-1*LS*), 17-12-1953 and 21-9-1954.

The issue of promulgation of Ordinances by the President had been the subject matter of correspondence between Speaker Mavalankar and Prime Minister Nehru.

Writing to the Minister of Parliamentary Affairs on 25 November 1950, Speaker Mavalankar said:

> The procedure of the promulgation of Ordinances is inherently undemocratic. Whether an Ordinance is justifiable or not, the issue of a large number of Ordinances has psychologically, a bad effect. The people carry an impression that Government is carried on by Ordinances. The House carries a sense of being ignored, and the Central Secretariat perhaps gets into the habit of slackness, which necessitates Ordinances, and an impression is created that it is desired to commit the House to a particular legislation as the House has no alternative but to put its seal on matters that have been legislated upon by Ordinances. Such a state of things is not conducive to the development of the best parliamentary traditions.

In reply to the above letter, Prime Minister Jawaharlal Nehru wrote on 13 December 1950:

> I think all of my colleagues will agree with you that the issue of Ordinances is normally not desirable and should be avoided except on special and urgent occasions. As to when such an occasion may or may not arise, it is a matter of judgment. Not only the Government of a State, but private members of Parliament are continually urging that new legislation should be passed. Parliamentary procedure is sufficient to give the fullest opportunities for consideration and debate and to check errors and mistakes creeping in. That is obviously desirable. But, all this involves considerable delay. The result is that important legislation is held up. Every Parliament in the world has to face this difficult problem and various proposals have been made to overcome it.

Again, in his letter of 17 July 1954 to the Prime Minister, Speaker Mavalankar stated:

> The issue of an Ordinance is undemocratic and cannot be justified except in cases of extreme urgency or emergency.
>
> ...We, as first Lok Sabha, carry a responsibility of laying down traditions. It is not a question of present personnel in the Government but a question of precedents; and if this Ordinance issuing is not limited by convention only to extreme and very urgent cases, the result may be that, in future, the Government may go on issuing Ordinances giving Lok Sabha no option but to rubber-stamp the Ordinances.
>
> I may invite your attention to one more aspect, namely, the financial aspect involved in the amendment to the Indian Income-tax Act, 1922. It is not directly a taxation measure, but it is intended for the purpose of collection of taxes. Indirectly, it affects the finances and it would be a wrong precedent to have an Ordinance for such a purpose.

The Prime Minister, in his reply on 19 July 1954, wrote:

> We have been reluctant to issue Ordinances and it is only when we have felt compelled to do so by circumstances that we have issued them. You will appreciate that it is the responsibility of the Government to decide what steps should be taken in a particular contingency. The Constitution itself has provided for the issue of Ordinances where such necessity arises, and that discretion has to be exercised by Government.
>
> We have issued in the past a very limited number of Ordinances and we have always placed before Parliament the reasons for having issued each one of them.
>
> I am myself unable to see why this should be considered undemocratic. Of course, this power, like any other power, may be abused and Parliament will be the ultimate judge as to whether the use of this power has been right or wrong.

Successive Speakers also did not fail to criticise the Government when occasions warranted for its frequent and large-scale resort to executive legislation by Ordinances.

On 15 November 1971, when the Deputy Minister of Parliamentary Affairs sought to lay on the Table copies of the thirteen Ordinances issued by the President during the preceding inter-session period, an objection was raised that never before in the history of Parliament, so many Ordinances were issued during any particular inter-session period. Thereupon, the Speaker observed:

> I agree with you that so many Ordinances should not have been issued… I personally think it is not a light matter to be ignored. Certain observations have been made by my predecessor Shri Mavalankar based on very sound judgment. I would invite the attention of the Government to see that there is real emergency or urgency, justifying the issue of an Ordinance[3].

When some members again raised the matter on 22 November 1971, particularly in regard to the Ordinances which had imposed certain levies, the Speaker observed:

> If you think that there should be some distinction between financial and non-financial, tax and non-tax Ordinances, there is nothing in my knowledge on which I can base my ruling. All I can say is that I do not approve of an Ordinance just at the time when the House is about to meet[4].

Again, on 13 November 1973 the Speaker observed:

> Ordinances by themselves are not very welcome, specially so when the date (for session of the House) is very clear. It is not only clear but is also near. In such cases, unless there are very special reasons, Ordinances should be avoided. This is the ruling which I gave on 22 November 1971—and the same was given by my predecessors[5].

On objection being raised regarding promulgation of Ordinances on the eve of Parliament Session, the Speaker, on 17 November 1980 reiterated:

> My distinguished predecessors have made observations in regard to these matters from time to time in the past. They did not approve of the issue of Ordinances on the eve of Parliament Session. I agree with them[6].

Promulgation of Ordinances

If at any time, except when both Houses of Parliament are in session[7], the President

3. *L.S. Deb.,* 16-11-1971, cc. 232-34.
4. *Ibid.,* 22-11-1971, cc. 275-76.
5. *Ibid.,* 13-11-1973. c. 254; also *see* 7-12-1973, cc. 221-37; 9-7-1979, cc. 283-91.
6. *Ibid.,* 17-11-1980, c. 387.
7. Instances of Ordinances issued when the Lok Sabha was in session but the Rajya Sabha was not in session and *no Bill on the subject matter of Ordinance was pending* in either House of Parliament—

   The Calcutta Tramways (Taking over of Management) Amendment Ordinance, 1971, promulgated by the President on 17 July 1971, the Coal Mines (Nationalisation) Amendment Ordinance, 1976 promulgated by the President on 29 April 1976; the National Security (Amendment) Ordinance, 1984, promulgated by the President on 5 April 1984; the Tea Companies (Acquisition and Transfer of Sick Tea Units) Ordinance, 1985 promulgated by the President on 8 April 1985; and the Swadeshi Cotton Mills Company Limited (Acquisition and Transfer of Undertakings) Ordinance, 1986, promulgated by the President on 19 April 1986.

   Instances of Ordinances issued when the Lok Sabha was in session but the Rajya Sabha was not in session and *Bill on the subject matter was pending* before Parliament—

   The Travancore-Cochin Appropriation (Vote on Account) Ordinance, 1956 promulgated by the President on 31 March 1956 (Bill passed by the Lok Sabha on 29 March 1956); the Essential Services Maintenance Ordinance, 1957 promulgated by the President on 7 August 1957 (Bill passed by the Lok Sabha on 6 August 1957); and the Armed Forces (Special Powers) Continuance Ordinance, 1964 promulgated by the President on 2 April 1964 (Bill introduced in the Lok Sabha on 25 March 1964).

   Instances of Ordinances issued after the Rajya Sabha was prorogued and the Lok Sabha adjourned *sine die* but had not been prorogued—

   The Terrorists and Disruptive Activities (Prevention) Ordinance, 1987 promulgated by the President on 23 May 1987; the National Security (Amendment) Ordinance, 1987 promulgated by the President

is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require[8].

An Ordinance so promulgated by the President has the same force and effect as an Act of Parliament, but every such Ordinance has to be laid before both the Houses of Parliament and it ceases to operate at the expiration of six weeks from the reassembly of Parliament, or, if before the expiration of that period resolutions disapproving it are passed by both Houses, then, upon the passing of the second of those resolutions. It can also be withdrawn at any time by the President[9].

Since an Ordinance has the force of law, the validity of the Ordinance cannot be decided by a ruling of the Speaker[10].

The Ordinance making power of the President arises as soon as either House is prorogued. If an Ordinance is promulgated before the order of prorogation is made and notified, the Ordinance is void[11].The action of the President in proroguing Parliament simply for the purpose of making an Ordinance cannot be challenged[12] and the courts have no power to question the jurisdiction either as to the occasion or purpose or the subject matter of an Ordinance even if the Ordinance is not made in good faith, except on the justiciable ground of exceeding the legislative powers conferred on the Union by the Constitution[13].

The President may issue an Ordinance to enforce the provisions of a Bill introduced in, and pending before, a House or one of its Committees[14], or to enforce the provisions

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on 9 June 1987; and the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Ordinance, 1987, promulgated by the President on 2 July 1987.

8. Art. 123(1), Between 1950 and June 2023, in all 755 Ordinances [including 2 Ordinances issued by the President under article 213(1) of the Constitution as he had then assumed to himself the power of the Governor of the State of Punjab] were necessitated.

9. Art. 123(2), The Essential Services Maintenance Ordinance, 1957 promulgated by the President on 7th August 1957 was revoked by the President on 12 August 1957; the Delhi Administration (Amendment) Ordinance, 1977 promulgated by the President on 7 February 1977, was withdrawn by the Vice-President acting as President on 21 April 1977, and the Ram Janambhoomi-Babri Masjid (Acquisition of Area) Ordinance, 1990 promulgated by the President on 19 October 1990 was withdrawn by the Ram Janambhoomi-Babri Masjid (Acquisition of Area) Withdrawal Ordinance, 1990 promulgated on 23 October 1990.

10. *State of Punjab v. Satya Pal Dang,* A.I.R. 1969 S.C. 903.

11. *Bidya Chaudhary v. Province of Bihar,* A.I.R., 1950, Patna 19.

12. *In re. Veerabhadra,* A.I.R. 1950, Madras 253. For corresponding action of a Governor, *see Viswanath Aggarwal v. State of Uttar Pradesh,* A.I.R. 1956, Allahabad 557, *Prem Narain Tandon Vs. State of Uttar Pradesh,* A.I.R. 1960, Allahabad 205.

13. *Jnan Prasanna v. West Bengal,* (1948), 53 C.W.N. 27(70) (F.B.); *see* also art. 123(3). The Allahabad High Court in *Babu Ram Sharma Vs. State* (1961 A.L.J. 837) had, as early as in 1961, held:

    The satisfaction of the President regarding the existence of circumstances that render it necessary for him to take immediate action is a subjective matter which cannot be probed or questioned in a court of law; and the precise nature of the action that he may decide to take in such circumstances is also left to his discretion and cannot be challenged.

    As regards the Ordinance making power of the Governor, the Supreme Court in *M/s. S.K. G. (P) Ltd. v. State of Bihar* (A.I.R. 1974 S.C. 1533) observed:

    It is... well-settled that the necessity of immediate action and of promulgating an Ordinance is a matter purely for the subjective satisfaction of the Governor. He is the sole judge as to the existence of the circumstances necessitating the making of an Ordinance. His satisfaction is not a justiciable matter. It cannot be questioned on ground of error of judgement or otherwise in court.

14. Instances of Ordinances issued in terms of Bill introduced and pending in the Lok Sabha or a Committee of the House—

of a Bill already passed by one House but not yet passed by the other House[15] or on an entirely new matter to be replaced subsequently by a Bill to be brought before the House or for a purpose not requiring permanent legislation[16].

Bill Seeking to Replace Ordinance

Ordinances promulgated by the President are required to be laid before both Houses of Parliament[17]. Normally, Ordinances are laid on the first day of the sitting of the House held after the promulgation of the Ordinances on which formal business is transacted. In the case of an Ordinance containing the provisions of a Bill pending before the House with or without modifications, a statement explaining the reasons for promulgation of the Ordinance is also laid along with the Ordinance[18] and copies thereof are circulated to members.

Ordinarily, an Ordinance promulgated in respect of a State under President's rule is also to be laid on the Table at the first sitting of the House held after the issue of the Proclamation but any delay in doing so cannot stand in the way of its being laid on the Table later. However, the reason for the delay in laying the Ordinance has to be explained to the House[19]. Ordinances promulgated by the Governor of a State under President's rule are also laid on the Table in the same manner[20]. An Ordinance promulgated by

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The Sugar Crisis Enquiring Authority Ordinance, 1950; the Press (Objectionable Matters) Amendment Ordinance, 1954; the Railway (Employment of Members of Armed Forces) Ordinance, 1965; the Criminal Law Amendment (Amendment) Ordinance, 1966; the Requisitioning and Acquistion of Immovable Property (Amendment) Ordinance, 1968; the Indian Patents and Designs (Amendment) Ordinance, 1968; the Customs (Amendment) Ordinance, 1969; the Indian Railways (Amendment) Ordinance, 1969; the National Capital Region Planning Board Ordinance, 1984; the Income Tax (Amendment), Ordinance, 1997; the Essential Commodities (Special Provisions) Ordinance, 1997; the National Capital Territory of Delhi Laws (Special Provisions) Second Ordinance, 2007; the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Ordinance, 2009; the Criminal Law (Amendment) Ordinance, 2013; and the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019.

Instances of Ordinances issued in terms of Bill introduced and pending in the Rajya Sabha or a Committee of the House—

The Public Premises (Eviction of Unauthorised Occupants) Amendment Ordinance, 1968; the Essential Commodities (Amendment) Continuance Ordinance, 1969; the Calcutta Port (Amendment) Ordinance, 1970; the Delhi University (Amendment), Ordinance, 1970; the Cable Television Networks (Regulation) Ordinance, 1994; the Employees Provident Funds and Miscellaneous Provisions (Amendment) Ordinance, 1997; the Payment of Gratuity (Amendment) Ordinance, 1997; and the National Commission for Minority Educational Institutions (Amendment) Ordinance, 2006—also *see fn. 7, supra.*

15. Instances of Ordinances issued in terms of Bill passed by one House but not yet passed by the other House—

    The Merchant Shipping (Amendment) Ordinance, 1966; the Arms (Amendment) Ordinance, 1983; the Bharat Petroleum Corporation Limited (Determination of Conditions of Services of Employees) Ordinance, 1988; the National Highways (Amendment) Ordinance, 1992; and the Muslim Women (Protection of Rights on Marriage) Ordinance, 2019—also *see fn. 7, supra.*

16. Certain examples are—The Police (Incitement to Disaffection) (Gujarat Second Amendment) Ordinance, 1980; The Essential Services Maintenance (Maharashtra) Ordinance, 1980; the Gujarat Essential Services Maintenance (Amendment) Ordinance, 1980; the Essential Services Maintenance (Orissa) Ordinance, 1980; the Representation of the People (Amendment) Ordinance, 1985; and the State of Mizoram (Amendment) Ordinance, 1986. For other instances, *see* 'Presidential Ordinances' by Lok Sabha Secretariat, New Delhi, 2015.

17. Art. 123(2).

18. Rule 71(2). *L.S. Deb.,* 21-8-1962, cc. 3206-07.

19. *L.S. Deb.,* 23-8-1966, cc. 6437-49.

20. For example, the Punjab Panchayat Samities and Zila Parishads (Temporary Supersession) Amendment Ordinance, 1983 and the Gangtok Municipal Corporation (Amendment) Ordinance, 1984 were such Ordinances.

the Governor of a State before issue of the Proclamation by the President in relation to that State can be laid before the House in case it could not be laid before the State Legislature[21].

If the Government wants to continue the provisions of an Ordinance for a longer period or to make it permanent, a Bill to replace it is brought forward. Where in respect of a State under President's rule, Parliament has delegated the authority to the President to make Acts for the State, the question of replacing the Ordinances issued by the President or the Governor in relation to the State by Bills introduced in Parliament does not arise. The Ordinances are replaced by President's Acts[22].

Whenever a Bill seeking to replace an Ordinance with or without modification is introduced in the House, a statement explaining the circumstances which had necessitated immediate legislation by Ordinance is laid on the Table along with the Bill[23] and copies of the statement are circulated to members. It is not obligatory under the Rules of the House to lay a statement explaining the reason for promulgation of an Ordinance, if a Bill replacing the Ordinance is introduced in the Rajya Sabha. If the Minister seeks to lay the statement, it can be laid as an ordinary paper. Whenever a Bill[24] seeking to replace an Ordinance with modifications of the provisions of the Ordinance is introduced in the House, the modifications contained in the Bill are required to be explained in a memorandum appended to the Bill[25]. If two or more Ordinances relating to allied matters are intended to be replaced, a single Bill can be introduced[26].

It has been held that refusal of leave to introduce a Bill seeking to replace an Ordinance does not amount to disapproving the Ordinance and the Ordinance does not cease to operate[27].

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21. *L.S. Deb.,* 23-8-1966, cc. 6437-49.

22. *See,* for example, the Punjab Requisitioning of Immovable Property (Amendment and Validation) Ordinance, 1951; the East Punjab Public Safety (Amendment) Ordinance, 1951; the Code of Criminal Procedure (Assam) Amendment Ordinance, 1980; the Uttar Pradesh Co-operative Societies (Amendment) Ordinance, 1993; the Himachal Pradesh Electricity (Duty) Amendment Ordinance, 1993; the Madhya Pradesh Lottery Pratibandh Ordinance, 1993.

23. Rule 71(1); *L.S. Deb.,* 21-8-1962, cc. 3206-07.

24. *See,* for example, the Public Premises (Eviction of Unauthorised Occupants) Amendment Ordinance, 1968—*L.S. Deb.,* 22-7-1968; the State of Nagaland (Amendment) Ordinance, 1981—*L.S. Deb.,* 27-8-1981: the Punjab Panchayat Samities and Zila Parishads (Temporary Supersession) Amendment Ordinance, 1983—*L.S. Deb.,* 6-12-1983; the General Insurance Business (Nationalisation) Amendment Ordinance, 1984; the National Capital Region Planning Board Ordinance, 1984; the Sugar Undertakings (Taking Over of Management) Amendment Ordinance, 1984; the Gangtok Municipal Corporation (Amendment) Ordinance, 1984—*L.S. Deb.,* 18-1-1985; the Bhopal Gas Leak Disaster (Processing of Claims) Ordinance, 1985—*L.S. Deb.,* 22-3-1985; and the Requisitioning and Acquisition of Immovable Property (Amendment) Ordinance, I985—*L.S. Deb.,* 25-3-1985.

25. Certain recent examples are—The Foreign Contribution (Regulation) Amendment Bill, 1985; the Bhopal Gas Leak Disaster (Processing of Claims) Bill, 1985, as introduced in the Rajya Sabha; the Motor Vehicles (Amendment) Bill, 1986, as introduced in the Rajya Sabha; the Administrative Tribunals (Amendment) Bill, 1986, as introduced in the Rajya Sabha; the Coal Mines Nationalisation Laws (Amendment) Bill, 1986; the Terrorists and Disruptive Activities (Prevention) Bill, 1987; the Finance (Amendment) Bill, 1987; the Acquisition of Certain Area at Ayodhya Bill, 1993; the New Delhi Municipal Council Bill, 1994; the Patents (Amendment) Bill, 1995; the Criminal Law (Amendment) Bill, 2013; and the Insolvency and Bankruptcy Code (Second Amendment) Bill, 2018.

26. *L.S. Deb.,* 16-11-1962, cc. 2030-35. For example, the Companies (Temporary Restrictions on Dividends) Bill, 1974 replaced the Companies (Temporary Restrictions on Dividends) Ordinance, 1974, and the Companies (Temporary Restrictions on Dividends) Amendment Ordinance, 1974; the Maintenance of Internal Security (Amendment) Bill 1975 replaced the Maintenance of Internal Security (Amendment) Ordinance, 1975 and the Maintenance of Internal Security (Second Amendment) Ordinance. 1975; the Payment of Bonus (Second Amendment) Bill, 1985 replaced the Payment of Bonus (Amendment) Ordinance, 1985 and the Payment of Bonus (Second Amendment) Ordinance, 1985.

27. *Bhupendra Kumar Bose Vs. State of Orissa,* A.I.R. 1960, Orissa 46.

Statutory Resolutions seeking Disapproval of Ordinances

If notice[28] of a statutory resolution given by a private member seeking disapproval of an Ordinance is admitted by the Speaker, time has to be provided by Government for discussion thereof[29]. However, the resolution and a motion for consideration of a Government Bill seeking to replace that Ordinance may be discussed together. Earlier, when this was permitted by the Speaker, the resolution after discussion, was put to vote first; because of the view that if the resolution was adopted, it would mean disapproval of the Ordinance and the Bill would automatically fall through[30]. If the resolution was negatived, the motion for consideration of the Bill was then put to vote and further stages of the Bill were proceeded with[31].

However, in the year 2002, in view of the opinion of the Ministry of Law, it was decided that that the motion for consideration of the Bill seeking to replace an Ordinance might be proceeded with even if the Statutory Resolution seeking disapproval of the Ordinance was adopted by the House[32].

Similarly, a resolution seeking disapproval of an Ordinance and a motion on a cognate matter can be discussed together[33]. Where no Bill seeking to replace an

28. The notice is to be given after the summons for the session has been issued. Notices received during the interregnum, *i.e.* between dates of prorogation of a session and issue of summons for the next session are not treated valid for the next session and members are advised to give fresh notices after issue of summons. On 1 January 1970, three members gave notices of Statutory Resolutions for disapproval of the Essential Commodities (Amendment) Continuance Ordinance, 1969 promulgated on 30 December 1969. As the summons for the next session had not been issued, the notices were not treated valid and they were advised in writing to give fresh notices after the issue of summons.

29. On 8 August 1957, a member gave notice of a resolution seeking disapproval of the Essential Services Maintenance Ordinance, 1957. Since notice of the resolution was given under a constitutional provision, the Speaker decided that such statutory resolutions should be treated differently from the ones tabled by private members in the ordinary course under Rule 28 and time for discussion of statutory resolutions should be provided by Government.

30 During the Tenth Lok Sabha, a Statutory Resolution seeking disapproval of the Code of Criminal Procedure (Amendment) Ordinance, 1991 (No. 4 of 1991) promulgated by the President on 2 March 1991 was adopted on 5 August 1991 in Rajya Sabha and the Bill to replace the said Ordinance which was under consideration in the Rajya Sabha fell through.

In the Eleventh Lok Sabha, a Statutory Resolution seeking disapproval of the Presidential and Vice-Presidential Elections (Amendment) Ordinance, 1997 (No. 13 of 1997) promulgated by the President on 5 June 1997 was adopted on 7 August 1997 in the Rajya Sabha and the Bill seeking to replace the said Ordinance which was under consideration in the Rajya Sabha fell through. The Bill was again introduced in the Lok Sabha on 12 August 1997 as the Presidential and Vice-Presidential Elections (Second Amendment) Bill, 1997.

31. *L.S. Deb.,* 22-11-1957, cc. 1894-97; 21-8-1974, c. 283; 22-8-1974; cc. 320-21.

32. After prorogation of Eighth Session of Thirteenth Lok Sabha, the Prevention of Terrorism (Second) Ordinance, 2001 (No. 12 of 2001) was promulgated by the President on 30 December 2001. The Prevention of Terrorism Bill, 2002, which sought to replace the ordinance, was introduced in Lok Sabha on 8 March 2002. The Bill was passed by Lok Sabha after the Statutory Resolution seeking disapproval of the ordinance was negatived by Lok Sabha on 18 March 2002. While the Statutory Resolution was yet to be discussed in Rajya Sabha, a reference was made by Lok Sabha Secretariat to the Ministry of Law to furnish opinion as to whether the Bill might be treated as rejected by the other House within the meaning of article 108(1)(a) of the Constitution in case the Statutory Resolution seeking disapproval of the ordinance is adopted by Rajya Sabha. The Ministry of Law opined that there was no specific provision in the Constitution dealing with the above situation. If, however, the Statutory Resolution and the Bill were taken up separately, after the resolution was rejected, the Bill would require to be taken up separately and voted upon. Whether the two should be taken up together or otherwise was for the Chairman to decide. On 21 March 2002, after the Statutory Resolution was adopted by Rajya Sabha, the motion for consideration of the Bill, as passed by Lok Sabha, was put to vote and negatived. The Bill was accordingly treated as rejected by Rajya Sabha.

33. *L.S. Deb*., 8-8-1960, cc. 1391-1536; and 9-8-1960, cc. 1662-1800.

Ordinance is forthcoming, the resolution seeking disapproval of the Ordinance can be discussed separately[34].

A resolution seeking to disapprove an Ordinance cannot bar the progress of a Government Bill which seeks to replace that Ordinance[35], and such a resolution becomes infructuous after the Ordinance has been withdrawn[36]. The fact that an Ordinance has been challenged in a court of law and the court issued a rule *nisi* to Government is no bar to taking up the Bill seeking to replace that Ordinance[37].

As regards the scope of amendments to a resolution seeking disapproval of an Ordinance, it has been ruled that an amendment having the effect of approving the Ordinance is not permissible. Further, an amendment is out of order if it contains argument.

Ordinance for Appropriation out of the Consolidated Fund

An Ordinance for the appropriation of any money out of the Consolidated Fund is invalid if the related Demands for Grants have not been placed before the Lok Sabha and considered and assented to by the House[38].

According to existing practice, for the appropriation of money for a State, the administration of which has been taken over by the President under a Proclamation issued by him, the budget for that State, is not certified by Ordinance. The underlying principle is that no money can be spent out of the Consolidated Fund without the sanction of the Parliament. Hence if a contingency arises, for passing an Appropriation Bill for such a State when the Rajya Sabha is not in session, that House is specially summoned for this purpose[39].

However, in respect of the State of Meghalaya, which was under the President's rule, Ordinances seeking appropriation of moneys were promulgated without prior approval of the related Demands[40] by Lok Sabha.

Proclamations

The Constitution contemplates three types of emergencies and, correspondingly, three kinds of Proclamations which the President can issue: Proclamation of emergency arising out of war, external aggression or armed rebellion[41];

Proclamation issued on the failure of constitutional machinery in the States[42]; and Proclamation arising out of threat to financial stability or credit of India or of any part of the territory thereof [43].

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34. The Essential Services Maintenance Ordinance, 1960—*L.S. Deb.,* 9-8-1960, c. 1794.
35. *L.S. Deb.,* 24-5-1957, cc. 1890-1900.
36. *Ibid.,* 11-9-1957, cc. 13269-81.
37. Case of the Metal Corporation of India (Acquisition of Undertaking) Bill—*L.S. Deb.,* 22-11-1965, cc. 3125-29; case of the Indian Railways (Amendment) Bill, 1968—*L.S. Deb.,* 15-11-1968, cc. 270-71.
38. *L.S. Deb.,* 4-3-1961, cc. 2929-33; 6-3-1961, c. 3237; 10-3-1961, cc. 4188-92; 13-3-1961, cc. 4459-60, 4462; 14-3-1961, cc. 4779-80.
39. This was done in the case of the Orissa Appropriation (Vote on Account) Bill—*L.S. Deb.,* 27-3- 1961, cc. 7339-50; 28-3-1961, cc. 7769-70; *R.S. Deb.,* 27-3-1961, c. 33; 30-3-1961, cc. 375-89.
40. The State of Meghalaya was brought under the President's rule *vide* Proclamation dated 19 March, 2009. Two Ordinances *viz.,* (i) The Meghalaya Appropriation (Vote on Account) Ordinance, 2009; and (ii) The Meghalaya Appropriation Ordinance, 2009 were promulgated by the President on 31 March 2009. However, Bill replacing the above Ordinances were not introduced in Lok Sabha as the Proclamation was revoked by a subsequent Proclamation dated 13 May 2009.
41. Art. 352.
42. Art. 356.
43. Art. 360.

Proclamation of Emergency

If the President is satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened whether by war or external aggression or armed rebellion, he may, by proclamation, make a declaration to that effect in respect of the whole of India or of such part of the territory thereof as may be specified in the Proclamation[44]. The President's satisfaction about the existence of emergency need not be stated in the Proclamation. In this connection, the Supreme Court observed:

> Article 352 requires only a declaration of emergency threatening the security of India by one of the causes mentioned. The power to make the declaration can no doubt be exercised only when the President is satisfied about the emergency, but the article does not require the President's satisfaction to be stated in the declaration[45].

The only condition precedent for the President to issue a Proclamation of Emergency or a Proclamation varying one in operation is that the decision of the Union Cabinet in that behalf must be communicated to the President in writing before the issue of the Proclamation[46].

> The Proclamation of Emergency may be made before the actual occurrence of war or of any external aggression or armed rebellion if the President is satisfied that there is imminent danger thereto[47].
>
> A Proclamation of Emergency may be varied or revoked by a subsequent Proclamation[48].
>
> The power of the President to declare emergency includes the power to issue different Proclamations on different grounds, being war or external aggression or armed rebellion or imminent danger of war or external aggression or armed rebellion, whether or not there is a Proclamation already in existence and in operation[49].

A Proclamation, after it is issued, has to be laid before each House of Parliament[50] and except in the case of a Proclamation revoking a previous Proclamation, it

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44. Prior to the issue of the Constitution (Application to Jammu and Kashmir) Order, 2019 on 5.8.2019, the Constitution (Application to Jammu and Kashmir) Order 1954 was applicable, which provided *inter alia* that the Articles 352 and 356 would apply to the State of Jammu and Kashmir with such modifications as were contained in sub-clause (13) of Clause 2 of the Order. However, the said Order has been superseded by the Constitution (Application to Jammu and Kashmir) Order, 2019, as a result whereof the articles are applicable without modification as in the case of other States.

45. *P.L. Lakhanpal* v. *Union of India,* A.I.R. 1967 S.C. 243.
Before enactment of the Constitution (Forty-fourth) Amendment Act, 1978, the satisfaction of the President as to the declaration of emergency under article 352 was final and conclusive and the courts had no jurisdiction to entertain any question on any ground regarding the validity of the issue of or continuance in operation of a Proclamation of Emergency. S. 38(d) of the said Act omitted the then existing Art. 352(5) which precluded judicial review.

46. Art. 352(3).

47. Art. 352(1).

48. Art. 352(2). The Proclamation issued on 26 October 1962, was revoked on 10 January 1968.

49. Art 352(9).

50. Art. 352(4). The Proclamation of Emergency issued on 26 October 1962, was laid on the Table of both Houses of Parliament on 8 November 1962, the first day of the commencement of the session of both the Houses—*L.S. Deb.,* 8-11-1962, c. 97; *R.S. Deb.,* 8-11-1962, c. 190. The Statutory Resolution seeking approval of Proclamation was adopted by Lok Sabha on 14 November 1962.

Following Pakistan's attack on India on 3 Decemeber 1971, a Proclamation of Emergency was issued on that day. It was laid on the Table of both Houses of Parliament on 4 December 1971. The Statutory

ceases to operate at the expiration of one month unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament[51]. If any such Proclamation is issued at a time when the Lok Sabha has been dissolved or its dissolution takes place during the period of one month referred to above, and if a resolution approving the proclamation has been passed by the Rajya Sabha, but no resolution with respect to such Proclamation has been passed by the Lok Sabha before the expiration of that period, the Proclamation ceases to operate at the expiration of thirty days from the date on which the Lok Sabha first sits after its reconstitution, unless before the expiration of the period of thirty days a resolution approving the Proclamation has been passed by the Lok Sabha[52].

A Proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of six months from the date of passing of the second of the resolutions approving the Proclamation.

If and so often resolutions approving the continuance in force of such a Proclamation is passed by the Houses of Parliament, the Proclamation shall, unless revoked, continue in force for a further period of six months from the date on which it would otherwise have ceased to operate. In case the dissolution of the Lok Sabha takes place during the period of six months and a resolution approving continuance in force of a Proclamation has been passed by the Rajya Sabha, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the Lok Sabha first sits after its reconstitution unless before the expiration of the period of thirty days, a resolution approving the continuance in force of the Proclamation has also been passed by the Lok Sabha[53].

The resolutions for approval of or for further continuance in force of a Proclamation of Emergency may be passed by either House of Parliament only by a majority of the total membership of that House and by a majority of not less than two-thirds of the members present and voting in that House[54].

When a notice in writing of a resolution seeking disapproval of a Proclamation or its continuance in force, signed by not less than one-tenth of the total number of members of the Lok Sabha has been given to the Speaker, if the Lok Sabha is in session, or, to the President, if it is not in session, a special sitting of the Lok Sabha shall be held within fourteen days from the date of receipt of the notice for considering the resolution[55].

A Proclamation of Emergency shall be revoked by the President if the Lok Sabha passes a resolution disapproving the Proclamation or its continuance in force[56].

Resolution seeking approval of proclamation was adopted by Lok Sabha on 4 December 1971. The Proclamation of Emergency issued on 25 June 1975, was laid on the Table of both Houses of Parliament on 21 July 1975 and Statutory Resolution seeking approval of Proclamation was adopted by Lok Sabha on 23 July 1975.

51. Art. 352(4).

52. Art. 352(4), Proviso; *L.S. Deb.,* 8-11-1962, c. 196; 14-11-1962, c. 1672; *R.S. Deb.,* 8-11-1962, c. 196; 13-11-1962, c. 993; *L.S. Deb.,* 4-12-1971, c. 37; *R.S. Deb.,* 4-12-1971, c. 46; 22-7-1975, c. 124; *L.S. Deb.,* 23-7-1975, c. 40.

53. Art. 352(5).

54. Art. 352(6).

55. Art. 352(8).

56. Art. 352(7).

Effects of Proclamation of Emergency: While a Proclamation of Emergency is in operation, the executive power of the Union extends to the giving of directions to any State as to the manner in which the executive power thereof is to be exercised; and the power of Parliament to make laws with respect to any matter, during the period of Emergency, includes the power to make laws conferring powers and imposing duties, or authorising the conferring of powers and the imposition of duties, upon the Union or officers and authorities of the Union as respects that matter, notwithstanding that it is one which is not enumerated in the Union List.

Where a Proclamation of Emergency is in operation only in any part of the territory of India, the executive power of the Union to give directions and the power of Parliament to make laws shall also extend to any State other than a State in which or in any part of which the Proclamation is in operation if, and insofar as, the security of India or any part of the territory thereof is threatened by activities in or in relation to the part of the territory of India in which the Proclamation is in operation[57].

The President may, while a Proclamation of Emergency is in operation, by order direct that all or any of the provisions of the Constitution which provide for the distribution of revenues between the Union and the States[58] shall for such period, not extending in any case beyond the expiration of the financial year in which such Proclamation ceases to operate, as may be specified in the order, have effect subject to such exceptions or modifications as he thinks fit. Every such order has to be laid before each House of Parliament as soon as may be after it is made[59].

While a Proclamation of Emergency on account of war or external aggression is in operation, the State gets power to make any law or to take any executive action notwithstanding the provisions contained in article 19 guaranteeing certain fundamental rights to citizens. But any law so made, to the extent of the incompetency, ceases to have effect as soon as the Proclamation ceases to operate, except as respects things done or omitted to be done before the law so ceases to have effect[60]. During the Proclamation of Emergency, article 19 is suspended. But it does not authorise the taking of detrimental executive action during the emergency affecting the fundamental rights in article 19 without any legislative authority or in purported exercise of power conferred by any pre-emergency law which was invalid when enacted. Every act done by the Government or by its officers must, if it is to operate to the prejudice of any person, be supported by legislative authority[61].

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57. Art. 353.

58. Arts. 268 to 279.

59. Art. 354. No such order has so far been issued by the President.

60. Art. 358. The Defence of India Act, 1962–the Defence of India Rules, 1962, the Defence and Internal Security of India Act, 1971 and the Defence and Internal Security of India Rules, 1971, made under Art. 358, imposed certain restrictions on the fundamental rights guaranteed in article19. For effects of the Proclamation of Emergency, *see State of Madhya Pradesh vs. Thakur Bharat Singh.* A.I.R. 1967 S.C. 1170; *Mohd. Yaqub vs. State of Jammu and Kashmir,* A.I.R. 1968 S.C. 765;

P. Venkalaseshamma v. State of Andhra Pradesh, A.I.R. 1976 Andhra Pradesh 1; *Krishna Kumar Modi v. Union of India,* A.I.R. 1976 Calcutta 26.

61. *Bennett Coleman and Co. Ltd. vs. Union of India,* A.I.R. 1973 S.C. 106; *Shree Meenakshi Mills Ltd. vs. Union of India,* A.I.R. 1974 S.C. 366; *Sri Laxmi Touring Talkies vs. The State of Karnataka,* A.I.R. 1975 Karnataka 37; *Partap Singh vs. State of Punjab,* A.I.R. 1975 Punjab and Haryana, 324.

The President may, by order, declare that the right to move any court for the enforcement of such of the fundamental rights as may be mentioned in the order except the rights under articles 20 and 21, and all proceedings pending in any court for the enforcement of the rights so mentioned shall remain suspended for the period during which the Proclamation is in force or for such shorter period as may be specified in the order. Such an order may extend to the whole or any part of the territory of India.

However, where a Proclamation of Emergency is in operation only in a part of the territory of India, any such order does not extend to any other part of the territory of India unless the President, being satisfied that the security of India or any part of the territory thereof is threatened by activities in or in relation to the part of the territory of India in which the Proclamation is in operation, considers such extension to be necessary. Every such order has to be laid before each House of Parliament as soon as may be after it is made[62].

During the continuance of the Proclamation of Emergency, the validity of an order suspending the right to move any court for enforcement of any of the fundamental rights cannot be challenged[63].

While an Order suspending the right to move any court for the enforcement of any fundamental rights conferred by Part III of the Constitution except the rights under articles 20 and 21 is in operation, nothing in that Part conferring those rights restricts the power of the State to make any law or to take any executive action, which the State would, but for the provisions contained in that Part, be competent to make or to take, but any law so made, to the extent of the incompetency, ceases to have effect as soon as the order aforesaid ceases to operate, except as respects things done or omitted to be done before the law so ceases to have effect[64].

The life of the Lok Sabha may, while a Proclamation of Emergency is in operation, be extended beyond its normal period by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate[65].

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62. Art. 359.

    For interpretation of articles 352 and 359 and validity of the order and the Defence of India Act, 1962, and rules framed thereunder, *see* the judgement of the Supreme Court in *Makhan Singh Tarsikka vs. The State of Punjab,* A.I.R. 1964 S.C. 381.

    In view of the above judgement of the Supreme Court, doubts arose as to the effect of an order made under article 359. To remove these doubts, a Bill—the Constitution (Eighteenth Amendment) Bill 1964, inserting a new clause in article 359, was introduced in the Lok Sabha on 24 April 1964. However, in view of the criticism of the Bill by members at the time of its introduction, Government decided not to proceed with the Bill— *L. S. Deb.,* 28-4-1964.

63. *K.K. Modi vs. Union of India,* A.I.R. 1976 Calcutta 26.

64. Art. 359 (1 A).

65. Art. 83(2), Proviso.

    While the Proclamations of Emergency issued on 3 December 1971 and 25 June 1975 were in operation:

    The duration of the Fifth Lok Sabha, which was due to expire on 18 March 1976, was extended for a period of one year by the enactment of the House of the People (Extension of Duration) Act, 1976. The House of the People (Extension of Duration) Amendment Act, 1976, extended the duration of the Fifth Lok Sabha for a further period of one year, *i.e.* upto 18 March, 1977. However, the Fifth Lok Sabha was dissolved on 18 January, 1977.

    The duration of the Legislative Assembly of Kerala, which was in normal course to expire on 21 October, 1975, was extended for a period of six months by the enactment of the Kerala State Legislative Assembly (Extension of Duration) Act, 1975; the duration of the Assembly was again extended for a further period of six months by the enactment of the Kerala Legislative Assembly (Extension of

Proclamation of Emergency in relation to Punjab

The Constitution (Fifty-ninth Amendment) Act, 1988, which came into force on 30 March, 1988, inserted article 359A in the Constitution containing special provisions for issuing a Proclamation of Emergency in respect of Punjab. The Act empowered the President to issue a Proclamation of Emergency in respect of the whole or any part of Punjab if the integrity of India was threatened by internal disturbance in the whole or any part of Punjab. During the operation of a Proclamation of Emergency under the Act, the President was empowered to suspend all fundamental rights except the rights conferred by article 20. This provision was to remain in force for a period of two years from the commencement of the Act. However, this Act was repealed by the Constitution (Sixty-third Amendment) Act, 1989 which received the assent of the President on 6 January, 1990.

Proclamation on Failure of Constitutional Machinery in States

It is the duty of the Union to ensure that the government of every State is carried on in accordance with the provisions of the Constitution[66]. If the President, on receipt of a report[67] from the Governor of a State or otherwise[68], is

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Duration) Amendment Act, 1976. The Kerala Legislative Assembly (Extension of Duration) Second Amendment Act, 1976 extended the duration of the Assembly for a further period of six months with effect from 22 October, 1976. On 22 March, 1977, the Assembly was dissolved and a new House, elected after the poll, was formally constituted on the same day.

66. Art. 355.

Under the Government of India Act, 1935, the Governor-General, in case of failure of the constitutional machinery of the Federation, could assume all or any of the powers vested in or exercisable by any federal body or authority *vide* section 45 of the Act. This section was not adopted by the India (Provisional Constitution Order), 1947. There ais no such provision in the Constitution; the President has no power to suspend the constitutional machinery at the Union.

67. In the following cases the courts held that Governor's decision and report are not justiciable (*Bijayananda Patnaik vs. President of India*, A.I.R. 1974 Orissa 52) and that the courts, could exercise minimal judicial review if the power was abused by the Executive, *i.e.*, it was overtly *mala fide* exercise of power or exercise on irrelevant considerations (*State of Rajasthan vs. Union of India*, A.I.R. 1977 S.C. 1361).

However, in *S.R. Bommai vs. Union of India (A.I.R. 1994 S.C. 1931)*, the Supreme Court held that the exercise of power by the President under article 356(1) to issue Proclamation is justiciable and subject to judicial review at least to the extent of examining whether the conditions precedent to the issuance of the Proclamation have been satisfied or not. This examination will necessarily involve the scrutiny as to whether there existed material for the satisfaction of the President that a situation had arisen in which the Government of the State could not be carried on in accordance with the provisions of the Constitution. Although the sufficiency or otherwise of the material cannot be questioned, the legitimacy of inference drawn from such material is certainly open to judicial review.

Again, the Supreme Court in *Rameshwar Prasad vs. Union of India (A.I.R. 2006 S.C. 980)* held that it is open to the court, in exercise of judicial review, to examine the question whether the Governor's report is based upon relevant material or not; whether it is made *bona fide* or not; and whether the facts have been duly verified or not.

68. On 30 April, 1977, on the advice of the Union Council of Ministers, the Vice-President, acting as the President, signed nine Proclamations under article 356 of the Constitution dissolving the Legislative Assemblies of the States of Bihar, Haryana, Himachal Pradesh, Madhya Pradesh, Orissa, Punjab, Rajasthan, Uttar Pradesh and West Bengal and placing them under President's Rule till the completion of fresh elections. This was the first time that the President had taken action on his own, that is, without waiting for the reports of the Governors concerned.

Earlier, the Union Government had suggested to the Chief Ministers of the nine States that they advise the respective Governors to dissolve the State Assemblies. The suggestion was not accepted. Instead, some States filed suits and injunction applications before the Supreme Court. The Supreme Court, however, refused to interfere and on 29 April 1977, dismissed the suits and applications against the move to dissolve Legislative Assemblies.

On 17 February, 1980, Proclamations were issued in respect of nine States, *viz.* Bihar, Haryana, Himachal Pradesh, Madhya Pradesh, Orissa, Punjab, Rajasthan, Uttar Pradesh and West Bengal placing

satisfied that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of the Constitution, the President may by Proclamation:–

assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor or anybody or authority in the State other than the Legislature of the State;

declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament; and

make such incidental and consequential provisions as appear to the President to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending in whole or in part the operation of any provisions of the Constitution, relating to anybody or authority in the State. (This, however, does not authorise the President to assume to himself any of the powers vested in or exercisable by a High Court, or to suspend in whole or in part the operation of any provisions of the Constitution relating to High Courts)[69].

Any such Proclamation may be revoked or varied by a subsequent Proclamation as in the case of a Proclamation of Emergency[70].

The Constitution (Thirty-eighth Amendment) Act, 1975 which inserted clause 5 in article 356 had provided: "Notwithstanding anything in this Constitution, the satisfaction of the President mentioned in clause (1) shall be final and conclusive and shall not be questioned in any court on any ground". However, the Constitution (Forty-fourth Amendment) Act, 1978 substituted clause 5 and provided that a resolution with respect to the continuance in force of a proclamation shall not be passed by either House of Parliament unless a proclamation is in operation at the time of passing of such resolution and the Election Commission certifies that such continuance is necessary on account of difficulties in holding general elections to the Legislative Assembly of the State concerned. The omission means that judicial review of the satisfaction of the President mentioned in clause (1) is now possible[71].

The power of the President to declare the failure of the constitutional machinery in States is not 'Executive action' of the Government of India under article 77(1) of the Constitution. But that does not mean that the President acts wholly independent of the Cabinet. It is the duty of the Council of Ministers to aid and advice the President on every matter relating to the discharge of his function[72] and in issuing the Proclamation for assuming to himself the functions of the Government of a State, the President is bound to act on the aid and advice of the Council of Ministers[73].

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them under President's Rule. There was no mention of the report of the Governor having been received by the President.

Similarly, on 31 January, 1991 and 6 December, 1992, Proclamations were issued in respect of the States of Tamil Nadu and Uttar Pradesh placing them under President's Rule. There was no mention of any report of the Governor having been received by the President.

The Supreme Court in *Rameshwar Prasad vs. Union of India*, *supra,* held that it is permissible to reach a conclusion that the Government of the State cannot be carried on in accordance with the Constitution even without the report of the Governor in case the President has other relevant material for reaching the satisfaction contemplated by Art. 356. The expression '*or otherwise*' is of wide amplitude.

69. Art. 356 (1).

70. Art. 356 (2). Between 1951 and December 2013, President's Rule was proclaimed on 122 occasions in States and Union Territories. Also see for details, *President's Rule in the States and Union Territories,* Lok Sabha Secretariat, New Delhi, 2010.

71. *S.R. Bommai v. Union of India, supra* and *Rameshwar Prasad v. Union of India,* A.I.R. 1994 S.C. 1931.

72. In the matter of A. Sreeramulu, A.I.R. 1974 Andhra Pradesh 106.

73. *Bijayananda Patnaik v. President of India,* A.I.R. 1974 Orissa 52.

Thus, the power of the President to issue such a Proclamation is not a discretionary power; he must act as advised by the Council of Ministers to his satisfaction that a situation has arisen in which the Government of a State cannot be carried on in accordance with the provisions of the Constitution[74]. Further, there is no provision in the Constitution which enjoins upon the President to consult Parliament, when it is in session, before issuing such a Proclamation[75].

The Proclamations issued by the President may contain an express provision that the Legislative Assembly of the State concerned is dissolved[76]. In cases where there are still some chances for the formation of a Government, the Assembly is not dissolved but kept 'in a state of suspended animation'[77]. If subsequently it is considered necessary to dissolve the Assembly, another Proclamation varying the former Proclamation is issued by the President, or he may issue an Order dissolving the Assembly[78]. The revocation of the Proclamation, where the Legislative Assembly of the State has been dissolved, follows fresh elections in the concerned State.

There is nothing unconstitutional if the Legislative Assembly of a State which has been duly constituted on the issue of a notification by the Election Commission is dissolved by a Proclamation even before the Assembly has been summoned to meet[79].

In certain cases, the Governor dissolved the Legislative Assembly of the State concerned before sending the report to the President that the Government of the State cannot be carried on in accordance with the provisions of the Constitution[80].

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74. *Jyotirmoy Basu v. Union of India,* A.I.R. 1971 Calcutta 122.

75. *L.S. Deb.,* 24-3-1965, cc. 5698-5705.

76. In *S.R. Bommai v. Union of India, supra,* the Supreme Court held that in no case the President shall exercise the Governor's power of dissolving the Legislative Assembly till at least both the Houses of Parliament have approved of the Proclamation issued by him under cl. (1) of article 356. The dissolution of the Assembly prior to the approval of the proclamation by the Parliament under cl. (3) of the said article will be *per se* invalid.

77. *L.S. Deb.,* 31-8-1966, c. 8241.
Orissa (on 11-1-1971 and 23-3-1971), Andhra Pradesh (on 18-1-1973), U.P. (on 13-6-1973), Gujarat (on 9-2-1974), Nagaland (on 22-3-1975), U.P. (on 30-11-1975), Gujarat (on 12-3-1976), Manipur (on 16-5-1977) Kerala (on 21-10-1981) and Jharkhand (on 18-01-2013).

78. For instance, on 15 April 1968, the President issued a Proclamation regarding U.P. varying the Proclamation issued on 25 February, 1968, which had not contained the provision for the dissolution of the Assembly.

In the case of the *State of Mysore*, the President, under art. 174(2) (b), read with the Proclamation, dated 27 March, 1971, issued an Order on 14-4-1971 dissolving the Legislative Assembly.

By a Proclamation issued on 23 January, 1971, the President dissolved the Legislative Assembly of Orissa which had been kept in a state of suspended animation by the Proclamation issued on 11 January 1971. The Gujarat Legislative Assembly, which had been kept in a state of suspended animation by the Presidential Proclamation issued on 9 February, 1974, was dissolved on 15 March, 1974. In case of Nagaland, the President, in exercise of the power vested in him under art. 174(2) (b), read with the Proclamation dated 22 March, 1975, issued under art. 356, dissolved the Nagaland Legislative Assembly. Similarly, the Punjab Legislative Assembly, which had been kept in a State of suspended animation by the Proclamation issued on 11 May, 1987, was dissolved on 6 March, 1988 by the President in exercise of the power vested in him under article 174 (2)(b), read with the Proclamation dated 11 May, 1987.

79. For details, *see* Chapter 9—Summoning, and Prorogation of the Houses of Parliament and Dissolution of Lok Sabha.

80. Before the issue of a Proclamation by the President, on 4 August, 1970, assuming to himself all functions of the Government of Kerala, the Governor of the State had issued on 26 June, 1970, under article 174(2) (b), a notification dissolving the Legislative Assembly.

On 13 June, 1971, the Governor of Punjab issued an Order dissolving the Legislative Assembly. Later, on 15 June the President issued a Proclamation assuming to himself all functions of the Government of that State.

Every Proclamation issued by the President has to be laid before each House of Parliament[81]. While laying a Proclamation on the Table, no obligation is cast on the Government to lay also a copy of the report of the Governor of the State concerned in cases where the President has acted on such report[82]. However, a summary of the Governor's report or the Governor's report *in extenso* has generally been laid on the Table.

The life of a Proclamation, unless revoked earlier by the President, is two months[83]. There is no provision under which Parliament can cut it short[84]. It is only if the Proclamation is to continue in force beyond two months that both Houses of Parliament have to approve of it by resolutions adopted by simple majority[85].

It has been held that an amendment to the resolution seeking to approve the President's Proclamation is out of order if the amendment is negative in character[86] or is beyond the scope of the resolution[87], or is contradictory to the text of the resolution[88]. An amendment seeking to give conditional approval to the Proclamation is also inadmissible[89].

The House may either adopt or not adopt a resolution which seeks to approve the Proclamation. The resolution before the House cannot take any other form. As such, no amendments/substitute motions can be moved to such a resolution[90]. A resolution seeking disapproval of the Proclamation is inadmissible as there is no provision under article 356 for such a resolution.

A Proclamation approved by both Houses of Parliament, unless revoked, ceases to operate on the expiration of a period of six months from the date of issue of the Proclamation. However, if and so often as a resolution approving the Proclamation is passed by both Houses of Parliament, the Proclamation unless revoked, continues in force for a further period of six months from the date on which it would otherwise normally have ceased to operate but no such Proclamation can in any case remain in force for more than three years. However, in the case of the States of Punjab and Jammu and Kashmir, it was extended beyond three years[91]. If

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In the case of West Bengal, the Proclamation was issued by the President on 29 June, 1971, after the Assembly was dissolved by the Governor by an Order under article 174(2) (b), on 25 June, 1971.

In the case of Kerala also, the Proclamation was issued by the President on 5 December 1979, though the Assembly was dissolved by the Governor earlier on 30 November, 1979.

81. Art. 356(3).

82. *Ibid.*

83. *L.S. Deb.,* 3-8-1959, cc. 122-131; 7-8-1959, cc. 1196-1227; 17-8-1959, c. 2820. As soon as the President issues a proclamation under article 356(1), the Lok Sabha Secretariat asks in writing for a copy of it and ascertains from the Ministry of Home Affairs the date on which the proclamation is to be laid on the Table of the House. On receipt of the copy, necessary action is taken for laying it on the Table by the Secretariat. After the proclamation has been laid on the Table, it is ascertained from the Ministry of Parliamentary Affairs the date on which a resolution for approval of the proclamation is to be brought before the House—for detailed procedure *see Instructional Order No. 1282, 18-8-2008, L.B, L.S.S.*

84. *Ibid.,* 17-8-1959, cc. 2849-51; 31-8-1956, cc. 5050-52.

85. *Ibid.,* 20-8-1959, c. 3327; 19-11-1954, cc. 409-514.

86. *L.S. Deb.,* 12-3-1953, c. 1910; 29-3-1956, c. 3782; 6-5-1965, cc. 13524-26.

87. *P. Deb.,* (II), 9-8-1951, c. 197; *L.S. Deb.,* 17-8-1956, cc. 2849-51.

88. *L.S. Deb.,* 31-8-1956, cc. 5050-52; 6-5-1965, cc. 13524-26.

89. *Ibid.,* 31-8-1956, cc. 5050-52.

90. *L.S. Deb.,* 6-5-1965. cc. 13522-26.

91. In the case of the Proclamation issued by the President on 11 May, 1987 in respect of the State of Punjab, the period of three years was construed as four years and five years, respectively, by making

the dissolution of the Lok Sabha takes place during any such period of six months and a resolution approving the continuance in force of such Proclamation is passed by the Rajya Sabha during the said period, the Proclamation ceases to operate at the expiration of thirty days from the date on which the Lok Sabha first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the continuance in force of the Proclamation has also been passed by the Lok Sabha[92].

A resolution, of which a notice is given by a member, seeking disapproval of the continuance in force of a Proclamation for a further period of six months is inadmissible.

Where the Proclamation declares that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament, it is competent–

> for Parliament to confer on the President the powers of the Legislature of the State to make laws, and to authorise the President to delegate, subject to such conditions as he may think fit to impose, the power so conferred to any other authority to be specified by him in that behalf;
>
> for Parliament, or for the President or other authority in whom such power to make laws is so vested, to make laws conferring powers and imposing duties, or authorising the conferring of powers and the imposition of duties, upon the Union or officers and authorities thereof;
>
> for the President to authorise, when the Lok Sabha is not in Session, expenditure from the Consolidated Fund of the State pending the sanction of such expenditure by Parliament[93].

Approval of a Proclamation by both the Houses of Parliament is followed by an Act delegating certain powers to the President, including the power to make laws for the State concerned. The Act delegating powers to the President also provides that before making any law for the State, the President should, whenever he considers it practicable to do so, consult a parliamentary committee constituted for the purpose. Such a committee may include members of the Lok Sabha and the Rajya Sabha who at the time fill the seats allotted to the State concerned in the two Houses. Such laws, called the President's Acts, are required to be laid before both Houses of Parliament and Parliament has the power to amend these Acts within a period of thirty days after they are so laid[94].

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two successive amendments to the Constitution through the Constitution (Sixty-seventh Amendment) Act, 1990 and the Constitution (Sixty-eighth Amendment) Act, 1991. The Proclamation remained in force till 25 February, 1992 when it was revoked as a popular Government came into being after the Assembly elections.

In the case of the Proclamation issued by the President on 18 July, 1990 in respect of the State of Jammu and Kashmir, the period of three years was construed as four years, five years, six years and seven years, respectively, by making four successive amendments to the Constitution (Application to Jammu and Kashmir) Order, 1954 through Presidential notifications. The Proclamation remained in force till 9 August, 1996 when it was revoked as a popular Government came into being after the Assembly elections.

92. Art. 356(4); *L.S. Deb.,* 31-8-1956, c. 5046; 1-9-1956, c. 5211.

93. Art. 357(1).

94. A President's Act has to be laid on the Table even though the Proclamation has been revoked in the meantime.

There may be a combined discussion on the resolution approving the Proclamation issued by the President in respect of a State and on the motion for consideration of the Bill for delegation of powers of the Legislature of that State[95], or there may be combined discussion on such a resolution and on the Budget of the State in question[96]. In the latter case, after the combined discussion, the resolution is put to vote and after it is adopted, the Demands for Grants are disposed of[97]. A combined discussion has also been held on the resolution approving the Proclamation and on the motion admitted under Rule 189.

On 21 November, 1967, a combined discussion was held on a motion moved by a member regarding non-rejection of the report of the Governor of Haryana recommending the issue of Proclamation and a statutory resolution approving the Proclamation issued by the President in relation to that State.

First the motion was moved by the member, and then the resolution by the Minister of Home Affairs. After the combined discussion, the motion and the resolution were put to the vote of the House in the same order[98].

The Proclamations so far issued have declared that the powers of the Legislature of the State would be exercisable by or under the authority of Parliament. On account of this declaration:

Parliament has voted grants[99] and passed Appropriation Bills for the withdrawal of moneys from the Consolidated Fund of the States concerned; and the papers which by statutory obligation are required to be laid before the State Legislature have instead been laid before Parliament[100].

In respect of one of the President's Acts, *viz.* The Punjab Security of the State Act, 1951, a resolution for amending the Act was adopted by the Provisional Parliament—*see P. Deb.,* (II), 28-9-1951, c. 3748. These amendments were later incorporated in the Act.

In another instance, *viz.* The Kerala University (Amendment) Act 1966, a resolution for amending the Act was adopted by the Lok Sabha on 12 April, 1966; the Rajya Sabha concurred with the Resolution on 12 May, 1966. On receipt of a message from the Rajya Sabha, in this regard a copy of the resolution was forwarded to the Ministry concerned for necessary action—*L.S. Deb.,* 12-4-1966, cc. 10626-655; *R.S. Deb.,* 12-5-1966 cc. 1261-73.

95. *See,* for instance, in respect of the State of Kerala, *L.S. Deb.,* 6-5-1965, cc. 13514-15; 7-5-1965, cc. 13841-43; in respect of the State of West Bengal, *L.S. Deb.,* 21-3-1968, cc, 2208-2303; 22-3-1968, cc. 2611-34; in respect of the State of Uttar Pradesh, *L.S. Deb.,* 25-3-1968, cc. 3040- 3138; in respect of the State of Punjab, *L.S. Deb.,* 29-8-1968, cc. 2989-3076; in respect of the State of Bihar, *L.S. Deb.,* 20-8-1969, cc. 127-73.

96. The Jammu and Kashmir Budget 1992-93 was discussed together with resolution seeking approval of continuance in force of the proclamation issued by the President on 18 July, 1990 for a further period of six months with effect from 3 September 1992. *L.S. Deb.,* 11-8-1992, cc. 496-522; 523-50.

The Jammu and Kashmir Budget 1994-95 was discussed together with resolution seeking approval of continuance in force of the proclamation issued by the President on 18 July 1990 for a further period of six months with effect from 3 September 1994, *L.S. Deb.,* 9-8-1994, cc. 511-78.

97. *L.S. Deb.,* 30-3-1970, cc. 253-54; 20-8-1970, cc. 247-344; 21-8-1970, cc. 244-59; 25-8-1970, cc. 234-363; 25-3-1985, cc, 351-72; 26-3-1985, cc. 221-303.

98. *Ibid.,* 21-11-1967, cc. 1727, 1738; 18-4-1968, cc. 1433-48, 1568.

99. When the discussion on the Pondicherry Budget was taken up, a member raised a point of order that it would be financially improper and also irregular to meet the deficit by grants-in-aid and loans from the Government of India before the Union Budget was presented and the Consolidated Fund of India operated. The Speaker observed that there was nothing illegal or improper in it and there was no infringement of any rule.—*L.S. Deb.,* 11-3-1976. c. 170.

100. *L.S. Deb.,* 5-4-1961, c. 9344; 18-4-1961, c. 11248; 26-4-1961, cc. 13917-18; 2-5-1961, c. 14911; 5-5-1961, c. 15970.

The Budget of a State presented to the House in pursuance of a Proclamation issued by the President in respect of that State does not lapse and further discussion thereon can be resumed if, soon after revocation of that Proclamation a fresh Proclamation is issued in respect of that State[101].

Any law made in exercise of the power of the Legislature of the State by Parliament or the President or other authority which Parliament or the President or such other authority would not, but for the issue of a Proclamation under article 356, have been competent to make shall, after the Proclamation has ceased to operate, continue in force until altered or repealed or amended by a competent Legislature or other authority[102].

Proclamation of Financial Emergency

If the President is satisfied that a situation has arisen whereby the financial stability or credit of India or of any part thereof is threatened, he may, by Proclamation, make a declaration of financial emergency[103]. A Proclamation so issued shall be laid before each House of Parliament and may be revoked or varied by a subsequent Proclamation.

It shall cease to operate at the expiration of two months, unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament. The Proclamation approved by Parliament shall be in operation until it is revoked by the

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101. *Ibid.,* 26-3-1965, cc. 6122-33.

102. Art. 357(2).

103. Art. 360(1).

Giving the reasons for the incorporation of the provisions relating to financial emergency in the Constitution, Dr. B.R. Ambedkar observed: "having regard to the present economic and financial situation in this country there can hardly be any Member of this Assembly who would dispute the necessity of some such provision as is embodied in this new article 280A and I, therefore, do not propose to spend any time on giving any justification for the inclusion of this article in our Draft Constitution. All that I propose to say is this, that this article more or less follows the pattern of what is called the National Recovery Act of the United States passed in 1930 or thereabout, which gave the power to the President to make similar provisions in order to remove the difficulties, both economic and financial, that had overtaken the American people as a result of the great depression from which they were suffering. The reason why, for instance, we have thought it necessary to include such a provision in the Constitution is because we know that under the American Constitution within a very short time the legislation passed by the President was challenged in the Supreme Court and the Supreme Court declared the whole of that legislation to be unconstitutional, with the result that after that declaration of the Supreme Court, the President can hardly do anything which he wanted to do under the provisions of the National Recovery Act. A similar fate perhaps might overwhelm our President if he were to grapple with a similar financial and economic emergency. In order to prevent any such difficulty we thought it was much better to make an express provision in the Constitution itself and that is the reason why this article has been brought forth."—*C.A. Deb.,* Vol. X, p. 361.

The provisions in article 360 shall not apply to the State of Jammu and Kashmir in view of sub-clause (13) of clause 2 of the Constitution (Application to Jammu and Kashmir Order) 1954.

There has, however, been no occasion so far to make use of the emergency provisions under this article.

Before enactment of the Constitution (Forty-fourth Amendment) Act, 1978, the provisions regarding revocation, duration, etc. applicable to a Proclamation of emergency applied to a Proclamation of financial emergency [art. 360(2) before substitution]. Further, the satisfaction of the President as to the declaration of a financial emergency was final and conclusive. Courts had no jurisdiction to entertain any question on any ground regarding the validity of the issue of or continuance in operation of a Proclamation of financial emergency [art. 360(5)] before omission. (S. 42 of the said Act substituted clause 2 of Art. 360 by a new clause and omitted clause 5 thereof).

President[104]. A Proclamation issued subsequently by the President revoking or varying the Proclamation of financial emergency in operation is not, however, required under the Constitution to be laid before each House of Parliament.

When a Proclamation of financial emergency is in operation, the executive authority of the Union shall extend to the giving of directions to any State to observe such canons of financial propriety as may be specified in the directions, and to the giving of such other directions as the President may deem necessary and adequate for the purpose.

Under any such direction, a State may be required to reduce salaries and allowances of all or any class of persons serving in connection with the affairs of that State.

All money or financial Bills passed by the State Legislature may be required to be reserved for the consideration of the President.

It shall also be competent for the President during such financial emergency to issue directions for the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of the Union, including the Judges of the Supreme Court and the High Courts[105].

104. Art. 360(2).

105. Art. 360(4).

CHAPTER 24

Subordinate Legislation

The expression 'subordinate legislation' means the act of making statutory instruments by a body subordinate to the Legislature and in exercise of the power, within specific limits, conferred by the Legislature. The term also connotes and covers the statutory instruments themselves.

Legislation is either supreme or subordinate. The former is that which proceeds from the supreme or sovereign power in the State, and which is therefore incapable of being repealed, annulled or controlled by any other legislative authority. Subordinate legislation is that which proceeds from any authority other than the sovereign power, and is, therefore, dependent for its continued existence and validity on some superior or supreme authority. The idea is to supplement Acts of Supreme Legislative Body by prescribing detailed rules required for their operation[1].

When a legislative body passes an Act, it has exercised its legislative function. The essentials of such function are the determination of the legislative policy and its formulation as a rule of conduct. These essentials are the characteristics of a Legislature itself. After a Law is made by the Legislature, it is clear that every detail for working it out and for carrying the enactment into operation and effect may be done by the Legislature or may be left to another subordinate agency or to some executive officer. While this is sometimes loosely described as a 'delegation' of legislative power, in essence, it is different from delegation of legislative power which means a determination of the legislative policy and formulation of the same as a rule of conduct[2]. Explaining the meaning of the expressions "delegated legislation" and "delegating legislative power", Fazl Ali, J. in *Delhi Laws Act* case observed:

> ...the expressions "delegated legislation" and "delegating legislative power" are sometimes used in a loose sense, and sometimes in a strict sense. These expressions have been used in the loose sense or popular sense in the various treatises or reports dealing with the so called delegated legislation... There can be no doubt that if the Legislature completely abdicates its functions and sets up a parallel Legislature transferring all its power to it, that would undoubtedly be a real instance of delegation of its power. In other words, there will be delegation in the strict sense if legislative power with all its attributes is transferred to another authority[3].

In a modern Welfare State, governmental activity has pervaded almost every field of human endeavour, thus, necessitating enactment of multifarious laws to regulate this ever-widening activity. The Legislature does not have enough time to deliberate upon,

1. John Satmond: *Jurisprudence,* 9th edition, London, Sweet and Maxwell Limited, 1937, p. 210. *See* also Black's Law Dictionary, 8th Edition, p. 918.
2. Kania, C.J., *In re. Delhi Laws Act,* A.I.R. 1951 S.C. 332(338).
3. *Ibid.,* (355).

discuss and approve all the regulatory measures required to implement the enacted law. Moreover, law-making has now become a complicated and technical matter, and law has to be flawless in technical details.

In the nature of things, what the Legislature does, and can do, is to lay down the policy and purpose of any legislation in hand, leaving it to the Executive to frame, in conformity with those principles, formal and procedural details of that measure in the form of 'orders'[4].

Emphasizing the necessity of subordinate legislation, the Supreme Court in *Gwalior Rayon Mills Mfg. (Wvg.) Co. Ltd.* v. *Asstt. Commissioner of Sales Tax* observed:

> Most of the modern socio-economic legislations passed by the Legislature lay down the guiding principles and the legislative policy. The Legislatures because of limitation imposed upon by the time factor hardly go into matters of detail. Provision is, therefore, made for delegated legislation to obtain flexibility, elasticity, expedition and opportunity for experimentation. The practice of empowering the executive to make subordinate legislation within a prescribed sphere has evolved out of practical necessity and pragmatic needs of modern welfare State[5].

This power of delegation is a constituent element of the legislative power as a whole[6]. So long as the Legislature indicates in the operative provisions of the statute the policy and purpose of the enactment, the mere fact that the legislation is skeletal or the fact that a discretion is left to those entrusted with administering the law, is no basis for a contention that there has been excessive delegation of legislative power, if the power or discretion has been conferred in a manner which is legal and constitutional[7].

On the basis of judicial pronouncements, it may be taken as an established law now in India, that the Legislature is not competent to delegate to the executive or any other body its essential legislative function, namely, the determination of the legislative policy and its formulation, as a rule of conduct[8]. But it has been conceded that the Legislature can take the assistance of other bodies in subsidiary matters and that the cases in which such assistance can be taken would fall broadly into two types of legislations known as conditional legislation and

4. An 'order' for this purpose means a "regulation, rule, sub-rule, bye-law, etc. framed in pursuance of the provisions of the Constitution or the legislative functions delegated by Parliament to a subordinate authority, and which is required to be laid before the House...."—Rule 319.

5. A.I.R. 1974 S.C. 1660 (1667).

6. *Vasanlal Maganbhai Sanjanwala and the Pratap Spinning and Manufacturing Co. Ltd.* v. *The State of Bombay,* A.I.R. 1961 S.C. 4; *M/s. Tata Iron and Steel Co. Ltd.* v. *Workmen of M/s. Tata Iron and Steel Co. Ltd.,* A.l.R. 1972 S.C. 1917.

7. *Jyoti Parshad* v. *Union Territory of Delhi,* A.I.R. 1961 S.C. 1602.

8. *Devi Das Gopal Krishan* v. *State of Punjab,* A.I.R. 1967 S.C. 1895 (1901); *Municipal Corporation of Delhi* v. *Birla Cotton Spinning and Weaving Mills, Delhi,* A.I.R. 1968 S.C. 1232; *M/s. Tata Iron and Steel Co. Ltd.* v. *Workmen of M/s. Tata Iron and Steel Co. Ltd.,* A.I.R. 1972 S.C. 1917; *Gwalior Rayon Mills Mfg. (Wvg.) Co. Ltd.* v. *Assistant Commissioner of Sales Tax,* A.I.R. 1974 S.C. 1660,1667-69.

ancillary or subordinate legislation[9].

As to the meaning of conditional legislation, it may be broadly described as legislation, the operation of which is conditional upon the decision of a specified authority, as distinguished from legislation which is absolute and comes into operation of its own force and independently of the will of any other authority. In this connection, it has been observed:

In a conditional legislation, the law is full and complete when it leaves the legislative chamber, but the operation of the law is made dependent upon the fulfilment of a condition, and what is delegated to an outside body is the authority to determine, by the exercise of its own judgment, whether or not the condition has been fulfilled[10].

As regards subordinate or ancillary legislation, it refers to cases in which the Legislature lays down the policy in more or less general terms and confers on an extraneous authority the power to make rules and regulations to carry out the legislative policy. It is open to the Legislature to formulate the policy as broadly and with as little or as much details as it thinks proper and it may delegate the rest of its work to a subordinate authority who will work out the details within the framework of that policy[11]. In this regard, Mukherjea, J. in *Delhi Laws Act* case observed:

> Delegation of legislative authority could be permissible but only as ancillary to, or in aid of the exercise of law-making powers by the proper Legislature, and not as a means to be used by the latter to relieve itself of its own responsibility or essential duties by devolving the same on some other agent or machinery. A constitutional power may be held to imply a power of delegation of authority which is necessary to effect its purpose; and to this extent delegation of a power may be taken to be implicit in the exercise of that power[12].

The principle enunciated above has been stressed by the Supreme Court in a number of other cases decided after the *Delhi Laws Act* case. For instance, in *M/s. Tata Iron and Steel Co. Ltd.* v. *Workmen of M/s. Tata Iron and Steel Co. Ltd.,* the Supreme Court observed:—

> The legal position as regards the limitation of this power is, however, no longer in doubt. The delegation of legislative power is permissible only when the legislative policy and principle are adequately laid down and the delegate is only empowered to carry out the subsidiary policy within the guidelines laid down by the Legislature. The Legislature, it must be borne in mind, cannot abdicate

9. A.I.R. *Commentaries on the Constitution of India,* Vol. IV, 1973, art. 215, Note 9(a) Pt. 6. *See* also (i) *In re. Delhi Laws Act,* 1912, 1951, S.C.R. 747 (SC); (ii) *Hari Shankar Bagla* v. *State of Madhya Pradesh,* 1955 S.C.R. 380 (SC); (iii) *Raj Narain Singh* v. *Chairman, Patna Administration Committee,* 1955 S.C.R. 290 (SC); (iv) *Edward Mills Co*. v. *State of Ajmer,* 1955 S.C.R. 735 (SC). Conditional legislation is also known as 'contingent legislation', and ancillary legislation as 'subordinate' or 'subsidiary' or 'supplementary' legislation.

10. Observations of Mukherjea, J., In *The Delhi Laws Act* case, 1951 S.C.R. 747 (978, 979).

11. A.I.R. Commentaries, *op. cit.,* art. 245. Note II (Pt. 1); *see* also A.I.R. 1954 S.C. 465 (468).

12. Mukherjea, J., *op. cit.,*1951 S.C.R. 747 (973).

its authority and cannot pass on to some other body the obligation and the responsibility imposed on it by the Constitution. It can only utilise other bodies or authorities for the purpose of working out the details within the essential principles laid down by it. In each case, therefore, it has to be seen if there is delegation of the essential legislative function or if it is merely a case in which some authority or body other than the Legislature is empowered to work out the subsidiary and ancillary details within the essential guidelines, policy and principles, laid down by the legislative wing of the Government[13].

The "subordinateness" in subordinate or ancillary legislation refers to the nature of legislation itself which is delegated, and not only to the subordinate character of the agency which is entrusted with the power to legislate. Hence, so far as legislative policy is concerned it must be determined by the Legislature itself and it is only the task of working out the policy by appropriate rules and regulations that can be delegated to a subordinate agency[14].

In recent years an increasing use of the technique of sub-delegation has been resorted to in India. Sub-delegation takes place when the rule-making authority delegates either to itself or to some other subordinate agency a further power to issue rules or directions or other instruments of a legislative character. The process may be repeated with the result that law-making may also take place at four or five removes from the original enabling Act[15].

Though framed by the executive but under the specific authority delegated to it by Parliament, the rules, regulations, etc. (hereinafter referred to as 'orders') have the force of law and the same binding power as any provision of the principal enactment. In conferring this authority upon a subordinate agency, Parliament does not abdicate its powers, for it can at any time disable the agency it had created, set up another, or take the matter in its own hands.

Control over Subordinate Legislation

The major problem of subordinate legislation is not whether it is necessary but how this process can be reconciled with democratic consultation, scrutiny and control. The Lok Sabha exercises this scrutiny and control by asserting itself at any one or all of the following stages:—

when the legislative measure in the form of a Bill delegating the powers is under consideration of the House, the scope and character of these orders as well

13. A.I.R. 1972 S.C. 1917 (1922).
14. A.I.R. Commentaries, *op. cit.,* Note II (Pts. 4 & 5); *see* also 1951 S.C.R. 747 (982, 984).
15. Indian Law Institute: *Delegated Legislation in India,* 1964, p. 31.

as their purpose can be debated, precisely defined and limited[16]; or when the orders themselves are proposed or made, the Lok Sabha may specify that they shall be laid in draft or final form for Parliament to approve or annul them; or

after the orders are made, the House may revoke or vary them by subsequent legislation or question their propriety or adequacy through the machinery of questions or motions in the House; and

above all, through the medium of the Committee on Subordinate Legislation[17].

All orders made under statutory authority by executive or administrative agencies are, moreover, subject to examination by courts at the instance of a third party on the plea of *ultra vires.*

Validity of a Rule, whether it is declared to have effect as if enacted in the Act or otherwise, is always open to challenge on the ground that it is unauthorized[18].

In order to be valid, subordinate legislation must be *intra vires* of the statute, which authorized the making of the orders by the executive and should not violate any provision of the Constitution. Further, the orders made under a power conferred by the Legislature must be reasonable[19]. Moreover, to be valid or effective, these orders must be duly and properly published[20].

Where the statute violates some provision of the Constitution, or instead of delegating the power of making orders the Legislature parts with its essential legislative functions to others, the statute itself becomes void, and with it, the orders made thereunder[21].

As a corollary to the general rule of *ultra vires,* the power of subordinate legislation

16. For example, on 8 May 1973, during further consideration of the North Eastern Hill University Bill, 1973, certain members raised some points regarding the scope of delegation of legislative powers sought to be made through the Bill. Giving his ruling on 9 May 1973, the Speaker said that unlike the earlier Central Universities Acts, the Bill in question had not provided for the constitution of various University authorities but had left it to be prescribed by the statutes. He observed that whenever any statute was issued, amended or discontinued, a copy thereof should be laid on the Table of the House for 30 days and it should be subject to modification by Parliament, or the Government should come forward after a year or so with an amendment to bring the Act at par with the other Central Universities Acts so that nothing was left purely to delegated legislation without parliamentary check. The Speaker felt that even at this stage, if the Minister of Education was prepared, the Bill might be placed before the Committee on Subordinate Legislation for a report on 16 May 1973 (the date on which the session was to end), but the time was short. Thereupon, the Minister of Education assured the House that when the Visitor framed the final statutes, Government would come forward with a motion for consideration thereof, so that the House would have an opportunity of making changes as it deemed necessary—*L.S. Deb.,* 8-5-1973, cc. 314-23; 9-5-1973, cc. 198-200.

17. Rules 317-322. The Committee on Subordinate Legislation looks into every order made by the Executive to satisfy itself that there has been no executive excess or trespass in the exercise of its delegated rule-making power—For details, *see* Chapter 30—'Parliamentary Committees', under *Committee on Subordinate Legislation.*

18. *State of Kerala* v. *K.M. Charia Abdulla & Co.,* A.I.R.1965 S.C. 1955.

19. *Bhushan Lal* v. *State,* A.I.R. 1952 Allahabad 866.

20. *Harla* v. *State of Rajasthan,* 1952 S.C.R. 110; *see* also Rule 319.

21. *In re. Delhi Laws Act Case,* 1951 S.C.R. 747 (946, 947).

can be exercised only in the manner laid down in the parent Act and not in any other way.

The court of law, as a general rule, will not give effect to the rules made, unless satisfied that all the conditions precedent to the validity of the rules have been fulfilled[22].

Unlike legislation made by a sovereign Legislature, subordinate legislation made by a delegate cannot have retrospective effect unless the rule-making power in the concerned statute expressly or by necessary implication confers powers in this behalf [23].

Laying of Orders on the Table

Where any order framed in pursuance of the Constitution or of the legislative functions delegated by an Act of Parliament to subordinate authority is required to be laid on the Table for a period specified in this behalf in the Constitution or the relevant statute, this specified period has to be completed before the Lok Sabha is adjourned *sine die* and later prorogued, unless otherwise provided in the Constitution or the relevant statute. If the specified period is not so completed, the order is required to be re-laid in the succeeding session or sessions until the said period is completed in one session[24].

All notifications containing these rules, regulations, etc. are required to be laid on the Table within a period of fifteen days after their publication in the Gazette, if the Lok Sabha is in session. If it is not in session, they are to be laid on the Table as soon as possible, but in any case within fifteen days of the commencement of the next session[25].

A notification once issued under an Act which contains provision for its being laid on the Table has to be so laid. It cannot be withheld merely on the ground that it is to be amended and will be laid on the Table in the amended form. In such cases, both copies have to be laid[26].

Whenever there is undue delay in laying a notification on the Table, the Minister concerned is required to lay on the Table along with the notification,

22. *Hukum Chand* v. *Union of India,* A.I.R. 1972 S.C. 2427.

23. *The State of Madhya Pradesh* v. *Tikamadas,* A.I.R. 1975 S.C. 1429 (also *see Income Tax Officer, Alleppey* v. *M.C. Ponnoose,* A.I.R. 1970 S.C. 385).

24. Rule 234. For details *re*. re-laying of rules, etc. *see* Chapter 35—*Papers Laid on the Table and Custody of Papers.*

The Committee on Subordinate Legislation in their Second Report (5th Lok Sabha) approved a 'laying formula' for incorporation in all Bills providing for delegation of legislative power. According to this formula, every rule made by the Union Government under an Act shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of 30 days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification to the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; however, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

25. 2R (CSL-2LS), para 72.

26 *L.S. Deb.,* 17-11-1959, c. 345.

a statement giving reasons for such delay. However, in exceptional circumstances, such statement may be laid afterwards[27].

Normally orders are laid on the Table only after they have been notified in the Gazette. An exception has, however, been made in a case where there was no provision in the Constitution about orders being notified in the Gazette and the ground of 'security' was pleaded by the Minister as an argument for not publishing notification[28].

Modification of Orders

After an order is laid on the Table, any member may give notice of his intention to move a motion or motions for modification of that order. "Modification" used in this and subsequent paragraphs of this Chapter includes "amendment" of the orders.

Even if the statute under which certain rules or regulations have been framed does not provide for their laying on the Table or for their modification by Parliament, the Lok Sabha has the inherent power to recommend modification to such statutory rules after they are laid on the Table by Government whether in compliance with a demand from the House or in reply to a question or *suo motu*[29]and a member is entitled to give

27. On 10 May 1973, when the Iron and Steel (Control) Amendment Order, 1973, published in Gazette, dated 12 April 1973, was laid on the Table, a member raised a point of order regarding delay in laying the order on the Table and demanded that the Minister should explain reasons for delay. The Deputy Speaker observed that as recommended by the Committee on Subordinate Legislation, all statutory rules and orders should be laid on the Table within 15 days of their publication and as there was delay in the present case, a statement regarding delay should be laid as soon as possible. The statement explaining reasons for delay was accordingly laid on the Table on 11 May 1973.

    The Examination of Masters and Mates (Amendment) Rules, 1973, published in the Gazette, dated 17 March 1973, were laid on the Table on 14 May 1973. A statement explaining the reasons for delay was laid on the Table on 16 May 1973.

28. For example, on 25 August 1970, the Cabinet Secretariat forwarded copies of the UPSC (Exemption from Consultation) Supply Regulations, 1970 framed under *Proviso* to art. 320(3) of the Constitution for being laid on the Table under art. 320(5) thereof. On enquiry regarding, date of publication of notification in the Gazette and application of Rule 319, the Ministry stated that on considerations of security it was not desirable to publish regulations in Gazette and there was also no provision in art. 320 for the publication of regulations in the Gazette. In view of the reasons given by the Cabinet Secretariat, the said regulations were laid on the Table on 28 August 1970, without their being published in the Gazette as required under Rule 319.

29. 1R (CSL-1LS), Para 10.

    The Working Journalists (Fixation of Rates of Wages) Rules, 1958 framed under the Journalists (Fixation of Rates of Wages) Ordinance, 1958 were laid on the Table of the Lok Sabha on 22 August 1958 although the Ordinance did not provide that rules should be laid. The Bill replacing the Ordinance also did not contain any provision regarding laying of rules. On a notice of amendment of these rules given by a member, it was held that in accordance with para 10 of the First Report of the Committee on Subordinate Legislation (First Lok Sabha) the House had the power to recommend modifications to such rules. Motions, however, could not be discussed during that session for want of time and subsequently lapsed on prorogation of the House.

    Similarly, the Central Civil Services Conduct Rules, 1955, as amended upto 3 March 1959, which were made by the President in exercise of powers conferred on him by Proviso to art. 309 and clause (5) of art. 148 of the Constitution were laid on the Table of the Lok Sabha on 13 March 1959 by the Government in reply to S.Q. No. 1223. The Constitution does not provide for laying of Rules. Notices of Motions for amendment of Rules were admitted and circulated in the form of recommendations. Motions were taken up for discussion in the House on 9 May 1959 and were negatived—*L.S. Deb.,* 9-5-1959, cc. 16170-96.

notice of amendments for their modification[30].

Notices of motions are given in writing and, after being admitted by the Speaker, are published in the *Bulletin*[31]. A copy of the admitted motion is sent to the Minister concerned and the Minister of Parliamentary Affairs and the item is included in the *List of Business* for a suitable date.

In case several notices of motions are given, texts of admitted motions may be circulated to members in one or more lists of motions in the same way as lists of amendments to a Bill and the texts of these motions may not be published in the *Bulletin* and included in the *List of Business*[32].

Where the Constitution or the parent Act provides that the orders framed there under are to be laid on the Table for a specified period and will be subject to such modification as Parliament may make[33], the motion in the Lok Sabha consists of two parts, the first part being a resolution of the House and the second part a recommendation to the Rajya Sabha to concur in the resolution[34].

Where, however, the Constitution or the parent Act simply provides that the orders framed thereunder are to be laid on the Table, that is, it does not provide for their modification[35], the motion is admitted in the form of a recommendation to the Government.

Allotment of Time for Discussion and Moving of Motions

Where a statute provides that the orders shall be subject to modification by Parliament, Government is bound to find time for discussion of the motion, if notice of

30. Notice of amendment to the regulations laid on the Table under art. 320(5) need not necessarily be given within fourteen days—the period for which the regulations are to be so laid—but can be given at any time before the end of the session in which they are laid on the Table.

31. The practice of publication in the *Bulletin* was started with effect from the Tenth Session of the Second Lok Sabha [*vide Bulletin* (II), 26-4-1960]. Prior to that, it was the practice to circulate the admitted motions separately, like amendments to Bills, resolutions, etc.

32. During the Twelfth Session of the Fourth Lok Sabha, several notices of motions for modifications of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970, were received from members. In the first instance, some of the admitted motions were published in the *Bulletin* and texts of admitted motions were reproduced in full in the advance *List of Business* for 9 December 1970. Later, it was decided that texts of motions should not be reproduced in full in the *List of Business* and that a brief entry should be included in the *List of Business.* Accordingly, all motions which were earlier admitted and published in the *Bulletin* and also motions received and admitted later were circulated to members, etc. in separate lists of motions.

33. For example, *see* art. 320(5); sec. 40(3) of the Displaced Persons (Compensation and Rehabilitation) Act, 1954; sec. 28(3) of the Representation of the People Act, 1950; and section 28(3) of the Railway Protection Force Act, 1957.

34. *L.S. Deb.,* 14-9-1955, cc. 13639-885; 7-9-1956, cc. 6173-236; 6-9-1961, cc. 7497-566.

35. On 22 December 1959, motion for modification of the Petroleum and Natural Gas Rules, 1959 was discussed in the form of recommendation and was negatived. The rules had been laid on the Table in pursuance of sec. 10 of the Oilfields (Regulation and Development) Act, 1948, which merely provided for laying of rules on the Table and not for their modification. *L.S. Deb.,* 22-12-1959, c. 6613.

    The position has since been changed. Sec. 10 of the Act was amended in 1984 as per the recommendation of the Committee on Subordinate Legislation (5th Lok Sabha). Now this section also provides for modification of rules which are laid in pursuance of this section.

a motion for their modification is admitted[36]. Where there is no such provision in the statute and notice of a motion for modification of the orders is admitted, Government is not bound to find time for discussion of the motion but time is generally made available.

At the appropriate time on being called by the Chair, the member concerned moves the motion standing in his name, for modification of the orders. The mover of the motion has the right of reply[37].

In order to avoid repetition of debate, the Speaker may permit a combined discussion on a motion for modification of a Statutory rule, order etc. and a motion under rule 184 if the subject matter of both the motions is same[38].

When a motion for modification of a statutory rule, order, etc. is negatived by the House, a similar or identical motion in a subsequent session may again be admitted and discussed provided the notice of such a motion is given within the time limit prescribed under the relevant statute[39].

When there is a provision in an Act that the rules made thereunder are not to come into force until they have been approved, with or without modification by the Lok Sabha[40], it is the responsibility of the Government to move a resolution for the approval of such rules, soon after these rules are laid on the Table. Where an Act provides that draft rules or regulations framed by the Government would be subject to modification by the Lok Sabha or both Houses of Parliament within a specified period[41], the rules or the regulations can be promulgated only after the stipulated period, either as framed or with such modifications as are agreed to by the Lok Sabha or both Houses of Parliament, as the case may be.

36. Rule 235.

37. *L.S. Deb.,* 7-9-1955, cc. 6230-31.

38. During Twelfth Session of Fifteenth Lok Sabha, two motions for modification of Notification the G.S.R. 795(E) dated 19 October 2012 relating to Foreign Direct Investment in Retail Trade were admitted and published in Bulletin Part-II dated 3 December 2012. The motions were included for combined discussion in the List of Business dated 4 December 2012 together with a motion under Rule 184 on FDI in multi-brand retail trade. However, immediately before the combined discussion on the motions, objections were raised for discussing the motions for modification together with motion under Rule 184. Thereupon, the Speaker observed "…though the effect of adoption of the motion under Rule 184 is different from that of motions for modification…, Yet the subject matter of the motion under Rule 184 and the motions for modification of the Notification is same. Therefore, in order to avoid repetition of debate on the subject, I, in my discretion, decided to allow a combined debate on the three motions…." Accordingly, all the three motions were discussed together on 4 and 5 December 2012. On 5 December 2012, the motion under rule 184 was first put to vote and negatived. Thereafter, the first motion for modification was put to vote and negatived. The second motion for modification was not put to vote as its text was covered by first motion on which House had already given its decision.

39. During the Third Session of Fifteenth Lok Sabha, notices of motions identical to the motions for modification admitted during Twelfth Session, were admitted and published in Bulletin-Part II dated 1 and 22 April 2013. Time was also allocated by Business Advisory Committee for discussion on these motions. However, the motions would not come up for discussion due to repeated adjournment of the House.

40. *See* for example, sec. 7 of the Mines and Minerals (Regulation and Development) Act, 1957, sec. 11(1) of the Salaries and Allowances of Ministers Act, 1952 and sec. 8A (1) read with sec. 7(3) of the Customs Tariff Act, 1975. For the form of motion, *see L.S. Deb.,* 31-8-1956, cc. 5045-46 and *L.S. Deb.,* 15.3.2018 and 4.4.2018.

41. Sec. 20(2) of the Estate Duty Act, 1953, sec. 67(2) of the Limited Liability Partnership Act, 2008 and sec. 462(1) of the Companies Act, 2013.

In one instance, motions for modification of certain orders (which under the provisions of the Constitution were subject to modification by both Houses of Parliament during the session in which they had been laid on the Table) were, due to want of time, allowed to be discussed in the following session, and one of the motions as amended was adopted in the form of a resolution of the House[42].

A combined debate can be held on two motions for amendment of two different orders, provided the motions deal with allied matter[43].

Notices of motions for modification of orders or statutory rules which have been admitted and published in the *Bulletin* but not discussed during the session lapse on the prorogation of the Lok Sabha[44].

Motions for modification of orders, which are moved in the House but discussion thereon is not concluded, lapse upon dissolution of the House.

Transmission of Amendments as adopted by the Lok Sabha, to the Rajya Sabha and the Minister Concerned

In case an order is subject to modification by Parliament and any amendment is adopted by the Lok Sabha, it is transmitted to the Rajya Sabha for its concurrence and on receipt of a message from the Rajya Sabha agreeing to the amendment; it is forwarded by the Secretariat to the Minister concerned[45].

If the Rajya Sabha disagrees with the amendment passed by the Lok Sabha or agrees subject to a further amendment thereof or proposes an amendment in substitution thereof, the Lok Sabha may either drop the amendment or agree with the Rajya Sabha in the proposed amendment or insist on the original amendment passed by the House. A message in each case is sent to the Rajya Sabha. In case the Lok Sabha agrees to the amendment as further amended by the Rajya Sabha, the amendment is forwarded by the Secretariat to the Minister concerned[46].

If the Rajya Sabha agrees to the original amendment passed by the Lok Sabha, it is sent by the Secretariat to the Minister concerned but if the Rajya Sabha disagrees or insists on an amendment to which the Lok Sabha has not agreed, the Houses are deemed to have finally disagreed and all further proceedings thereon are dropped[47].

If an order is modified in accordance with the amendment passed by the Houses, the amended order has to be laid on the Table[48].

Where, however, the order is not subject to modification by Parliament, the amendment adopted by the Lok Sabha is forwarded direct to the Minister concerned.

42. *L.S. Deb.,* 27-9-1958, cc. 9037-47; 18-11-1958, cc. 299, 314-18.
43. *Ibid.,* 11-12-1962, c. 5326.
44. Rule 335.
45. Rule 236.
46. Rule 237.
47. Rule 238. There has been no such case since the coming into force of the Constitution.
48. Rule 239.

CHAPTER 25

Resolutions

A resolution is a formal expression of the sense, will or action of a deliberative Assembly, *e.g.*, a Legislative Body[1]. Every question, when agreed to, becomes either an order or a resolution of the House. By its orders the House directs its Committees, its members, its officers, the order of its own proceedings and the acts of all persons whom they concern; by its resolutions the House declares its own opinions and purposes[2].

A member or a Minister may, subject to the Rules, move a resolution in the Lok Sabha relating to a matter of general public interest[3].

The Minto-Morley Reforms of 1909 allowed, for the first time, the Legislative Council to discuss matters of general public interest by way of resolutions in the form of specific recommendations[4]. The rules framed for this purpose not only circumscribed matters which could be discussed but also empowered the Governor-General, *inter alia,* to disallow notice of any resolution or part thereof on the ground that it could not be moved consistently with the public interest.

This position remained practically unaltered till 1947 when, on attaining Independence, the rule empowering the Governor-General to disallow notices of resolutions was omitted and the rule regarding restrictions on subjects for discussion was amended to provide that all matters, except those *sub judice,* could be discussed in the form of a resolution.

Resolutions may be broadly divided into three categories—

Resolutions which are mere expression of opinion by the House: Since the purpose of such a resolution is merely to obtain an expression of opinion of the House, the Government is not bound, as convention has it, to give effect to opinions expressed in these resolutions. It entirely rests on the discretion of the Government whether or not to take action suggested in such resolutions.

Resolutions which have statutory effect: The notice of a statutory resolution is given in pursuance of a provision in the Constitution or an Act of Parliament[5]. Such a resolution, if adopted, is binding on the Government and has the force of law.

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1. Black's Law Dictionary, (8th edition).
2. May, 24th edition, p. 424.
3. Rule 172.
4. The first resolution was moved on 25 February 1910, recommending prohibition of indentured labour for Natal. (The Indentured Labour Agreement of 1860 was signed between India, Natal and Britain. This enabled the contract labour being sent by ship to Natal. On being indentured, they were assigned a number by which they were identified, for all purposes, during their stay in Natal).
5. Resolutions, for instance, under articles 61(4), 67(b), 90(c), 94(c), 123(2), 169(1), 179(c), 183(c), 213(2), 249, 252, 312, 315(2), 352, 356 and 368 of the Constitution, fall under this category. Similarly, certain Orders and Regulations framed under Acts of Parliament have got to be approved by Parliament.

Resolutions which the House passes in the matter of control over its own proceedings: A resolution of the House in the matter of control over its own proceedings has the force of law and its validity cannot be challenged in any court of law. The House by such a resolution evolves, sometimes, its own procedure to meet a situation not specifically provided for in its Rules[6].

There are three types of resolutions *viz.*, Private Members' Resolutions, Government Resolutions and Statutory Resolutions.

Private Members' Resolutions

Notices of Resolutions and Ballot

A private member, who desires to move a resolution, has to give notice to that effect in the first instance. The notice**,** addressed to the Secretary-General may either be handed over to the Parliamentary Notice Office or submitted online through specially created members' e-portal, at least two days before the date of the ballot[7].

The names of members from whom such notices are received are balloted and the members securing the first three places in the ballot for any particular day allotted for private members' resolutions are asked to give notice of one resolution each within two days after the date of the ballot[8]. These resolutions, if admitted, are then included in the List of Business. Notices of resolutions received from members after the prescribed time period are treated as time-barred. A separate ballot is held for each day allotted for private members' resolutions[9]. The dates and time for holding the ballot are notified in Bulletin-Part II before the commencement of a session. The first ballot of a session is held on the second day of the session and subsequent ballots on the specified days preceding such allotted days.

If, on examination, the resolution, of which a notice has been given by a member, is found to be inadmissible, the member concerned is asked to table another resolution.

Form and Content of Resolutions

A resolution may be in the form of a declaration of opinion or a recommendation; or it may be in the form so as to record either approval or disapproval by the House of an act or policy of Government or convey a message; or commend, urge or request an action; or call attention to a matter or situation for consideration by Government; or in such other form as the Speaker may consider appropriate[10]. A resolution must purport to convey the opinion of the House as a whole and not only of a section thereof. Moreover, the subject-matter of a resolution should relate to a matter of general public interest, and only those matters which are primarily the concern of the Government of India can form the subject-matter of a resolution.

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6. *See* Chapter 26—*Motions*, under the heading 'Substantive Motions'.
7. Rule 170; *L.S. Deb.,* 8-11-1962, cc. 89-90; 9-11-1962, cc. 379-80.
8. Dir. 9.
9. *Ibid.*
10. Rule 171.

Conditions of Admissibility

Notices of resolutions received from members are examined in the Secretariat to see whether they are in proper form and satisfy the conditions of admissibility. The admissibility of a resolution is to be decided only in terms of the condition of admissibility laid down in the Rules[11].

In order that a resolution may be admissible, it should—

be clearly and precisely expressed[12]; raise substantially one definite issue[13]; contain no arguments, inferences, ironical expressions, imputations or defamatory statements**,** not refer to the conduct or character of persons except in their official or public capacity; not relate to any matter which is under adjudication by a court of law having jurisdiction in any part of India; not seek to raise any discussion on a matter pending before any statutory tribunal or statutory authority performing any judicial or quasi-judicial functions or any commission or court of inquiry appointed to inquire into, or investigate, any matter[14] (however, the Speaker may, in his discretion, allow such matter to be raised in the House as is concerned with the procedure or subject or stage of inquiry, if he is satisfied that it is not likely to prejudice the consideration of such matter by the statutory tribunal, statutory authority, commission or court of inquiry[15]); not relate to a matter which is under consideration of a Parliamentary Committee (it is permissible only after submission of the report by the Committee); and make no reference to any matter where no ministerial responsibility is involved[16].

After a resolution has been moved in the House, no resolution or amendment thereto raising substantially the same question can be moved within one year from the date of the moving of the earlier resolution[17]. When the discussion on a resolution is continued from session to session for a number of days, the period of one year is computed from the date on which the resolution was moved. This restriction operates only within the life of one House and does not apply to resolutions, notice of which is given by members of a new House after a general election.

If a resolution has been withdrawn or is deemed to be withdrawn with the leave of the House, no resolution raising substantially the same question can be moved during the same session[18]. A resolution raising a question substantially identical with the one

11. Rule 173; Ruling by the Speaker—*L.S. Deb.,* 16-3-1979, cc. 387-92.

12. A resolution admitted and moved in the House was later held to be not in order as it was not clearly and precisely worded, and further discussion thereon was accordingly withheld—*L.S. Deb.,* 8-3-1968, cc. 2671-84; 23-3-1968, cc. 2693-2710.

13. A resolution consisting of more than one matter, provided they are illustrative of a single definite issue, is admissible—*L.S., Deb.,* 4-2-1946, pp. 435-36. *See* Resolution *re.* economic policies by Bhattam Srirama Murty in List of Business for 28-11-1986.

14. Rule 175; For discussion on matters *sub judice, see* Chapter 43—*Parliament and Judiciary.*

15. Rule 175, Proviso.

16. Rule 186 (xi) and (xv).

17. Rule 182.

18. Rule 182, Proviso.

When a resolution has been discussed and then withdrawn with the leave of the House, another resolution raising substantially the same question can be moved within one year but not during the same session.

raised in a resolution pending for further discussion before the House during the same session is inadmissible. The rule of anticipation does not apply when the chances of discussion on the anticipated matter are remote[19]. A resolution should not also raise a question substantially identical with the one on which the House has given a decision in the same session[20]. Thus, a resolution raising a question substantially identical with the one raised in a Bill, on which the House has given a decision in the same session, is inadmissible. However, a cut motion on which the House has given a decision does not bar the moving, in the same session, of a resolution raising the question discussed earlier on the cut motion, as at the time of voting on the cut motion, the subject is not put to the vote of the House and the decision of the House is taken only on the cut motion.

A resolution recommending to the Government to bring forward a new legislation or an amendment of an existing enactment is admissible[21]. A resolution containing a suggestion opposed to the declared policy of the Government is also admissible, as a member is entitled to seek a reversal of such policy.

A resolution, based on presumptions or hypothetical in character, is inadmissible as also one dealing with a matter which is primarily the concern of the State Government and seeks to interfere with its autonomy[22]. In the latter case, on any doubt, a reference is made to the Minister concerned who is asked to state the extent of the responsibility of the Union Government involved in the subject-matter of the resolution. However, a resolution on a State subject is admissible when the Proclamation of Emergency is in operation and powers of the State Legislature are vested in the Parliament[23]. A resolution seeking to implement a constitutional directive is also admissible although the matter raised therein is primarily a State subject[24].

The Resolutions, *inter alia,* on the following subjects have been disallowed:

severance of diplomatic relations in normal peace time; amendments to the Rules; events in another country[25]; taxation measures[26]; amendment of the Constitution; suggesting actions hostile to friendly countries; appointment of a

19. Ruling by the Speaker—*L.S. Deb.*, 16-3-1979, cc. 387-92.

20. Rule 338.

21. *Bn. (II),* 15-3-1958, para 1218; 28-3-1958, para 1272.

22. Notice of a resolution dealing with a matter that, though not primarily the concern of the Government of India, was admitted as it sought preparation of a model scheme for implementation by States to provide free legal aid to poor litigants. *See* Manual on Rules, Rule 173, p. 44, note xii.

23. In 1976, a resolution concerning a State subject (namely, Forest) was held admissible as the Proclamation of Emergency was in operation and Parliament was empowered under article 250 to legislate with respect to any matter in the State List; *see* List of Business for 14-5-1976.

In 1986, a resolution concerning a State subject (namely, steps to restore communal peace and harmony in J&K) was held admissible since the State was under Governor's Rule and the State Legislature was in a state of suspended animation; *see* List of Business for 25-3-1986.

24. *L.S. Deb.,* 16-3-1979, cc. 387-92.

25. A matter relating to human rights arising out of incidents in a foreign country about which there was a world-wide feeling and a near unanimity in the House that the matter should be discussed, had been taken up on a Government resolution—*L.S. Deb.,* 23-3-1960, cc. 7545-60; *see* also this Chapter, under "Government Resolutions", *infra.*

26. Taxation measures are discussed during the discussion on the Budget and once decided they are not reopened during the course of the year.

committee to examine the conventions developed in the two Houses of Parliament and State Legislatures since the commencement of the Constitution; construction of new railway lines, restoration of line dismantled during the war, conversion of metre gauge into broad gauge lines, changes in the zonal set-up of Railways and the like, which are primarily of local interest; calling upon the Government to set aside Assembly elections and enforcement of party discipline; those in the nature of no-confidence motion in the Council of Ministers and those seeking to discuss action of Chief Election Commissioner in withholding bye-elections in a State.

The Speaker decides whether a resolution or a part thereof is admissible or not under the Rules and may disallow any resolution or a part thereof when in his opinion it is an abuse of the right of moving a resolution or calculated to obstruct or prejudicially affect the procedure of the House, or is in contravention of the Rules[27].

A resolution relating to any matter under the administrative jurisdiction of the Speaker is not admitted.

After the resolutions are admitted, a copy each of the admitted resolutions is forwarded to the Minister concerned[28].

Resumption of Adjourned Debate on Private Members' Resolutions

When the debate on a private member's resolution is adjourned *sine die,* the mover of the resolution may, if he wishes to proceed with such resolution on a subsequent day allotted for private members' resolutions, give notice for resumption of the adjourned debate and on receipt of the notice the relative precedence of such resolution is determined by balloting the name of the member along with the names of other members[29]. Debate on a private member's resolution is not adjourned to a fixed date[30].

In an exceptional case, the debate on a private member's resolution was adjourned to the next day allotted for private members' resolutions after suspending the provisions of Rule 30(1) and the Proviso to Rule 29, to enable the resolution to be set down in the List of Business without ballot as the first item[31]. There has been an instance when debate on a private member's resolution was adjourned to a day to be fixed later without altering the order of the resolution by suspending Proviso to Rule 29[32].

27. Rule 174.
28. Rule 183.
29. *L.S. Deb.,* 12-11-1965, cc. 1658-63.
30. Rule 30(2).
31. *Ibid.,* 11-4-1975, cc. 364-66; 23-12-1977, cc. 381-82.
32. *L.S. Deb.,* 28-4-1995, cc. 234-36; 26-5-1995, cc. 255-56.

    The entire private members' business (resolutions) for 28-4-1995 was transferred to a day originally not allotted for transaction of private members' business. Part-discussed resolution of 28-4-1995 was not included in the Lists of Business for the intervening allotted days for private members' resolutions (12-5-1995 and 26-5-1995) but was included as the first item for discussion on the day the business was transferred to (30-5-1995), notwithstanding that another resolution remained part-discussed on 26-5-1995—the intervening day originally allotted to private members' resolutions, by suspending Proviso to Rule 29.

The Committee on Private Members' Bills and Resolutions considered the question of adjournment of debate on private member's bill/resolution and simultaneous suspension of Rule 30(1) in its application to that bill/resolution, in pursuance of an observation made by the Chair during the course of discussion on a private member's bill[33]. After considering all aspects of the matter, the Committee, in their report to the Speaker, observed that consent should not normally be given to move a motion for suspension of Rule 30(1) in its application to the debate on a private member's bill or resolution so as to enable the item to be set down for further discussion on the next day allotted to that category of business without having to go through ballot. The request for suspension of Rule 30(1) might, therefore, be considered only if there were extraordinary circumstances, complete unanimity in the House and no other alternative course was available to meet the situation.

Once a resolution is moved in the House, any one of the following five contingencies may arise: it may be adopted, or it may be negatived, or it may be withdrawn, or it may remain part-discussed or the debate thereon may be adjourned.

Admitted Resolutions

The List of Business for a day allotted for private members' resolutions generally contains three resolutions in the names of those members who have been successful in the ballot, in addition to a part-discussed resolution, if any. However, if a member, securing a place in the ballot does not give notice of a resolution or after giving notice intimates that he would not be present on the allotted day, the List of Business may not contain such resolution(s).

The resolutions are put down in the List of Business in the order in which the names of members-in-charge of resolutions appear in the result of ballot, and the order of business as determined by ballot is not changed[34]. A resolution which remains part-discussed at the end of the day has precedence over all other resolutions set down for the next day allotted for private members' resolutions[35]. If a resolution set down in the List of Business for a day is not taken up on that day, it is treated as lapsed and is not set down for discussion on any subsequent day.

If the time allotted for discussion of a part-discussed resolution entered in the List of Business for a day is increased by the House or by the Speaker and as a result thereof the next resolution entered in the List of Business on the basis of the first priority obtained at the ballot is not moved on that day, the said resolution is set down as the first item for the next day allotted during the same session for private members'

33. *L.S. Deb.,* 11-12-1981, cc. 465-70; [35 & 36R(7LS)]; Also *see* Manual on Rules, Rule 30, pp.177-78, note xx.

34. The time allotted for private members' resolutions on 24 September 1965, was utilized for a short duration discussion on U.N. Security Council resolution for a cease-fire between India and Pakistan.

    However, with the unanimous consent of the House, a private member's resolution *re.* India quitting the Commonwealth was also discussed together with the short duration discussion on that day although the resolution appeared at item No. 3 in the List of Business of private members' resolutions for that day.

35. Rule 29, Proviso.

resolutions after the part-discussed resolution, if any[36].

Allotment of time to Resolutions

The last two and a half hours of a sitting on every alternate Friday starting from the second Friday of the session are allotted for the discussion of private members' resolutions. The Speaker may, in consultation with the Leader of the House, allot any day other than a Friday for the transaction of such business. If there is no sitting of the House on a Friday allotted for private members' resolutions, the Speaker may direct that two and a half hours on any other day in the week may be allotted for private members' resolutions[37].

Thus, discussion on private members' resolutions has, with the unanimous consent of the House, been held on a day other than Friday in order to enable the House to dispose of some other urgent work[38]. Where the House is not unanimous in this respect, private members' business is not transferred[39]. In case, a sitting of the Lok Sabha is cancelled and in the absence of any specific decision by the House about treatment of resolutions included in the List of Business for that day, all resolutions, except the part-discussed resolution, are treated as having lapsed[40].

In exceptional cases, discussion on private members' resolutions may be taken up earlier or later than the scheduled hour on an allotted day[41]. With the unanimous consent of the House, the time may be extended beyond the normal duration of two and

36. Dir. 9A, *L.S. Deb.,* 26-4-1974, cc. 368-70; 10-5-1974, c. 411; 16-8-1974, cc. 313-14; 30-8-1974, c. 311; 19-3-1976, c. 300; 2-4-1976, cc. 295-96; 11-4-1986, c. 426; 3-4-1987, c. 247; 19-7-1996, c. 238; 30-8-1996, cc. 382, 398, 412.

37. Rule 26.

38. *L.S. Deb.,* 26-8-1960, c. 5124; 26-4-1963, cc. 12169-70; 2-6-1995, c. 277.

    Some other instances when private members' resolutions were taken up on a day other than Friday to enable the House to dispose of some other urgent work:—

    (i) Thursday, 27 March 1986, was allotted to private members' resolutions. On the recommendation of Business Advisory Committee [22R(BAC-8LS)], the sitting fixed for that day was cancelled and Private Members' Business scheduled for that day was transferred to Tuesday, 25 March 1986.

    (ii) Friday, 15 April 1988, was allotted to private members' resolutions. On the recommendation of Business Advisory Committee [51R(BAC-8LS)], the sitting fixed for that day was cancelled. On 4 April 1988, when the motion for adoption of the Report was moved, suggestion made by a member that the private members' business to be taken up on 15 April 1988 might be transferred to 29 April 1988 was agreed to and private members' business was transferred accordingly.

    (iii) Friday, 14 March 2008, was allotted to private members' resolutions. On request made by Minister of Parliamentary Affairs to the Speaker and agreed to by the House, private members' business (resolutions) scheduled for that day was transferred to Thursday, 17 April 2008.

    (iv) Friday, 20 February 2009, was allotted to private members' resolutions. The Minister of Parliamentary Affairs through a letter made a request to the Speaker to transfer private members' business (resolutions) scheduled for 20 to 26 February 2009 which was placed before the Business Advisory Committee. On the recommendation of BAC, business scheduled for that day was transferred to Thursday, 26 February 2009.

    (v) Friday, 10 February 2023, was allotted to private members' resolutions. On suggestion made by Minister of Parliamentary Affairs to the Speaker and agreed to by the House, private members' business (resolutions) scheduled for that day was transferred to Monday, 13 February 2023.

39. *Ibid.,* 15-6-1962, cc. 10842-44.

40. *Ibid.,* 14-3-1984, cc. 529-30; 2-4-1985, cc. 383-84.

41. *L.S. Deb.,* 26-3-1965, c. 6222.

a half hours[42], or curtailed[43].

Time-limit for Resolutions

Time-limit for the discussion of individual resolutions included in the List of Business for an allotted day is recommended by the Committee on Private Members' Bills and Resolutions[44]. If a sitting of the Committee cannot be held for any reason, time is allotted by the House itself on the day when the resolutions are to be taken up[45]. The maximum time recommended by the Committee for the discussion of a private member's resolution is four hours[46]. However, there are instances when resolutions were discussed for even more than ten hours[47].

No speech on a resolution can, except with the permission of the Speaker, exceed fifteen minutes in duration. However, the mover of a resolution and the Minister concerned, when speaking for the first time, may speak for thirty minutes or for such longer time as the Speaker may permit[48].

If the time recommended by the Committee for discussion of a resolution is desired to be varied, it is open to a member to move an amendment to the relevant report of the Committee when the motion for its adoption comes up before the House[49].

Allocation of Time, Order and Disposal of Outstanding Matters

The allocation of time in respect of resolutions, as approved by the House, takes effect as if it were an Order of the House[50]. After the allocation of Time Order has been notified, the time allotted for the discussion of a resolution can be extended[51] or reduced[52] only on a motion moved by a member and adopted by the House. In a number of cases, however, time has been extended after taking the sense of the House, without a formal motion being moved for that purpose[53].

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42. *Ibid.,* 20-7-1956, cc. 483-84; 26-4-1974, cc. 337-38; 16-8-1974, cc. 313-14; 2-4-1976, c. 275; 19-12-2009, cc. 537-43.

43. *Ibid.,* 7-9-1962, cc. 6899-6900; 29-3-1974, cc. 320-21; 2-9-1988, c. 172.

44. Rule 294(1)(e). *L.S. Deb.,* 21-4-1962, cc. 307-08; 4-5-1962, c. 2709; 18-5-1962, c. 5378. *See* also under "Committee on Private Members' Bills and Resolutions" in Chapter 30—*Parliamentary Committees.*

45. *L.S. Deb.,* 23-11-1962, c. 3240; 12-7-1996, cc. 214-15.

    At the beginning of a new Lok Sabha and prior to the constitution of the Committee on Private Members' Bills and Resolutions, allotment of time to resolutions is made by the Chair after taking the sense of the House—*L.S. Deb.,* 18-1-1985, cc. 222-23.

46. 6R (CPB-1LS), adopted by the House; *L.S. Deb.*, 17-4-1954, cc. 4987-88; 7-8-1959, c. 1269.

47. (i) A resolution regarding Centre-State Relationship was discussed for ten hours and thirty minutes on 31-3-1983, 15-4-1983, 29-4-1983, 5-8-1983 and 19-8-1983; (ii) A resolution regarding measures for uplift of tribal people was discussed for approximately fourteen hours on 16-4-1987, 30-4-1987, 7-8-1987, 21-8-1987, 13-11-1987, 11-12-1987 and 18-3-1988; (iii) A resolution regarding maintaining *status quo* of religious shrines and places of worship was discussed for eleven hours and five minutes on 12-7-1991, 19-7-1991, 26-7-1991, 9-8-1991 and 23-8-1991.

48. Rule 178.

49. *L.S. Deb.,* 26-8-1955, cc. 11402-05; 17-2-1956, cc. 102-06.

50. Rule 296.

51. *L.S. Deb.,* 7-8-1959, c. 1269; 7-9-1962, c. 6899; 15-11-1962, c. 1834.

52. *Ibid.,* 31-8-1956, cc. 5115-16.

53. *Ibid.,* 4-12-1959, c. 3519; 20-9-1963, c. 10509; 14-3-1986, c. 394; 20-3-1987, c. 250.

At the appointed hour, in accordance with the allocation of Time Order, unless the time is extended by the House, the Speaker may put the resolution[54] and amendment, if any, to the vote of the House. Amendment will be put to the vote first and then the resolution.

When a point of order relating to a resolution under discussion in the House is raised, the time taken in the disposal of the point of order is also counted towards the total time allotted for the resolution[55].

Moving of Resolutions

When called upon, the member in whose name a resolution stands on the List of Business moves the resolution, unless he wishes to withdraw it[56]. The mover commences his speech by a formal motion in the terms appearing in the List of Business[57]. It is not, however, out of order if a member speaks on a resolution before he formally moves it[58].

A resolution must be moved as it stands on the List of Business[59]. If the mover desires to omit a certain portion thereof, he can do so only by the Order of the House[60]. There have, however, been instances where a resolution as it stood in the List of Business was allowed to be moved in an amended form, by the Speaker[61].

Unlike a motion, a resolution can be moved, with the permission of the Speaker, by another member, listed in the List of Business, authorized by and on behalf of the one in whose name the resolution stands[62]. The unfinished speech of the mover of a resolution is treated as concluded if he is absent on the next day when the resolution is taken up[63]. Unless the resolution is placed before the House by the Chair after the mover has concluded his speech, there is no motion before the House[64].

A member has no prescriptive right to move his resolution on the ground that extension of time to a resolution earlier in the List of Business would block his resolution next on the list from being taken up[65]. While an earlier resolution is still under discussion, another resolution appearing later in the List of Business is not

54. Rule 297.

55 *L.S. Deb.,* 20-7-1956, c. 437; 2-3-1979, cc. 331-34; 16-3-1979, cc. 387-91.

56. A statutory resolution *re.* approval of Proclamation under art. 356 of the Constitution in relation to Manipur was included in the List of Business for 20 March 1972 in the name of the Minister of State for Home Affairs. When the business was to be taken up, the Minister did not move the resolution explaining that it was not necessary, as the Proclamation had since been revoked and the Ministry sworn-in in Manipur. *See, L.S. Deb.,* 20-3-1972, c. 223.

57. Rule 176(1).

58. *L.S. Deb.,* 22-5-1957, cc. 1502-78.

59 *Ibid.,* 8-12-1972, cc. 308-09.

60. *L.A. Deb.,* 17-2-1921, p. 158.

61. *L.S. Deb.,* 17-8-1959, cc. 2814-20; 28-3-1960, cc. 8387-89.

62. Rule 176(2), *L.S. Deb.,* 7-8-1970, c. 297; 21-6-1971, cc. 110-12; 31-3-1983, c. 421.

63. *Ibid.,* 30-4-1976, cc. 325-26; 14-5-1976, cc. 228-29; 20-3-1987, c. 220.

64. Ruling by the Speaker—*L.S. Deb.*, 14-2-1958, cc. 893-96.

65. *Ibid.,* 8-5-1959, cc. 1954-55; 21-8-1987, cc. 434-38.

allowed to be moved[66].

However, there have been a few occasions when debate on a private member's resolution was adjourned to a day allotted to resolutions and simultaneously Rule 30(1) and the Proviso to Rule 29 were suspended in their application to that resolution. Thereafter, the next resolution was moved[67].

Notice of Amendments

After a resolution has been moved, any member may, subject to the rules relating to resolutions, move an amendment to the resolution, but the tabling of amendment does not confer upon him the right to speak[68]. If notice of the amendment, as required, has not been given one day previous to the day on which the resolution is moved, any member may object to the moving of the amendment, and such objection prevails, unless the Speaker allows the amendment to be moved[69]. The period of notice may be waived in respect of an amendment to a resolution if it is acceptable to the mover of the resolution and the Government[70].

Lists of amendments of which notices have been received are circulated to members from time to time[71].

Admissibility of Amendments

An amendment to be admissible must not be vague or indefinite[72] nor should it be negative in character[73]. It should not be unduly long nor should it raise multiple issues[74]. An amendment should not seek to widen the scope of the resolution[75]. Hence an amendment proposing to raise an altogether new subject beyond the scope of the resolution is out of order[76]. If an amendment is in substance the same as the original resolution, it is out of order[77]. Amendments, which raise a question, in full or in part, identical in substance or phraseology with a resolution already decided in the same session, are inadmissible[78]. Objection in regard to the admissibility of an amendment can be taken when the amendment is moved; it cannot be raised after discussion on the resolution is over and the amendment is being put to vote[79].

66. *L.S. Deb.,* 14-8-1969, cc. 323-24, 329-30; 22-12-1972, cc. 379-81; 9-12-1977, cc. 366-68; 3-3-1978, cc. 343, 381-82.
67. *Ibid.,* 12-3-1965, cc. 455-58; 22-4-1975, cc. 303-04; 23-12-1977, cc. 380-81.
68. *H.P. Deb. (II)*, 28-11-1952, c. 1370.
69. Rule 177. An amendment with inadequate notice can be moved if an identical amendment with adequate notice has already been given by another member, and he declines to move his amendment.
70. *L.S. Deb.*, 31-3-1956, cc. 3980-81; 28-8-1981, cc. 307-08.
71. Rule 177(3).
72. *L.A. Deb.,* 5-12-1932, p. 2930.
73. *L.S. Deb.,* 2-12-1960, c. 3684.
74. *Ibid.,* 26-3-1965, c. 6296.
75. *L.A. Deb.,* 9-8-1934, pp. 1275-76; *H.P. Deb. (II)*, 17-4-1953, c. 4463; *L.S. Deb.,* 14-4-1961, cc. 11485-500.
76. *L.A. Deb.,* 27-1-1925, pp. 301-02.
77. *L.S. Deb.,* 2-12-1960, c. 3684.
78. *L.A. Deb.,* 21-7-1923, p. 4832.
79. *L.S. Deb.,* 26-3-1975, cc. 384-91.

The Speaker may, in his discretion, disallow tabling of amendments as the debate proceeds from day to day[80]. There is, however, no objection to tabling agreed amendments or those, which are really necessary for the purpose of debate, subject to the discretion of the Speaker[81].

In addition to the above, general conditions of admissibility of amendments relating to Bills and motions apply *mutatis mutandis* in the case of amendments to resolutions also.

Scope of Discussion

The discussion on a resolution must be strictly relevant to and within the scope of the resolution[82]. Where a general question is raised through a resolution, individual cases without names may be mentioned by way of illustration, but not by way of appeal to the Government for redress[83].

It is in order for the member-in-charge to express, in the course of his speech on the resolution, his views, in general, on amendments, which are still to be moved[84].

Right to Reply

The mover of a resolution has the right of reply but he has to protect his right by rising in his place and the Speaker does not undertake the responsibility of ascertaining in every case before putting the question whether the mover wishes to speak in reply or not[85]. It is not permissible for any other member to reply to the debate on a resolution on behalf of the mover. In the case of a private member's resolution, the debate is treated as concluded after the Minister's speech if the mover of the resolution is not present to reply to the debate[86].

A copy of every resolution which has been adopted by the House is forwarded by the Secretary-General to the Minister concerned[87].

Withdrawal of Resolution

A member in whose name a resolution stands, on the List of Business, when called upon to move it, may inform the Speaker that he does not wish to move it and in doing so he confines himself to a mere statement to that effect; but if the resolution or an amendment thereto has been moved, the resolution can be withdrawn only by leave of the House[88]. The member cannot ask for leave to withdraw the resolution if division on an amendment proposed thereto is in progress. Motion for withdrawal of resolution

80. *H.P. Deb.,* (II), 22-8-1953, cc. 1307-09.
81. *L.A. Deb.,* 5-2-1946, p. 511; *L.S. Deb.,* 2-7-1971, c. 234; 2-3-1973, cc. 250, 307-09.
82. Rule 179.
83. *L.A. Deb.,* 25-3-1943, p. 1438.
84. *L.S. Deb.,* 22-5-1957, c. 1528.
85. *L.A. Deb.,* 5-3-1921, p. 649.
86. *L.S. Deb.,* 14-5-1976, c. 272; 10-12-1993, cc. 578-79; 16-12-2022, cc. 1018-1060
87. Rule 183. A total of 34 Private Members' Resolutions have been adopted by the House till 17th Lok Sabha.
88. Rule 180.

can be moved only after the amendments have been disposed of by being agreed to, withdrawn, or negatived. An amended resolution can, however, be withdrawn by leave of the House.

Government Resolutions

Though no period of notice has been prescribed for Government resolutions, in actual practice, Ministers give notices of their resolutions several days in advance of the date on which the item is proposed to be included in the List of Business. In respect of admission, Government resolutions are subject to the same rules as the private member's resolutions. If a Government resolution is not properly worded or raises more than one definite issue[89], the Minister concerned is asked to give a revised notice. After a resolution, a notice of which is given by a Minister, has been admitted by the Speaker, it is published in the Bulletin. The Speaker, in consultation with the Leader of the House, fixes a date for discussion of the resolution. Before inclusion of the resolution in the List of Business, the Minister concerned ensures that all relevant documents and literature, where necessary, are circulated to members well in advance.

Allotment of Time and Discussion

Time for discussion of a Government resolution is allotted by the House on the recommendation of the Business Advisory Committee[90]. The resolution may be moved by the Minister-in-charge or, in his absence, by any other Minister on his behalf after prior intimation to the Speaker. The rest of the procedure regarding moving of amendments and disposal thereof as well as the disposal of the resolution is the same as in the case of private members' resolutions.

A joint discussion may take place on a Government resolution and motion for consideration of a Government Bill[91] or certain other items[92].

The three broad categories under which Government resolutions may be classified are:

Resolutions approving international treaties, conventions or agreements of which the Government is a party: Under the Constitution, the Government of India can enter into treaties and agreements with foreign countries and has the power to implement

89. Rule 173:

During the Thirteenth Session of Fifteenth Lok Sabha, the notice of a Government Resolution regarding rejection of Awards given by the Board of Arbitration in two different C.A. References, namely, C.A. Reference No. 6 of 2004 and 2 of 2004 was tabled by the Minister. As the notice contained two different issues, no action was taken on the resolution and the Minister was requested to table two separate notices of resolutions.

90. Rule 288; *see* also 37R (BAC-2 LS) and 39R (BAC-2 LS) regarding the functions of the Committee, *see* Chapter 30—*Parliamentary Committees.*

91. *L.S. Deb.,* 7-12-1967, cc. 5419-534; 8-12-1967, cc. 5753-98; 11-12-1967, cc. 6048-145; 12-12-1967, cc. 6329-426; 13-12-1967, cc. 6609-721.

92. *Ibid.,* 17-12-1973, cc. 270-367, 379-92; 18-3-1987, cc. 537-89.

any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body[93]. Resolutions for this purpose are occasionally tabled by Ministers seeking approval of the Lok Sabha to the conventions or its recommendation or for ratification of conventions or agreements by the Government of India[94].

It is within the purview of the Government of India to enter into and ratify treaties, but it is not obligatory for the Government, under the Constitution, to seek approval of Parliament to such treaties[95]. However, where there is a provision in a treaty itself for ratification thereof by the Legislatures of the contracting parties, the treaty is submitted to the House for approval[96]. Further, no cession of Indian territory can take place without a constitutional amendment. A settlement of a boundary dispute has not been held to be a cession of territory. In this connection, the Supreme Court observed:

> Ordinarily an adjustment of a boundary which International Law regards as valid between two Nations, should be recognised by the Courts and the implementation thereof can always be with the Executive unless a clear case of cession is involved when Parliamentary intercession can be expected and should be had. This has been custom of Nations whose constitutions are not sufficiently elaborate on this subject[97].

Resolutions declaring or approving certain policies of the Government: A Government resolution may seek to record approval of the House to an act or policy of the Government. Resolutions seeking approval of the House to the principles, objectives and programmes of development contained in the Five-year Plans of the Government, National Health Policy, Draft National Policy on Education and Programme of Action on National Policy on Education, were, for instance, brought before the House and adopted[98].

Similarly, resolutions expressing reaction of the Government towards incidents in the international field have also been brought before the House and adopted[99].

Resolutions approving recommendations of certain Committees: Sometimes resolutions are brought forward by the Government to seek the approval of the House to the recommendations contained in the reports of certain Committees[100].

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93. *See* art. 253 and entries 13 and 14 of the Seventh Schedule (List I—Union List). The Calcutta High Court observed:

    Entry 14 of List I in Schedule VII provides for all legislation in connection with entering into treaties. This does not, however, mean that no treaty should be entered into unless Parliament has legislated on the matter. The power of legislation on the matter of entering into treaties leaves untouched the executive power of entering into treaties—*Union of India* v. *Manmull Jain,* A.I.R. 1954 Calcutta 615.

94. Bn. (I), 10-9-1957.

95. *L.S. Deb.,* 14-11-1960, cc. 96-105.

96. *P. Deb.,* 10-8-1950, cc. 713-14 and 736.

97. *Maganbhai Ishwarbhai Patel* v. *Union of India,* A.I.R. 1969 S.C. 783.

98. *L.S. Deb.* 13-9-1956, cc. 7146-47; 15-12-1983, c. 434; 16-12-1983, cc. 356-435; 22-12-1983, cc. 408-18; 6-5-1986, cc. 330-38; 7-5-1986, cc. 332-440; 8-5-1986, cc. 24-119; 21-8-1986, cc. 86-206.

99. *Ibid.,* 28-3-1960, c. 8402; 22-5-1957, cc. 1576-78.

100. For example, re. approval of the Railway Convention Committee's recommendations, *L.S. Deb.,* 18-3-1987, cc. 546-89; 30-3-1993, cc. 466-796, 801-990; 31-3-1993, cc. 445-84; 29-11-2007.

Resolutions are also brought forward by the Government seeking approval of the House to reject the awards given by the Board of Arbitration which are constituted in terms of para 21 of the Scheme for Joint Consultative Machinery and Compulsory Arbitration on the ground that the implementation of the awards would adversely affect the national economy[101].

Statutory Resolutions

Resolutions tabled 'in pursuance of a provision in the Constitution or an Act of Parliament' are termed Statutory Resolutions[102]. Notice of such resolutions may be given either by a Minister or by a private member. Certain enactments, however, expressly require the Government to bring forward a resolution within a specified period of time[103].

There is no particular period of notice for moving a statutory resolution unless the period itself is prescribed in the particular article of the Constitution or in the section of the Statute under which it is tabled[104]. The procedure regarding admission of a Statutory Resolution, moving of amendments thereto and its disposal is the same as for other resolutions[105].

A Statutory Resolution, after it has been admitted by the Speaker, is published in the Bulletin under the heading 'Statutory Resolution' for information of the members and even if a private member has given notice of it, the resolution is not subject to ballot[106].

After a Statutory Resolution has been admitted and published in the Bulletin, notices of identical Statutory Resolution tabled subsequently by members are not again published in the Bulletin. Instead, when the Statutory Resolution is included in the List of Business, below the names of members published in the Bulletin.

Time for discussion of a statutory resolution is provided by the Government from the time allocated for Government business. The allocation of time for each such resolution is made by the House on the recommendation of the Business Advisory Committee which, after considering the state of business in the House and the importance of the resolution, recommends the time necessary for discussion of the resolution[107].

101. (i) During the Third Session of Thirteenth Lok Sabha resolution seeking approval of the proposal of the Government to reject the award given on 21 February 1983 by the Board of Arbitration in CA Reference No. 9(a) of 1980 in respect of reduction of working hours of the operative officers of the Department of Posts and Telecommunication was adopted by Lok Sabha on 16-5-2000; (ii) for resolutions (seeking approval of the House to reject the award) admitted but not discussed, *see L.S. Bn. Pt. (II)*, 24-11-2011, 20-3-2012 and 22-2-2013.

102. Dir. 9B.

103. The Customs Tariff Act, 1975, sec. 8(2), *L.S. Deb.,* 20-8-1976, cc. 179-80; The Official Languages Act, 1963, sec. 4(1), *L.S. Deb.,* 29-7-1975, c. 156; The Customs Tariff Act, 1975, sec. 8A(2), *L.S. Deb.,* 29-8-2007; The Customs Tariff Act, 1975, sec. 8A(1), *L.S. Deb.*, 15-3-2018 and 4-4-2018.

104. For example, arts. 61, 67, 90 and 94 provide for at least 14 days' notice.

105. *L.S. Deb.,* 18-12-1954, cc. 3281-301.

106. Dir. 9B(1).

107. *See* 42R (BAC-8 LS), adopted by the House on 10 November 1987.

Resolutions under the Constitution

The Constitution provides for resolutions to be moved in Parliament for the following purposes:

Impeachment of the President

(*See* Chapter 3—President in Relation to Parliament)

Removal of the Vice-President

The Vice-President may be removed from his Office by a resolution of the Rajya Sabha passed by a majority of all the then members of the Rajya Sabha and agreed to by the Lok Sabha; but no resolution for this purpose can be moved unless at least fourteen days' notice has been given of the intention to move the resolution[108].

Removal of the Deputy Chairman of Rajya Sabha

A member holding office as Deputy Chairman of the Rajya Sabha may be removed from his office by a resolution of the Rajya Sabha passed by a majority of all the then members of the Rajya Sabha; but the resolution can be moved only when at least fourteen days' notice has been given of the intention of moving[109].

Removal of the Speaker and the Deputy Speaker

(*See* Chapter 7—Presiding Officers of Lok Sabha)

Disapproval of the Ordinances Promulgated by the President

(*See* Chapter 23—Ordinances and Proclamations by the President)

Legislation by Parliament with Respect to a matter in the State List

If the Rajya Sabha declares by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it shall be lawful for the Parliament to make laws for the whole or any part of the territory of India with respect to that matter while the resolution remains in force[110]. Such a resolution remains in force for a period not exceeding one year as may be specified therein. However, the Rajya Sabha may pass successive resolutions for the continuance in force of the original resolution, but each such resolution will have a limited duration of one year only[111].

A law made by Parliament by virtue of the powers conferred on it by the resolution ceases to have effect on the expiration of a period of six months after the resolution ceases to be in force, except in respect of things done or omitted to be done before the expiration of the said period[112].

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108. Art. 67. No such resolution has been moved so far.
109. Art. 90. No such resolution has been moved so far.
110. Art. 249(1); *P. Deb. (II)*, 12-8-1950, c. 994 and 5-6-1951, c. 10202; *R.S. Deb.,* 13-8-1986, cc. 221-27.
111. Art. 249(2); *P. Deb. (II)*, 7-6-1951, cc. 10405-66 ; *L.S. Deb.,* 22-7-1952, cc. 1682-83.
112. Art. 249(3).

Creation of All-India Services in National Interest

If the Rajya Sabha declares by a resolution, supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest to do so, Parliament may by law provide for the creation of one or more All-India Services common to the Union and the States. The services known at the commencement of the Constitution as the Indian Administrative Service and the Indian Police Service were deemed to be services created by Parliament under the Constitution[113].

Approval of Proclamation of Emergency and Proclamation issued in case of failure of constitutional machinery in a State

(*See* Chapter 23—*Ordinances and Proclamations by the President*)

Resolution under proviso to article 3 and clause (3) of article 370 of the Constitution—the State of Jammu and Kashmir being under President's rule

The State of Jammu and Kashmir was placed under Governor's Rule under section 92 of the Constitution of Jammu and Kashmir by the Proclamation issued by the Governor of the State on 20.6.2018. Under the Proclamation, the Legislative Assembly was kept under suspended animation. The Governor, however, in exercise of power under clause (b) of sub-section 2 of section 53 of the Constitution of Jammu and Kashmir, dissolved the Legislative Assembly of the State on 21.11.2018. Subsequently, the President issued a Proclamation under article 356 of the Constitution of India on 19.12.2018 in relation to the State of Jammu and Kashmir assuming to himself all functions of the Government of the State and all powers vested in or exercisable by the Governor of the State under the Constitution of India and the Constitution of Jammu and Kashmir. The Proclamation provided, *inter alia,* that any reference in the Constitution of India and the Constitution of Jammu and Kashmir to the Governor shall in relation to the State of Jammu and Kashmir be construed as a reference to the President and any reference in the Constitution of India and the State Constitution to the Legislature of the State or the Houses thereof shall be construed as a reference to Parliament. During the First Session of Seventeenth Lok Sabha, a Statutory Resolution for continuance in force of the Proclamation dated 19.12.2018 for a further period of six months was adopted by the House on 28.6.2019.

During the same session, a notice of Resolution regarding reference of the Jammu and Kashmir Reorganisation Bill, 2019 to Lok Sabha under the proviso to article 3 of the Constitution of India for its views, was tabled by the Government. The Resolution was admitted. It was listed in the Supplementary List of Business on 5.8.2019 and adopted by the House on the same day. Thereafter, a Statutory Resolution under clause (3) of article 370 of the Constitution tabled by the Government, was admitted and listed for combined discussion along with the motions for consideration of the Jammu and Kashmir Reorganisation Bill, 2019 and the Jammu and Kashmir Reservation (Second Amendment) Bill, 2019, on 6.8.2019. The Resolution was adopted on

113. Art. 312. *R.S. Deb.,* 5-12-1961, cc. 1148-49; *see* also Chapter 44—*Parliament and Civil Service.*

6.8.2019. The Jammu and Kashmir Reservation (Second Amendment) Bill, 2019 was, however, subsequently withdrawn. (*L.S. Deb.,* 5-8-2019 and 6-8-2019).

Resolutions under Acts of Parliament

Certain statutes provide that the rules or notifications made thereunder must be approved by resolutions of Parliament within a specified period and these rules have effect in such modified form, or cease to have effect, as Parliament may by virtue of the resolutions direct[114].

Status and Effect of Resolutions

In respect of resolutions tabled in pursuance of a provision of the Constitution or a Statute of Parliament, the precise phraseology and the words used in the statute are the deciding factors for the Government whether to implement it or not. For instance, a resolution adopted by a State Legislative Assembly under article 169 of the Constitution for the abolition of the State Legislative Council does not impose an obligation on the Union Government to take action for initiating legislation in Parliament as the word used in the article is 'may'.

A resolution moved by a private member, though not statutory, may attract the provision of a Statute and may become statutory through an amendment adopted by the House and may be binding on the Government[115].

When, in July 1953, a question was raised in the Madras Legislative Council with regard to a resolution adopted by the Legislative Assembly, the then Chief Minister, C. Rajagopalachari made a statement to the effect that the resolution passed by the Assembly fell under the category of "mere expressions of opinion". He clarified that with the exception of statutory resolutions and resolutions in the matter of control by the House of its own proceedings, all resolutions are in the nature of mere expressions of opinion and have no force of law. Through a resolution the opinion of the House may be sought either by the Government or by private members. While a law has to be passed by the two Houses and assented to by the President, a resolution gives expression to the views of only one of the two Houses[116].

Expression of opinion by the House may assist the Government in evolving its policies or in decision-making but the resolution cannot have more than

114. *See* Chapter 24—*Subordinate Legislation.*

115. A member moved the following resolution in the Lok Sabha on 24 April 1981:

"This House recommends to the Government that any action by signs, words or publications, which tarnishes the image of Mahatma Gandhi, the Father of our Nation, be made a cognizable offence". The Resolution was adopted on 28 August 1981 in the following amended form:

"This House recommends to the Government that any action to tarnish the name of Mahatma Gandhi, the Father of our Nation, be taken serious note of and a Commission of Enquiry be appointed under the Commissions of Inquiry Act, 1952 to enquire into the acts and activities including publications and sources and misuse of funds, of the Gandhi Peace Foundation, the Gandhi Smarak Nidhi and the All India Serva Seva Sangh and other closely connected organisations and report to the Government within a period of six months."

In pursuance of this resolution, the Government appointed a Commission of Inquiry under the Chairmanship of Justice P.D. Kudal—*L.S. Deb.,* 28-8-1981, cc. 306-54.

116. Madras Legislative Council Debates, 30-7-1953, c. 1908 (Valedictory Address).

recommendatory value. The House does not and cannot itself governor administer and its resolutions cannot in any way bind the Government to any policy or course of action[117]. It rests entirely on the discretion of the Government whether or not to act on the suggestions contained in such a resolution. But a situation may arise where a resolution may be passed by the House against the expressed will of the Government. If such a development takes place in the Lok Sabha to which the Government is constitutionally responsible, the question would arise whether it amounted to a censure. However, the Rajya Sabha has no power of passing a vote of censure or no-confidence in the Government and a resolution passed in that House against the wishes of the Government may have no consequences except those that the Government themselves may prefer.

On 10 August 1978, a motion urging the Government that the allegations of corruption mentioned in the correspondence between the Prime Minister and the Home Minister should be referred to a Commission of Inquiry under the Commissions of Inquiry Act, 1952 was moved in the Rajya Sabha after it was admitted by the Chairman. An amendment called upon the Government either to seek forthwith the guidance and advice from a Committee comprising fifteen members of the House to be appointed by the Chairman for appropriate and necessary action to be taken on the allegations or alternatively to straightaway appoint without delay two separate Commissions of Inquiry under the Commissions of Inquiry Act, 1952. The Motion as amended was adopted by the House. On 17 August 1978, when some members pressed for the implementation of the motion, the Chairman observed that the motion was a recommendation addressed to the Government and that the question of appointment of a Committee would depend on which of the two alternatives mentioned was acceptable to the Government. On 22 August 1978, by his statement in the House, the Prime Minister said that while the Government was not prepared to accept either of the two alternatives mentioned in the motion, if any specific charges of corruption in the context of the Resolution were made in writing by any member, they would be referred to the Chief Justice of India for being examined by him. Again, on 29 August 1978, the Chairman ruled that the constitution of a Committee by him was dependent upon the Government showing willingness to seek advice and guidance from it, which the Government had declined.

117. According to Companion (*An Introduction to the Procedure of the House of Commons*), such resolutions are generally used to test the feeling of the House with regard to proposals which are still indefinite or ahead of public opinion.

CHAPTER 26

Motions

The term 'motion' in its wider sense means any proposal submitted to the House for eliciting a decision of the House. One of the main functions of the House is to ascertain its own will in regard to various matters, and for this purpose, every question to be decided by the House must be proposed by a member in the form of a motion.

The form in which a motion is put to the vote of the House is initiated by the mover of the motion. After the motion has been moved, members speak within the ambit of the terms of the motion and, later, unless the mover withdraws it, the House rejects the motion or adopts it *in toto* or with specific amendments, if any.

A debate on a motion involves three stages, *viz.* the making of a motion, the proposing of a question and the vote on the question. The mover of a motion frames it in a form in which he wishes it ultimately to be passed by the House and on which a vote of the House can conveniently be taken. Following this reasoning, Members who wish the motion be passed in a different form, must move amendments after the original motion has been proposed and such amendments must also be in the form in which the motion as amended, can be passed by the House and must, therefore, be relevant to the subject matter of the main motion.

Every matter is determined in the House, by means of a question put from the Chair, on a motion made by a member and resolved in the affirmative or negative, as the case may be. The question must repeat the terms of the motion and must be so framed as to be capable of expressing a decision of the House. The interval between the proposing and the putting of the question, which is, normally, used for discussion, gives an opportunity for further proceedings such as the moving of an amendment. An amendment may either be used to effect an alteration to the question before the House or to present to the House a different proposition as an alternative to the original question. This may give rise to a subsidiary debate, with its own question and decision, within the principal debate. At the end of the process, when the question or the main question is put to vote, the decision of the House is registered.

Any matter of importance can be the subject matter of a motion[1].

1. *P. Deb.,* 1-3-1950, pp. 1036-38.

   For instance, the House has discussed, on motions, moved to that effect, (i) the official action of Governors of certain States—*L.S. Deb.,* 1-12-1967, cc. 4265-4319; 4-12-1967, cc. 4509-85; 28-2-1968, cc. 505-64; 11-4-1968, cc. 300-19; 21-8-1984, cc. 347-498; 26-11-1985, cc. 341-426; 22-5-1990, cc. 545-66; 23-5-1990, cc. 431-51; 26-2-1997, cc. 312-13; 6-3-1997, cc. 199-201; (ii) the conduct of individual Ministers—*L.S. Deb.,*19-8-1968, cc. 2714-840; 18-12-1974, cc. 257-408; 4-8-1977, cc. 295-391; 5-8-1977, cc. 260-93; 7-8-1980, cc. 296-382; (iii) the conduct of certain members who created obstructions and showed disrespect to the President at the time of his Address to both the Houses of Parliament assembled together—*L.S. Deb.,* 20-2-1968, cc. 2170-75; 2-4-1971, cc. 188-223, 239-46, 271-72.

Classification of Motions

Motions cover several distinct forms of proceedings in Parliament and may be classified under the following categories: *substantive* motions; *substitute* motions; and *subsidiary* motions.

Substantive Motions

A substantive motion is a self-contained independent proposal submitted for the approval of the House and drafted in such a manner as to be capable of expressing a decision of the House[2]. Motions for election of the Speaker and the Deputy Speaker, Motion of Thanks on the Address by the President, Motion for Adjournment on a matter of public importance, resolutions, motions for raising discussion on a matter of general public interest, motions of confidence/no-confidence in the Council of Ministers, resolution for removal of the Speaker/Deputy Speaker**,** motion declaring the seat of a member vacant and where leave of absence is not agreed to by the House, are examples of the substantive motions moved in Lok Sabha[3].

Motions "that the policy or situation or statement or any other matter be taken into consideration" are not, strictly speaking, substantive motions as they are not put to the vote of the House[4].

The conduct of persons in high authority can only be discussed on a substantive motion drawn in proper terms[5].

The Constitution lays down specific procedure for impeachment of the President, and for the presentation of an address to the President by each House of Parliament for the removal of a Judge of the Supreme Court or of a High Court, the Comptroller and Auditor-General of India or the Chief Election Commissioner[6]. Similarly, provision has been made in the Constitution for the removal of the Vice-President and the Deputy Chairman of the Rajya Sabha, the Speaker and the Deputy Speaker of the Lok Sabha by means of resolutions[7].

On occasions, though rare, the House may, by a substantive motion, evolve procedure to meet a situation not specifically provided for in the Rules[8].

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2. Dir. 41 (2)(i).

3. Rules 7, 8, 17, 56, 170, 184, 198, 200, 241 and 328 and art. 101(4). For details *re.* Motion of Confidence, *see* Chapter 28, *supra*.

4. Rule 342.

   During 15th session of 17th Lok Sabha, the following Motion under Rule 342 was moved by Smt. Nirmala Sitharaman, Minister of Finance on 9 February 2024:—

   "That this House do consider the White Paper on the Indian Economy and its impact on lives of the people of India."

   Shri N.K. Premachandran and Prof. Saugata Roy, MPs, moved Substitute Motions tabled by them. After discussion on the motion concluded, the Substitute Motions were put to vote and negatived. The original motion was, however, not put to vote of the House—*L.S. Deb.*, 9-2-2024.'

5. Rule 352(v).

6. Arts. 61, 121, 124(4) and (5), 148(1) and 324(5).

7. Arts. 67, 90(c) and 94(c).

8. For instance (i) on 25 September 1951, the Lok Sabha was discussing a motion regarding the conduct

During the Ninth Lok Sabha, on 28 February 1991, the Speaker received a notice of motion dated 27 February 1991, signed by Prof. Madhu Dandavate and 107 other members of the Lok Sabha for presenting an address to the President of India for removal of Justice V. Ramaswami, Judge of the Supreme Court of India. On finding the notice of motion in order, the Speaker admitted it on 12 March 1991 and pursuant to section 3(2) of the Judges (Inquiry) Act, 1968, constituted a Committee consisting of Justice P.B. Sawant, Judge of the Supreme Court of India as the Chairman and Justice P.D. Desai, Chief Justice of the High Court at Bombay and Justice O. Chinnappa Reddy, former Judge of the Supreme Court of India as members, for making an investigation into the grounds on which the removal of Justice V. Ramaswami was prayed for. While announcing the appointment of the Committee, the Speaker observed that the motion would remain pending till the receipt of the Report of the Inquiry Committee. Before the Committee could submit its report, the Ninth Lok Sabha was dissolved by the President *i.e.* on 13 March 1991. The question whether the motion lapsed or remained alive on the dissolution of the Lok Sabha was raised in a petition filed before the Supreme Court. The Supreme Court held:

> It is true that *Purushothaman Nambudiri* case (AIR 1962 SC 694) dealt with a legislative measure and not a pending business in the nature of a motion. But, we are persuaded to the view that neither the doctrine that dissolution of a House passes a sponge over parliamentary slate nor the specific provisions contained in any rule or rules framed under Article 118 of the Constitution determine the effect of dissolution on the motion for removal of a Judge under Article 124. The reason is that Article 124(5) and the law made thereunder exclude the operation of Article 118 in this area[9].

Accordingly, the notice of motion remained alive.

The Tenth Lok Sabha was constituted on 20 June 1991. The Justice Sawant Committee which submitted its Report to the Speaker of the Tenth Lok Sabha in July 1992, found that the Judge was guilty of misbehaviour. The Report was laid on

of a member, when, in the midst of discussion, the member submitted his resignation from the membership of the Lok Sabha. The House, however, decided to continue the discussion and passed a motion that the conduct of the member was such that he deserved expulsion from the House; (ii) On 15 July 1957, the House adopted a motion authorizing the Speaker to send a person, who had impersonated a member, to a Medical Board for examination of his mental state and to take such further action as the Speaker may think fit on receipt of the report of the Board; (iii) On 6 August 1987, the House adopted a motion to appoint a Joint Committee of the Houses to enquire into the Bofors Contract; (iv) On 6 August 1992, the House adopted a motion to appoint a Joint Committee of the Houses to enquire into irregularities in Securities and Banking transactions; (v) On 26 April 2001, the House adopted a motion to appoint a Joint Committee of the Houses on the Stock Market Scam and matters relating thereto; (vi) on 22 August 2003, the House adopted a motion to appoint a Joint Committee on Pesticide Residues in and Safety Standards for Soft Drinks, Fruit Juice and Other Beverages; (vii) On 17 August 2006, the House adopted a motion to appoint a Joint Committee to examine the Constitutional and Legal Position Relating to Office of Profit; (viii) On 24 February 2011, the House adopted a motion to appoint a Joint Committee to examine prescriptions and irregularities in the allocation and pricing of Telecom Licenses and Spectrum; and (ix) On 21 December 2011, the House adopted a motion to appoint a Committee of both the Houses to be called the Committee for Welfare of Other Backward Classes (OBCs).

9. *See* A.I.R. 1992 S.C. 320. Also *see* Chapter 43, *infra.*

the Table of the Lok Sabha on 17 December 1992 by the Secretary-General of the Lok Sabha.

After the Report was laid on the Table of the House, notices were received from several members for consideration of the motion for presentation of an Address to the President under article 124(4) and the Report of the Committee. As this was the first case of its kind, the following procedure was evolved by the Speaker in consultation with the leaders of Parties and Groups in the House:

(i) Notices of only those members would be taken into account who were signatory to the notice of motion which was given during the Ninth Lok Sabha; and

(ii) The provisions governing discussion on motions under Rule 184 of the Rules of Procedure and Conduct of Business be broadly followed, as far as possible.

The following two motions were included in the names of five members in order of priority in the List of Business for 10 May, 1993:

(i) Motion for presenting an address to the President of India under clause (4) of article 124 of the Constitution; and

(ii) Motion for considering the Report of the Inquiry Committee constituted to investigate into the grounds on which the removal of Justice V. Ramaswami, Judge of the Supreme Court of India, was prayed for.

Before the motions were taken up for consideration, the Speaker made the following announcement in the House:

> The matter may be dealt with in a very careful and sound manner to be very precise, correct and just and not to repeat the points, not to bring in extraneous points and not to complicate the issue to arrive at correct conclusions very neatly. Only a few members may speak. The Report given by the Judges Committee and the defence of the Judge have been made available to the members well in time. The debate on the motion may be concluded today itself; if need be, it may continue even beyond 6 p.m. About this, I leave it to the judgement of the House. The mover of this Motion may move the motion and then speak. The Judge or the lawyer of the Judge may be allowed to make submission to the House in this matter and then withdraw. The mover of the motion may reply to the debate; then the motion and Address to be presented to the President of India may be put to vote. The motion and the Address to be passed need the support of majority of the total membership of the House and also the majority of not less than two-thirds members of the House present and voting[10].

The House agreed to the above procedure.

Somnath Chatterjee (as member), who was first in priority, moved both the motions, which were discussed together. He also spoke on the motions. Thereafter, Kapil Sibal, the Counsel for Justice V. Ramaswami, made submissions from the Bar

10. *L.S. Deb.,* 10-5-1993, cc. 486-87.

of the House on behalf of Justice V. Ramaswami. After making his submissions the Counsel withdrew. Other members were also allowed to speak. The discussion on the motions continued on 11 May 1993. After the members had spoken, the mover of the motions replied to the debate. The motion and the address were then put to the vote of the House. As a result of the division (Ayes: 196 and Noes: Nil), the motion and the Address were declared as not carried by the requisite majority in accordance with clause (4) of article 124 of the Constitution[11].

Likewise, on 20 February 2009, 57 members of Rajya Sabha gave notice of a motion for removal of Justice Soumitra Sen, Judge, Calcutta High Court under article 217(1)(c) read with article 124(4) of the Constitution on the grounds of misappropriation of large sums of money in his capacity as receiver appointed by the Calcutta High Court and misrepresentation of facts with regard to misappropriation of money before that Court. The Chairman, Rajya Sabha, admitted the motion and constituted an Inquiry Committee under the Judges (Inquiry) Act, 1968 for the purpose of making an investigation into the grounds on which the removal of Justice Sen was prayed for.

In pursuance of section 4 of the Judges (Inquiry) Act, 1968, read with rules 9 and 10 of the Judges (Inquiry) Rules, 1969, the Report of the Inquiry Committee was simultaneously laid on the Table of Rajya Sabha and Lok Sabha on 10 November 2010.

The Inquiry Committee opined that Justice Soumitra Sen was guilty of misbehaviour under article 124(4) read with proviso (b) to article 217(1) of the Constitution.

The Motion for Impeachment of Justice Sen was taken up by the Rajya Sabha on 17 August 2011. After the mover of the motion had concluded his speech, Justice Sen addressed the Rajya Sabha. The discussion on Motion continued thereafter. On 18 August 2011, the Rajya Sabha passed an Address for presentation to the President praying for removal from Office of Justice Soumitra Sen of Calcutta High Court. A message in this regard was transmitted to the Lok Sabha Secretariat on the same day. On 19 August 2011, the message was reported in the Lok Sabha. The Address passed by the Rajya Sabha for presenting to the President was also laid on the Table of Lok Sabha.

After reporting of the message, the Speaker on 19 August 2011 decided to call a meeting of the Business Advisory Committee on 23 August 2011 to fix a day for consideration of the Address, in pursuance of rule 16(7) of the Judges (Inquiry) Rules.

In the meantime, Subhash Bhattacharyya, Advocate, Calcutta High Court and Counsel to Justice Soumitra Sen, *vide* fax letter dated 19 August 2011, addressed to Secretary-General, made, *inter alia*, the following requests:—

(a) Date of hearing be fixed on 5 September 2011 subject to the permission of the Speaker;

(b) Justice Sen is also given a chance to reply at the end to the points/allegations to be made by the members of the Parliament.

11. *L.S. Deb.,* 12-3-1991, cc. 116-18; 10-5-1993, cc. 485-656; 11-5-1993, cc. 513-758.

As the provisions of the Judges (Inquiry) Act, 1968 and rules made thereunder contained ambiguities in regard to the procedure to be followed by the other House in case the Motion for presenting an Address to the President for removal of a Judge is adopted by one House and transmitted to the other, a brief discussing article 124(4) of the Constitution and relevant provisions of the Judges (Inquiry) Act and rules made thereunder and the procedure proposed to be followed by the Lok Sabha was sent to the Attorney General of India seeking his opinion on the issue. The Attorney General opined, *inter alia*,—

(i) if the Address passed by the Rajya Sabha is supported by the Lok Sabha then an Address shall be prepared by the Lok Sabha Secretariat.

(ii) the form of Address must be suitably changed to reflect the fact that the Address adopted by the Rajya Sabha is supported by the Lok Sabha.

(iii) the passing, by Lok Sabha, of the Address supported by Rajya Sabha may be duly intimated to the Rajya Sabha also.

These points along with the request made by Subhas Bhattacharyya were placed for consideration of the Business Advisory Committee.

The BAC made the following decisions:—

(i) the House will take up, on 5 September 2011, at 2 P.M. – (a) the Address supported by the Rajya Sabha, and (b) the Address to be presented to the President, and conclude the process of removal on 6 September 2011;

(ii) the Speaker shall propose both the Addresses;

(iii) after the Speaker has proposed to the House the Address supported by the Rajya Sabha, the Judge shall be given the opportunity of being heard for two hours, which shall not be extended; and

(iv) the Speaker may consider from legal point of view the request of Justice Sen, of giving him a chance to reply at the end to the points/allegations to be made by the members of Parliament.

Fixation of date for taking up impeachment motion was published in Bulletin-Part II dated 25 August 2011.

On the question, whether Justice Sen may also be given a chance to reply at the end to the points/allegations to be made by the members, it was decided that the opinion of Attorney General may be obtained on this point also.

The Attorney General opined that Justice Sen has no such right and the Lok Sabha should not accede to his request.

The following procedure was approved to be adopted in the Lok Sabha—

(i) Speaker may propose to the House that the House do consider the Motion and the Address supported by the Rajya Sabha and that the House Supports the Motion and the Address supported by the Rajya Sabha;

(ii) If the Motion and the Address at (i) are adopted, Speaker may then propose

the Address (supported by Rajya Sabha and suitably changed) to the vote of the House;

(iii) The Address mentioned at (ii) shall be presented to the President and the Motion referred to in (i) shall be annexed with the Address.

Entries for the List of Business were approved accordingly.

On 2 September 2011, there were reports that Justice Sen had submitted his resignation to the President. In view of the reports, the opinion of the Attorney General was sought as to whether the Lok Sabha should proceed with the Motion for removal of Justice Sen in case the resignation tendered by him is accepted by the President. The Attorney General opined that "notwithstanding the resignation, the Lok Sabha should proceed with the motion for removal of Justice Sen". In view of the opinion, (i) Motion to consider and support the Motion and the Address supported by the Rajya Sabha; and (ii) an Address by Lok Sabha for presentation to the President praying for removal from Office of Justice Soumitra Sen of Calcutta High Court, were included in the List of Business for 5 September 2011 for being taken up at 1400 hours. Justice Sen and Secretary to the President were also informed about inclusion of the Motions in the List of Business of the House.

When House met at 1400 hours, Minister of Law informed the House about the resignation of Soumitra Sen. Thereupon, the Speaker, after taking sense of the House, decided not to proceed with items regarding removal of Justice Soumitra Sen.

A message was sent to the Rajya Sabha Secretariat informing them accordingly.

There have also been instances when motions were brought before the House to give effect to the recommendations of Inquiry Committees constituted by the Speaker. In one such instance, after disclosure by a TV channel of improper conduct on the part of ten members of Lok Sabha, the Speaker[12] requested the concerned members not to attend the House until further decision and constituted a five-member Committee headed by Pawan Kumar Bansal to inquire into the allegations of improper conduct and report.

The Report of the Inquiry Committee was laid on the Table of the House on 22 December 2005. On 23 December 2005, the Leader of the House, Pranab Mukherjee, moved the following motion under Rule 184, which was adopted by the House:

> "That this House having taken note of the Report of the Committee to inquire into the allegations of improper conduct on the part of some members, constituted on 12 December 2005, accepts the findings of the Committee that the conduct of the ten members of Lok Sabha, namely, Shri Narendra Kumar Kushwaha, Shri Annasaheb M.K. Patil, Shri Manoj Kumar, Shri Y.G. Mahajan, Shri Pradeep Gandhi, Shri Suresh Chandel, Shri Ramsevak Singh, Shri Lal Chandra Kol, Shri Rajaram Pal and Shri Chandra Pratap Singh was unethical and unbecoming of members of Parliament and their continuance as members of Lok Sabha is untenable and resolves that they may be expelled from the membership of Lok Sabha."

12. *L.S. Deb.,* 12-12-2005, cc. 655-56.

The amendment, for referring the matter to the Committee of Privileges, moved by Prof. Vijay Kumar Malhotra, was negatived.

As the above motion did not concern any Ministry of the Government of India, the usual practice of forwarding the motion to the concerned Ministry was not adhered to.

In another instance, after a TV News Channel on 19 December 2005, showed some members of Lok Sabha allegedly indulging in improper conduct in the matter of implementation of Members of Parliament Local Area Development Scheme, the Speaker[13], requested the concerned members not to attend the House until the matter was looked into and a decision taken thereon. He constituted a seven-member Committee headed by Pawan Kumar Bansal to inquire into the alleged improper conduct. The Report of the Committee was laid on the Table of the House on 14 March 2006[14].

On 18 March 2006, the Leader of the House, Pranab Mukherjee, tabled notice of the following Motion under Rule 184, which was admitted by the Speaker:

"That this House having taken note of the Report of the Committee to inquire into allegations of improper conduct on the part of some members in the matter of implementation of MPLAD Scheme, laid on the Table of the House on 14 March 2006, reprimands Sarvashri Alemao Churchill, Paras Nath Yadav, Faggan Singh Kulaste and Ram Swaroop Koli, MPs and resolves that:

(a) the period of absence from the sittings of the House and the Committees of the said four members on a request made by Speaker, Lok Sabha on 20 December 2005, may be deemed to be their suspension from the membership of the House till date; and

(b) the suspension of the said four members from the membership of the House may continue till 22 March 2006."

The motion was moved by Pranab Mukherjee and adopted by the House on 20 March 2006[15]. As the above motion also did not concern any Ministry of the Government of India, the usual practice of forwarding the motion to the concerned Ministry was not adhered to in this case also.

In the wake of arrest of a member, Babubhai K. Katara, for trying to illegally take two persons (one woman and a boy) abroad on the passport of his wife and his son, the Speaker, Lok Sabha, on 16 May 2007, constituted a Committee to Inquire into Misconduct of Members of Lok Sabha. The Committee had a broad remit to look into all aspects of the misconduct of the members.

On 20 May 2007, Speaker referred the matter to the Committee. The Committee laid their Third Report on the Table of the House on 20 October 2008. On the same day, the Leader of the House, Pranab Mukherjee, tabled a notice of the following motion under Rule 184, which was admitted by the Speaker:

13. *Ibid.,* 20-12-2005, c. 1.
14. *Ibid.,* 14-3-2006, cc. 345-46.
15. *L.S. Deb.,* 20-3-2006, cc. 10-15.

"That this House having taken note of the Third Report of the Committee to Inquire into Misconduct of Members of Lok Sabha accepts the findings of the Committee that Shri Babubhai K. Katara has committed an act of grave misconduct which has brought disrepute to and maligned the image of entire fraternity of legislators and resolves that he may be expelled from the membership of the Fourteenth Lok Sabha."

The Motion was moved and adopted on 21 October 2008.

In the meantime, a case relating to allegations against a member (Rajesh Kumar Manjhi) for having misused official Air Journeys, was referred by the Speaker to the Inquiry Committee. The Committee, in their First Report, which was laid on the Table of the House on 23 August 2007, recommended that the member be suspended for 30 sittings of the House for misuse by him of his official Air Journeys and wilfully suppressing truth from the Committee and giving false evidence before the Committee.

On 29 August 2007, the Leader of the House, Pranab Mukherjee, tabled notice of the following motion under Rule 184, which was admitted by the Speaker:

"That this House while agreeing with the findings, conclusions and recommendations of the Committee to Inquire into Misconduct of Members of Lok Sabha, in their First Report, laid on the Table of the House on 23 August 2007, reprimands Shri Rajesh Kumar Manjhi for his misconduct and for having committed contempt of the Committee as well as the House, resolves that:

(i) Shri Rajesh Kumar Manjhi may be suspended from the membership of the House for thirty sittings of the House; and

(ii) He may be restrained from taking his spouse or companion on official tours till the conclusion of the Fourteenth Lok Sabha."

The motion was moved and adopted on 30 August 2007[16].

A motion may also be moved to give effect to the recommendations of the Committee of Privileges. On 4 August 2005, Dr. Subhash C. Kashyap, former Secretary-General, Lok Sabha, during an interview on a TV Channel made certain comments on the decision of the Speaker disallowing the notice of adjournment tabled by a member, Kumari Mamta Banerjee.

Hannan Mollah, a member tabled a notice of question of privilege against Dr. Kashyap on 8 August 2005, which was referred by the Speaker to the Committee of Privileges. The Committee of Privileges tabled its Report on 19 May 2006. Based on the recommendations of the Committee, the Leader of the House, Pranab Mukherjee, moved the following motion for admonishing Dr. Kashyap, which was adopted on 23 May 2006[17] :

"That this House having taken note of the Third Report of the Committee of Privileges, laid on the Table of the House on 19 May 2006, agrees with the findings and conclusions of the Committee and resolves that Dr. Subhash C. Kashyap,

16. *L.S. Deb.,* 30-8-2007, cc. 310-11. Also *see,* Chapter 12—*Conduct of Members.*

17. *Ibid.,* 23-5-2006, cc. 405-06.

former Secretary-General, Lok Sabha has committed a gross breach of privilege and contempt of the House by imputing motives to the Speaker, Lok Sabha in discharge of his duties and casting reflections on his impartiality and admonishes him for his grave misconduct."

In order to avoid repetition of debate, a motion can be discussed together with motion for modification of Statutory Rules if the subject matter to be discussed is same[18].

A substantive motion requires notice and can be moved only by the member who has given the notice. Where, however, a motion stands in the name of a Minister it may be moved by another Minister[19], but the mover has to mention that he is moving it on behalf of the Minister in whose name the motion stands[20]. The moving of a motion in a form different from the terms of the notice is out of order, if the effect of such alteration in any way goes beyond the scope of the notice.

Except for the motion for election of the Speaker or the Deputy Speaker and the Motion of Thanks on the Address by the President, no substantive motion requires to be seconded.

The mover of a motion has the right of reply[21].

When leave to the moving of a motion of no-confidence in the Council of Ministers has been granted, no substantive motion on policy matters is to be brought by the Government till the disposal of the motion of no-confidence[22].

Substitute Motions

Motions moved in substitution of a motion for taking into consideration a matter or policy or a situation or a statement or any other matter are called substitute motions. Such motions, though drafted in such a way as to be capable of expressing an opinion by themselves, are not strictly speaking, substantive motions in as much as they depend upon the original motions[23]. Amendments to substitute motions are not permissible.

After the original motion that the policy or situation, etc. be taken into consideration has been placed before the House and the mover of the motion has concluded his speech, the House proceeds to discuss the matter. No further question is put thereon on conclusion of the debate. However, before the discussion commences, a member can move a substitute motion which, while conforming to the subject matter of the original motion, is so drawn up as to express an opinion of the House. The substitute motion, being in the nature of an amendment to the original motion, is also placed before the House and is discussed along with the original motion. At the end of the

18. *L.S. Deb.,* 4-12-2012 and 5-12-2012.
19. *H.P. Deb.,* (II), 4-12-1952, cc. 1595-96; *L.S. Deb.,* 28-7-1977, c. 230.
20. *L.S. Deb.,* 15-12-1958, c. 4996; 28-7-1977, c. 230.
21. Rule 358(3).
22. *L.S. Deb.,* 25-7-1966, c. 230; 26-7-1966, c. 457; 27-7-1966, c. 779.
23. Dir. 41(2) (ii).

    For form of the motions, original and substitute, *see* for instance, *L.S. Deb.,*19-12-1959, cc.1509, 1816-17; 10-8-1972, cc.156-60; 18-9-1981, cc. 373-75; 6-4-1987, cc. 433-34; 9-2-2024.

debate, the substitute motion only is put to the vote of the House[24].

Prior to 1954, the practice was to allow amendments which sought to add words at the end of the original motion. On conclusion of the debate, both the original motion and the amendments were put to vote of the House. This practice was changed in January 1954, on the consideration that a motion in the form of a situation, or a statement, or any matter be taken into consideration was only a device to discuss a subject without asking the House to record its decision and so it was not necessary to put it to vote on conclusion of the debate; that only alternative or substitute motions precisely inviting a decision of the House might be put to vote of the House on conclusion of the discussion[25].

Members who are absent at the time of moving of substitute motions may not be permitted to move their motions later in the day.

However, on 8 August 1966, when the adjourned debate on the Government motion *re.* economic situation was resumed, a member was permitted to move his substitute motion on submission made by him that he could not move his motion earlier on 26 July 1966, because of his suspension from the service of the House[26].

Substitute motions are put to the vote of the House in the following order:—

- motions expressing disapproval of the policy or action of Government referred to in the original motion;
- motions making suggestions; and
- motions expressing approval of the policy or action of Government referred to in the original motion[27].

However, the Speaker may, in his discretion, give priority to a motion expressing approval of Government's policy or action in the light of consensus in the House[28].

Where any of the substantive motions moved in substitution of a motion for taking into consideration a matter or policy or a situation or a statement or any other matter is not put to the vote of the House by the Speaker, and any such other substantive motion in substitution of the original motion is passed by the House, the one not put to the House is deemed to have been negatived by the House or barred, as the case may be[29].

Subsidiary Motions

Subsidiary motions depend upon or relate to other motions or emerge from some proceedings in the House. By themselves they have no meaning and are not capable of stating the decision of the House without reference to the original motion or

24. Rule 342.
25. *Min.* (RC), 23-12-1953.
26. *L.S. Deb.,* 8-8-1966, c. 3341.
27. Dir. 45(1) and *L.S. Deb.,* 18-8-1965, cc. 746-64; 7-12-1965, cc. 6111-21.
28. *L.S. Deb.,* 19-2-1958, cc. 1136-42; 20-2-1958, cc. 1816-17.
29. Dir. 45(2) read with Rule 342.

proceedings of the House[30].

Subsidiary motions are further divided into three categories: ancillary motions; superseding motions; and amendments.

Ancillary Motions: Ancillary motions are motions which are recognised by the practice of the House as the regular way of proceeding with various kinds of business, *e.g.* motions made in connection with various stages of a Bill, such as, that the Bill "be taken into consideration" or that the Bill "be referred to a Select or Joint Committee", or that the Bill "be passed"[31].

Superseding Motions: Superseding motions are motions which, though independent in form, are moved in the course of the debate on another question and seek to supersede that question. Such motions can be moved by any member who rises to speak on the question before the House.

Thus, in relation to the motion for taking into consideration a Bill, a superseding motion may ask for recommittal of the Bill to the Select or Joint Committee or its recirculation to elicit further opinion thereon, or for adjournment of the debate on the Bill[32]. Where the Speaker is of the opinion that the superseding motion is of a dilatory character in as much as no unforeseen or new circumstance has arisen to warrant recirculation or recommittal of the Bill, he is empowered to put the question upon it forthwith or even decline to propose the question[33]. However, when a superseding motion is moved and the Speaker does not hold it to be dilatory, the motion is proposed by him as a new question superseding the original question and has to be disposed of before the debate upon the original question can be resumed. But the debate upon such a motion must be strictly relevant to the reasons in support of the motion.

Amendments

An amendment is a subsidiary motion moved in the course of the debate upon another motion which interposes a new cycle of debate and decision between the proposal and decision on the main motion and question[34]. An amendment may relate to a clause of a Bill, resolution or motion or to an amendment to a clause of a Bill, resolution or motion.

The object of an amendment is either to modify a question before the House with a view to increasing its acceptability or to present to the House a different proposition as an alternative to the original question[35].

A substitute motion also aims at bringing before the House a different proposition as

30. Dir. 41(2) (iii).

31. The motions are intimately connected with the procedure for Bills and as such are described in detail in Chapter 22—*'Legislation'*.

32. The motion for adjournment of the debate should be on substantive grounds and not merely to enable another item of business to come forward.—*L.A. Deb.,* 20-3-1924, p. 2041. Thin attendance in the House is not sufficient ground for the Speaker to accept the motion for adjournment of the debate—*L.A. Deb.,* 1-4-1937, p. 2515.

33. Rule 341; *L.A. Deb.,* 10-3-1924, p. 1377; *L.S. Deb.,* 11-4-1955, cc. 4846-47; 25-7-1955, c. 8407; 10-8-1955, cc. 9824-26: 18-2-1956, cc. 282-84; 20-2-1956, cc. 402-17.

34. Erskine May, *Parliamentary Practice*, 24th edition, p. 405.

35. *Ibid*.

an alternative to the original question, but is distinct from an amendment in as much as it replaces the entire motion. Unlike a substitute motion, an amendment modifies or substitutes only a part of the original motion and does not change all the words of the question before the House though it may bring a different proposition before the House. A substitute motion, if adopted, supersedes the original question which is then not put to the vote of the House but if an amendment is adopted, the original question is put, as amended.

Substitute motions to a substantive motion are not admissible; only amendments can be moved. Amendments to substitute motions are not permissible.

However, when a substantive motion regarding appointment of a Joint Committee to enquire into issues arising from the Report of the Swedish National Audit Bureau on Bofors Contract was admitted and discussed on 29 and 30 July and 3, 4 and 6 August 1987, substitute motions to the substantive motion were admitted and circulated to members as amendments.

When an amendment is moved but not put to the vote of the House by the Speaker and the original motion is passed by the House, the amendment is deemed to have been negatived by the House[36].

Form of Amendment

Amendments may be divided into three classes: amendments for *omission* of certain words, figures or marks; amendments for *substitution* of certain words, figures or marks; and amendments for addition or *insertion* of certain words, figures or marks.

When the proposed amendment is to omit certain words, figures or marks, the Speaker puts the question, "That in the original motion, the words, figures or marks (here the words, figures or marks proposed to be omitted) be *omitted*". When the proposed amendment is for substitution, the Speaker says: "That in the original motion for (here the words, figures or marks proposed to be dropped,) substitute (here the words, figures or marks sought to be substituted)". When the amendment proposes to insert or add certain words, figures or marks, the Speaker says: "That in the original motion, after (here the word or words or figures or marks after which the proposed word or words or figures or marks are sought to be inserted) *insert*," or "That in the original motion, add at the end...," as the case may be. If any of the amendments is adopted, the question is put as amended; otherwise the question is put as originally given.

Notice of Amendment

Notice of an amendment to a motion, like any other notice, has to be given in writing addressed to the Secretary-General, signed by the member giving notice and handed in at the Parliamentary Notice Office within the notified hours.

Notices are required to be given on the standard printed forms. With effect from 18 July, 2016, members can also table notices in electronic form through e-portal, especially developed for the purpose. The practice of giving notices on scraps of paper

36. Dir. 43.

or written in pencil has been deprecated by the Speaker[37].

Notice of an amendment to a motion is to be given one day before the day on which the motion is to be considered, unless the Speaker allows the amendment to be moved without such notice[38]. An amendment of which adequate notice has not been given may be allowed to be moved when adequate notice of an identical motion has been given by another member and that member declines to move his amendment[39].

The Speaker may also waive the condition of notice of amendments with the concurrence of the House[40]. Amendments tabled by Ministers may, with the Speaker's permission, be moved even without notice but if public interest is in any way affected, consideration may be postponed to the following day with a view to enabling members to consider the implication of the amendments[41]. The Speaker may also waive the requirement of notice if the amendment is acceptable both to the mover and the Government[42]. Last minute amendments may also be admitted, if agreed to and accepted by the mover of the motion[43].

Mode of Moving Amendments

Amendments are moved in the interval between the proposing and the putting of the question before the House, that is, during the time which is normally used for discussion. An amendment may be moved after the question has been proposed by the Speaker, and it can be moved only by the member in whose name it stands on the list of amendments[44]. Where an amendment stands jointly in the names of more than one member and has been moved by one of them, the others cannot move it again but may be permitted to speak in support of it[45]. A member who has given notice of an amendment is not entitled, on that account, to precedence over a member who rises to speak on the question[46].

Admissibility of Amendments

In order that an amendment to a motion may be admissible, it must satisfy the following conditions:

An amendment should be relevant to, and within the scope of the motion to which it is proposed. It should not introduce new or foreign matter or widen the

37. *L.A. Deb.,* 9-4-1934, p. 3423.

38. Rule 345.

39. *L.A. Deb.,* 1-12-1938, p. 3680.

40. *H.P. Deb.,*11-7-1952, c. 3611; *L.S. Deb.,* 23-11-1956, cc. 2688-96; 12-2-1964, cc. 305-09; 25-4-1966, cc. 12863-885.

41. *L.A. Deb.,* 26-3-1931, pp. 2711-15.

42. *L.S. Deb.,* 31-3-1956, cc. 3980-81.

43. *Ibid.,* 27-5-1957, cc. 2158-59; 29-8-1957, cc. 10793-94; 5-9-1957, c. 12145.

44. *Ibid.,* 24-7-1956, cc. 672-73. The Chair has not allowed the moving of any amendments at a later stage of discussion when the motion and the amendments moved thereto are already under discussion.—*L.S. Deb.,* 31-7-1975, c. 99.

    On an occasion, a member was allowed to modify the text of his amendment to a motion, already circulated at the time of moving it in the House.—*L.S. Deb.,* 11-11-1970, c. 303.

45. *L.S. Deb.,* 28-5-1956, cc. 9769-70.

46. *H.P. Deb., (II),* 28-11-1952, c. 1370.

scope of the motion[47].

An amendment which has merely the effect of a negative vote is not admissible[48]. On the same principle, amendments purporting to omit a clause of a Bill are out of order and are not circulated[49]. An amendment which in effect would constitute a direct negation of the original motion has been held to be out of order[50], as also one which is contradictory to the text of the motion[51]. Likewise, an amendment which is substantially the same as the original motion is also out of order[52].

An amendment on a question should not be inconsistent with a previous decision on the same question[53]. Hence, an amendment is out of order if it is inconsistent with the words in the motion which have been already agreed upon, or with an amendment already agreed to, or if it is substantially the same as another already negatived.

In addition to these conditions, the general conditions of admissibility of amendments as in the case of Bills, namely, that an amendment should not be unintelligible, vague and indefinite[54], meaningless or frivolous, and that it should be in the form in which it can be put to vote of the House by the Speaker, apply *mutatis mutandis* in the case of amendments to motions also.

Amendments to Proposed Amendments

An amendment to an amendment is also admissible. In such cases, the question by the Speaker deals with the first amendment as if it were a distinct question, and with the second as if it were an ordinary amendment. The original question is, for a time, laid aside, and the amendment becomes, as it were, a substantive question itself. An amendment to a proposed amendment, however, cannot be moved if it intends to leave out all the words of such proposed amendment. In such a case, the amendment to a proposed amendment can be admitted only as an independent amendment to the original question and can be moved only after the first amendment has been negatived or withdrawn.

Selection of Amendments

The Speaker has the power to select the amendments to be proposed in respect of any motion and may, if he thinks fit, call upon any member who has given notice of an amendment to give such explanation of the object of the amendment as may enable him to form a judgment upon it[55].

Where a particular amendment is selected by the Speaker, the decision has to be

47. Rule 344 (1); *L.A. Deb.,* 27-5-1924, p. 2293; *H.P. Deb., (II)*, 17-4-1953, c. 4463; 24-11-1953, cc. 612-14.
48. Rule 344(2).
49. *L.A. Deb.,* 16-2-1946, p. 1153; *L.S. Deb.,* 24-12-1970, c. 287.
50. *L.S. Deb.,* 24-4-1959, c. 13891; 19-8-1968, cc. 2736, 2825-26.
51. *L.S. Deb.,* 31-8-1956, cc. 5050-52.
52. *L.A. Deb.,*16-2-1928, p. 393; 6-4-1934, c. 3293; and *L.S. Deb.,* 2-12-1960, c. 3684.
53. Rule 344 (3).
54. *L.A. Deb.,* 5-12-1932, p. 2930.
55. Rule 346.

accepted by the House[56], unless there is unanimity in the House relating to any other amendment[57].

Scope of Debate on an Amendment

The debate on an amendment which presents to the House a different proposition as an alternative to the original motion is not restricted to the amendment but includes the purpose both of the amendment and of the motion, because both matters are under the consideration of the House and it may accept either of the two propositions. If the amendment is intended only to modify the question by leaving out or adding words, the debate is restricted to the desirability of the omission or addition of those words. Similarly, if it be intended to leave out certain words only and substitute other words, then both the original and the proposed words are equally under consideration.

Repetition and Withdrawal of Motions

The general rule regarding motions is that a motion must not raise a question substantially identical with one on which the House has already given a decision in the same session[58]. However, if the House wants to revise its decision taken earlier in the same session, this rule has to be suspended[59].

A member who has made a motion can withdraw it only by leave of the House[60]. The leave is signified not upon question but by the Speaker taking the pleasure of the House. If any dissentient voice is heard or a member rises to continue the debate, the Speaker forthwith puts the original motion[61]. A motion which is not pressed for a division by the mover is deemed to have been withdrawn by leave of the House and it is not necessary in that case to take the pleasure of the House[62].

Only the mover of the motion can ask for withdrawal of his motion. A motion may be withdrawn after it has been put to the House and a division has been called, but the mover must ask for its withdrawal before the actual division takes place[63]. In asking for leave to withdraw his motion, the member is not entitled to make a speech[64].

The right of a member to withdraw a motion is not absolute and unrestricted. Thus, a clause of a Bill cannot be withdrawn; the Bill is introduced as a whole and a member cannot withdraw a clause after having placed the whole Bill before the House. If a clause is to be omitted from a Bill, it has to be put to vote of the House and negatived[65]. Further, if an amendment has been proposed to a motion, the original

56. *L.A. Deb.,* 8-9-1922, p. 286.

57. *P. Deb.,* 5-10-1951, cc. 4324-25; *see* also *L.S. Deb.,* 5-8-1957, cc. 7035-36; 30-11-1959, cc. 2452-53.

58. Rule 338. *L.S. Deb.,* 8-12-1955, cc. 1749-1814; 15-12-1958, cc. 4999-5001.

59. *L.S. Deb.,* 15-4-1964, c. 11238; 25-11-1966, cc. 5681-94; 7-8-1969, cc. 259-60; 28-8-1970, cc. 245-47, 336-38; 16-3-1973, cc. 267-71; 4-9-1974, cc. 64-86; 26-7-1966, c. 459; 22-7-1966, c. 777.

60. Rule 339. *L.S. Deb.,* 14-7-1967, cc. 12017-32.

61. *L.S. Deb.,* 19-7-1957, c. 1276.

62. Dir. 44.

63. *P. Deb.,* 20-4-1950, p. 3079.

64. *L.A. Deb.,* 20-9-1927, p. 4659.

65. *L.S. Deb.,* 9-2-1960, cc. 180-221; 10-2-1960, cc. 337-428; 11-2-1960, cc. 537-87; 6-12-1961, cc. 3651-52; 24-2-1970, cc. 276-87; 4-5-1987, cc. 433-34.

motion cannot be withdrawn until the amendment has been disposed of[66].

If it is found in the course of the discussion that an amendment which has been allowed to be moved is out of order, the Speaker has the right to withdraw the amendment from further consideration of the House[67].

Motion for Discussion on a Matter of General Public Interest

Save insofar as is otherwise provided in the Constitution or in the Rules, no discussion on a matter of general public interest can take place in the House except on a motion made with the consent of the Speaker[68]. Even after admitting the motion, the Speaker can disallow a part of it if it comes to his notice that that point violates any of the conditions of admissibility[69].

Notice of such a motion, like any other notice, is given in writing addressed to the Secretary-General[70]. No period for notice of such motions has been prescribed. Notices can be tabled from the date following the date of issue of summons for a session. Notices of motions regarding statements to be made in the House by Ministers or statements, reports and papers to be laid on the Table are entertained from 10.00 hours on the day the List of Business wherein the item has been included is circulated to members. In case that day happens to be Saturday, Sunday or a public holiday, the notices are entertained from 10.00 hours on the next working day[71]. In case a Supplementary List of Business is circulated in the House in regard to a statement, the notices in respect of that statement, received within 15 minutes of circulation of the List of Business, are deemed to have been received at the same point of time and their *inter se* priority determined by ballot. In case an announcement is made by the Chair about a statement to be made by a Minister in the House, the notices in respect of that statement are entertained from the time the announcement is made by the Chair and the notices received within 15 minutes of announcement by the Chair are deemed to have been received at the same point of time and that their *inter se* priority determined by ballot. In case a statement is made without being listed in the List of Business or Supplementary List of Business, the notices in respect of that statement are entertained from the time the statement is actually made in the House and the notices received within 15 minutes of the completion of the statement by the Minister are deemed to have been received at the same point of time and their *inter se* priority determined by ballot. All notices are to be delivered in the Parliamentary Notice Office and *not* handed over at the Table of the House and only the time of the receipt of the notice in the Parliamentary Notice Office is taken into account.

The following particulars are required to be given in a notice:

place and date; address of the member giving notice; member's signature and

66. Rule 339. *See,* for instance, *L.S. Deb.,* 30-4-1954, cc. 6217-24; 2-8-1957, cc. 3814-19; 19-7-1957, c. 1276.

67. *L.A. Deb.,* 2-12-1933, pp. 2506-08 and 2538.

68. Rule 184.

69. Rule 186. Also *see L.S. Deb*., 4-8-1977, cc. 296-315.

70. Rule 185.

71. *Bn. (II)*, 13-11-1987, para 1950.

division number; and text of the motion in precise language.

Further, a notice of motion by a private member is required to be accompanied by a list of points for discussion on the proposed motion and a brief explanatory memorandum so as to enable the Speaker to decide the admissibility of the motion.

A notice signed by more than one member is deemed to have been tabled by the first signatory only.

Forms of Motion

No particular form has been prescribed for motion for raising discussion on a matter of general public interest. It may be in the form of a declaration of opinion or a recommendation; or it may be in a form so as to record approval or disapproval by the House of an act or policy of Government or express concern or commend, urge or request an action or take note of a document or to consider a policy, statement or situation. Usually, the notices are tabled in two forms: under the first form the House takes note of a document laid on the Table while under the second the House considers a policy or situation or statement or any other matter.

The first form of motion is generally used in respect of a motion which seeks to discuss a report, a statement, etc. laid on the Table. It has now become an established practice that no discussion on a report can take place unless it has been laid on the Table[72]. The motion in this form is a non-committal substantive motion, and is submitted to the vote of the House at the end of discussion[73], and amendments can be moved thereto, approving or disapproving the report, etc.[74].

However, if this form of motion is used by a private member in order to 'take note' of a policy of the Government with special reference to one particular aspect of that policy, an amendment by another member seeking approval of the policy in general is inadmissible[75].

The second form of motion is generally used when a policy or situation or statement or any other matter is to be taken into consideration. The motion in this

72. Reports of the Estimates Committee and the Committee on Public Undertakings are not discussed in the House. A motion with reference to any specific recommendation contained in any of the Reports may, however, be considered. A Report of the Public Accounts Committee was discussed on 22 August 1966, as it pertained to a specific issue. The scope of debate was limited only to observations of the Committee on that issue. No new accusations, fresh blame or other issues were raised during the debate—*L.S. Deb.,* 22-8-1966, cc. 6076-77.

    The House has adopted a motion directing the Public Accounts Committee to consider a matter referred to in one of their Reports and submit their Report within a specified time—*L.S. Deb.,* 2-8-1966, cc. 1941-56.

    Motions regarding areas of divergence between the Public Accounts Committee and the Government have been moved and discussed in the House—*L.S. Deb.,* 28-11-1967, cc. 3318-68.

    Motions regarding working or annual reports of Public Undertakings, which are under examination by the Committee on Public Undertakings, are not admitted as the discussion in the House might prejudice examination of the Undertaking by the Committee.

73. *L.S. Deb.,* 12-3-1965, cc. 4062-63; 12-8-1967, cc. 19253-54; 30-7-1985, cc. 276-77.

74. *Ibid.,* 3-9-1959, cc. 6135-36.

75. *Ibid.,* 29-8-1960, cc. 5540-41.

form is not submitted to the vote of the House and at the close of the debate no further question is put. However, if a member has moved a substantive motion in substitution of the original motion duly approved by the Speaker, the vote of the House thereon is taken[76].

A substitute motion cannot be moved after the discussion on the original motion has commenced[77]. It has been held that the mover of a motion for taking into consideration a policy or situation or statement, etc., can himself move a substitute motion without withdrawing the original motion[78].

Censure Motion

In view of the constitutional provisions regarding the collective responsibility of the Council of Ministers to the Lok Sabha [article 75(3)], a motion of no-confidence can be moved only against the Council of Ministers as a whole and not against any individual Minister. However, there is nothing in the Rules either for or against a censure motion being moved against a single Minister under Rules relating to motions in general.

> On 4 August 1977, when a censure motion moved by a member against a single Minister seeking to record the House's "indignation against and disapproval of the conduct" of the Minister for his "acts of commission and omission" came up before the House, several members questioned, on points of order, the admissibility of the motion in as much as: (i) there was no provision in the Rules for censure motion against an individual Minister; (ii) there was a separate procedure for a motion of no-confidence; (iii) the censure motion was inadmissible even under Rule 184 as it raised three different matters, sought to revive discussion on a matter already discussed and one of the matters raised was also subject of an inquiry. The Speaker ruled that he did not find any Rule either for or against such a motion being admitted and, therefore, going by precedent, he had admitted it. As for the motion mentioning three issues, the Speaker held that they were actually three illustrations relating to the same issue. The portion relating to an incident which was subject of inquiry in a criminal case, was, however, ruled out by the Speaker[79].

Censure motion can thus be moved against the Council of Ministers or an individual Minister or a group of Ministers for their failure to act or not to act or for their policy, and may express regret, indignation or surprise of the House at the failure of the Minister or Ministers. The motion should however be specific and self- explanatory so as to record the reasons for the censure, precisely and briefly[80]. The

76. Rule 342.

77. *L.S. Deb.,* 21-12-1959, cc. 6292-93.

78. *Ibid.,* 19-2-1958, cc. 1509-13.

79. *L.S. Deb.,* 4-8-1977, cc. 295-391.

80. Some of the forms of the censure motions discussed in the Lok Sabha are as under:—

(i) That this House resolves that Lalit Narain Mishra, a member of this House and a member of Cabinet, be removed from the membership of this House for committing serious improprieties and malpractices as could be seen from the Report of the Commission of Enquiry into the Affairs of Bharat Sevak Samaj and in particular, as reported in the said Commission Reports in Volume 11,

Speaker's decision whether the motion is in order or not for any reason is final[81].

No leave of the House is required to move a censure motion. It is in the discretion of the Government to find time and to fix a date for its discussion. Such a motion is governed by the rules applicable to motions in general and it is admitted as a No-Day-Yet-Named Motion and published in the Bulletin[82].

A censure motion seeking to drop a Minister from the Council of Ministers is inadmissible as the Council of Ministers is collectively responsible to the Lok Sabha.

During the Third Session (7 LS), Jyotirmoy Bosu tabled notice of following censure motion:

> "The House note with deep agony the statement made by Law Minister today (28.7.1980) in reply to Calling Attention on Justice Srivastava and recommend, since he has violated Article 121 of the Constitution, which he is oath bound to abide by, he should be dropped from the Council of Ministers and be censured as an M.P."
>
> As the provisions of article 121 of Constitution were not attracted and as Council of Ministers is collectively responsible to the Lok Sabha [article 75(3)], the notice was disallowed.
>
> During the Fifth Session (13 LS), several members tabled notices of motion under rule 184 seeking removal of three Ministers from the Council of Ministers on the ground that charges had been framed against them by a trial Court in a criminal case. On 11 December 2000, the Speaker disallowed the notices on the ground that the matter was *sub judice* and was not of a recent occurrence and also against the principle of collective responsibility.

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page 97, paragraphs 29.94, 29.95, 29.96; page 98 paragraph 29.100; page 103 paragraphs 29.128, 29.129; page 110 paragraphs 29.146, 29.147; page 126 paragraph (xxi); and page 127 paragraph 29.194.–*L.S. Deb.,* 18-12-1974, cc. 257-408.

(ii) That having considered the acts of commission and omission on the part of the Home Minister with respect to the following matters, namely:

(a) that he has been misusing the floor of the House to make baseless and irresponsible statements as instanced, among others, by his allegation on 13 July 1977 replying to the debate on Demands for Grants for the Home Ministry that there was a preparation and thinking *(Vichar)* on the part of the previous Government to shoot the political leaders in detention, and

(b) that he, misusing his official position, meddled with the affairs of independent constitutional bodies as evidenced, among others, by his conduct in withdrawing from the files of the Election Commission a letter dated 5 May 1977, he had written in his capacity as the leader of the B.L.D., this House hereby records its indignation against and disapproval of the conduct of the Home Minister.—*L.S. Deb.,* 4-8-1977, cc. 295-391; 5-8-1977, cc. 260-83.

81. *L.S. Deb.,* 19-8-1968, cc. 2714-2840; 4-8-1977, cc. 295-391; 5-8-1977, cc. 260-83.

82. Rule 189. *See,* for instance, Bn. (II), 29-7-1977, para 249.

The following procedure was followed when notices of censure motions were received against an individual Minister:

The member concerned was requested to make the notice specific, if it was not so. The notices were sent to the concerned Minister and the Prime Minister for their comments. The admissibility of the notices was decided in the light of comments received. The motion, as admitted, was published in *Bulletin-Part (II)* as No-Day-Yet-Named Motion and placed before the BAC for selection and allotment of time therefor.

On the same day, 45 other members tabled identical notices of motion under rule 184 seeking resignation of the concerned Ministers on the ground of propriety as the Ministers had been charge-sheeted by a Court in a criminal case. All the notices were disallowed by the Speaker as issue of propriety was not governed under any rule of the Rules of Procedure and therefore, it could not be discussed on the floor of the House.

As members insisted on having a discussion under rule 184, it was decided at a meeting of Leaders of Parties to discuss the matter under rule 184 on a mutually agreed upon text. Accordingly, the following motion was discussed on 13 and 14 December 2000 and negatived:

"That this House calls upon the Prime Minister to drop three Ministers from his Government, namely, Shri Lal Krishna Advani, Dr. Murali Manohar Joshi and Kumari Uma Bharti against whom *prima facie* charges have been found to exist for their involvement in the demolition of the Babri Masjid on 6th December 1992 and disapproves the stand of the Prime Minister seeking to exonerate the concerned Ministers."

A censure motion relating to matters under examination by a Financial Committee is not admitted and the member advised to furnish the pertinent information to the Committee[83].

Censure motions relating to statements of Ministers in the nature of political comments/criticism made outside the House have been held to be inadmissible[84].

Conditions of Admissibility

In order that a motion for discussion of a matter of general public interest may be admissible, it should raise substantially one definite issue; contain no arguments, inferences, ironical expressions, imputations or defamatory statements; avoid reference to the conduct or character of persons except in their public capacity[85]; be restricted to a matter of recent occurrence; raise no question of privilege[86]; revive no discussion of

83. *L.S. Deb.,* 15-7-1982, cc. 241-44.

84. During the 6th Session (8 LS), C. Madhav Reddy tabled a notice of censure motion against the Minister of State for Public Enterprises (K.K. Tewari) *re.* statements made by him during his official tour to Andhra Pradesh against the State Government. The notice was disallowed as it was based on statements made by the Minister outside the House at party meetings and seemed to be in the nature of political comments/criticism.

During the 9th Session (8 LS), C. Madhav Reddy tabled a notice of censure motion against the Minister of Home Affairs (Sardar Buta Singh) alleging that the Minister, during election campaign in Andhra Pradesh, made objectionable remarks against the State Government. The notice was sent to the Minister for his comments. The Minister denied the Press remarks attributed to him. The notice was not admitted on grounds that the notice: (i) lacked factual basis; and (ii) related to statements which were not made on the floor of the House but during election campaign in Andhra Pradesh which was normal political activity.

85. Conduct of Governor of a State can be discussed in the House on a motion only to the extent whether the Governor has acted in his discretion or on the advice of the Union.

86. On 15 December 1987, (9th Session - 8 LS), a member gave a notice of a question of privilege against another member for making allegation on the floor of the House against the Minister of State in the Ministry of Commerce by making an untrue statement deliberately to mislead the House regarding 'cornering of licences by Bachchan Brothers in Kandla Free Trade Zone' during the discussion on "No-confidence Motion" on 10 December 1987. On 1 March 1988 (10th Session), the Speaker gave his ruling that no *prima facie* case of breach of privilege was involved in the matter and withheld

a matter which has been discussed in the same session; anticipate no discussion of a matter which is likely to be discussed in the same session; and not relate to any matter which is under adjudication by court of law having jurisdiction in any part of India[87].

Likewise, no motion which seeks to raise discussion on a matter pending before a statutory tribunal or statutory authority performing judicial or quasi-judicial functions or a commission or court of inquiry is ordinarily permitted to be moved although the Speaker may, in his discretion, allow such matter being raised as it concerned with the procedure or subject or stage of enquiry, if he is satisfied that it is not likely to prejudice the consideration of such matter by the judicial authority concerned[88]. If a motion on such a matter is admitted for discussion, the Speaker at the commencement of the discussion observes that members should not cast reflection on the conduct of the Judge holding the enquiry and that discussion should take place on limited aspects only[89].

Apart from the conditions mentioned above, a motion is inadmissible if it—

> lacks factual basis or is based on unconfirmed Press reports; relates to an individual officer, and does not involve public interest or the responsibility of the Government, requiring their explanation; seeks to discuss the annual administrative report on the working of a Ministry, which has already been adequately discussed in the House; seeks to discuss a matter for the discussion of which there is a specific provision under the Constitution or in the rules; seeks to discuss a report, which has not been laid on the Table[90]; seeks to discuss the report of a Committee appointed by a State Government; and seeks to discuss a paper or document laid on the Table by a private member.

Likewise, motions seeking disapproval of Proclamations under article 356 or recommending to the President revocation of Proclamation[91] or regarding conduct of the Speaker or members of a State Legislature or happenings therein, or regarding conduct of a Chief Minister of a State or regarding leakage of Budget proposals without a *prima facie* case, or seeking reference of a matter to Supreme Court under article 143 of the Constitution or seeking to impose a ban on R.S.S. and its activities, or seeking discussion on a matter which may raise issues of classified nature impacting on national security[92], or requires ratification of any treaty or agreement entered into with

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his consent to the raising of the matter in the House as a question of privilege. Later on, another member tabled a notice under rule 184 regarding reference of the matter for investigation to the Committee of Privileges. The motion was admitted, discussed and adopted by the House on 5 May 1988. The matter was referred to the Committee of Privileges.

87. Rule 186.

For practice *re.* discussion on matters which are *sub judice, see* Chapter 43–Parliament and Judiciary, under the appropriate heading.

88. Rule 188.

89. *See* for instance, *L.S. Deb.,* 7-4-1966, c. 10030.

90. A motion regarding the Report of the Sarkaria Commission on Centre-State Relations, which was not laid on the Table of the House and placed in Parliament Library only, was admitted as the Report had become public document—Bn. (II), 1-3-1988, para 2134.

91. *L.S. Deb.,* 6-5-1965, cc. 13525-26; 6-4-1992, cc. 517-54.

92. During Eleventh Session of Fourteenth Lok Sabha, notices of motion regarding 'adverse impact of atomic radiation from US warship USS Nimitz' were not admitted as the Ministry of Defence in

a foreign country by the Government unless the treaty itself contains such a provision[93] have been held to be inadmissible. Motion regarding conduct of a Governor of a State can be discussed[94].

A motion or a part thereof may be disallowed by the Speaker if in his opinion it is an abuse of the right of moving a motion or is calculated to obstruct or prejudicially affect the procedure of the House or is in contravention of the Rules[95]. The Speaker has the inherent power to rule out a motion at any time before it is voted upon on the ground that it involves an abuse of the forms and procedure of the House[96].

A part-discussed adjournment motion was converted into a motion under Rule 184 with the consent of the mover and the House[97].

Admission of Notice and Allotment of Time

The notice of a motion for discussing a report which has been laid on the Table in pursuance of provision in a Statute is normally admitted by the Speaker. If Government is not willing to move a motion for consideration of a report on which it has taken certain decisions, any member may give notice to move a motion to that effect[98]. The admissibility of other notices is decided by the Speaker on the merits of each case and, in appropriate cases, after taking into consideration the facts and comments, if any, received from the Minister concerned; a motion once admitted by the Speaker and included in the List of Business is not changed[99].

If several members table notices of similar motion and any one of the notices is admitted, the names of the other members giving notice of similar motion are bracketed on the admitted notice, the names of members *inter se* being arranged in the order in which the notices are received in point of time. The names of members from whom notices of similar motion may be received after a motion has

their reply had, *inter alia*, stated that 'the discussion in the House on the subject may raise issues of classified nature impacting on national security'.

93. Ruling by the Speaker in regard to notices of motion on adverse impact of atomic radiation from US Warship *USS Nimitz.—L.S. Deb.,* 17-8-2007, cc. 474-75.

94. *L.S. Deb.,* 1-12-1967, cc. 4265-319; 4-12-1967, cc. 4509-585; 28-2-1968, cc. 505-64; 11-4-1968, cc. 300-19; 21-8-1984, cc. 347-493; 26-11-1985, cc. 341-426; 24-4-1989, cc. 294-385; 25-4-1989, cc. 492-638; 26-4-1989, cc. 343-91; 22-5-1990, cc. 545-66; 23-5-1990,l cc. 431-49.

95. Rule 187.

96. *L.A. Deb.,* 11-4-1929, pp. 2989-91; *L.S. Deb.,* 23-3-1968, cc. 2693-710.

97. On 24 July 1997, during the Fifth Session of the Eleventh Lok Sabha, the Leader of the Opposition (Atal Bihari Vajpayee) moved an Adjournment Motion regarding the serious situation arising out of passive attitude of Central Government over developments in Bihar. After some discussion, the Adjournment Motion was converted into a motion under Rule 184 with the consent of the mover and the House. Vajpayee tabled the notice of an amendment to bring the motion in conformity with the form prescribed for motions under Rule 184. The amendment was moved on 28 July and was adopted on 29 July 1997. The motion was negatived.—*L.S. Deb.,* 24-7-1997, cc. 419-62; 28-7-1997, cc. 252-84; 29-7-1997, c. 466.

98. *L.S. Deb.,* 30-11-1959, c. 2441.

99. *Ibid.,* 10-3-1969, cc. 213-16.

been admitted and published in the Bulletin, are not bracketed on the admitted notice[100].

No-Day-Yet-Named Motions

If the Speaker admits notice of a motion and no date is fixed for its discussion, it is called a 'No-Day-Yet-Named Motion', and a copy of the admitted motion is forwarded to the Minister concerned with the subject-matter of the motion. Where notices of a Government motion and a private member's motion are received on the same subject, Government motion is admitted and private member's motion is disallowed. If a private member's motion is admitted and thereafter notice of a Government motion on the same subject is received, Government motion is also admitted. If it is decided to have a discussion on that subject by way of a motion, the Government motion gets precedence over private member's motion, as 'No-Day-Yet-Named Motions' are discussed in Government time.

Admitted notices of such motions may be placed before the Business Advisory Committee for selecting the motions for discussion in the House according to the urgency and importance of the subject-matter thereof and allotting time for the same. In a number of cases, the Business Advisory Committee also fixes date and time for discussion of motion[101].

Unless the Speaker otherwise directs, No-Day-Yet-Named Motions and Short

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100. During the Third Session of the Thirteenth Lok Sabha, a member Bir Singh Mahato tabled notices under Rule 184 on following subjects:–

(i) Rising illiteracy in the country;

(ii) Continuous brain drain in various fields;

(iii) Loss of lives, crops and property due to floods; and

(iv) Incidents of atrocities on women.

The above notices were disallowed as notices on similar subjects had already been admitted and published *vide* Bn. (II), 17-2-2000 (Motion Nos. 46, 52, 59 & 61 respectively).

101. Prior to 1960, the question as to which of the admitted motions should be brought before the House for discussion was left to the Government. Members were not satisfied with such a procedure and the matter was raised in the Business Advisory Committee at its sitting held on 14 November 1960, which then appointed a sub-Committee to select such motions. Min. (BAC-2 LS) 14-12-1960; Min. (SC of BAC), 22-11-1960, 29-11-1960, 6-12-1960 and 13-12-1960.

Since 1971, the Business Advisory Committee itself has been selecting such motions for discussion in the House.

The BAC at its sitting held on 16 March 1988, selected a motion *re*. reference of an allegation made by a member against the Minister of State in the Ministry of Commerce for having made an untrue statement on the floor of the House regarding 'cornering of licenses by Bachchan Brothers in Kandla Free Trade Zone,' to the Committee of Privileges for investigation and report, for discussion on 24 March 1988. The motion was not included in the List of Business as the member was not well. The Committee, at its sitting held on 30 March 1988, decided to postpone the discussion on the motion until he recovered from illness and was able to participate in the discussion. The Committee, at its sitting held on 21 April 1988, fixed the motion for discussion on 2 May after the passing of Finance Bill, 1988. On 2 May 1988, at its sitting, the Committee, on the request of several members, fixed the discussion on the motion for 5 May 1988. The motion was discussed on 5 May 1988 and adopted.

Min. (BAC-8 LS) 16-3-1988, 30-3-1988, 21-4-1988 and 2-5-1988; *L.S. Deb.,* 5-5-1988, cc. 421-58.

Duration Discussions[102] are arranged in such a way that no member moves or raises more than two of these during a session[103].

Discussion on the Motion

On being called by the Speaker, the member in whose name the motion stands in the List of Business formally moves the motion and makes his speech. Thereafter, the Speaker places the motion before the House. Amendments or substitute motions, if any, are then moved by members and discussion follows. After the members and the Minister concerned have participated in the debate, the mover of the motion may speak again by way of reply. The amendments and substitute motions, if any, are put to the vote of the House and disposed of, after which the main motion may be put to vote.

However, the member in whose name the motion has been listed may decline to move the same[104].

If the motion is adopted by the House, it is transmitted to the Minister concerned. Generally, motions in the form of 'take note' are adopted by the House. There have, however, been instances when such motions were negatived by the House[105].

There may be combined discussion on a motion and a statutory resolution approving the Proclamation under article 356 issued by the President in relation to a State[106], or a motion and a statutory resolution seeking disapproval of an Ordinance[107].

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102. Rule 193.

103. Dir. 113C.

104. The following motion was included in the List of Business for 20 March 1997 in the name of Jaswant Singh:

"That taking serious note of the constitutional crisis in the State of Uttar Pradesh evidenced amongst others by widespread lawlessness described by the Union Home Minister as bordering on 'chaos, anarchy and destruction', the rejection of this assessment of the Central Government by the Governor and his clarification that 'he had spoken to the Prime Minister', therefore, this House do now resolve that the Governor of Uttar Pradesh be recalled forthwith."

When Jaswant Singh was called by the Chair to move the motion, he stated that the objective political situation was different from that obtaining at the time he had given notice of the motion and as he did not wish to cause any further contention between high functionaries of the Republic, he was not moving the motion.

105. *L.S. Deb.,* 27-8-1962, c. 4362; 12-8-1967, c. 19253; 11-8-1983, c. 458.

106. Combined discussions were held on the motion regarding non-rejection of the reports of the Governors of Haryana and Uttar Pradesh recommending issue of Proclamations under article 356 of the Constitution and the statutory resolutions approving the Proclamations issued by the President in relation to the respective States. *L.S. Deb.,* 21-11-1967, cc. 1727, 1738; 18-4-1968, cc. 1448, 1568.

Combined discussion was held on motion regarding 'deteriorating law and order situation in the State of Bihar under President's rule and also on the situation arising out of the Chief Secretary of the State proceeding on long leave' and the statutory resolution approving the Proclamation issued by the President in relation to the State of Bihar. *L.S. Deb.,* 2-8-2005, cc. 414-592.

107. Statutory resolution by a Private Member seeking disapproval of the Essential Services Maintenance Ordinance, 1960, and a Government Motion under rule 342 regarding situation arising out of the Central Government employees' strike were discussed together. *L.S. Deb.,* 8-8-1960, cc. 1391-1536; 9-8-1960, cc. 1662-1800.

Motions of Confidence

Though there is no specific rule in the Rules of Procedure relating to Motions of Confidence in the Council of Ministers, over the years, this new procedure has evolved as a result of the changing political composition of the Parliament. This practice has been followed in recent times whenever no single political party is in a position to command the majority of the House. In these cases, the procedure followed is that a one-line (notice of a) motion under Rule 184 "that this House expresses its Confidence in the Council of Ministers" is moved by the Prime Minister on the direction of the President[108].

108. *See* Chapter 28—*'Motions of Confidence and No-confidence in the Council of Ministers'*. Also *see,* G.C. Malhotra: *Cabinet Responsibility to Legislature: Motions of Confidence and No-confidence in Lok Sabha and State Legislatures,* (Lok Sabha Secretariat, New Delhi, 2004).

CHAPTER 27

Discussion on Matters of Urgent Public Importance for Short Duration

Before 1953, there was no provision in the Rules for raising a discussion in the House on a matter of urgent public importance except by way of a resolution or a motion. Where members wanted to draw the attention of the Government to a matter of public importance, they resorted to a motion for adjournment[1]. As an adjournment motion is in the nature of a censure motion, recourse to such a procedure for raising discussion in the House on matters of any consequence was not considered proper in the nascent democratic republican set-up where the Government had become answerable to Parliament.

In order to provide opportunities to members to discuss matters of importance, a convention was, therefore, established in the Lok Sabha in March 1953 whereby members could raise discussion for short duration without a formal motion or vote thereon. Notice for raising such a discussion was to be given to the Speaker who would allot time therefor in consultation with the Government[2].

This procedure, which started as a convention, later formed part of the Rules[3].

Notice for Raising Discussion

A member desirous of raising discussion on a matter of urgent public importance for short duration has to give notice in writing to the Secretary-General, specifying clearly and precisely the matter proposed to be raised. The notice is required to be accompanied by an explanatory note stating reasons for raising discussion on the matter in question, and has to be supported by the signatures of at least two other members[4]. It has been ruled that only one matter can be raised for discussion in a notice[5].

Notices for raising short duration discussions received between the dates of prorogation and issue of summons for the next session are not treated as valid and no action is taken thereon. Notices are accepted from the day following the day on which the summons for the next session are issued to members.

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1. *H.P. Deb.* (II), 25-3-1953, c. 2685.
2. *Ibid.,* c. 2866.

   The first such discussion under the convention took place on 25 March 1953—*H.P. Deb.* (II), 25-3-1953, cc. 2684-2906.
3. Rules 193-96.
4. Rule 193. For instance, during the Fourth Session of the Tenth Lok Sabha, several members tabled notices under Rule 193 *re.* scam involving operations in Government securities running into thousands of crores of rupees. Notices which were not accompanied by an explanatory note stating reasons for raising discussion on the matter in question and not supported by the signatures of at least two other members as required under the Rule were disallowed and only the notices fulfilling the above conditions were taken into consideration.
5. *L.S. Deb.,* 20-3-1956, c. 7882.

With a view to giving fair chance to all members to give notices for raising these discussions, some set principles have been laid down for receipt and treatment of notices.

Notices for short duration discussions under rule 193 or under rule 184 or statements to be made in the House by Ministers, reports and papers to be laid on the Table are entertained from 10.00 hours on the day. The List of Business, wherein the item has been included, is circulated to members. In case that day happens to be a Saturday, Sunday or a public holiday, the notices are entertained from 10.00 hours on the next working day[6].

Where a Supplementary List of Business is circulated in the House in regard to a statement, the notices in respect of that statement, received within 15 minutes of completion of circulation of the List of Business, are deemed to have been received at the same point of time and their *inter se* priority is determined by ballot[7].

In case an announcement is made by the Chair about a statement to be made by a Minister in the House, the notices in respect of that statement are entertained from the time the announcement is made by the Chair and the notices received within 15 minutes of the announcement by the Chair are deemed to have been received at the same point of time and their *inter se* priority is determined by ballot[8].

In a case where a statement is made without being listed in the List of Business or Supplementary List of Business, the notices in respect of that statement are entertained from the time the statement is actually made in the House[9] and the notices received within 15 minutes of the conclusion of the statement are deemed to have been received at the same point of time and their *inter se* priority is determined by ballot[10].

All notices are required to be delivered in the Parliamentary Notice Office and not handed over at the Table of the House and only the time of the receipt of the notice in the Parliamentary Notice Office is taken into account.

Conditions of Admissibility

When deciding admissibility of a notice for such discussions, the Speaker may call for any further information from the member who has given the notice and also from the Minister concerned, as he may consider necessary. If the Speaker is satisfied that the matter sought to be raised is urgent and is of sufficient importance to be raised in the House at an early date, he admits the notice. In case an early opportunity is otherwise available for discussion of the matter in question, the Speaker may disallow the notice[11].

6. Dir. 113 BB (2). Bn. (II), 13-11-1987, para 1950.
7. Dir. 113 BB (3).
8. Dir. 113 BB (4).
9. Dir. 113 BB (5).
10. Dir. 113 BB (6).
11. Rule 194. In exceptional cases, where the matter is important, the Speaker may, in his discretion, convert a half-an-hour discussion into a short duration discussion—*see L.S. Deb.,* 5-8-1960, c.1257.

Notices to raise discussion on certain matters are inadmissible, which are:

- *Not primarily the concern of the Government of India*

However, discussion on the law and order situation in a State may be allowed if national security is involved and the Union Government's responsibility in some form is brought in[12] or where the Union Government has been consulted by the State Government[13].

Notices for raising discussion regarding the conduct of Chief Minister of a State are inadmissible[14].

Likewise, notice regarding report of a committee appointed by a State Government is also inadmissible.

- *Based on vague and unsubstantiated allegations*

Notice given by a member on 18 July 1959, for raising a discussion on alleged administrative inefficiency, financial confusion and irregularities in the admission of students to a University was disallowed as he did not furnish specific cases within his personal knowledge or any evidence in his possession to substantiate the allegations.

- *Hypothetical in nature*

Notice given on 11 August 1959, for raising a discussion on the constitutional position of the members of Lok Sabha from a State after the President had issued a Proclamation consequent upon the failure of constitutional machinery in that State and the resultant imposition of the President's rule there, was disallowed as it sought to raise a hypothetical constitutional question by way of a discussion.

- *Premature*

On 12 September 1958, four members gave notices seeking to raise a discussion on the proposed border adjustments between India and Pakistan. As the matter sought to be raised was a subject of further negotiations between the two countries, it was

12. (i) *L.S. Deb.,* 13-6-1967, cc. 4741-56.

    (ii) During the Ninth Session of Thirteenth Lok Sabha, a short duration discussion on 'Godhra killings and subsequent violence in Gujarat' was held on 11 March 2002.

    (iii) During the Twelfth Session of Fourteenth Lok Sabha, members of Opposition parties insisted on a discussion on violence in Nandigram, West Bengal in opposition to setting up of Special Economic Zone in Nandigram. As the issue related to law and order problem, a matter under the jurisdiction of State Government, the Speaker requested leaders of various political parties to come forward with a mutually agreed text on which discussion can be held in the House. Subsequently, discussion on the following text which was mutually agreed upon, was held on 21 November 2007:

    "The proposal to set up Special Economic Zone in Nandigram, West Bengal and consequent large scale violence."

13. For instance, notice *re.* non-implementation of the recommendations of the Gajendragadkar Commission was admitted as the Commission was appointed by the Jammu and Kashmir Government in consultation with the Union Government—Bn. (II), 30-3-1970, para. 1615.

14. During the Ninth Session of the Eighth Lok Sabha, notices were received for short duration discussion regarding admission of two writ petitions by the Andhra Pradesh High Court against the Chief Minister of the State. Notices were disallowed on the grounds that matter raised was not within the jurisdiction of the Union and might cause unnecessary strain between the Union and the concerned State Governments.

thought premature to have a discussion on the subject. Similarly, the notice to raise discussion on the report of the Central Pay Commission, given on 24 November 1959, was disallowed as being premature because the Report under reference had not been laid on the Table by then.

- *Sub judice*

However, having regard to the public importance of the issue and in view of consistent demands by members of various political parties/groups, the Speaker may permit a discussion on a *sub judice* matter. Where a discussion on a *sub judice* matter is permitted, the Speaker always cautions the members not to say anything which may prejudice the course of legal action or the matter pending in Court in any manner[15].

- *Which lack the element of urgency*

On 1 February 1960, a member gave notice to raise a discussion on the necessity and advisability of a standing inquiry committee to inquire into important cases of corruption. As the element of urgency which is required for such a discussion was missing, the notice was disallowed. In exceptional cases, the Speaker may allow discussion under Rule 193 on certain paragraphs of C&AG's Report[16].

A notice, which seeks to disclose correspondence between Ministers or refers to the conduct or character of persons except in their public capacity, is inadmissible.

Notice for raising discussion on personal explanation made by a member in the House under Rule 357 is inadmissible[17].

During the Budget Session, notices for such discussion on various matters of public importance are not generally admitted as the members can raise discussion on those matters by availing themselves of other opportunities provided by the debates on President's Address, Railway Budget, General Budget, Demands for Grants and Finance Bill.

Again, in exceptional cases, on a demand being made in the House or on the recommendation of the Business Advisory Committee, calling attention notices may be converted into short duration discussion[18].

A short duration discussion may be held without any notice being formally tabled

15. Discussion on following *sub judice* matters have been held:
    (i) Statement made by the Minister of Home Affairs *re.* tragic death of 45 persons and injuries to several others at Qutab Minar, Delhi on the day of the incident, *i.e.* 4 December 1981 and discussion on 7 December 1981.
    (ii) Ayodhya issue on 3 December 2001; and
    (iii) Situation arising out of the ongoing sealing drive in Delhi on 27 November 2006.
16. *L.S. Deb.,* 24-7-1989, c. 389; 25-7-1989, c. 379; and 26-7-1989, c. 341.
17. For instance, during the Sixth Session of the Ninth Lok Sabha, on 2 January 1991, a member tabled a notice under rule 193 seeking discussion, on a personal explanation made by Prof. Madhu Dandavate, M.P., in the House on 2 January 1991 under Rule 357 *re.* certain remarks made by Yashwant Sinha, Minister of Finance about him in the House on 28 December 1990 while replying to a supplementary to the Starred Question No. 24 *re.* refund of excise duty to manufacturers. The notice was disallowed as Rule 357 did not permit debate on personal explanations made by members in the House under this Rule.
18. List of Business, 17-8-1987; 18-11-1987; 24-8-2007.

and admitted[19].

The Speaker may allow a short duration discussion on a subject on the basis of notices of adjournment motion, the consent for moving of which has been withheld by him[20].

Notices for discussion on matters of urgent public importance for short duration, after admission, are notified in the *Bulletin* and copies thereof are forwarded to the Minister concerned.[21]

Fixation of Date for Discussion and Allotment of Time

The Speaker may allot two sittings in a week during which such matters may be taken up for discussion and allow such time for discussion not exceeding two hours at or before the end of the sitting, as he may consider appropriate in the circumstances[22].

Prior to June 1967, after a notice had been admitted, the Speaker, in consultation with the Leader of the House, fixed the date on which the matter might be taken up for discussion and allowed such time for discussion not exceeding two and a half hours, as he considered appropriate in the circumstances. Later, allocation of time was made by the House on the recommendation of the Business Advisory Committee. All the admitted notices were placed before a sub-Committee of the Business Advisory Committee who selected notices for discussion in the House according to the urgency and importance of the subject matter thereof.

In actual practice, when a notice was admitted and the Speaker considered it

19. On 16 April 1979, the Speaker withheld his consent to adjournment motions *re.* riots and massive killings, specially of minorities, in Jamshedpur, observing that he proposed to allow a full discussion, preferably a two-hour discussion on 18 April 1979. The Minister of Home Affairs was requested on 16 April 1979 to make a statement on the subject on 18 April 1979. An entry *re.* statement was made in the List of Business for 18 April with a footnote that the statement would be followed by a discussion. Accordingly, after the Minister's statement, the discussion was held without any notice being tabled or admitted.

20. On 23 March 1993, several members tabled notices of adjournment motions separately *re.:*

    (i) ban imposed by Government of India on political rallies at Boat Club, New Delhi; and

    (ii) rise in administered prices of coal, steel, etc.

    The Speaker withheld his consent to the moving of the adjournment motions. Keeping in view the importance of the subjects, the Speaker allowed discussions under Rule 193 on these subjects on the basis of the notices of adjournment motions. The names of members who had tabled the notices of adjournment motions were balloted and members securing priority were allowed to raise discussions on the same day. Notices under Rule 193 *re.* ban imposed on political rallies were, however, not received whereas notices received under Rule 193 *re.* coal and steel prices were not taken into account.

21. During 15 S, 17 LS, a Short Duration Discussion was admitted on the following subject:—

    "The construction of historic Shri Ram Temple and Pran Pratishtha of Shri Ramlala."

    The notices of Short Duration Discussion were notified in Bulletin Part II dated 9 February 2024 and the discussion was included in the List of Business on 10 February 2024. The Ministry of Parliamentary Affairs was informed on 10 February 2024 about the listing of Short Duration Discussion and requested to intimate the conncerned Minister accordingly. The discussion was held on 10 February 2024 but not concluded.—*L.S. Deb.,* 10-02-2024.

22. Rule 194(2). This rule was amended in June 1967 and a time-limit of one hour was provided. This was further amended in April 1987 to increase the time-limit to two hours.

important enough to be discussed in the House, the Minister concerned was asked to fix a date for its discussion in consultation with the Leader of the House. The date so fixed was announced in the House by the latter in the weekly statement regarding business of the House. In a very urgent case in which interest was shown from all sides of the House, the Speaker himself announced the date and time when the discussion was to be held. Two hours were deemed to have been allotted for every discussion with discretion to the Chair to extend the time by half an hour in appropriate cases.

The time could even be extended beyond the maximum limit of two and a half hours by a normal motion made in the House for suspension of the provision *re.* time-limit.

However, when on a demand from the House the Government was willing to allot time for discussion beyond the prescribed maximum limit of two and a half hours, such allocation was allowed without a formal motion for suspension of the relevant provision.

According to the present practice, all the admissible notices for raising short duration discussions are placed before the Business Advisory Committee. The Committee selects notices for discussion in the House according to the urgency and importance of the subject matter thereof. The Committee also fixes the date and recommends allotment of time for the discussion.

Normally, discussion on matters of urgent public importance for short duration is taken up during two sittings in a week.

On an occasion, with the unanimous consent of the House, private members' business set down for a day was dispensed with to provide time for such discussion[23].

Two short duration discussions may sometimes be taken up together[24].

Procedure for Raising Discussion

After a notice is admitted and a date fixed for discussion, the item is included in the *List of Business* for that date, in the names of the first two members only.

Previously, the names of all the members giving notice and also those supporting the notice were added.

Substantially identical notices received after a notice has been admitted and notified in the *Bulletin* are disallowed.

Discussion is raised by the member whose name appears first against the item in

23. *L.S. Deb.,*23-9-1965, cc. 7186-88; 24-9-1965, cc. 7425-26. It was also decided by the House to discuss simultaneously a matter of urgent public importance for short duration (U.N. Security Council Resolution calling for ceasefire between India and Pakistan) and a private member's resolution (India should quit the Commonwealth).

24. During Sixth Session of Fifth Lok Sabha, two short duration discussions regarding (i) student unrest, and (ii) statement made by the Minister of State for Home Affairs, on incidents in Delhi University on 6 December 1972 were taken up together on 14 December 1972. Further discussion was held on 15 December 1972. [*L.S. Deb.*, 14-12-1972, cc. 210-72; 15-12-1972, cc. 338-86.]

the *List of Business.* If that member is absent, the discussion is raised by the second member if he is present. If both the members are absent, the next member whose notice on the subject is admissible may be allowed to raise the discussion[25].

After a discussion is raised, the other member whose name appears against the item in the List of Business is not entitled to speak as second speaker only because his name appears in the List of Business. The member gets a chance to speak only when the turn of his party comes.

Previously, discussions were so arranged that no member raised more than one discussion during a session. Where time was fixed for the second discussion in the name of a member who had already raised one discussion, the name of the member next in order was indicated at the first place in the *List of Business* so that the discussion could be raised by him. This system of restricting one discussion for a member during a session was given effect to in the Third Session of the Third Lok Sabha on the recommendation of the Business Advisory Committee in their Eighth Report. This restriction has since been removed.

Now the practice is that unless the Speaker otherwise directs, No-Day-Yet-Named Motions and short duration discussions are arranged in such a way that no member can move or raise more than two of these during a session[26].

There is no formal motion before the House nor is there any voting. The purpose of the discussion is that members who are in possession of some knowledge about the matter should apprise the House of it. The member who has given the notice makes a short statement. In special circumstances, the Speaker may permit a member in whose name the item stands in the *List of Business,* to give his chance of making a speech to another member[27]. Such of the members as have previously intimated their intention to the Speaker, may be permitted to take part in the discussion. Thereafter the Minister concerned gives a brief reply[28]. When a Discussion is held on a Statement made by the Prime Minister, the Minister primarily concerned with the subject matter of the Statement may reply[29]. The member who has raised the discussion has no right of

25. *L.S. Deb.,* 29-3-1990, cc. 583-84; 7-8-1991, c. 392.

26. Dir. 113C.

27. The Chair agreed to the request of a member that another member of his party who was in possession of full facts might be allowed to make the opening speech.—*L.S. Deb.,* 19-4-1974, cc. 216-17.

28. Rule 195; *see* also *H.P. Deb.* (II), 10-4-1953, c. 4142.

29. During the Eighth Session of the Fifteenth Lok Sabha, discussion on a Statement made by the Prime Minister *re.* setting up of Lokpal and certain events that took place on 16 August 2011 in New Delhi was held on 17 August 2011. When the Speaker called the Minister of Home Affairs to reply, a point of order was raised that since the Statement was made by the Prime Minister, he should reply to the discussion. Thereupon, the Speaker observed, "I agree that by convention the reply to a discussion on a Statement is usually made by the Minister who has made the Statement. The Statement was made by the Prime Minister on demand from the principal Opposition Party as well as from some other parties. However, Hon'ble members would appreciate that the subject matter of the discussion basically pertains to the Ministry of Home Affairs. I would, therefore, urge upon the members not to insist on reply from the Prime Minister". Accordingly, the Minister of Home Affairs replied to the debate.

reply[30].

A discussion not concluded in a session may be postponed to, and resumed in a subsequent session[31].

A separate discussion is not allowed on a paper or document laid on the Table by a private member during the course of his speech[32].

Resolutions may be adopted after the conclusion of short duration discussions under Rule 193 on the same subjects[33].

The Speaker may, normally, prescribe a time-limit for the speeches[34].

30. *L.S. Deb.,* 22-12-1959, c. 6728; 20-8-1962, c. 3000; 21-8-1962, cc. 3184-92.

31. *Ibid.,* 10-12-1965, c. 6908; 17-12-1968, c. 218;

During the Fifteenth Lok Sabha, discussion *re*. 'Situation arising out of widespread discontentment among the working class due to faulty Government policies' was raised during 7th Session (24 March 2011) and concluded in 10th Session (19 March 2012). Similarly, during the Seventeenth Lok Sabha, discussion *re.* 'Need to promote sports in India and steps taken by the Government in this regard' was raised during 8th session but remained inconclusive. The discussion resumed during 9th session and concluded in 10th session (*L.S. Deb.* 31.3.2022, 3.8.2022, 8.12.2022 and 9.12.2022).

32. On 3 March 1965, a member gave a notice under Rule 193 seeking to raise a discussion on the C.B.I. Report laid on the Table by another member the same day during discussion on Income-Tax (Amendment) Bill, 1965, but the Speaker did not admit the notice.

33. *L.S. Deb.,* 19-8-1985, cc. 437-40; 16-4-1986, cc. 400; *L.S. Deb.*, 11-12-2008, cc. 694-96. *L.S. Deb.* 21-12-2022.

34. Rule 196.

CHAPTER 28

Motions of Confidence and No-Confidence in the Council of Ministers

Cabinet Responsibility[1]

One of the fundamental postulates of parliamentary democracy is the principle of collective responsibility of the Council of Ministers or the Cabinet to the popularly elected House.[2] The Government must always enjoy majority support in the popular House to remain in power. If need be, it has to demonstrate its strength on the floor of the House either by moving a Motion of Confidence and winning the confidence of the House or by defeating a No-confidence Motion brought against it by the parties in Opposition.[3]

The Council of Ministers is collectively responsible to the Lok Sabha[4]: the responsibility is joint and indivisible. There is no specific provision in the Constitution laying down the individual responsibility of a Minister and his accountability to the Parliament for all the acts of omission and commission in his departmental charge. However, in keeping with the high parliamentary traditions, individual Ministers have of their own accord accepted responsibility for, and resigned on account of, the criticisms or short-comings of the Departments under them[5].

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1. *See* Subhash C. Kashyap: *Parliament of India, Myths and Realities,* New Delhi, 1988, pp. 35, 39-43; *The Parliament and the Executive in India,* Lok Sabha Secretariat, New Delhi, 1987 and the *Table* (London) Vol. XLIX, 1981.

2. G.C. Malhotra: *Cabinet Responsibility to Legislature : Motions of Confidence and No-Confidence in Lok Sabha and State Legislatures,* Lok Sabha Secretariat, 2004 p. (vii).

3. *Ibid.*, p. (v).

4. Art. 75(3). Interpreting art. 75(3), the Supreme Court in *U.N.R. Rao* v. *Smt. Indira Gandhi,* A.I.R. 1971 S.C. 1002, observed:

   > Article 75(3) brings into existence what is usually called "Responsible Government". In other words the Council of Ministers must enjoy the confidence of the House of the People. While the House of the People is not dissolved under art. 85(2)(b), art. 75(3) has full operation. But when it is dissolved, the Council of Ministers cannot naturally enjoy the confidence of the House of the People... Art. 75(3) only applies when the House of the People does not stand dissolved.

5. For example, R.K. Shanmukham Chetty resigned because he, through an error of judgment, "gave instructions to withdraw certain groups of cases" which had been referred to the income-tax Investigation Commission—*C.A. (Leg.) Deb.,* 17-8-1948, pp. 357-59; Lal Bahadur Shastri resigned because of a serious railway accident.—*L.S. Deb.*, 26-11-1956, cc. 993-97; T.T. Krishnamachari resigned following an inquiry into the 'Mundhra deal' transacted by the Life Insurance Corporation *L.S. Deb.,* 18-2-1958, c. 1282; A.P. Jain resigned because of strong criticism of the food situation in the country—*L.S. Deb.,* 14-8-1959, cc. 2496-584; 21-8-1959, cc. 3566-629, and 22-8-1959, cc. 3847-930; Krishna Menon resigned soon after the Chinese invasion—*L.S. Deb.,* 9-11-1962, cc. 357-59; K.D. Malaviya resigned following an inquiry about some entries in the papers of a firm purporting to relate to him—*L.S. Deb.,* 17-8-1963, cc. 954-57; Gulzari Lal Nanda resigned following violent demonstration near the Parliament House—*L.S. Deb.,* 10-11-1966, cc. 2493-522; Dr. Karan Singh (Minister of Tourism and Civil Aviation) tendered resignation because of the crash of an HS-748 aircraft near Secunderabad on 15 March 1973.

   However, his resignation was not accepted by the Prime Minister—*L.S. Deb.,* 16-3-1973, cc. 218-19; 20-3-1973, cc. 198-200; K.P. Singh Deo and Chandu Lal Chandrakar tendered their resignations as their names figured in the chargesheet filed by the Government against a person in an espionage case—*L.S. Deb.,* 5-3-1986, cc. 201, 205 and 11-3-1986, cc. 257-58.

Collective responsibility[6] is assured by the enforcement of two principles: first, no person is nominated to the Council except on the advice of the Prime Minister, and secondly, no person is retained as a member of the Council if the Prime Minister demands his dismissal[7]. The essence of collective responsibility is that a Minister is free to express his dissent when a policy is in the stage of discussion, but after a decision is taken, every Minister is expected to stand by it without any reservation. The only alternative, therefore, for a Minister who does not see eye-to-eye with the Prime Minister in matters of policy or is not prepared to defend a Cabinet decision is to resign[8]. Likewise, if the Prime Minister finds that a colleague's views or actions are causing him embarrassment, he can appropriately ask for his resignation[9].

Cabinet responsibility to the Lok Sabha implies that not only the Prime Minister but also a substantial majority of the members of the Council should be chosen from amongst the members of the Lok Sabha[10] but it is not unconstitutional if the Prime Minister or a number of Ministers are members of the Rajya Sabha. There is also no provision in the Constitution that a Minister holding any particular portfolio should be drawn from a particular House[11]. Responsibility, however, does not mean that every Government act has to be reported to and approved by the Lok Sabha. The Government needs express parliamentary approval for its legislative and fiscal proposals as well as expenditure, and is, on occasions, called upon to explain and justify its policy. If the

6. For an analysis of the distinction between the concepts of ministerial responsibility and administrative accountability, *see* Kashyap, *op. cit.*

7. Dr. B.R. Ambedkar's speech in the Constituent Assembly—*C.A. Deb.,* 30-12-1948, pp. 1159-60.

8. For example, Dr. S.P. Mookerjee, Union Minister of Industry and Supply, resigned on account of the "weak, halting and inconsistent" attitude taken by Government in the face of "brutalities" to which, he alleged, Hindu minorities in Pakistan were subjected—*P. Deb.,* 19-4-1950, pp. 3017-22; Dr. John Matthai, the Union Minister of Finance, resigned on account of differences with the Prime Minister on "fundamental principles of policy", especially over the formation of Planning Commission which the Finance Minister regarded as "ill-timed and ill-conceived"— *Hindu,* 1-6-1950 and 3-6-1950; Mahavir Tyagi, Minister of Rehabilitation, resigned on 15 January 1966 on account of his differences over the signing of the Tashkent Agreement; M.C. Chagla, Minister of External Affairs resigned on 5 September 1967, on account of his disagreement with the Government's Education Policy; Asoka Mehta, Minister of Petroleum and Chemicals, resigned on 22 August 1968 because of his differences with the Government policy on the Czechoslovakian issue—*L.S. Deb.,* 26-8-1968, cc. 1649-51; Morarji Desai, Deputy Prime Minister resigned on 16 July 1969, as a protest against his being "summarily relieved" of the Finance portfolio—*L.S. Deb.,* 21-7-1969, cc. 280-84; Mohan Dharia, Minister of State for Works and Housing, resigned on 2 March, 1975, on account of his differences with the Prime Minister in the matter of having a national dialogue and consensus on burning problems— *L.S. Deb.,* 5-3-1975, cc. 241-54.

9. For instance, on 15 October 1969, the Prime Minister asked for the resignation of four Ministers, which were tendered.

10. These principles have been borne in mind ever since 1952 when, under the Constitution, two Houses—the Lok Sabha and the Rajya Sabha—were constituted. However, in 1966, the Council of Ministers was headed by Indira Gandhi who was not a member of the Lok Sabha. In the Budget Session, a private member's Bill which sought to amend the Constitution so as to provide that "the Prime Minister shall be member of the House of the People (Lok Sabha)", was considered in the House. In reply, the Government stated that the present Prime Minister would herself have been willing to contest the election to the Lok Sabha but for the reason that by-elections were not being held because of emergency. While accepting the spirit behind the Bill, the Minister added that "it would not be proper to have such a provision in the Constitution. There may be occasions— that too for a limited period—when a Prime Minister has to be from the other House"—*L.S. Deb.,* 15- 4-1966 and 13-5-1966.

11. Observations made by Speaker in regard to the appointment of Pranab Kumar Mukherjee, member of the Rajya Sabha as the Union Minister of Finance—*L.S. Deb.,* 19-2-1982, cc. 9-27.

House clearly shows that it does not propose to support the Government— that is, if the Government has lost the confidence of the House—it must resign or have the House dissolved[12]. However, resignation or dissolution would follow only where the defeat implies loss of confidence. What the Government will treat as a matter of substantial importance on which to resign or to dissolve the House is, primarily, a question for the Government to decide. The Opposition can test the opinion of the House by demanding a vote on the motion of no-confidence[13].

Motion of No-Confidence

In view of the express constitutional provision regarding collective responsibility of the Council of Ministers to the Lok Sabha, a motion expressing want of confidence in an individual Minister is out of order; under the Rules, only a motion expressing want of confidence in the Council of Ministers as a body is admissible[14].

A no-confidence motion in the Council of Ministers is distinct from a censure motion. Whereas a censure motion must set out the grounds or charge on which it is based and is moved for the specific purpose of censuring the Government for certain policies and actions, a motion of no-confidence need not set out any grounds on which it is based. The giving of reasons is not a condition precedent to the admission of a motion of no-confidence[15]. Even when grounds are mentioned in the notice and read out in the House, they do not form part of the no-confidence motion[16].

There has been a case where the Speaker refused to read out himself or allow the member who had given notice of a no-confidence motion, to read out the grounds

12. Dissolution can take place only after the President is satisfied that it is not possible to form an alternative government following the defeat and resignation of the Council of Ministers. It is a moot point whether the President should accept automatically the advice of a defeated Government to dissolve the House without his exploring the possibility of an alternative government which enjoys the confidence of the House. In case the President dissolves that House, the defeated Government continues in office as caretaker government until the general elections, following the dissolution of the Lok Sabha, are over.

    In the States, however, the position is different. On the defeat and resignation of the existing Government, the Governor of a State has to ascertain whether an alternative government can be formed, and if he is unable to do so, he has to report to the President under art. 356 of the Constitution that the constitutional machinery of the State has broken down.

13. Constitutional Precedents, *op. cit.,* pp. 1-3.

14. Rule 198(1).

    Before independence, the Executive was not responsible to the Central Legislature. Consequently, there was no provision in the Rules or Standing Orders of the Central Legislative Assembly for moving of a motion of no-confidence.

    On the enactment of the Indian Independence Act, 1947, the Cabinet became responsible to the Constituent Assembly of India which was then also exercising the powers of the Legislature of the Dominion of India, and a provision was made for the first time in the Rules for the moving of a motion of no-confidence in the Council of Ministers—*see* Rule 24B of the Constituent Assembly (Legislative) Rules, 1947.

15. *L.S. Deb.,* 31-8-1961, c. 6174.

16. The Speaker after reading out the text of the motion of no-confidence mentioned also in brief the grounds given in the notice, but he made it clear that the grounds did not form part of the motion. The member when asking for leave of the House to the moving of the motion, read out only the text of the motion and not the grounds—*L.S. Deb.,* 9-11-1962, cc. 359-60; 20-2-1963, cc. 2165-67; 13-8-1963, c. 169; 16-8-1965, cc. 135-38; 25-7-1966, cc. 192-216; 1-11-1966, c. 165; 18-3-1967, c. 109;22-11-1967, c. 1992; 9-3-1968, cc. 3211-12; 11-11-1968, c. 202; 18-2-1969, cc. 212-13; 28-8-1969,c. 232; 28-7-1970, cc. 509-11; 21-11-1973, cc. 227-30.

set out in the notice before leave of the House to the moving of the motion was granted[17].

The Speaker may, in his discretion, mention the grounds to the House[18].

Censure Motion

No leave of the House is required to move a censure motion[19]. It is in the discretion of the Government to find time and to fix a date for its discussion. There is no specific provision in the Rules for the moving of censure motion—such a motion is governed by the Rules applicable to motions in general[20] and can be admitted as a No-Day-Yet-Named Motion[21].

Censure motion can be moved against the Council of Ministers or an individual Minister or a group of Ministers for their failure to act or not to act or for their policy and may express regret, indignation or surprise of the House at the failure of the Minister or Ministers. The Motion should be specific and self-explanatory so as to record the reasons for the censure, precisely and briefly. The Speaker's decision whether the motion is in order or not for any reason is final[22].

Restrictions on moving the Motion of No-Confidence

A motion expressing want of confidence in the Council of Ministers may be made subject to the following restrictions:

> leave of the House to move the motion has to be asked for by the member when called by the Speaker; and the member asking for leave has, before the commencement of the sitting for that day, to give to the Secretary-General a written notice of the motion which he proposes to move[23].

The expression 'before the commencement of the sitting' means a reasonable time before the commencement of the sitting. A notice of no-confidence motion which is required to be given before the commencement of the sitting on the day on which the matter is proposed to be raised in the House has to be given by 10.00 hours on that day, *i.e.* an hour before the commencement of the sitting. Such notice, if received after10.00 hours, is valid only for the next sitting[24].

Before the commencement of a session, a notice can at the earliest be given after a date and time fixed in advance by the Speaker and notified in the Bulletin. Notice can

17. The Speaker has held the view that it is not necessary to read out the grounds at that stage as it would be unfair to the Government if they were not allowed an opportunity to explain their position, if opportunity were given to the Government, it would lead to a debate on the notice itself and it might so happen that ultimately there might not be the required number of members to support the notice—*L.S. Deb.,* 31-8-1961, c. 6174.

18. *L.S. Deb.,* 9-11-1962, cc. 359-60; 13-8-1963, c. 169; 21-11-1963, cc. 227-30; 28-8-1969, cc. 231-32; 28-7-1970, cc. 509-11.

19. *See* Chapter 26 regarding 'Motions'.

20. Rule 184-89.

21. *L.S. Deb.,* 18-12-1964, cc. 5694-702; 21-12-1964, c. 5924.

22. *Ibid.,* 19-8-1968, cc. 2714-840; 4-8-1977, cc. 314-15; 7-8-1980, cc. 296-382.

23. Rule 198(1).

24. Dir. 113B.

also be given for a future date[25].

No conditions of admissibility of a motion of no-confidence are laid down in the Rules**.** However, there is no bar to the admission of a motion, even though members might have already got opportunity earlier in the session to criticise the Government at the time of discussion on the President's Address, Budget or Demands for Grants, etc. in the same Session[26]. The Speaker is vested with the power of deciding whether a motion is in order or not. He may not bring a notice before the House if it is not properly worded or on any other ground considered sufficient by him, or he may bring it before the House after objectionable matter, if any, has been deleted therefrom or the notice has been suitably edited.

Leave of the House

Notices of no-confidence motions are taken up at the prescribed stage after the Question Hour before the House embarks upon the main business for the day entered in the List of Business[27].

If the Speaker holds a no-confidence motion to be in order, the member who has tabled the notice asks for leave of the House to move the motion[28].

The Fifteenth Session of Fifteenth Lok Sabha (Part-I and II) saw tabling of many notices of No-Confidence in the Council of Ministers[29] from members belonging

25. On 18 August 1984, a member tabled a notice of motion of no-confidence to be moved by him on 22 August 1984. The member, however, withdrew his notice on 21 August 1984.

26. *L.S. Deb.,* 7-5-1981, cc. 304-26.

    In order to move a motion of no-confidence for the second time in the same session, a member may table a motion for suspension of Rule 338 in its application to his motion of no-confidence. However, two conditions have to be fulfilled—the Speaker has to give his consent and the motion has to be adopted by the House. No rules or principles are laid down for the consent of the Speaker. He decides each issue on merits and gives or withholds his consent. The second imperative that the House has to adopt such a motion leaves the burden on the ruling party. The party has to decide whether the no-confidence motion should be allowed against the Council of Ministers. They decide whether thereis merit in discussing such a motion a second time.

27. Dir. 2 and *L.S. Deb.,* 7-9-1964, cc. 138-39.

28. No speech is permitted unless leave has been granted by the House to move the motion—*L.S. Deb.,* 9-11-1962, cc. 361-62, 18-8-2003, cc. 327-28; 19-8-2003, cc. 287-88; 20-7-2018, Page No. 32; 8-8-2023, Page No. 305.

29. The following members tabled notices of Motion of No-Confidence on the dates mentioned against each :

    1. Rayapati Sambasiva Rao, Konakalla Narayana Rao and Y.S. Jagan Mohan Reddy and signed by other members on 9-12-2013.
    2. Modugula Venugopala Reddy, Rayapati Sambasiva Rao and M. Rajamohan Reddy and signed by other members on 11-12-2013.
    3. Rayapati Sambasiva Rao, Konakalla Narayana Rao and Y.S. Jagan Mohan Reddy and signed by other members on 12-12-2013.
    4. Konakalla Narayana Rao, Rayapati Sambasiva Rao and Y.S. Jagan Mohan Reddy and signed by other members on 13-12-2013.
    5. Konakalla Narayana Rao and signed by other members on 16-12-2013.
    6. Modugula Venugopala Reddy on 17-12-2013.
    7. Sabham Hari, Konakalla Narayana Rao and Y.S. Jagan Mohan Reddy and signed by other members on 18-12-2013.

to Indian National Congress, Telugu Desam Party and YSR Congress, on almost all the days of the sittings. This is the first instance when a member belonging to ruling party tabled notice of No-Confidence Motion against the Government.

But due to continuous interruptions in the House on all days, the Speaker, after making observation[30] regarding receipt of notices of No-Confidence could not bring any of the notices before the House. All the notices, valid for that day, lapsed[31] on adjournment of the House for that day.

The Speaker calls upon members in favour of leave being granted to rise in their seats. Leave is deemed to be granted by the House if not less than fifty members rise. A physical count is taken to determine that the requisite number of members have stood in support of the motion. There have been instances when leave was not granted by the House as less than fifty members stood in favour of the motion.[32]

When called upon by the Speaker to ask for leave of the House, the member can at that stage withdraw the notice by making a request to that effect[33]. In case, however, the member wants to withdraw his motion after the leave of the House has been granted, he may do so only with the permission of the House[34]. Notice of no-confidence motion can also be withdrawn by the members concerned by sending letters of withdrawal signed by all the signatories to the notice before the item is taken up in the House[35]. In that case the item is not mentioned in, or brought before the House.

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8. V. Aruna Kumar, Modugula Venugopala Reddy and Konakalla Narayana Rao and signed by other members on 5-2-2014.
9. Sabham Hari, Modugula Venugopala Reddy and M. Rajamohan Reddy on 6-2-2014.
10. Modugula Venugopala Reddy, G.V. Harsha Kumar and M. Rajamohan Reddy on 7-2-2014.
11. V. Aruna Kumar, Modugula Venugopala Reddy, Konakalla Narayana Rao and M. Rajamohan Reddy on 10-2-2014.
12. Sabham Hari, Konakalla Narayana Rao, M. Rajamohan Reddy and L. Rajagopal on 11-2-2014.
13. Rayapati Sambasiva Rao, Modugula Venugopala Reddy and M. Rajamohan Reddy on 12-2-2014.
14. A. Sai Prathap, Modugula Venugopala Reddy and M. Rajamohan Reddy on 13-2-2014.
15. G.V. Harsha Kumar on 18-2-2014.
16. Srinivas Kesineni, Thota Narasimham and Konakalla Narayana Rao on 17-7-2018.
17. Tariq Anwar, Mohd. Salim, Mallikarjun Kharge, N.K. Premachandran and K.C. Venugopal on 18-7-2018.
18. Gaurav Gogoi on 26-7-2023.
19. Nama Nageshwar Rao and signed by other members on 26-7-2023.

30. The Speaker made the following announcement:—

    "Hon'ble Members.....I have received notices of No-Confidence Motion. Unless the House is in order, I will not be in a position to bring the notices of No-Confidence Motion before the House..... If the House is not in order, I will not be able to take up the notice of No-Confidence."

    The notices could not be brought before the House as it was not in order.

31. Rule 198(1)(b) and Direction 113B.
32. *L.S. Deb.*, 22-11-2012.
33. *L.S. Deb.,* 13-8-1963, cc. 167-73; 9-11-1970. cc. 236-38; 15-11-1971, cc. 247-48. On 7 December 1987, a member, on being called, was not present to ask for leave of the House.
34. *Ibid.,* 3-9-1973, cc. 29-33.
35. On 8 March 1965, four notices of no-confidence motions were received but they were withdrawn by sending letters of withdrawal signed by all signatories before the item was taken up in the House.

When a number of notices of no-confidence motion are received for the same sitting, the notices are balloted to determine their *inter se* priority. Notices which are held to be in order are taken up one by one in the order of their priority. In case leave of the House for the moving of the first motion is not granted, the second motion is taken up. As soon as leave of the House to the moving of any motion is granted, the remaining motions, if any, are kept pending till the one to the moving of which leave of the House has been granted is disposed of[36]. However, when notices of several no-confidence motions are received and it is agreed by consent of all members tabling those motions that only a particular notice might be taken up, other notices are not brought before the House. The first signatory of the agreed motion is permitted to ask for leave of the House to move his motion[37].

Where a notice is signed by more than one member, it is deemed to have been given by all the signatories. In such cases the names of the other members are indicated immediately after the first signatory and it is left to them to decide as to who would ask for the leave of the House.

When leave of the House to the moving of a motion has been granted, no substantive motion on policy matters is to be brought before the House by the Government till the motion of no-confidence has been disposed of [38].

Discussion on the Motion and its Scope

Ordinarily, the member who has been granted leave of the House moves the motion of no-confidence and initiates the discussion. However, the Chair may permit such member merely to move the motion without making a speech and allow another member of his party to open the debate[39].

Discussion on a motion of no-confidence, leave to the moving of which has been granted by the House, is not merely confined to the grounds mentioned in the notice of that motion. Normally, the matters referred to by the mover of the motion are discussed but it is open to any member to raise any other matter he likes during the course of the discussion on the motion[40]; even matters on which separate discussion has taken place in the same session can be brought up if it is shown that there has been a failure on the part of the Government after the last discussion took place[41].

Since the grounds on which a motion of no-confidence is based are not set out in it, the motion that is before the House is 'that this House expresses its want of confidence in the Council of Ministers'. Moving of substantially identical motion in the same

36. In case where notices of two or more no-confidence motions have been received and leave of the House to the moving of one motion therefrom has been granted, the names of members who tabled the other notices are not mentioned in the House—*L.S. Deb.,* 9-3-1965, c. 3213.

37. *L.S. Deb.,* 7-9-1964, cc. 132-34; 22-7-1974, cc. 277-78; 7-5-1981, cc. 304-27.

38. *Ibid.,* 25-7-1966, c. 230; 26-7-1966, c. 457; 27-7-1966. c. 777; 24-7-1974, c. 221.

39. *Ibid,,* 9-5-1974, cc. 282, 538-44.

40. *Ibid,,* 9-3-1965, cc. 3211-12.

41. For example, discussion regarding 'Food Situation' was held in the Lok Sabha from 7 to 10 September 1964. Failure on the part of the Government to solve the food problem was referred to in the discussion on the no-confidence motion which took place in the House on 11 and from 14 to 18 September, 1964.

session being impermissible under the rules,[42] it may not ordinarily be possible[43] to move another no-confidence motion in the same session after one such motion has been discussed and disposed of in the House because its text will have to be identical to the earlier motion.

There is, however, no restriction on moving of more than one no-confidence motion in a session, although this has not been done so far, which may be necessitated on account of some new developments that might have taken place since the discussion on the first motion. The second motion would, therefore, be admissible only if it is based on new matters not covered by the discussion on the previous motion.

Normally, the Opposition act with responsibility and do not bring forward such a motion for the second time in the same session. But if something serious has happened since the first motion was debated and the Government is subjected to criticism in the public and in the House which has tended to undermine the credibility of the Council of Ministers, the Opposition may give notice of another no-confidence motion. The Speaker, on receipt of such a motion, may bring it before the House and rule it out of order if, in his opinion, it is an abuse of procedures and calculated to obstruct the business of the House on a frivolous or an ordinary matter for which other procedures are available[44].

A motion of no-confidence is required to be taken up within ten days from the date on which the leave to move is granted by the House. In fixing the date for the discussion of such a motion, the Speaker may ask the Leader of the House to suggest to him the date or dates in consultation with the leaders of various Opposition Parties or Groups[45]. Time for discussion of the motion may be allotted by the House on the recommendation of the Business Advisory Committee[46] or the Speaker may, after

42. Rule 338.

43. *L.S. Deb.,* 4-9-1974, cc. 64-78.

44. On 4 September 1974, in regard to a notice of motion of no-confidence tabled by a member for the second time in the same session, the Speaker observed that the motion could not be taken up because one motion for want of confidence in the Council of Ministers had already been discussed and negatived earlier during the session and Rule 338 prohibited such repeat motion in the same session. The member wanted to move the aforesaid motion on the failure of the Government to provide time for the discussion of a No-Day-Yet-Named Motion relating to the setting up of a parliamentary committee to probe into the alleged forgery of signatures of twenty members of the Lok Sabha on a petition for the grant of licence to certain business concerns. Certain members contended that Rule 338 prohibited the raising of a question "substantially identical" with the one on which the House had given a decision in the same session and therefore, the motion of no-confidence raising new matter could be taken up. The Speaker, thereupon, observed that in a motion of no-confidence no reasons were given and even if some reasons were given they were not part of the motion. Therefore, there could not be any repeat of motion of no-confidence in the same session. Thereafter, the member concerned moved a motion for suspension of Rule 338 which was negatived– *L.S. Deb*., 4-9-1974, cc. 64-78.

45. *L.S. Deb.,* 13-8-1963, c. 173; 14-8-1963, c. 424.

46. 17R (BAC-3LS); *L.S. Deb.,* 14-8-1963, cc. 424-31; 14R (BAC-4LS), *L.S. Deb.,* 20-2-1968, c. 2166; 23R (BAC-4LS) and *L.S. Deb.,* 12-11-1968, cc. 189-92; 28R (BAC-4LS), *L.S. Deb.,* 19-2-1969, cc. 196-99; 51R (BAC-4LS), *L.S. Deb.,* 28-7-1970, c. 610; 29-7-1970, c. 246; 44R (BAC-5LS), *L.S. Deb.,* 23-7-1974, c. 328; 24-7-1974, c. 220; 54R (BAC-16LS); *L.S. Deb.,* 19-7-2018, Page 303; 20-7-2018, Page 27; 43R (BAC-17LS), *L.S. Deb.,* 3-8-2023, Page 293; 4-8-2023, Page 292.

The Ninth Session of the Seventh Lok Sabha which was scheduled to adjourn *sine die* on 13 August 1982, was extended by one day (16-8-1982) on the recommendations of the Business Advisory Committee to provide time for discussion of motion of no-confidence.

considering the state of business in the House, himself allot a day or days for this purpose[47]. With the consensus of the House, discussion may be taken up on the day on which House grants leave[48]. The time so allotted can, however, be extended with the consent of the House[49].

Since no grounds are mentioned in a no-confidence motion, an amendment to the motion is out of order if it seeks to insert grounds or to single out particular Minister or Ministers.

With a view to seeing that discussion on the motion concludes within the time allotted and all Groups in the House have their due share in the discussion, the Speaker may prescribe a time-limit on speeches and indicate the ratio in which time would be distributed among various Groups. Out of the total time allotted for discussion, the Speaker may, in his discretion, earmark some time for discussing a specific matter[50].

After the members have spoken on the motion, the Prime Minister[51] replies to the charges levelled against the Government. The mover of the motion has the right of reply[52].

When the debate on the motion is concluded, the Speaker forthwith puts the question necessary to determine the decision of the House on the motion[53].

Statement by a Minister who has Resigned

A member who has resigned the office of Minister may, with the consent of the Speaker, make a personal statement in explanation of his resignation[54]. However, no such statement can be made in the House by a Minister who is not a member of the Lok Sabha because as soon as his resignation is accepted, he ceases to be Minister and cannot exercise the right of taking part in the proceedings of the House of which he is

47. Rule 198(3).

48. *L.S. Deb.,* 17-9-1981, cc. 259, 287-88; 10-12-1987, cc. 458-548, 18.8.2003, cc. 327-28.

49. *Ibid.,* 21-8-1963, c.1808; 22-8-1963, c. 2240.

50. On 7 September 1964, the Lok Sabha granted leave to the moving of a no-confidence motion. On the next day, the Speaker withheld his consent to the moving of an adjournment motion on a matter of public importance on the ground that this matter could be discussed during debate on the no-confidence motion. Out of 20 hours allotted for discussion on the motion of no-confidence, two and a half hours were earmarked for discussion on the subject-matter of the adjournment motion—*L.S. Deb.,* 7-9-1964, c. 134; 8-9-1964, cc. 396-405.

51. On 8 May 1981, in the absence of the Prime Minister who was on a State tour abroad, points raised in the no-confidence motion were replied to from the Government side by the Finance Minister.

52. *L.S. Deb.,* 25-7-1974, cc. 297-336; 11-12-1987, cc. 443-45.

53. Rule 198(4); *L.S. Deb.,* 18-9-1964, cc. 2563-67.

54. Rule 199(1); The term 'Minister', as defined in the Rules, means a member of the Council of Ministers, [and includes a member of the Cabinet] a Minister of State, a Deputy Minister or a Parliamentary Secretary—Rule 2.

    For instances of statement made by resigning Ministers, *see C.A. (Leg.) Deb. (II),* 17-8-1948, p. 357; *P. Deb. (II),* 19-4-1950, p. 3017; *L.S. Deb.,* 25-7-1956, c. 813; 18-2-1958, c. 1282; 17-8-1963, c. 950; 21-7-1969, cc. 280-87; 31-7-1972, cc. 239-41; 5-3-1975, cc. 241-54; 5-3-1986, cc. 201-05; 11-3-1986, cc. 257-59; 25-8-2006, cc. 431-35; 20-4-2010, cc. 46-48; 27-11-2012, cc. 19-20; 29-11-2012, cc. 35-37; 15-3-2018, pp. 263-265.

    There is no precedent in the Lok Sabha for a statement being made either by the Prime Minister who resigns or by his successor informing the House of the reasons for the change in the Ministry.

not a member.

Though it is customary for a Minister who has resigned from his office to make a statement in the House explaining the reason for his resignation, he is not bound to make such a statement. Moreover, where the grounds which led to the resignation are well known, such a statement may not be necessary[55].

The Speaker cannot compel a member who has resigned from the office of Minister to make a statement in the House[56]. However, members may be permitted to make a query under Rule 199 with a view to demanding a statement from the member who has resigned from the office of Minister. If the member who has resigned from the office of Minister has the privilege under this Rule to make a statement in the House, by implication, it is open to other members to request him to exercise that privilege. It is ultimately for the member who has resigned as a Minister to make or not to make such a statement.

On 17 July 1978, when the Speaker called the Leader of the Opposition to make a query about the Ministers who had recently resigned from the Council of Ministers but had not made any statement in the House with regard to their resignations, several members raised points of order that it was the discretion of the members who had resigned from the office of Minister to make statements with regard to their resignations, and other members had no *locus standi* under Rule 199 to demand a statement from the former Ministers. The Speaker *inter alia* observed that on three occasions in the past, the then Speaker had permitted members to make a query under this Rule to request former Ministers to make statements in the House[57].

On 17 August 1978, the Speaker conveyed to the House the information given to him by one of the former Ministers to the effect that he would not be making his statement in explanation of his resignation from the office of Minister which had been listed in the List of Business for the day. When a number of members raised points of order, the Speaker observed that under the Rules, he had no power to compel a member to make a statement. The Speaker further held that the statement sent by the member to the Speaker had not become the property of the House. Subsequently, during the same session, the same former Minister wrote to the Speaker that he would make his statement under Rule 199 on 24 August 1978, and sent therewith a copy of the statement which he had since revised. The item was included in the Revised List of Business for that day. When the item was reached, several members raised objections to allowing the former Minister to make the statement so late and after having declined to avail of the opportunity given to him earlier. The Speaker thereupon observed that whenever a Minister resigned either voluntarily or at the request of the Prime Minister, he was entitled to make a statement in the House and no limitation whatsoever had been prescribed in this Rule with regard to the time for making the statement. The Speaker further observed that if the statement had been unduly delayed, he might not have given permission, but as it was being made during the session itself, he would

55. *L.S. Deb.,* 9-11-1962, cc. 358-59; 28-6-1968, cc. 1650-51.

56. *Ibid.,* 18-2-1965, cc. 137-38; 2-3-1965, cc. 1986-88; 20-3-1981, cc. 262-72; 27-2-1986, c. 1.

57. *Ibid.,* 17-7-1978, cc. 315-59.

not be justified in declining his permission to the member to make the statement. Thereafter, the former Minister made the statement in explanation of his resignation. This was followed by a statement by the Prime Minister[58].

Similarly the other former Minister who had resigned in June 1978 finally made a statement in the Lok Sabha under Rule 199 only on 22 December 1978. Although he had earlier expressed a wish to make such a statement, it kept on being postponed for one reason or the other. The former Minister's statement was followed by a statement by the Prime Minister[59].

Rule 199 has since been amended and now the Minister who resigns may, with the consent of the Speaker, make the statement on any day during the session in which the resignation has been accepted by the President.

The Rule provides that a member may make such a statement at the earliest opportunity on a day not being more than seven days from the date of commencement of the session if the resignation was accepted by the President when the House was not in session.

When a Minister resigns on account of differences of opinion with his colleagues and chooses to make a statement in the House, references to his difference likely to involve disclosure of Cabinet secrets or of such information which might be prejudicial to the security of the country, cannot be made by him. However, if he feels that it is necessary for him to make incidental references to such matters, he has to obtain the permission of the Prime Minister and inform the Speaker in advance of such permission having been obtained by him. To avoid disclosure or the making of statements offensive to constitutional proprieties, it is obligatory on the resigning Minister to supply a copy of the statement proposed to be made by him, or a gist thereof, to the Speaker and the Prime Minister, one day in advance of the day on which the statement is to be made[60].

The advance copy of the statement or gist thereof received by the Speaker is treated as confidential till the statement is actually made in the House.

Where the Speaker gives his consent to the statement being made in the House, the item is included in the List of Business and such a statement is normally made after the questions and before the main business of the day is taken up[61]. But in an exceptional case where, before making the statement, the resigning Minister is interested in getting through an item of business standing in his name, he may make the statement at such time as may be fixed by the Speaker.

No Discussion on the Statement

No debate is permitted on a statement made by a member who has resigned

58. *Ibid.,* 24-8-1978, cc. 340-49.

59. *Ibid.,* 22-12-1978, cc. 304-14.

60. *See* Rule 199(2). The provision for supply of a copy of the statement in advance was made in 1953–Min. (RC), 17-4-1953 and notified in the Gazette—H.P. Notfn. No. 290-C/53, 19-5-1953, *Gaz. Ex.* (1-1), 30-5-1953.

61. Rule 199(3) and Dir. 2.

the office of Minister in explanation of his resignation[62], but after it has been made, a Minister may make a statement pertinent thereto[63]. Such a statement is normally made by the Prime Minister[64]. Thereafter, no other Minister can make a statement on matters raised by the resigning Minister in his speech.

Ministers and Parliament

No-Confidence in the Government: Recent developments in the parliamentary system have clearly established that every defeat of the Government in the House does not amount to expression of lack of confidence. Unless a crucial policy issue is involved, the mere fact of a Government sponsored measure not being passed by the House is not regarded as a vote of no-confidence in the Council of Ministers and there is no obligation on the Government to resign. Government can be dismissed only by passing a direct vote of no-confidence and not otherwise.

In view of the constitutional provision regarding the collective responsibility of the Council of Ministers to the Lok Sabha [article 75(3)], a motion of no-confidence can be moved only against the Council of Ministers as a whole and not against any individual Minister. However, there is nothing in the Rule either for or against a censure motion being moved against a single Minister under Rule 184 relating to motions in general[65].

Minister's oath of office and secrecy and disclosure of Information: Article 75(4) of the Constitution of India provides that before a Minister enters upon his office, the President shall administer to him the oath of office and of secrecy. The oath of secrecy forbids a Minister from disclosing information made available to him or became known to him except as may be required for the due discharge of his duties as such Minister. The secrecy imposed is not a blanket one. It is subject to an important qualification, *viz.* that he can disclose the information gathered by him as Minister if it becomes necessary for him for the due discharge of his duties as such Minister. What may be required to be kept secret at one stage may be required to be brought to knowledge of the public at a later stage. One Minister may consider that a particular information should be kept confidential whereas the successor may think that it would be in public interest to let the public know about it. The question whether a particular disclosure made by a Minister was required for the discharge of his duties as such Minister is very difficult to decide and so long as the Speaker is not able to say that the disclosuremade was not required for the due discharge of duties of the Minister concerned, it is not

62. *L.S. Deb.,* 17-8-1963, cc. 959-61.

63. Rule 199(3). The original rule framed in 1947 provided that a Minister could make a statement 'in reply'. In 1950, while adapting the *C.A. (Legs.)* Rules for the Provisional Parliament, for the words 'in reply' the words 'pertinent thereto' were substituted—Parl. Sectt. Notfn. No. 30/1/50 A, 26-1-1950, *Gaz. Ex.,* 14-2-1950.

64. For example, on 21 July 1969, Morarji Desai made a statement on his resignation from the Office of Deputy Prime Minister. He also laid on the Table his correspondence with the then Prime Minister in this regard. The then Prime Minister (Indira Gandhi) also made a statement thereafter—*L.S. Deb.,* 21-7-1969, cc. 280-87. For further instances *see L.S. Deb.,* 24-8-1978, cc. 304-49; 22-12-1978, cc. 265-314.

65. *See* Chapter 26, regarding Motions.

possible to hold that there was breach of any constitutional provision[66].

Motion of Confidence

In addition to the well-established procedural device of motion of no-confidence under Rule 198(1), the motion of confidence is also used to test the majority of the Government of the day. There is no specific rule in the Rules of Procedure relating to the motions of confidence in the Council of Ministers. The necessity of the device of the confidence motion has, however, been felt in recent times with the advent of the era of minority governments caused by split in the mainline political parties, and the formation of coalition governments as a result of hung Parliaments.

In the absence of any specific rule, the motions of confidence have been admitted under the category of motions stipulated under Rule 184 which are meant for raising discussions on matters of public interest. Decisions on such motions are taken under Rule 191 by putting before the House all the necessary questions. In the case of a confidence motion, there is no requirement for seeking the leave of the House as in the case of a no-confidence motion. The one line notice of a motion under Rule 184 reads that "this House expresses its confidence in the Council of Ministers".

The confidence motion is worded in a language which is directly opposite to the wording of a no-confidence motion. The purpose and object of both the No-confidence and Confidence Motions are the same. The confidence motion gets priority over the no-confidence motion even if the notices are received for both motions basically because under Rule 25, Government business has precedence over other business on days allotted for the transaction of Government business.

Since the need for this motion is felt when the legitimacy of the Government is in question, it is appropriate that a positive vote of confidence is sought for.

In order to admit a no-confidence motion, it must satisfy conditions laid down in Rule 198 which *inter alia* provides: (a) if not less than 50 members rise, the Speaker shall declare that the leave is granted; and (b) that the motion will be taken up on such day as he may appoint, not being more than 10 days from the date on which the leave is asked for. In the case of the confidence motion, what is relevant is Rule 190 which deals with motions in general and which reads: "The Speaker may, 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, allot a day or days or part of a day for the discussion on such motion".

Motions of Confidence and No-confidence in Lok Sabha

During the last seventy-two years since the time of the First Lok Sabha in 1952, twenty-eight Motions of No-Confidence (NCMs) and twelve Motions of Confidence (CMs) in different Councils of Ministers during the First to Seventeenth (1952-2023) as shown in the Table below were admitted :

66. *L.S. Deb.,* 20-4-1978, cc. 267-70.

NCMs and CMs admitted in Lok Sabha

Lok Sabha	*Period*			*NCMs*	*CMs*
First	17.04.52	—	04.04.57	—	—
Second	05.04.57	—	31.03.62	—	—
Third	02.04.62	—	03.03.67	6	—
Fourth	04.03.67	—	27.12.70	6	—
Fifth	15.03.71	—	18.01.77	4	—
Sixth	23.03.77	—	22.08.79	2	1
Seventh	10.01.80	—	31.12.84	3	—
Eighth	31.12.84	—	27.11.89	1	—
Ninth	02.12.89	—	13.03.91	—	3
Tenth	20.06.91	—	10.05.96	3	1
Eleventh	15.05.96	—	04.12.97	—	4
Twelfth	10.03.98	—	26.04.99	—	2
Thirteenth	10.10.99	—	6.02.2004	1	—
Fourteenth	17.05.2004	—	18.05.2009	—	1
Fifteenth	18.05.2009	—	18.05.2014	—	—
Sixteenth	18.05.2014	—	25.05.2019	1	—
Seventeenth	25.05.2019	—	05.06.2024	1	—
Eighteenth	06.06.2024	—		—	—
Total				28	12

In the first two Lok Sabhas, no such motion was admitted. While a maximum number of six motions of no-confidence each was debated in the Third and Fourth Lok Sabha, the maximum number of confidence motions was accounted for in the Eleventh Lok Sabha. The House discussed the twenty-eight motions of no-confidence and eleven of the twelve confidence motions.

CHAPTER 29

Procedure in Financial Matters

Presentation of Budget

In respect of every financial year, the President causes to be laid before both the Houses of Parliament an "annual financial statement" or the estimated receipts and expenditure of the Government of India[1]. Till 2016 the annual financial statement, otherwise known as the 'Budget', used to be presented in two parts, *viz.* the Railway Budget pertaining to Railway Finance, and the General Budget which gave an overall picture of the financial position of the Government of India, excluding the Railways. After merger of Railway Budget with General Budget, since Budget Session 2017, a single document titled 'Union Budget' is presented by the Minister of Finance.

The separation of the Railway Finance from the General Finance was first recommended in 1920-21[2], and the 'Separation Convention' was adopted through a resolution by the Central Legislative Assembly on 20 September 1924[3]. The primary idea behind this separation was to secure stability for civil estimates by providing for an assured contribution from Railway Revenues and also to introduce flexibility in the administration of Railway Finance.

The Railway Convention Committee, consisting of members of both the Houses of Parliament, constituted from time to time, recommended the rate of dividend payable by Railways to General Revenues. The Recommendations of the Committee are adopted through resolutions passed by the Lok Sabha and the Rajya Sabha.

The Railway Convention Committee of 1949 discarded the 1924 formula whereunder the General Revenues received a definite annual contribution from Railways, and decided that "a fixed dividend (4 per cent) would assure to General Revenues, over the term agreed on, a dependable return on the capital at charge"[4]. This recommendation of the Committee was adopted by the Constituent Assembly of India (Legislative) on 21 December 1949[5].

The 1960 Convention raised the rate of dividend to 4.25 per cent for the period 1961-66. However, in the changed circumstances following the Chinese aggression and the rising cost of Government borrowing, the rate was further raised to 4.5 per cent from 1 April 1963. Under the 1965 Convention, the increased rate of 4.5 per cent was retained for a further five- year period[6].

1. Art. 112 and Rule 204.
2. Acworth Committee Report, 1920-21, Vol. 1, p. 26. A ten-member committee of experts in matters related to Railways, Finance and Administration headed by Sir William Acworth supported the case for State management of Indian Railways in their Report published in 1921. The landmark decision about separation of Railway Finances from General Finances was also the outcome of this report.
3. *L.A. Deb.,* 20-9-1924, pp. 3869-70.
4. *See* Railway Minister's Speech for 1950-51.—*P. Deb.,* 21-2-1950, pp. 686-705.
5. *C.A. (Leg.) Deb.,* 21-12-1949, pp. 942-43.
6. Reports of the Railway Convention Committee, 1960 and 1965; *LS. Deb.,* 6-12-1960 c. 4176; 8-12-1965, cc. 6443-51.

The Railway Convention Committee of 1971, in their interim report, recommended that the existing rate of dividend at 4.5 per cent of the capital invested in the Railways upto 1963-64 with an addition of one per cent *in lieu* of passenger fare tax and at 6 per cent of the capital invested after 31 March 1964, should continue to be paid by the Railways to the General Revenues during the period 1971-72 and 1972-73, subject to certain concessions and exemptions recommended by the Committee[7]. The rate of dividend was increased to 6.5 per cent as recommended by the Railway Convention Committee (1980) in their Seventh Report. This rate was retained, till the year 1992-93, by successive Committees in their reports.

In the Fifth Report, the Railway Convention Committee (1991) recommended a dividend of 7 per cent for the year 1994-95 irrespective of the year of investment. In the Ninth Report, the Committee (1991) retained the same dividend rate of 7 per cent and declared the investment made prior to 1952 as dividend free.

However, the Railway Convention Committee (1996), in their Third Report, reverted back to the earlier position and recommended a dividend of 7 per cent for the year 1996-97, irrespective of the year of investment. The Railway Convention Committee (1998) retained the same dividend. The Railway Convention Committee (1999) in their very First Report increased the rate of dividend to 7.5 per cent. In the Second Report, however, the rate of dividend was decreased to 7 per cent and the same rate was retained till the year 2003-04. The Railway Convention Committee (2004), in its First Report, further reduced the rate of dividend to 6.5 per cent. The same rate was retained till 2006-07. The Fifth Report of the Railway Convention Committee (2004) recommended a dividend of 7 per cent for the year 2007-08. The same rate was retained in the year 2008-09. The first report of the RCC (2009) recommended a dividend of 6% for the years 2009-10 and 2010-11. In the second report, the rate of dividend was decreased to 5% and in the Third report it was further reduced to 4%. The RCC (2009) in their Sixth report further increased the rate of dividend to 5% for the year 2013-14. With the merger of the Railway Budget with General Budget, the capital-at-charge of Railways was wiped off with no dividend liability from 2017-18. The Ministry of Railways will receive Gross Budgetary support in a manner similar to other Ministries for incurring a part of its capital expenditure. In addition, Railways to continue to raise resources from market through extra budgetary resources to finance its capital expenditure.[8]

Preparation and presentation of Budget for the approval of the Legislature is a constitutional obligation on the part of the Government both at the Centre and in the States. It is not improper even for a Caretaker Government to pilot financial business in the Parliament as the Council of Ministers headed by the Prime Minister continues

7. *See* Chapter 30—'Parliamentary Committees' under the sub-heading *Railway Convention Committee* and also *see* 'Interim Report' of RCC, 1971; First Report of RCC, 1971 on "Accounting Matters"; 'Interim Report' of RCC, 1973; Sixth and Eleventh Reports of RCC, 1973; Seventh Report of RCC, 1980; Fifth and Ninth Reports of RCC, 1991; Third Report of RCC, 1996. First and Second Reports of RCC 1999; First, Fifth and Sixth Reports of RCC, 2004**,** First, second, third and sixth reports of RCC 2009.

8. Finance Ministry (F.No.1(17)-B(AC)/2016) O.M. dt. 31 May 2017 on "Brief background note on merger of Railway Budget with Union Budget".

to function without causing any vacuum[9]. There is also an instance when the Railway Budget and the Demands for Grants (Railways) and the General Budget and the Demands for Grants (General) presented by one Government were taken up by the subsequent Government[10] and passed by the House.

The Budget[11] is presented to the Lok Sabha on such day as the President directs[12]. By convention, the General Budget was presented on the last working day of February[13] each year. However, from 2017-18, three major reforms were made in the Budget 2017-18. First, the presentation of Budget was advanced to 1st February, instead of the last working day of February. Second, the practice of presentation of Railway Budget and General Budget separately was discontinued with the merger of the Railways Budget with General Budget. And thirdly, the plan and non-plan classification of expenditure was done away with.[14]

Explaining the reason behind advancement of date of Budget presentation, Finance Minister while delivering Budget speech on 1st February 2017, stated:

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9. During the Seventh Session of the Ninth Lok Sabha, there was a Caretaker Government headed by Chandra Shekhar at the Centre. (Bn. (1), 6-3-1991) On 11 March 1991, the House was to take up essential financial business, *viz.* Interim Railway Budget for 1991-92, Interim General Budget for 1991-92 and Budgets for 1991-92 in respect of the States of Punjab, Assam, Tamil Nadu, Jammu and Kashmir and the Union territory of Pondicherry. Several members raised a point of order as to whether a Caretaker Government was competent to pilot financial business in the Lok Sabha. The Speaker ruled that the Council of Ministers headed by the Prime Minister continues to function. There is no vacuum. The Government is fully competent to pilot the financial business. The above Budgets were passed without discussion.

10. During the Fourth Session of the Eleventh Lok Sabha, Railway Budget/Demands for Grants (Railways) and General Budget/Demands for Grants (General) were presented by Railway Minister (Ram Vilas Paswan and Finance Minister P. Chidambaram) on 26 and 28 February 1997, respectively, under the Government headed by the Prime Minister, H.D. Deve Gowda. The Government headed by Deve Gowda was voted out of office on 11 April 1997. Thereafter, the new Government headed by I.K. Gujral assumed office and Ram Vilas Paswan and P. Chidambaram retained their portfolios. Demands for Grants (Railways) and Demands for Grants (General) presented by the previous Government were taken up under the subsequent Government and passed by the House on 2 and 6 May 1997, respectively.

11. Rule 213. The Government can come before the House with more than one annual financial statement and it is not a violation of article 112 of the Constitution—*L.S. Deb.,* 7-9-1974, cc.183-5.

12. Rule 204.

13. If on the last working day of February, the House was not scheduled to meet, the House was summoned to meet specifically at 1700 hours on that day for presentation of the General Budget. If the day so fixed for presentation of the Budget was subsequently declared a public holiday, no change in the date of presentation was made—*L.S. Deb.,* 25-2-1969, c. 230. According to the provisional calendar of sittings for the Eighth Session of the Eighth Lok Sabha, no sitting of the House was fixed for Saturday, 28 February 1987, a closed holiday. However, on the request of the Minister of Parliamentary Affairs, a sitting was specifically fixed at 17.00 hours on that day for presentation of the General Budget for 1987-88. Accordingly, the General Budget was presented at 17.00 hours on 28 February 1987—*L.S. Deb.,* 28-2-1987, c. 4; *Bn.* (*II*) 10-2-1987, para 1485.

    In 1972, the General Budget was presented on 16 March as the Session of the House commenced in March. In 1976, the General Budget was presented on 15 March. In 1977, the Interim Budget was presented on 28 March at 12.55 hours and the final Budget on 17 June 1977. In 1998, the General Budget was presented on 1 June as the session of the House commenced in May 1998.

    In 1999, the General Budget was presented on 27 February *i.e.* on a Saturday at 11.00 hours, deviating from the well-established practice of presenting it at 17.00 hours. Being a closed holiday, the sitting of the House was fixed that day exclusively for presentation of the General Budget on the request of the Government. It was also included in provisional calendar of sittings.

14. Finance Ministry (F.No. 8(7)-B(AC)/2016) OM dt. 10 October 2016 on "Structural Changes in Budget Presentation from the ensuing Budget for 2017-18".

"The presentation of the Budget has been advanced to 1st February to enable the Parliament to avoid a Vote on Account and pass a single Appropriation Bill for 2017-18, before the close of the current financial year. This would enable the Ministries and Departments to operationalise all schemes and projects, including the new schemes, right from the commencement of the next financial year. They would be able to fully utilize the available working season before the onset of the monsoon."

The Budget is presented at 1100 hours and[15] it is immediately followed by laying of statements under the Fiscal Responsibility and Budget Management Act, 2003 and introduction of the Finance Bill. Thereafter, the Lok Sabha adjourns for the day. There is no Question Hour on the day of presentation of the Budget[16]. The Railway Budget used to be presented sometime in the third week of February till 2016. However, the House was not adjourned for the day after presentation of the Railway Budget. A copy each of the General Budget and the Railway Budget used to be laid on the Table of the Rajya Sabha on the day of their presentation in the Lok Sabha[17]. In an election year, Budget may be presented twice—first to secure a Vote on Account for a few

15. Till the year 1998, the Budget used to be presented at 17.00 hours. However, in the year 1999, the Budget was presented on 27 February, Saturday at 11.00 hrs. In the year 2000, the Budget was presented on 29 February at 14.00 hours. The Practice now being followed since 2001 is to present the Budget at 11.00 hours instead of 17.00 hours.

16. On the day on which the General Budget was presented, the Lok Sabha used to be adjourned for half-an-hour or so before the presentation of the Budget.

    No other business can be taken up at the time fixed for presentation of the Budget— L.S. Deb., 29-2-1968, c. 827.

17. In 1957, 1962 and 1967, the Railway and General Budgets were presented twice. In 1971, the Railway and General Budgets were presented once in the First Session of the Fifth Lok Sabha, on 23 and 24 March 1971, respectively, and again in the Second Session of the Fifth Lok Sabha, on 24 and 28 May 1971, respectively. In 1977, the Budgets were presented once in the First Session on 28 March 1977, and again in the Second Session of the Sixth Lok Sabha on 11 and 17 June 1977, respectively.

    In 1980 also, the Budgets were presented twice, once in the Second Session of the Seventh Lok Sabha on 11 March 1980 and again in the Third Session on 16 and 18 June 1980, respectively. In 1985, the two Budgets were presented on 14 and 16 March 1985, respectively. In 1991, the Budgets were presented twice, once in the Seventh Session of the Ninth Lok Sabha on 25 February and 4 March 1991 and again in the First Session of the Tenth Lok Sabha on 16 and 24 July 1991, respectively.

    In 1996 also, the Railway and General Budgets were presented twice, once in the Sixteenth Session of the Tenth Lok Sabha on 27 and 28 February 1996, respectively, and again in the Second Session of the Eleventh Lok Sabha on 16 and 22 July 1996, respectively. In 1998 also, the Railway and General Budgets were presented twice, once in the First Session of Twelfth Lok Sabha on 25 March 1998 (These were financial statements for whole year but sought vote on account for first four months) and again in the Second Session of Twelfth Lok Sabha on 29 May and 1 June 1998 respectively.

    Again in 2004, the Railway and General Budgets were presented twice, once in the Fourteenth Session of Thirteenth Lok Sabha on 30 January and 3 February 2004 and again in the Second Session of the Fourteenth Lok Sabha on 6 and 8 July 2004 respectively.

    In 2009 as well, the Railway and General Budgets were presented twice. Once in the Fifteenth Session of the Fourteenth Lok Sabha on 13 and 16 February 2009, respectively, and again in the Second Session of the Fifteenth Lok Sabha on 3 and 6 July, 2009, respectively.

    In 2014, the Railway and General Budgets were presented twice. Once in the Fifteenth session of the Fifteenth Lok Sabha on 12 and 17 February 2014 respectively, and again in the Second session of the Sixteenth Lok Sabha on 8 and 10 July, 2014, respectively.

    After the merger of the Railway Budget with General Budget in 2017, the Union Budget was presented once in the Seventeenth session of Sixteenth Lok Sabha on 1 February, 2019 and again in the First session of the Seventeenth Lok Sabha on 5 July, 2019.

    In 2024, the Union Budget was presented once in the Fifteenth session of Seventeenth Lok Sabha on 1 February, 2024 and again in the Second session of the Eighteenth Lok Sabha on 23 July, 2024.

months and later in full[18]. The second, *i.e.* the full Budget, may be presented on any day as may be convenient to the Government formed after the election.

About a fortnight before the commencement of the Budget Session, the Government forwards to the Secretariat a provisional programme of dates for the financial business during the Budget Session, including the date of presentation of the Union Budget. After the Speaker has approved the date of presentation of the Budget, the approval of the President is sought by the Secretary-General. After the President has approved the date, a paragraph to this effect is published in the *Bulletin Part II* for information of the members.

The Railway Budget used to be presented to the Lok Sabha by the Minister of Railways. After delivering a speech on the Railway Budget, the Minister would lay on the Table the annual financial statement pertaining to the Railways, duly authenticated by the Minister[19].

The Union Budget is presented to the Lok Sabha by the Minister of Finance. The Budget speech of the Minister consists of two parts: Part A dealing with the general economic survey of the country and Part B containing the taxation proposals for the ensuing financial year[20]. After delivering the Budget speech, the Minister lays on the Table the annual financial statement relating to the Government of India, duly authenticated by the Minister.

The Fiscal Responsibility and Budget Management Act, 2003 and the Fiscal Responsibility and Budget Management Rules, 2004 provide for laying before both Houses of Parliament the following Statements along with the annual financial statement and Demands for Grants,—(i) The Medium Term Fiscal Policy Statement; (ii) the Fiscal Policy Strategy Statement; and (iii) The Macro Economic Framework Statement. Accordingly, the above-mentioned statements are laid annually since 2004. Since 2019, only two statements: (i) Medium Term Fiscal Policy cum Fiscal Policy, Strategy Statement and (ii) Macro-Economic Framework Statement are being laid.

The Union Budget is prepared by major heads of account, prescribed in consultation with the Comptroller and Auditor-General. These heads fall either under the Consolidated Fund of India or in the Public Account of the Government of India.

All revenues received by the Government of India, all loans raised by the Government by the issue of treasury bills, loans or ways and means advances and all

18. On 5 March 1975, the Minister of State for Finance apologised to the Lok Sabha on account of presentation of the Gujarat Budget for 1975-76 in the Rajya Sabha before its presentation to the Lok Sabha and explained the circumstances under which it was done.—*L.S. Deb.,* 5-3-1975, cc. 258-62.

19. While presenting the Railway Budget 1973-74, the Railway Minister (L.N. Mishra) expressly conveyed that in order to save the time of the House, he skipped over some paragraphs from his speech which he was reading. The speech was, however, laid on the Table and formed part of the proceedings of the House—*L.S. Deb.,* 20-2-1973, c. 277; On another occasion, the Railway Minister (L.N. Mishra) had skipped over some portions of his printed Budget Speech. However, the Speaker observed that they had been taken as read – *L.S. Deb.* 27-2-1974, c. 211. The Budget speeches for the Railway Budget for 1982-83, 1983-84, 1984-85, 1985-86 and 1988-89, contained two parts. Part I dealt with the operating performance of the Railways and Part II dealt with proposals for raising additional resources. However, during 1987-88, the speech was in one part only.

20. The Economic Survey, which is an indicator of the health of national economy, is laid on the Table one day in advance. This, being an important document is widely circulated. Statement on new taxation proposals can be made by the Minister at any time.—*L.S. Deb.,* 31-7-1974, cc. 3-9.

monies received by the Government of India in repayment of loans are credited to the Consolidated Fund. All other public monies received by or on behalf of the Government of India are credited to the Public Account.

The Government expenditure, including expenditure on loans and advances by the Government, the repayment of loans, treasury bills and ways and means advances, is met out of the Consolidated Fund. The estimates of expenditure show separately the sums required to meet expenditure which the Constitution has "charged" upon the Consolidated Fund and the sums required to meet other expenditure[21]. The Budget also distinguishes expenditure on revenue account from other expenditure. The latter covers expenditure on capital outlay, loans given by the Government and expenditure on the repayment of loans, treasury bills and ways and means advances. The debt position of the Government of India is thus reflected in the Budget.

The Budget of the Government of India sets forth the receipts and expenditure of the Government for three consecutive years. It gives the actuals for the preceding year, the revised estimates for the current year and the budget estimates for the ensuing year.

Immediately after presentation of the Union Budget, the Minister of Finance introduces in the Lok Sabha the Finance Bill to give effect to the financial proposals of the Government for the following financial year[22], and thereafter the House rises for the day.[23]

The Finance Bill usually contains a declaration to the effect that it is expedient in the public interest that the provisions of the Bill relating to imposition or increase in duties of customs or excise shall have immediate effect under the Provisional Collection of Taxes Act, 1931[24]. The declared provision has the force of law immediately on the expiry of the day on which the Bill is introduced[25].

The financial business culminating in the passing of the Appropriation and the Finance Bills has to be completed in time lest the governmental machinery should come to a standstill. The procedure in relation to financial matters is regulated by a set of Rules framed by the House[26], and thereunder the Speaker has been empowered to ensure the timely disposal of all financial business[27]. In case the Rules made by the House appear to be inadequate, Parliament may, for the purpose of timely completion of financial business, regulate by law the procedure of, and the conduct of business in, each House of Parliament in relation to financial business, and, if and so far as any provision of any law so made is inconsistent with any rule made by a House of Parliament, then such provision shall prevail[28].

21. Art. 112(2).

22. Rule 219.

23. On 23 July 2024, after presentation of the Union Budget, the Budget for the Union Territory of Jammu & Kashmir (2024-25) was presented.

24. The Finance Bill, 1952, the Finance Bill, 1962 and the Finance Bill, 1977 did not contain such declaration as no fresh duties were being levied through these Bills.

25. Provisional Collection of Taxes Act, 1931, s. 4; *see* also this Chapter, under 'Finance Bill', *infra.*

26. Rules 204-221.

27. Rule 221.

28. Art. 119. No such legislation has so far been contemplated.

On 27 April 1987, a member suggested that necessary law may be enacted under article 119 of the

Distribution of Budget Papers

Sets of the Budget Papers[29] for circulation to members are supplied to the Secretariats of both the Houses of Parliament by the Ministry concerned. In the case of the Railway Budget, the sets of the Budget papers used to be entrusted to the Secretariat by the Railway Ministry as soon as the Railway Minister started the Budget speech and distributed to members from the Publications Counter after the Minister had concluded the speech. However, after merges of Railway Budget with General Budget since 2017, the Railway Budget has since been discontinued.

The Union Budget is kept a carefully guarded secret because Part B of the Finance Minister's speech contains taxation proposals and the Ministry of Finance entrusts the sets to the Secretariat only when the Finance Minister starts Part B of the speech. The sets used to be distributed to members from the Inner and Outer Lobbies of the Chamber in the *Samvidhan Sadan* after the Minister's speech was over, the statements under the Fiscal Responsibility and Budget Management Act, 2003 were laid and the House adjourned for the day after the introduction of the Finance Bill.

"Since 2021 physical copies of Budget papers are not being distributed but are electronically circulated to members through Member's Portal. However,

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Constitution to regulate the procedure in financial matters in Parliament and necessary rules be framed thereunder to enable a thorough discussion of all Demands for Grants. The suggestion was considered by the Rules Committee of the Eighth Lok Sabha. The Committee felt that there was undoubtedly need for greater scrutiny of Demands for Grants but mere enactment of a law would not serve the purpose. The real question was of constraint of time and not that of absence of a law to regulate the procedure for disposal of financial business. The only viable solution was that the Demands for Grants should automatically stand referred to Committees of the House for detailed scrutiny. During the Sixth Session of the Tenth Lok Sabha, seventeen Departmentally Related Standing Committees of the Houses were set up to consider *inter alia* the Demands for Grants of the concerned Ministries/ Departments before the Demands were voted by the House. In the year 2004, the number of Standing Committees was raised from seventeen to twenty-four—*See* Bn. (II), 20-7-2004, para 253. Also *see* Chapter 30, *Parliamentary Committees*.

Under article 209, the financial procedure was regulated by law under the Punjab Legislature (Regulation of Procedure in Relation of Financial Business) Ordinance, 1968, promulgated by the Punjab Governor on 13 March 1968.

29. The Railway Budget Papers usually consisted of:

Speech of Minister for Railways introducing the Railway Budget; Budget of the Railway Revenue and Expenditure; Explanatory Memorandum on the Railway Budget; Demands for Grants; Works, Machinery and Rolling Stock Programme – Part I – Summary and Part II – Detailed Programme of Railways; Indian Railways Report and Accounts.

The Union Budget Papers usually comprise:

Speech of Finance Minister; key features of Budget; Annual Financial Statement; Demands for Grants; key to Budget Documents; Budget at a Glance; Finance Bill; Memorandum explaining the provisions in the Finance Bill; Fiscal Responsibilities and Budget Management Statements and Implementation of Budget.

However, on the recommendations of the Estimates Committee, made in their Thirty-seventh Report presented to the Lok Sabha on 4 December 1986, the following papers were made available in the Budget Documents for the year 1987-88 in place of the Book of Demands for Grants:—

(1) Demands for Grants of Union Government (Excluding Railways) 1987-88.

(2) Expenditure Budget, 1987-88, Volume I (Incorporating Explanatory Memorandum and Plan Budget).

(3) Expenditure Budget, 1987-88, Volume II (Incorporating Notes on Demands for Grants).

(4) Receipts Budget, 1987-88, (Incorporating Receipts, Recoveries of Loans, Other Capital Receipts and Debt position of Union Government).

hard copies of Budget speech are distributed to Members through Publications Counter."

Leakage of Budget: Question of Privilege

Leakage of Budget proposals before they are presented to the Lok Sabha does not constitute a breach of privilege of the House. The Speaker has ruled:

> The prevailing view is that until the financial proposals are placed before the House, they are an official secret... . Though the leakage of the budget proposals may not constitute a breach of privilege of the House, Parliament has ample power to inquire into the conduct of a Minister in suitable proceedings in relation to the leakage and the circumstances in which the leakage occurred[30].

Discussion on the Budget

Allotment of Time for Discussion

No discussion on the Budget takes place on the day it is presented to the House[31]. According to the practice obtaining in the Lok Sabha, the Budget is ordinarily discussed after a few days of its presentation to the House. The Railway Budget, when it was still being presented to the House before 2017-18, used to be taken up for discussion after about a week of its presentation.

After the Budget has been presented, the Speaker may appoint a day for the commencement of its discussion which continues for such time as the Speaker may allot[32]. Similarly, the Speaker, in consultation with the Leader of the House, may allot so many days as may be compatible with the public interest for the discussion and voting of Demands for Grants[33].

30. *L.S. Deb.,* 19-3-1956, cc. 2911-13; 10-3-1959, cc. 5338-44; 29-7-1974, cc. 186-99; 30-7-1974, cc. 124-27; 7-3-1979, cc. 276-77; 23-2-1981, cc. 289-90; 25-2-1982, cc. 275-77.

31. Rule 205.

32. Rule 207.

33. Rule 208.

The allotment of time and actual time taken on the general discussion on the Railways/General Budget and discussion and voting of Demands for Grants (during the last few years has been as follows:—

	Railways Budget				General Budget			
	General Discussion		Demands for Grants		General Discussion		Demands for Grants	
	Time allotted	Time taken	Time allotted	Time taken	Time allotted	Time taken	Time allotted	Time taken
	Days/Hrs.	H. M.	Days/Hrs.	H. M.	Days/Hrs.	H. M.	Days/Hrs.	H. M.
2009-10	10hrs.	17 57	-	00 02	12hrs.	17 12	5 days	31 21
2010-11	8hrs.	00 09	4hrs.	05 30	12hrs.	09 57	5 days	17 27
2011-12	8hrs.	09 52	-	02 23	10hrs.	11 08	3 days	14 37
2012-13	12hrs.	16 11	12hrs.	04 36	12hrs.	09 10	4 days	21 04
2013-14	12hrs.	14 40	4hrs.	00 02 (voted without discussion)	12hrs.	11 55	4 days	00 04 (voted without discussion)
2014-15 (interim)	General Discussion and Discussion and voting on Demands for Grants on Account (Railways) were taken up together (Time taken 16 Mins.)				General Discussion and Discussion and voting on Demands for Grants on Account (General) were taken up together (Time taken 4 Mins.)			

In actual practice, after the Budget has been presented to Lok Sabha, the Leader of the House, through Minister of Parliamentary Affairs, forwards to the Secretariat proposals regarding time to be allotted for the general discussion and for the discussion and voting of Demands for Grants. These proposals are placed before the Business Advisory Committee which makes a report to the House. After the House has adopted the report, the allocation of time is published in the *Bulletin Part II.* In the light of the allocation of time, a time-table showing the dates on which demands relating to various Ministries are to be discussed and voted, is drawn up by the Minister of Parliamentary Affairs. After the Speaker has given his approval, the time-table is published in the *Bulletin.* In case of any change in the programme approved by the House, the Minister of Parliamentary Affairs makes a statement in the House and thereafter the revised

	Railways Budget				General Budget			
	General Discussion		Demands for Grants		General Discussion		Demands for Grants	
	Time allotted	Time taken	Time allotted	Time taken	Time allotted	Time taken	Time allotted	Time taken
	Days/Hrs.	H. M.	Days/Hrs.	H. M.	Days/Hrs.	H. M.	Days/Hrs.	H. M.
2014-15	10 hrs.	13 16	As per decision of Business Advisory Committee adopted on 11 July 2014 Demands for Grants (Railways) for 2014-15 was passed without discussion after completion of items relating to General Discussion on Budget (Railways) and discussion and voting on Excess Demands for Grants (Railways) (Time taken : 04 Mins.)		10 hrs.	15 13	3 days	13 03
2015-16	12 hrs.	13 03	3 hrs.	04 12	12 hrs.	12 59	18 hrs.	25 13
2016-17	12 hrs.	14 16	4 hrs.	04 41	12 hrs.	12 37	15 hrs.	22 03
2017-18	**Railway Budget merged with General Budget**				**Union Budget**			
					8 hrs.	09 58	22 hrs.	26 01
2018-19					12 hrs.	12 13	25 hrs.	00 06 (passed without discussion)
2019-20 (interim)					8 hrs. 07 32 [General Discussion and Discussion and voting on Demands for Grants on Account (Union Budget) were taken up together]			.....
2019-20					12 hrs.	17 23	16 hrs.	35 49
2020-21					12 hrs.	11 51	28 hrs.	22 00
2021-22					10 hrs.	11 42	12 hrs.	21 49
2022-23					12 hrs.	15 35	30 hrs.	43 19
2023-24					12 hrs.	14 45	-	00 08 (passed without discussion)
2024-25 (interim)					6 hrs. 06 57 [General Discussion and Discussion and voting on Demands for Grants on Account (Union Budget) were taken up together]		-	-
2024-25					20 hrs.	27 14	5 days	28 25

programme is published in the *Bulletin*[34].

> In case more time than what is allotted to groups of Demands for Grants is taken and the time-table already published in respect of the remaining groups of demands becomes obsolete, the Minister of Parliamentary Affairs is asked to send a revised time-table in respect of the remaining Demands for Grants, and after the Speaker's approval, the revised time-table is published in the *Bulletin.* In such cases, the day on which the last group of Demands for Grants is to be disposed of, according to the original or revised time-table (as the case may be) as published in the *Bulletin,* is regarded as the last day of the allotted days. It is also specified in the *Bulletin.*

From the presentation of the Budget to the passing of the Appropriation and Finance Bills, members get opportunity to discuss the financial policies of the Government in the course of general discussion on the Budget, discussion and voting of Demands for Grants, and consideration and passing of the Appropriation Bill and the Finance Bill.

General Discussion on the Budget

On a day appointed by the Speaker subsequent to the day on which the Budget is presented and for such time as the Speaker may allot for this purpose, the House is at liberty to discuss the Budget as a whole or any question of principle involved therein, but no motion can be moved nor is the Budget submitted to the vote of the House at this stage. The Finance Minister has the general right of reply at the end of the discussion.

A general survey of administration is in order at the general discussion stage. The scope of discussion at this stage is confined to an examination of the general scheme and the structure of the Budget. It has been held that the scheme of the Budget would include consideration of the revenue and expenditure account and the overall surplus or deficit, and in considering the revenue account, members might take into account the method of estimation. The discussion has to be limited to the point whether the items of expenditure ought to be increased or decreased having regard to the importance of a particular item and also to the manner in which the Budget is framed. The policy of taxation as it is expressed in the Budget and in the speech of the Finance Minister is within the purview of the general discussion. Grievances, which have no relation to the points raised in the Finance Minister's speech or do not directly arise out of the proposed expenditure, are not in order at this stage. Specific points or grievances and details of taxation and expenditure can be gone into when the Demands for Grants and the Finance Bill are before the House[35].

During the general discussion, the Speaker normally prescribes time-limit for

34. During the Seventh Session of the Fifth Lok Sabha, Ministries/Departments whose Demands were to be guillotined without any discussion were not included in the time-table for discussion and voting of Demands for Grants—*See Bn. (II),* 23-3-1973, para 1092. But the Ministries/Departments whose Demands for Grants are to be guillotined are being included in the time-table since the Thirteenth Session of the Fifth Lok Sabha, resuming the earlier practice.

35. *See H.P. Deb.,* (II), 26-5-1952, c. 539; 4-3-1953, cc. 1379-80; *L.S. Deb.,* 13-3-1956, cc. 2386-87.

speeches. The time-limit is usually fifteen minutes for each member, excepting the leaders of Parties and the Finance Minister. The former can have thirty minutes within the overall time-limit available to their Parties while the Finance Minister is allowed as much time as he likes for his reply to the debate. If the Minister so desires, he can initiate discussion on the Budget[36].

The general discussion on the Budget is usually initiated first in the Lok Sabha[37] and then in the Rajya Sabha. However, on occasions, though rare, discussion in the Rajya Sabha was started before it commenced in the Lok Sabha[38].

Consideration of Demands for Grants by Departmentally Related Standing Committees

The year 1993 ushered in a new era in the history of Indian Parliament when seventeen Departmentally Related Standing Committees were constituted. The number of Standing Committees was raised to twenty-four in 2004[39]. Each Standing Committee consists of not more than 31 members—21 members to be nominated by the Speaker from amongst the members of the Lok Sabha and 10 members to be nominated by the Chairman, Rajya Sabha, from amongst the members of the Rajya Sabha[40]. All the Ministries/Departments of the Government of India have been covered under the jurisdiction of the Standing Committees[41].

The Budget related functions[42] of each of the Standing Committees *inter alia* are (*i*) to consider the Demands for Grants of the concerned Ministries/Departments and make a report on the same to the Houses. The report shall not suggest anything of the nature of cut motions; and (*ii*) to consider annual reports of Ministries/Departments and make reports thereon.

The following procedure is followed by each of the Standing Committees in the consideration of the Demands for Grants and making a report thereon to the Houses[43]:

(a) after the general discussion on the Budget in the Houses is over, the Houses shall be adjourned for a fixed period *i.e.* normally four weeks;

(b) the Committees shall consider the Demands for Grants of the concerned Ministries during the aforesaid period;

(c) the Committees shall make their report within the period and shall not ask for more time;

(d) the Demands for Grants shall be considered by the House in the light of the

36. *L.S. Deb.,* 4-3-1970, cc. 289-93.

37. The Government has to see that the discussion on Budget takes place in Lok Sabha first and then in the other House because it is the prerogative of the Lok Sabha to discuss it and make modifications.—*L.S. Deb.,* 2-3-1963, cc. 1740-41.

38. In 1955, the general discussion on the Budget (General) commenced in the Rajya Sabha and Lok Sabha, respectively, on 3 and 16 March 1955; in 1959, on 3 and 9 March 1959, respectively; in 1963, on 4 and 12 March 1963, respectively; in 1965, on 10 and 22 March 1965, respectively; and in 2002, on 18 and 19 March 2002 respectively.

39. Rule 331C. 1R, RC (14 LS), 8-8-2004; Also *see Bn. (II)*, 20-7-2004, para 253.

40. Rule 331D.

41. Rule 331C(2).

42. Rule 331E. For details, *see* Chapter 30—*Parliamentary Committees*.

43. Rule 331G.

reports of the Committees; and

(e) there shall be a separate report on the Demands for Grants of each Ministry.

Thus, Parliament is able to exercise more effective control over the expenditure of the Executive as the Demands for Grants of all the Ministries/Departments of Government of India are scrutinized by Standing Committees[44] before these are finally voted by the House.

However, instances[45] are there when the House adjourned for recess before conclusion of the general discussion on the General Budget. In such a case, Rule 331 G(a) of the Rules of Procedure and Conduct of Business in Lok Sabha was suspended by the House. There has also been an instance when the Demands for Grants (Railways as well as General) were passed before the House adjourned for recess without the same being considered by respective Departmentally Related Standing Committees[46].

Discussion on Demands for Grants

The Demands for Grants are presented to the Lok Sabha along with the Budget Statement. Each demand first gives the totals of 'voted' and 'charged' expenditure as also the 'revenue' and 'capital' expenditure included in the demands separately and also the grand total of the amount of expenditure for which demand is presented. This is followed by the estimates of expenditure under different heads. The Demands for Grants are followed by the detailed Demands for Grants laid on the Table of the Lok Sabha some time after the presentation of the Budget, but before the discussion on Demands for Grants commences. These detailed Demands for Grants show further details of the provisions included in the Demands for Grants.

Prior to the General Budget for 1987-88, the Demands for Grants (Parts I and II) were made available to members on the day of presentation of the Budget and Part III, *i.e.* detailed Demands for Grants were laid on the Table of the House a week or two before they were taken up for discussion in the House. Part I showed the service for which appropriation was intended and also the totals of voted and charged expenditure included in the Demands. Part II showed distribution of total provision by Major and Minor Heads of Accounts, and also contained information which were repeated in detailed Demands for Grants. In order to reduce the volume of printing at the Budget

44. For example, during the Budgets for 1993-94, 1994-95, 1995-96, 1996-97, 1997-98, 1998-99 and 1999-2000 the Departmentally Related Standing Committees considered the Demands for Grants of various Ministries/Departments of Government of India and presented 19, 35, 44, 72, 29, 67 and 50 reports thereon, respectively.

45. *L.S. Deb.,* 21-4-1993, cc. 461-65; 19-3-1994, c. 46; 27-3-1995, c. 274.

46. In the Seventh Session of Fourteenth Lok Sabha (2006), the Minister of Parliamentary Affairs (P.R. Dasmunsi) moved a motion for suspension of Rule 331 G in its application to the discussion and voting on Demands for Grants (Railways) for 2006-07 and Demands for Grants of Central Government (excluding Railways) for 2006-07 without Demands being considered by respective Departmentally Related Standing Committees. The motion was adopted.

Accordingly, Demands for Grants (Railways) and (General) for 2006-07 were passed before the House adjourned for recess without being considered by respective Departmentally Related Standing Committees. The Committees, however, examined the Demands for Grants during the recess period and made reports thereon.

presentation stage and also to make available to Parliament the detailed Demands for Grants earlier than a week or two, the Ministry of Finance approached the Estimates Committee (Eighth Lok Sabha) for revision of the form and contents of the Demands for Grants. The Estimates Committee, after going into the matter, in their Thirty-seventh Report, presented to the House on 4 December 1986, recommended that:

(i) Part II of the Demands be presented by Major Heads only by deleting information which is repeated in Part III, *i.e.* Detailed Demands;

(ii) Part II of the Demands may be brought out in a single volume;

(iii) The detailed Notes on Demands for Grants may be detached from Part II of the Demands and supplied as a separate volume along with the Budget papers;

(iv) The detailed Demands for Grants, *i.e.* Part III in respect of a Ministry should be laid on the Table of the House at least fifteen days before the date on which the relevant Demands are taken up for discussion;

(v) In the Annual Financial Statement, the total receipts and expenditure of Union territories without Legislature be shown separately, Union territory-wise.

Accordingly, during 1987-88, the Demands for Grants were presented in the revised format[47].

After presentation of the Union Budget, the Finance Minister gives notice of intention to move the Demands for Grants in the House.

The estimates relating to expenditure not charged on the Consolidated Fund of India are, therefore submitted in the form of Demands for Grants to the Lok Sabha which has the power to assent, or to refuse to assent, to any demand, or to assent to any demands subject to a reduction of the amount specified therein[48]. But no Demand for Grants can be made except on the recommendation of the President[49], and the recommendation so obtained has to be communicated to the Secretary-General, Lok Sabha, by the Minister concerned in a set format[50].

A separate demand is ordinarily made in respect of the grant proposed for each Ministry, but the Finance Minister may include in one demand grants proposed for two or more Ministries or Departments or make a conjoined demand in respect of expenditure which cannot be readily classified under particular Ministries. Each demand contains first a statement of the total grant proposed and then a statement of the detailed estimate under each grant divided into items[51].

47. For Book of Demands for Grants, *see* this Chapter under *Distribution of Budget papers.*

48. Art. 113(2).

49. Art. 113(3).

50. Rule 348.

51. Rule 206.

On 25 March 1975, a motion moved by the Minister of State for Finance "that in relation to the Demands for Grants for expenditure of the Government of Nagaland during the financial year 1975-76 so much of sub-rule (2) of Rule 206 of the Rules of Procedure and Conduct of Business in

Thus, the estimates as relate to expenditure 'charged' upon the Consolidated Fund of India are not submitted to the vote of the Lok Sabha, but Parliament can discuss such estimates[52]. These estimates are not termed as Demands for Grants and the recommendation of the President is not necessary for their being placed before Parliament[53].

Subsequent to the presentation of the Demands for Grants to the Lok Sabha, alterations have been made in the composition of the demands without affecting the total, with the permission of the Speaker and the necessary recommendation of the President[54]. Permission has also been granted to the moving of a particular demand for a reduced amount[55].

Procedure for moving of Demands for Grants

Demands for Grants are not generally moved in the House by the Minister concerned[56]. The demands are assumed to have been moved and are proposed from the Chair to save time of the House[57]. But if the Minister concerned so desires, he can initiate discussion on the Demands for Grants relating to his Ministry[58]. Demands for Grants of two different Ministries under the charge of the same Minister are discussed separately[59].

Normally, the motions in respect of the Demands for Grants are moved for sums excluding the sums already voted on account by the House in respect of those demands[60]. However, in the case of any reorganization of Ministries, after the general elections, the Demands for Grants in respect of the Ministries affected by the reorganization are, with the permission of the Speaker, moved and subsequently voted for sums, including the sums already voted on account[61].

Scope of Discussion on Demands for Grants

Whereas during the general discussion on the Budget, the House is at liberty to discuss the Budget as a whole or any question of principle involved therein[62], at the stage of discussion on the Demands for Grants in respect of a Ministry the debate is essentially confined to a matter which is under the administrative control of that Ministry and to each head of the demand as is put to the vote of the House. During the discussion

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Lok Sabha, as relates 'to a statement of the detailed estimate under each grant divided into items' may be suspended for the purpose of granting Vote-on-Account by this House" was adopted.— *L.S. Deb.,* 25-3-1975, cc. 229-32.

52. Art. 113(1).
53. *L.S. Deb.,* 27-8-1959, cc. 4611-12.
54. *Ibid.,* 19-7-1957, cc. 4335-36; 25-4-1961, cc. 19573-84 and 19658.
55. *Ibid.,* 25-3-1970, cc. 337-39; 28-3-1970, c. 135; 16-3-1982, c. 455; 17-3-1982. c. 336.
56. *Ibid.*
57. *L.A. Deb.,* 10-3-1947, p. 1624; *P. Deb.,* (II), 20-12-1950, cc. 2064-65.
58. *L.S. Deb.,* 30-3-1959, cc. 8565-85; 1-4-1959, cc. 9169-82; 28-3-1960, cc. 8405-83; 7-4-1961, cc. 10108-25; 6-6-1962, cc. 9269-77; 16-3-1964, cc. 5662-67.
59. *Ibid.,* 21-7-1971, cc. 177-78.
60. *Ibid.,* 11-5-1976, cc. 196-98.
61. *Ibid.,* 22-6-1971, c. 283.
62. Rule 207.

on the Demands for Grants, it is open to members to disapprove a policy pursued by a particular Ministry or to suggest measures of economy in the administration of that Ministry or to focus attention of the Ministry to specific local grievances.

During the general discussion on the Budget, no motion is moved nor is the Budget submitted to the vote of the House, but while discussing the Demands for Grants motions can be moved to reduce any Demand for Grant[63], but no amendment to a motion seeking to reduce any demand is permissible[64]. When several motions for reduction relating to the same Demand for Grant are offered, they are discussed in the order in which the heads to which they relate appear in the Budget[65]. After all the motions for reduction relating to a Demand for Grant are disposed of, the demand is put to the vote of the House.

For the sake of convenience, all the Demands for Grants in respect of a Ministry/ Department are discussed together, along with the motions for reduction moved to these demands. After the discussion, first the motions for reduction are disposed of and thereafter the Demands for Grants are put to the vote of the House.

Guillotine

The Speaker, in consultation with the Leader of the House, allots days for the discussion and voting of Demands for Grants[66]. On the last day of the allotted days, at

63. Rule 208(3).

64. Rule 208(4).

65. Rule 208(5).

66. Sub-rule (2) of Rule 208 was amended and notified *vide L.S. Bn. (II)*, 30-11-1965 and the words "or at such other hour as the Speaker may fix in advance" were inserted after the words, "17.00 hours". Prior to this amendment, whenever outstanding demands were to be guillotined at an hour later than 17.00 hours on allotted day or on a day subsequent to last day of allotted days, sub-rule (2) had to be suspended.

Now, on the last of the allotted days, the time at which outstanding demands are to be guillotined is fixed by the Speaker and is notified in *Bn. (II)* in advance.

The following statement indicates the names of Ministries/Departments discussed during the last few years:

Year	Ministry/Department whose Demands for Grants were discussed and voted
2009-10	(1) Human Resource Development
	(2) (i) Agriculture
	(ii) Consumer Affairs, Food and Public Distribution
	(3) Power
	(4) Home Affairs
	(5) Women and Child Development
2010-11	(1) External Affairs
	(2) Rural Development
	(3) Tribal Affairs
2011-12	(1) Rural Development
	(2) External Affairs
	(3) Mines

17.00 hours or at such other hour as the Speaker may fix in advance, he forthwith puts every question necessary to dispose of all the outstanding matters in connection with the Demands for Grants[67].

Year	Ministry/Department whose Demands for Grants were discussed and voted
2012-13	(1) Health and Family Welfare (2) Urban Development (3) Home Affairs (4) Commerce and Industry
2013-14	Voted without discussion
2014-15	(1) Water Resources (2) Environment and Forests (3) Road Transport and Highways (4) Social Justice and Empowerment
2015-16	(1) Drinking Water and Sanitation (2) Chemical and Fertilizers (3) Human Resource Development (4) Home Affairs (5) Environment, Forests and Climate Change (6) Health and Family Welfare
2016-17	(1) Development of North Eastern Region (2) Skill Development and Entrepreneurship (3) Social Justice and Empowerment (4) (i) Civil Aviation (ii)Tourism (5) Housing and Urban Poverty Alleviation
2017-18	(1) Railways (2) Agriculture and Farmers' Welfare (3) Defence (4) Home Affairs
2018-19	Voted without discussion
2019-20	(1) Railways (2) Road Transport and Highways (3) (i) Rural Development (ii) Agriculture and Farmers' Welfare (4) Youth Affairs and Sports
2020-21	(1) Railways (2) Social Justice and Empowerment (3) Tourism
2021-22	(1) Railways (2) Education (3) Health and Family Welfare
2022-23	(1) Railways (2) Road Transport and Highways (3) Civil Aviation (4) Commerce and Industry (5) Ports, Shipping and Waterways
2023-24	Voted without discussion

67. Rule 208(2). Outstanding matters were disposed of at 18.30 hours on 21 March 1950; at 15.30 hours

However, the time and date of disposal of outstanding Demands for Grants already notified in the *Bulletin* can be altered or extended by the House to enable the House to discuss the Demands for Grants of more Ministries/Departments[68].

If more time than what was allotted to some groups of demands is taken and consequently the time-table already published in respect of the remaining groups of demands is revised, the day on which the last group of Demands for Grants is to be disposed of according to the revised time-table, is regarded as the last day of the allotted days[69]. If, on the last day, the last group of demands for which time has been allotted is disposed of earlier than the fixed hour, the outstanding demands are guillotined only at the scheduled hour. The intervening period is devoted to some other items included in the List of Business for that day[70].

Cut Motions

During the discussion on the Demands for Grants, motions can be moved to reduce the amount of a demand. Such a motion is called a 'cut motion'[71]. It is only a form of initiating discussion on the demand, so that the attention of the House is drawn to the matter specified in such a motion. It is not obligatory that discussion should start only on a cut motion; nor does it bestow a right on a member to insist on moving his cut motion. Cut motions are given by members of the Opposition only and the members of the Government party do not generally give such notices as it will amount to a vote of censure or indirectly 'no-confidence' in the Council of Ministers[72].

A member is permitted to move not more than ten cut motions to a demand for grant. Where notices of cut motions to a demand received from a Member are in excess of ten, the first ten admissible cut motions are taken into consideration, unless the Member has indicated the preference[73].

Cut motions can be classified into three categories: Disapproval of Policy Cut; Economy Cut; and Token Cut.

Disapproval of Policy Cut

Where the object of a motion is to disapprove of the policy underlying a demand, its form is "*that the amount of the demand be reduced to Re. 1*". The member giving notice of such a cut motion has to indicate in precise terms the particulars of the policy which he proposes to discuss. Discussion is confined to the specific point or points mentioned in the notice and it is open to the member to advocate an alternative policy.

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on 12 May 1972; at 18.00 hours on 11 May 1976. For the form of the motion at the time of guillotine, *see L.S. Deb.,* 11-5-1976, cc. 226-67.

68. On 22 April 1987, the House decided that in partial modification of its earlier decision dated 12 March 1987, all outstanding Demands for Grants in respect of the Budget (General) for 1987-88 might be disposed of and put to the vote of the House at 18.00 hours on 28 April 1987 instead of at 15.30 hours on 24 April 1987 and the Finance Bill, 1987 be taken up for consideration and passing on 29 and 30 April and 4 May 1987 instead of 27 and 28 April 1987. Accordingly, the outstanding Demands were put to the Vote of the House and passed at 18.00 hours on 28 April 1987.

69. *L.S. Deb.,* 17-4-1956, cc. 5599, 5602; 20-4-1959, c. 12420.

70. *Ibid.,* 16-4-1955, cc. 5493, 5525; 20-4-1959, cc. 12347, 12421.

71. Rule 209.

72. *L.S. Deb.,* 20-8-1957, cc. 8988-89.

73. Direction 42.

Economy Cut

If it is contended that an economy in the expenditure can be effected, the form of the motion is "*that the amount of the demand be reduced by a specified amount*". The amount suggested for reduction is either a lump sum reduction in the demand or omission or reduction of an item in the demand. Approximate amount to be economized must be given in motions for 'Economy Cut'[74]. The notice has to indicate briefly and precisely the particular matter on which discussion is sought to be raised and speeches are confined to the points as to how the economy can be effected.

Token Cut

Where a motion "*that the amount of the demand be reduced by Rs. 100*" is moved, it is in order to ventilate a specific grievance within the sphere of the responsibility of the Government of India. Discussion on such a cut motion is confined to the particular grievance specified in the motion.

The practice of indicating briefly and precisely the particulars of the policy, the specific matter or grievance, as the case may be, that the member wants to discuss on his cut motion—whether disapproval of policy cut or economy cut or token cut—was started in 1925 during the Budget Session[75].

The period of notice of a cut motion is one day[76] previous to the day on which the demand to which it relates is under consideration, but the Speaker is empowered to waive an objection on the score of insufficient notice[77].

Admissibility of Cut Motions

In order for a notice of motion for reduction of the amount of demand to be admissible, it must satisfy following conditions[78], namely:

it should relate to one demand only;

A general motion touching several Demands for Grants cannot be given under an individual Demand for Grant. An omnibus cut motion for a general reduction of several demands by a specific percentage or amount is, therefore, not in order. A member wishing to cut down any particular item has to table a motion in respect of that item only under the appropriate demand[79].

it should be clearly expressed and not contain arguments, inferences, ironical expressions, imputations, epithets or defamatory statements.

74. *L.S. Deb.,* 17-12-1956, c. 3184.

75. *L.A. Deb.,* 16-2-1925, pp. 1091-93.

76. As cut motions and amendments are circulated to members both in English and Hindi simultaneously, the Rules Committee (Fourth Lok Sabha) considered the question of inadequacy of the period of notice for tabling of (i) amendments to Bills, Resolutions and Motions; and (ii) Cut Motions. The Committee decided that members might be requested to table such notices at least two days before the day they are to be taken up in the House. Before the commencement of Session, members are requested through *Bulletin* to table the notice of amendments to Bills, Motions and Resolutions and Cut Motions at least two days before the day the relevant item to which they relate is to be taken up in the House, but in any case not later than 15.15 hrs. on the previous day. *Bn.* (*II*), 18-2-1988, para 2103.

77. Rule 212. For further details, *see* Chapter 32—*General Rules of Procedure*, under 'Notices'.

78. Rule 210.

79. *L.A. Deb.,* 1922, p. 3047; 9-3-1931, pp. 837-38.

it should be confined to one specific matter and the matter itself has to be stated in precise terms[80].

The question to be raised on a cut motion should be definite. The motion should raise one particular question: it should not be a roving motion, such as to discuss "the grievances of the employees of Indian Railways". Subjects not mentioned in a cut motion cannot be discussed under that cut motion[81]; it is permissible to discuss only one subject under one cut motion[82]. Speech on a cut motion must relate to the specific matter referred to in the cut motion and no general discussion is permissible[83].

it should not reflect on the character or conduct of any person whose conduct can only be challenged on a substantive motion;

it should not make suggestions for the amendment or repeal of existing laws;

it should not refer to a matter which is not primarily the concern of the Government of India;

it should not relate to any expenditure charged on the Consolidated Fund of India;

it should not relate to a matter which is under adjudication by a court of law having jurisdiction in any part of India;

it should not raise a question of privilege;

it should not revive discussion on a matter which has been discussed in the same session and on which a decision has already been taken;

it should not anticipate a matter which has been previously appointed for consideration in the same session[84];

it should not ordinarily seek to raise a discussion on a matter pending before any statutory tribunal or statutory authority performing any judicial or quasijudicial functions or any commission or court of inquiry appointed to inquire into, or investigate, any matter;

the Speaker may, in his discretion, allow such matter being raised in the House as is concerned with the procedure or stage of inquiry, if he is satisfied that it is not likely to prejudice the consideration of such matter by the statutory tribunal, statutory authority, commission, or court of inquiry; and

it should not relate to a trivial matter.

The Speaker decides whether a cut motion is or is not admissible under the Rules and can disallow any cut motion when, in his opinion, it is abuse of the right of moving

80. *Ibid.,* 25-2-1942, p. 535.

81. *P. Deb.,* (II), 4-3-1952, c. 1885.

A cut motion which is extraneous to the subject-matter of the demand is out of order.— *L.S. Deb.,* 6-3-1959, c. 4836.

82. *Ibid.,* 4-3-1952, c. 1892.

83. *Ibid.,* c. 1942.

84. *H.P. Deb.,* (II), 26-6-1952, cc. 2526-27.

cut motions or is calculated to obstruct or prejudicially affect the procedure of the House or is in contravention of the Rules[85].

A cut motion seeking to censure the Government for not taking action on an issue, which, if taken, would amount to overriding a law passed by Parliament, is not in order[86].

It is a well-established practice that cut motions cannot be moved to discuss the action of the Speaker in any matter[87]. Cut motions are out of order if they relate to the Department or matters which are entirely under the control of the Speaker[88]. Likewise, cut motions relating to the office of the Vice-President (who is also *ex-officio* Chairman of the Rajya Sabha) are not admissible. Cut motions are not admissible if they ventilate personal grievances or if they cast aspersions on individual Government officials. Cut motions seeking to discuss a matter affecting relations with a friendly foreign country or details of internal administration of an autonomous body[89] are out of order as also those which seek omission of a whole grant[90].

Token cuts seeking to discuss inadequacy of provision in respect of a particular demand are, however, in order.

Circulation of List of Cut Motions

Notices of cut motions to the various Demands for Grants are numbered and consolidated Ministry-wise. The consolidated lists are printed and circulated to all members and the Minister concerned, generally two days in advance of the date on which the Demands for Grants in respect of his Ministry are to be taken up in the House for discussion. If, after the issue of such a consolidated list, further notices of cut motions to those demands are received, they are circulated through subsequent list or lists, bearing consecutive numbers, in respect of that Ministry.

In a list, cut motions are grouped demand-wise[91]. As regards the *inter se* arrangement of cut motions under a particular demand, the disapproval of policy cuts are placed first in the list, followed by economy cuts and token cuts, in that order.

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85. Rule 211.

86. *L.S. Deb.,* 20-8-1957, cc. 8988-89.

87. *Ibid.,* 6-3-1942, p. 777.

88. *C.A. (Leg.) Deb.,* (II), 23-12-1949, pp. 997-98.

    During the Second Session of the Seventh Lok Sabha, the following cut motions which sought to discuss matter *re.* the Lok Sabha Sectt. were disallowed and not circulated:—

    (i) That the Demand under the head Lok Sabha be reduced to Re. 1 (Failure to improve the facilities to the Lok Sabha employees),

    (ii) That the Demand under the head Lok Sabha be reduced to Re. 1 (Failure to give recognition to Lok Sabha Karamchari Sangh and putting hurdles in its developments).

89. *L.S. Deb.,* 25-3-1960, cc. 8134-37.

    Cut motions pertaining to the working of an autonomus body are, however, admitted if they raise matters of public importance.

90. *L.A. Deb.,* 9-3-1927, pp. 1913-14.

91. Earlier, cut motions listed in the "List of Business" were not necessarily in order. Their admissibility was decided by the Speaker when the question arose in the House; *L.A.Deb.,* 6-3-1928, p. 1537.

Procedure regarding moving of Cut Motions

At the commencement of the discussion on the Demands for Grants in respect of a particular Ministry, an announcement is made by the Speaker to the effect that the members whose cut motions to the Demand(s) have been circulated, may, if they desire to move their cut motions, send slips at the Table within 15 minutes indicating the serial numbers of the cut motions they would like to move. Only those cut motions, slips in respect of which are received at the Table within the stipulated time, are treated as moved.

A list showing the serial numbers of the cut motions indicated by the members is put on the Notice Board shortly thereafter to facilitate the members to bring to the notice of the officers at the Table immediately for discrepancy if any. Even at this stage, the Speaker has the discretion to rule any cut motion out of order even though it had been circulated to the members. Cut motions cannot be moved at a later stage, but members may mention them in the course of their speeches[92].

Where a cut motion, printed in the list of cut motions**,** in the names of several members is treated as moved on an indication being given by such members in writing, it is deemed to have been moved by the member whose name appears first in the list**,** and if he is not present in the House or has not indicated his intention to move, then by the second or the third member, etc. who may be present. In the proceedings the name of only such member is shown as the mover of that cut motion. Moving of identical cut motions is not in order[93].

Till the year 2009, cut motions were not permitted to be moved to outstanding demands or if there was no time for proper discussion and voting[94]. However, from the year 2010, cut motions to the outstanding demands have been allowed to be moved[95].

92. *Ibid.,* 23-7-1957, cc. 4733-35; 14-6-1971, cc. 196-263; 15-6-1971, c. 203.

93. Dir. 42A.

94. *L.A. Deb.,* 25-2-1942, pp. 512-15.

The Cut Motions in respect of the Demands for Grants which are to be guillotined are not circulated to members. However, an advance copy of such cut motions is sent to the concerned Ministry/Department. During the Seventh and Tenth Session of Fourteenth Lok Sabha it was decided that Demands for Grants (Railways) for 2006-07 and 2007-08, respectively might be considered and voted by the House without discussion. When the item was to be taken up, the Chair observed that all the cut motions for which notices had been given and which had been circulated, may be treated as moved. Accordingly, all the cut motions were treated as moved and were put to vote and negatived by the House.

95. During the Budget Session 2010-11, Gurudas Dasgupta *vide* letter addressed to the Speaker stated that article 113 of the Constitution of India empowers a member to assent or to refuse to assent any expenditure submitted in the form of Demands for Grants. But the Grants passed through guillotine do not give this right to the member. He had, therefore, requested the Speaker to consider this anomaly. The request of the member was examined in the light of relevant provisions of the Constitution and the Rules of the House. The Speaker on 27 April 2010, while permitting cut motions to the demands which were to be guillotined, ruled:

"Shri Gurudas Dasgupta, Hon'ble Member, in a letter addressed to me raised an important point relating to the right of the members of the House in moving cut motion on the demands for grants which are guillotined. He quoted article 113 of the Constitution and stated that since the Constitution vests in the House of the people the power to assent to a demand subject to reduction of the amount specified that demand, the members have the right to move cut motions on any demand submitted to the House for its approval.

Cut Motions cannot be moved by Proxy[96]

Intimation from a member that he would move cut motions to Demands for Grants regarding a particular Ministry is not enough for treating them as moved; the member should be present in the House when the demands of that Ministry are taken up. Moreover, as in the case of amendments, the mover of a cut motion has no inherent right to be called to speak on that cut motion[97], nor has he the right of reply to the debate on his cut motion[98].

As already stated, members of the ruling party do not by convention give notice of, or move[99] cut motions to the Demands for Grants but they take part in the discussion and may in their speeches criticise or question the policy of the Government or the wisdom of any expenditure or financial prospect[100]. However, there have been occasions when ruling party members tabled notices of cut motions but did not move them.

This point was also raised in the Business Advisory Committee Meeting held on 15th April 2010, by Smt. Sushma Swaraj, the Leader of Opposition, and other Hon'ble members. I had promised to examine this issue in terms of the Constitutional provisions and Rules and Practices followed in the House.

The practice following so far in the House has been that the cut motions in respect of Demands for Grants which are to be guillotined are not circulated and thus not allowed to be moved. But, I did not find any rule which bars the moving of cut motions on demands which are not discussed in the House.

The right to move a cut motion flows from the power vested in the House under article 113 of the Constitution to assent to any demand subject to a reduction of the amount specified in that demand. This article or any of the Rules does not make any distinction between the demands which are discussed in the House and those which are guillotined. Article 113 uses the words 'Any Demand'. It is thus clear that cut motions can be moved on all demands submitted to the House under article 113(2).

I have given careful consideration to this rules as well as the practice that has been followed all these years in respect of cut motions. I have also examined the constitutional provision which vests the power in the House of the People to reduce any demand submitted to the House. Constitutional right of the members of the House provided in the Constitution which cannot be curtailed. I am, therefore, allowing the cut motions to be moved on demands which are to be guillotined.

Lists of Cut Motions to the Outstanding Demands of various Ministries/Departments have already been circulated. In the normal course, members are given 15 minutes' time to send slips at the Table indicating the serial number of the Cut Motions which they intend to move. However, in the present case, since it is not possible to give time to the members to send slips at the Table indicating the serial number of the Cut Motions they would like to move, all the Cut Motions to the Outstanding Demands for various Ministries/Departments, for which notices have been given and which have been circulated, will be treated as moved. And, these cut motions will be disposed of before the Outstanding Demands are put to the vote of the Houses."

96. *Op. cit.,* 16-3-1921, p. 1147.

97. *L.S. Deb.,* 24-9-1955, cc. 15107-09; 5-3-1959, cc. 4649-50.

98. *L.A. Deb.,* 27-2-1936, pp. 1747-48.

99. During the Fifth Session of the Eighth Lok Sabha, a member from the ruling party tabled a cut motion to Demands for Grants (Commerce) which was circulated but the member did not move his cut motion when the Chair made the announcement to that effect. During the second Session of the Eleventh Lok Sabha, a member belonging to a party supporting the Government from outside tabled notices of cut motions on 30-8-1996 to the Demands for Grants relating to Ministry of Rural Areas and Employment. His cut motions were circulated. On 9 September 1996, the member moved his cut motions but withdrew the same by leave of the House, before the Demands of the Ministry were put to vote.

100. *L.S. Deb.,* 2-5-1962, c. 2180; 22-6-1967, c. 7012; 29-3-1977, c. 124.

Circulation of Annual Reports/Performance/ Outcome Budgets of Ministries

In connection with the discussion on the Budget, copies of annual reports of Ministries are made available to members. These reports give the necessary information as to the performance of the Ministry during the current year and background of its working as also the programme for the next financial year. These reports are very informative and useful and are in fact, supplementary for the speech which each particular Minister would have been required to make while moving his demand by way of justifying it.

The annual reports are usually made available to members after the presentation of the Budget, but before the demands relating to a particular Ministry are discussed in the House. With the introduction of the Departmentally Related Standing Committees, the copies of annual reports and Performance/Outcome Budgets are also made available to these Committees in connection with the consideration of Demands for Grants[101].

On a complaint made in the House that the annual report of the Ministry of Commerce and Industry, the Demands for Grants for which were being discussed, had not been circulated to members but only the summary of activities was made available to them, the Speaker observed:

> Ministers may ensure that by the time the general discussion takes place, all the reports are in the hands of members because the general discussion will not be useful unless the various reports are available to members. All the members may not be interested in every subject, but general discussion is intended to cover all the subjects[102].

During the Seventh Session of Fifteenth Lok Sabha, Demands for Grants and Outcome Budget of the Ministry of Rural Development were included in the List of Business for discussion and laying, respectively, on 14 March 2011. Copies of Annual Report (English version only) were provided by the Ministry on the same day and were given to members through the Publications Counter. The position was brought to the notice of the Speaker, who before Demands for Grants of the Ministry were taken up for discussion, observed that in future Government should ensure that the annual reports , outcome budgets and the detailed Demands for Grants of the Ministries, which were to be discussed, be made available to the members sufficiently in advance so that they get enough time to study them[103].

> Till year 2013, Ministries/Departments were requested to supply 470 copies (English version) and 300 copies (Hindi version) respectively, of Annual Reports for distribution to Members and use by the Lok Sabha Secretariat. However, keeping in view steps taken to encourage use of less paper, this requirement was reduced to 330 copies (E.V.) and 210 copies (H.V.) for the Budget Session, 2015, which was further reduced to 150 copies (E.V.) and 100 copies (H.V.) for the Budget Session, 2016. During Budget Session, 2016, Hon'ble Speaker

101. Rule 331G.

102. *L.S. Deb.*, 19-3-1958, cc. 5633-34; 8-3-1963, c. 2984.

103. *L.S. Deb.,* 14-3-2011.

decided[104] that only 70 copies each of both the versions of Annual Reports may be requisitioned from the Ministries. Out of these:

(a) 10 copies each in English and Hindi versions to be kept in Parliament Library for consultation by Members;

(b) 28 copies each of both versions to be kept at the Publications Counter for supply to Members on demand; and

(c) Two copies each of both versions to be supplied to Party Offices for consultation by Members.

In the year 1969, on the basis of the recommendations of the Administrative Reforms Commission, a system of performance budgeting by Ministries handling development programmes was introduced. Performance Budget of a Ministry/ Department presented the Budget position in terms of functions, programmes and activities. Copies of the Performance Budgets received from the respective Ministries/ Departments were made available to members in connection with discussion on the Demands for Grants.

As certain weaknesses had crept in the performance budget documents, the Ministry of Finance in the year 2006 introduced the concept of Outcome Budget which broadly indicated the physical dimension of the financial budgets in terms of actual physical performance of the previous year, performance of the first nine months of the current year and targeted performance for the ensuing year. Accordingly, on 25 August 2005, the Minister of Finance laid before the House for the first time Outcome Budget 2005-06 in respect of the various Ministries and Departments. In March 2006 both the Outcome Budget 2006-07 and Performance Budget 2005-06 of the various Ministries/ Departments were laid before the House separately by the Ministers concerned. The Ministry of Finance, in December 2006, merged the Performance Budget with the Outcome Budget. Accordingly, beginning with the Budget, 2007-08, a single document titled Outcome Budget of the various Ministries and Departments is being made available to members in connection with the discussion on the Demands for Grants. Before the commencement of the Budget Session, all Ministries/Departments of Government are requested to ensure that copies of the Annual Reports and Performance/Outcome Budgets of Ministries are made available to the Lok Sabha Secretariat sufficiently in advance so that these may be circulated to members a week before the Demands for Grants of concerned Ministries are taken up for discussion.

However, in year 2017, no separate Outcome Budgets for the Ministries/ Departments were laid on the Table of the House. Instead, the Ministry of Finance submitted along with the Budget papers, a single consolidated document titled, Outcome Budget, 2017-18 comprising financial details of all the Ministries/ Departments of Government of India. In preface to the Outcome Budget, 2017-18, the Ministry of Finance giving reasons for consolidating Outcome Budgets of all the Ministries/Departments, stated as follows:

"From the year 2017-18 onwards, it has been decided that the output and

104. *See Bn. (II)*, 24.11.2016, para 4408.

outcomes of the schemes of 68 Ministries and Departments will be available along with the financial outlays as a part of the Budget documents, so that clearly defined objectives and goals for each scheme can be seen by all. The present budget, therefore, makes a significant departure from the past and presents (a) the financial outlay for the year 2017-18 along with (b) the output and deliverables and (c) the projected medium term outcomes for each Scheme/Project in a single, consolidated document. This will significantly enhance transparency, predictability and ease of understanding of the Government's development agenda."

Vote on Account

The Constitution provides for vote on account, *i.e.* for grants in advance to be made by the Parliament to enable the Government to carry on until the voting of the Demands for Grants and the passing of the general Appropriation Bill[105].

The procedure of vote on account was for the first time provided for in the Constitution. In its absence, the result was that after the presentation of the Budget and the introduction of the Finance Bill on the last day of February, both had perforce to be passed by the House before the end of the financial year, *i.e.* 31 March, so as to provide the Government with the funds necessary for the following year and to authorise the Government to implement the taxation measures therefor. This system limited the time available to the House for a proper and satisfactory consideration of the Budget. Moreover, the system was inelastic and left very little time for adjusting the programme. Considerable difficulty was experienced if any urgent legislative measure had to be taken up when the Budget discussions were in progress. With the introduction of the vote on account not only the programme has become elastic but members also get sufficient time to study, scrutinize and discuss in detail over an adequate period of time the annual financial proposals.

Normally the vote on account is taken for two months only. But during an election year or when it is anticipated that the main demands and the Appropriation Bill will take longer than two months to be passed by the House, the vote on account may be for a period exceeding two months and may extend to three or four months.

In March, the Lok Sabha is asked to vote provisionally about one-sixth, or other suitable proportion as the case may be, of the estimated expenditure under various grants. For this, and for a similar amount in respect of charged expenditure, the necessary Appropriation Bill is passed. The detailed discussion on the demands is then taken up conveniently and voting of the demands together with the passing of the general Appropriation Bill is completed before the session concludes[106].

Vote on account is formal business and as such there is normally no discussion in the House thereon, the idea being simply that Government functions should not come to a standstill because of the absence of the vote of the House authorising the expenditure[107]. On the day on which the vote on account is taken up in the House, other

105. Art. 116(1) (a) and (2)

106. *P. Deb., (II)*, 12-3-1951, cc. 4351-53; *L.S. Deb.,* 9-3-1954. c. 1591; 14-3-1975, cc. 282-83.

107. *Ibid.*

legislative business may also be put down on the agenda.

As a convention, vote on account is normally passed without discussion. The Speaker may, however, allow some questions to be asked and answers given so as to explain to the House what exactly the members are called upon to vote[108].

> The Speaker has observed that a vote on account was only for an interim period and that members would have an opportunity for discussing the demands later. If necessary, members might be allowed to ask questions eliciting explanation at the time the motion for vote on account was made[109].

The convention that there will be no discussion on vote on account is not in contravention of the Constitution.

Where the vote on account is taken for more than two months, and there is a time gap between the vote on account and the discussion on the main demands, a discussion of the policy relating to the Demands for Grants on account is permitted and cut motions are allowed to be moved to these demands[110].

As the purpose of a vote on account is to keep the Government functioning, pending the voting of the final Demands, it cannot normally be used as a means to obtain Parliament's approval for "new services". An assurance to the effect that the provision obtained by vote on account will not be used for expenditure on "new services" is, therefore, usually included by the Government in the prefatory note to the relevant Book of Demands relating to the Vote on Account.

Normally, no amount should be drawn from the Contingency Fund to meet the expenditure on a "New Service" while the Lok Sabha is in session and every attempt should be made to get the prior approval of the Lok Sabha by including the amount in the annual financial statement or the Supplementary Demands for Grants pertaining to that year. However, in exceptional cases, when withdrawal of advance from the Contingency Fund becomes inevitable owing to some procedural difficulties like the one that money drawn on 'Vote on Account' cannot be used for expenditure on a 'New Service', Government should first circulate to members a statement giving details of the scheme for which money is needed and the circumstances under which approval of Parliament cannot be obtained in the normal course. Thereafter, a resolution should be brought before the House by the Minister concerned authorising the Government to withdraw a specified amount from the Contingency Fund of India pending voting on Demands for Grants and enactment of the Appropriation Bill[111].

This procedure has, however, undergone change with the decision that it may not be necessary for the Government to bring a resolution before the Lok Sabha authorising them to withdraw a specified amount from the Contingency Fund of India

108. *L.S. Deb.,* 11-3-1958. cc. 4331-40.

109. *Ibid.,* 5-5-1958, cc. 13107-31.

110. *P. Deb., (II),* 26-2-1952, cc. 1283-84 and 1286; *L.S. Deb.,* 26-3-1957, c. 824; 24-3-1962, c. 1713; 29-3-1977, cc. 120-25.

111. Third Report of the Committee on Papers Laid on the Table, 1976-77 (Fifth LS).

for expenditure on a 'New Service' even at a time when the Lok Sabha is in session. It is for the Government to decide in what cases it would be necessary to withdraw advance from the Contingency Fund for expenditure on a 'New Service' when the Lok Sabha is in session. As far as possible, before such withdrawal is made, the concerned Minister may make a statement on the floor of the House giving details of the amount and the scheme for which money is needed. In emergent cases, however, where it is not possible to inform the members in advance, the withdrawal may be made from the Contingency Fund and soon thereafter a statement may be laid on the Table of the House for the information of the members[112].

The recommendation of the President is not required for moving the motions regarding the Demands for Grants on account, as these demands form part of the main demands in respect of which his recommendation has already been obtained.

However, with the Budget for 2017-18, the date for presentation of the Budget has been advanced to 1st February to enable Parliament to avoid a Vote on Account and pass the Appropriation Bill before close of the financial year.

Supplementary, Additional or Excess Grants

If the amount authorised to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the Budget for that year, or if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year, the President causes to be laid before both the Houses of Parliament another statement showing the estimated amount of that expenditure or causes to be presented to the Lok Sabha a demand for such excess, as the case may be[113]:

> Demands for money already spent in excess of the voted grant are not, therefore, made by way of a supplementary grant but in the form of an excess grant[114], and demands for excess grants have to be presented to the House in the session in which the Public Accounts Committee presents its report thereon or in the following session[115]. Expenditure incurred during the previous financial year cannot be regularised by Parliament by supplementary Demands for Grants for the current year[116].

Supplementary, additional, excess or exceptional grants and votes of credit[117] are regulated by the same procedure as is applicable in the case of Demands for Grants (main Budget) subject to such adaptations, whether by way of modification, addition or omission, as the Speaker deems necessary or expedient[118].

112. Fourth Report of the Committee on Papers Laid on the Table (Sixth LS).

113. Art. 115 (1).

114. *L.A. Deb.,* 16-3-1929, pp. 1989-90; *L.S. Deb.,* 31-8-1974 cc. 156-57; 2-9-1974 c. 109.

115. *L.S. Deb.,* 26-8-1968, cc. 1773-78.

116. *Ibid.,* 31-8-1974, cc. 70-78; 2-9-1974, c. 107.

117. *See* Arts. 115 and 116; Additional and exceptional grants and votes of credit have not been moved in the Lok Sabha so far since the Constitution came into force.

118. Rule 215.

Books of Demands for Grants

After the presentation of the supplementary or excess Demands for Grants, as the case may be, the Books of Demands of Supplementary or Excess Grants, are electronically circulated to Members through Member's Portal. These Books provide details of the expenditure, the overall cost of a project for which money is being asked for, and its break-up in broad details for the information of Parliament, even though Parliament's approval is sought only for a portion of the expenditure to be incurred either on the project or a phase of it[119].

Discussion on Supplementary or Excess Demands

When the supplementary or excess demands[120] are taken up in the House for discussion, the Minister concerned does not formally move any motion regarding these demands; the demands are deemed to have been moved and are placed before the House by the Speaker. Sometimes, the Minister makes a few observations to indicate to the House as to what the overall excess or supplementary demand is and what are the major heads under which he wants those demands and the reasons in support of those demands[121]. In the case of a supplementary demand for grant, the Minister concerned is required to give general information to the House as to the necessity for the demand[122].

There have been instances where, subsequent to the presentation of the supplementary Demands for Grants to the House, a demand was either not moved or alterations were made in the demand with the permission of the Speaker, and where required, with the necessary recommendation of the President[123]. In these cases, the Minister concerned had made explanatory statements on the floor of the House when the demands were taken up for discussion.

Supplementary Demands for Grants presented on different dates during two sessions of the House have been taken up for discussion and voting together, and the amounts voted incorporated in one Appropriation Bill.

The debate on the Supplementary Demands for Grants is confined to the items constituting the same and no discussion can be raised on the original grants nor on the policy underlying them save in so far as it is necessary to explain or illustrate the particular items under discussion[124]. In respect of schemes which have already been sanctioned in the main Budget, no discussion on any question of principle or policy is allowed. As regards demands for which no sanction has been obtained, the question of policy has to be confined to the items on which the vote of the House is sought[125].

119. Where necessary, the Minister concerned may, with the permission of the Speaker, make a statement on the floor of the House correcting an error in the footnotes in the Book of Demands for Grants.

120. It would be appropriate to present the Supplementary Demands for Grants before the freights and fares are raised by the Railway Minister through a statement regarding Railway financial matters.

121. *P. Deb.,* 20-2-1951, cc. 3156-57.

122. *Ibid.,* 29-9-1951, c. 3755.

123. *L.S. Deb.,*10-12-1955. cc. 2235-46 and 2269-71; 19-7-1957, cc. 4335-36; 3-3-1958, c. 3210; 11-12-1958, cc. 4556-57; 6-3-1961, cc. 3374-75; 20-3-1962, c. 1153; 19-3-1969, cc. 159-60.

124. Rule 216; *L.S. Deb.,* 7-12-1971, cc. 40-45; 14-12-1971, cc. 12-13; 15-1-1976, cc. 193-218.

125. C.A. (Leg.) *Deb.,* 31-3-1948, pp. 2841-42; *L.A. Deb.,* 27-3-1935, pp. 2859-70; *P. Deb.,(II),*

General grievances cannot be ventilated on a supplementary grant. A member can only say whether the supplementary demand is necessary or not[126].

During discussion on excess Demands for Grants, it is open to members to say that money has been spent unnecessarily or that it ought not have been spent; beyond that there is no scope for a general discussion[127].

Notices of motions received in a session in respect of supplementary Demands for Grants or excess Demands for Grants which have been presented but not moved in that session lapse on the prorogation of the House and fresh notice is required for the next session.

Cut motions to supplementary or excess Demands

The procedure regarding the notice, admissibility and circulation of cut motions to supplementary or excess Demands for Grants is the same as in the case of cut motions to the main Demands for Grants, except that—

cut motions which are extraneous to the subject matter of the supplementary or excess demand are out of order[128], and cut motions to supplementary or excess Demands for Grants going into matters of policy underlying a demand are out of order[129], unless the demand relates to a "new service", *i.e.* a service which was not contemplated at the time of the Budget[130].

However, in view of the emergency, certain cut motions relating to "disapproval of policy" in respect of supplementary Demands for Grants (General) 1962-63, were admitted and circulated during the Third Session of the Third Lok Sabha, though the demands to which those cut motions related did not contemplate expenditure on 'new service'. It was considered that the supplementary demands were of extraordinary nature as the emergency owing to which the extra money was asked for was not present when the main demands for 1962-63 had been discussed and voted.

Token Grants

When funds to meet proposed expenditure on a "new service" can be made available by reappropriation, a demand for the grant of a token sum is submitted to the vote of the House and, if the House assents to the demand, funds are so made available[131].

Appropriation Bills

No money can be withdrawn from the Consolidated Fund of India except under appropriation made by law[132]. Consequently, as soon as the grants have been made by

20-2-1951, c. 3196; *H.P. Deb.,* 8-12-1952, cc. 1830-31 and 1835; 12-12-1952. c. 2156 and 2197; *L.S. Deb.,* 16-12-1954, c. 3068.

126. *L.A. Deb.,* 28-3-1944. p. 1635; 24-2-1961, cc. 1861-62.

127. *L.S. Deb.,* 25-4-1960, cc. 13581-82**.**

128. *Ibid.,* 6-3-1959, c. 4836; 4-5-1959, c. 14805; 2-12-1959, cc. 2976-84; 16-8-1960, cc. 2675-78; 15-11-1962, c. 1766.

129. *H.P. Deb.,* 8-12-1952, cc. 1830-31 and 1835; *L.S. Deb.,* 10-12-1955, cc. 2193-2205.

130. *L.S. Deb.,* 24-8-1959, c. 4097.

131. Rule 217.

132. Art. 114.

the House, a Bill is introduced to provide for the appropriation out of the Consolidated Fund of India of all moneys required to meet the grants made by the House and the expenditure charged on the Consolidated Fund of India, but not exceeding in any case the amount shown in the Statement previously laid before Parliament[133].

Pursuant to the observation of the Chair ruling out inclusion of expenditure incurred in the previous year for regularisation through Supplementary Demands for Grants in the following year, a fresh Appropriation Bill in substitution of an earlier Bill was brought forward by the Government[134].

Ordinarily, no Bill is included for introduction in the List of Business until copies thereof have been made available to members at least two days before the day on which the Bill is proposed to be introduced. An exception is, however, made in the case of Appropriation Bills which may be introduced without prior circulation of copies to members[135].

The motion for leave to introduce an Appropriation Bill cannot be opposed, as the Bill is introduced only after the relevant demands have been voted by the House[136]. Such a motion is forthwith put to the vote of the House[137]. An amendment to an Appropriation Bill for omission of a certain demand is out of order on the ground that the demand has already been voted by the House[138].

By convention, Bills are not put down for consideration and passing on the same day on which they are introduced in the House. However**,** the Speaker normally allows the Appropriation Bills to be introduced, considered and passed on the same day on specific request made by the Minister[139].

When notice for introduction of an Appropriation Bill has been received from a Minister and a new Council of Ministers takes over before the Bill is actually introduced and the same Minister retains his old portfolio, fresh notice for introduction, consideration and passing of the Bill is obtained from the Minister[140].

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133. *Ibid*.

134. *L.S. Deb.,* 2-9-1974, c. 107; 6-9-1974, c. 78; Bn. (II). 5-9-1974, para 1926.

135. Dir. 19 B.

136. *L.S. Deb.,* 14-3-1969, cc. 301-02.

137. Rule 72, second proviso.

138. *L.S. Deb.,* 18-3-1970, c. 261.

139. *See,* for example, Appropriation (Vote on Account) Bill, 1960-*L.S. Deb.,* 10-3-1960; Appropriation Bill, 1962—*L.S. Deb.,* 19-3-1962; Appropriation (Railways) Vote on Account Bill, 1971— *L.S. Deb.,* 25-3-1971; Appropriation (No. 2) Bill, 1971—*L.S. Deb.,* 21-7-1971; Punjab Appropriation (No. 2) Bill, 1971—*L.S. Deb.,* 14-12-1971; Appropriation (Railways) No. 4 Bill, 1974—*L.S. Deb.,* 9-9-1974; Tamil Nadu Appropriation (Vote on Account) Bill, 1977—*L.S. Deb.,* 30-3-1977. During the Second Session of the Seventh Lok Sabha, twenty-four Appropriation Bills, *i.e.* two Appropriation Bills relating to General Budgets and 20 Appropriation Bills relating to Budgets of 10 States, *viz.,* Assam, Bihar, Gujarat, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu and Uttar Pradesh, all under President's Rule, were allowed to be considered and passed on the same day on which the Bills were introduced, after relevant demands were voted—*L.S. Deb.,* 12-3-1980, 17-3-1980, 15-3-1980, 17-3-1980, 18-3-1980, 29-7-1985 & 7-8-1985, the Appropriation (Vote on Account) Bill, 2013 and the Appropriation (Railways) Vote on Account Bill, 2013.

140. During the Fourth Session of the Eleventh Lok Sabha, Ram Vilas Paswan, Minister of Railways and P. Chidambaram, Minister of Finance in H.D. Deve Gowda's Government gave notices for introduction, consideration and passing of the Appropriation (Railways) No. 3 Bill, 1997 and the Appropriation

Scope of Discussion

The debate on an Appropriation Bill is restricted to matters of public importance or administrative policy implied in the grants covered by the Bill and which have not already been raised while the relevant Demands for Grants were under discussion[141].

The various points that have been discussed at length during the course of the debates relating to the various Demands for Grants cannot be the subject matter of discussion on Appropriation Bill[142].

Subjects on which cut motions were moved and negatived during the discussion on Demands for Grants are not permitted to be discussed again during the discussion on Appropriation Bills[143].

Whatever is not relevant to the discussion on Demands for Grants is also not relevant to the debate on the Appropriation Bills[144].

Matters of detail are not gone into during the discussion on an Appropriation Bill[145].

The Speaker may, in order to avoid repetition of debate, require members desiring to take part in discussion on an Appropriation Bill to give advance intimation of the specific points they intend to raise, and he may withhold permission for raising such of the points as in his opinion appear to be repetitions of the matters discussed on a Demand for Grant or as may not be of sufficient public importance[146]. When a member raises certain points with the permission of the Speaker on the motion for consideration of an Appropriation Bill, the Minister concerned must be present in the House to answer those points[147]. The Speaker has observed: "I think in future, we should have a separate notice for each Ministry. If they are directed to separate Ministries, there should be separate notices. These notices which come before 10 o'clock will be sent to the Ministers concerned and those Ministers will then be required to be present"[148].

If an Appropriation Bill is in pursuance of a supplementary grant in respect of an existing service, the discussion has to be confined to the items constituting the same, and no discussion can be raised on the original grant nor the policy underlying it

(No. 3) Bill, 1997, respectively. Both the Bills were printed and circulated to members. Before the Bills were introduced, a new Government under I.K. Gujral was formed. Though both Ministers retained their old portfolios, fresh notices for introduction, consideration and passing were obtained from these Ministers in respect of the said Bills which were subsequently passed.

141. Rule 218 (2).

142. *H.P. Deb., (II)*, 7-4-1953, cc. 3879-80; 8-4-1953, cc. 3921-22.

143. *Ibid.,* 8-4-1953, c. 3923.

144. *Ibid.,* 12-12-1952, c. 2205.

145. *L.S. Deb.,* 29-5-1957, cc. 2664-67.

146. Rule 218 (3); *H.P. Deb., (II),* 3-7-1952, cc. 3131-32; 4-7-1952, cc. 3217-19; 12-12-1952, c. 2205; *L.S. Deb.,* 9-8-1957, c. 1755; 24-8-1957, cc. 9876-85; 25-2-1960, cc. 2747-48; 12-3-1958, cc. 4530-31; 20-4-1961, cc. 12675-80; 4-5-1993, cc. 867-68.

147. *L.S. Deb.,* 25-2-1960, c. 2747; 29-4-1974, cc. 455-76.

148. *Ibid.,* 29-4-1975, cc. 411-14; Also *see*, 2-5-1975, cc. 226-27.

save in so far as it is necessary to explain or illustrate a particular item under discussion[149].

Amendments

No amendment can be proposed to an Appropriation Bill, which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of India, and the decision of the Speaker as to whether such an amendment is inadmissible is final[150].

The rest of the procedure in regard to Appropriation Bills is the same as for Bills with such modifications as the Speaker may consider necessary[151].

An amendment to an Appropriation Bill for omission of a demand already voted by the House is out of order. However, an amendment to an Appropriation Bill which does not vary the amount or alter the destination of any grant or vary the amount of any expenditure charged on the Consolidated Fund but is only of a clarificatory nature is in order[152].

Finance Bill

'Finance Bill' means the Bill ordinarily introduced in each year to give effect to the financial proposals of the Government of India for the next following financial year and includes a Bill to give effect to supplementary financial proposals for any period[153]. However, it does not contain provisions intended to make permanent changes in the existing laws unless they are consequential upon or incidental to the taxation proposals[154].

The provisions of the Finance Bill relating to imposition or increase in duties of customs or excise come into force immediately on the expiry of the day on which the Bill is introduced by virtue of a declaration to this effect which is usually contained in the Finance Bill.

149. Rule 218 (4).

150. Art. 114(2); *see* also *P. Deb., (II)*, 23-2-1951, c. 34055.

151. Rule 218 (1).

152. *L.S. Deb.,* 18-3-1970, cc. 259-60.

153. Rule 219 (1).

154. *L.S. Deb.,* 7-12-1956, cc. 2080-2105: 1-5-1970. cc. 216-49; 4-5-1970, cc. 265-68.

During Tenth Session of Fifteenth Lok Sabha, Finance Bill, 2012 was introduced on 16 March 2012. Clauses 146-150 contained in Chapter VI of the Bill sought to amend the Fiscal Responsibility and Budget Management Act, 2003 (FRBM Act). Opinion of Ministry of Finance was sought *inter alia* on whether it was constitutionally or legally necessary to introduce these amendments as part of the Finance Bill or amendments could be brought in a separate Bill. In its reply, the Ministry merely cited Finance (No. 2) Bill, 2004 as precedent whereby amendments to FRBM Act were made.

During discussion on the motion for consideration of the Bill, on a point of order raised by a member, the Chair ruled:

> "The point raised by the Hon'ble member is already in the notice of the Hon'ble Speaker. She had directed that the Ministries should, as far as possible, avoid drafting of Bills of hybrid nature by separating taxation measures including levy of less from other matters unless it becomes impossible on constitutional or legal grounds to do so. The point of order is accordingly disposed of."

Ministry of Finance was asked to ensure that directions of Speaker regarding separation of taxation measures from other measures while drafting Bills are complied with—L.S. *Deb*., 8.5.2012, cc. 891-92.

The Finance Bill is introduced immediately after the presentation of the Budget by the Minister of Finance in the last week of February every year[155]. The motion for leave to introduce a Finance Bill cannot be opposed; it is forthwith put to vote[156]. Usually, one Finance Bill is introduced in a financial year. But in the election years, as the Budget is presented twice, two Finance Bills are introduced—one in the outgoing Lok Sabha and another in the new Lok Sabha, or once in the First Session of the[157] new Lok Sabha and another in its Second Session.

Even otherwise, more than one Finance Bill may be introduced, considered and passed during a financial year. A Finance Bill should,[158] however, be preceded by the Demands for Grants and the connected Appropriation Bill and the sequence in regard to Budget, as provided in articles 112 to 115 of the Constitution, should be followed[159].

A Finance Bill containing taxation proposals for the next financial year has been passed in the previous calendar year[160].

At any time, after the introduction in the House of a Finance Bill, the Speaker may allot a day or days, jointly or severally, for the completion of all or any of the stages involved in the passage of the Bill by the House[161], but as per actual practice, the allocation of time is recommended by the Business Advisory Committee and is subsequently approved by the House. When such allotment of time has been made[162], the Speaker, at the specified hour on the allotted day or the last of the allotted days, as the case may be, forthwith puts every question necessary to dispose of all the outstanding matters in connection with the stage or stages for which the day or days have been allotted[163].

In case a Minister has to reply to the debate on a motion, which is under discussion, an hour before the specified hour on that day, and has not commenced his reply at that hour, the Speaker, after enquiring from the Minister as to how much time, in any case not exceeding one hour, he would require for his reply, calls upon the member, for

155. On 28 February 1970, after the motion for leave to introduce the Finance Bill, 1970, was adopted, the Speaker, amidst interruptions, adjourned the House till 2 March 1970, before the Prime Minister could introduce the Bill. In view of the special circumstances and the fact that unless the Finance Bill was introduced, taxes which were to be collected from that midnight under Provisional Collection of Taxes Act, 1931, could not be collected, although they had been made public, the Speaker, exercising powers under Proviso to Rule 15, directed that the Lok Sabha would meet at 22.00 hours that day. The House accordingly met at 22.00 hrs. and the Prime Minister who was then also holding the portfolio of Finance introduced the Finance Bill at 22.55 hrs. that day. *L.S. Deb.,* 28-2-1970, cc. 1-22.

156. Rule 72, second proviso; *L.S. Deb.,* 28-2-1974. cc. 311-13

157. *L.S. Deb.,* 28-2-1970, cc. 30-32.

158. *L.A. Deb.,* 4-11-1931, p. 1575.

159. *See* also, details of all the expenditure, Demands for Grants and Appropriation Bill must be presented to the House before Finance Bill is sought to be passed. The sequence laid down in the Constitution in respect of articles 112, 113, 114 and 115 should be maintained in this regard,— *L.S. Deb.,* 12-8-1974, cc. 238-41. *L.S. Deb.,* 7-12-1956, cc. 2079-2105; 7-8-1974, cc. 287-93; 8-8-1974, cc. 177-201.

160. *L.S. Deb.,* 7-12-1956, cc. 2079-2132; 6-5-1969, c. 372.

161. Rule 219 (2).

162. Rule 219, as modified *vide* L.S. Bn. (II), 9-5-1989, para 2930; Normally, not more than 15 hours are allotted.

163. *L.S. Deb.,* 21-4-1964, c. 12212.

the time being, addressing the House, to resume his seat at such time as will leave available before the specified hour the amount of time, which the Minister has stated that he would require for his reply.

Where the question or one of the questions required to be put at specified hour on the allotted day or the last of the allotted days is that the Bill be passed, it is put notwithstanding that amendments to the Bill have been made[164].

The Speaker normally prescribes a time-limit for speeches at all or any of the stages of Finance Bill[165].

Scope of Discussion

On a motion that the Finance Bill be taken into consideration, a member can discuss matters relating to general administration, local grievances within the sphere of the responsibility of the Government of India or monetary or financial policy of the Government[166]. A member can discuss any action of the Government of India[167], but actions of a State Government cannot be criticised in the discussion on the Finance Bill[168]. While general criticism of the policy of the Government is permissible[169], discussion in detail of particular estimates is not in order. A member can, however, discuss matters of public policy that contributed to a deficit[170]. General principles underlying the Budget can be discussed but not the details of those principles[171]. In short, the whole administration comes under review but questions which have already been discussed in a previous debate cannot be reopened[172].

The Finance Bill submits to the jurisdiction of the House all the Acts which it deals with and the House can amend all or any of such Acts to the extent they are dealt with in the Finance Bill[173].

Discussion on a clause of the Finance Bill and on amendments thereto, has to be confined to the taxation proposed and to possible alternatives[174].

The Finance Bill containing the annual taxation proposals is considered and passed by the Lok Sabha only after the Demands for Grants have been voted and the total expenditure is known[175]. There is, however, no statutory bar to considering a Bill

164. Rule 219 (3).

165. Rule 219 (4).

166. Rule 219 (5).

167. *L.A. Deb.,* 28-3-1940, pp. 1884-92.

168. *Ibid.,* 27-3-1944, p. 1580.

169. *Ibid.,* 24-3-1927, p. 2706.

170. *Ibid.,* 20-3-1922, p. 3404.

171. *Ibid.,* 15-3-1926, pp. 2494-95.

172. *Ibid.,* 24-3-1927, p. 2717; 22-3-1922, pp. 3599-605.

173. *Ibid.,* 25-3-1931, pp. 2699-700.

174. *Ibid.,* 19-3-1923, p. 3691.

175. On 4 May 1987, a member suggested amendment to sub-rule (2) of Rule 219 of *Rules of Procedure and Conduct of Business in Lok Sabha* with a view to providing that the Finance Bill should be considered and passed before the Appropriation Bill is passed, as he felt that the restriction of putting of all questions relating to Finance Bill at the specified hour on the allotted day or the last day or the allotted

containing permanent taxation measures before the Demands for Grants have been voted[176].

In view of the declaration under the Provisional Collection of Taxes Act, 1931, the Finance Bill has to be passed by Parliament and assented to by the President before the expiry of the seventy-fifth day[177] after the day on which it was introduced.

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days be removed. The Rules Committee (8LS) considered the suggestion and obtained the opinion of the Ministry of Finance in the matter. The Committee agreed with the opinion of the Ministry of Finance and held that the existing sequence of consideration and passing of the Appropriation Bill and Finance Bill had been found to be practically convenient and there was no compelling reason to reverse the sequence. Further, as the Bill sometimes contained wide-ranging changes in tax laws and rates, the interval presently available between the introduction and consideration by Parliament allowed time for discussion among members of the public, industry, trade, etc. and this had been found to be useful.

176. The Wealth Tax Bill, 1957 and the Expenditure Tax Bill, 1957 were introduced in the House along with the Finance Bill, 1957, immediately after the Finance Minister's Budget speech on 15 May 1957. The former two Bills were discussed and referred to the Select Committee on 16 and 17 July 1957, respectively, before the Demands for Grants for the Budget (General), 1957-58 were voted, as these two Bills contained permanent measures.

177. The period was extended from 60 to 75 days in 1964, *vide* the Provisional Collection of Taxes (Amendment) Act, 1964.

The assent of the President to the Finance Bill is obtained by the Secretariat. *See* Chapter 22—'Legislation'.

CHAPTER 30

Parliamentary Committees

A. COMMITTEES IN GENERAL

Parliament transacts a great deal of its business through Committees. These Committees are appointed to deal with specific items of business requiring expert or detailed consideration. The system of Parliamentary Committees is particularly useful in dealing with matters which, on account of their special or technical nature, are better considered in detail by a small number of members rather than by the House itself. Moreover, the system saves the time of the House for the discussion of important matters and prevents Parliament from getting lost in details and thereby losing hold on matters of policy and broad principles.

The Committee system in India can be traced back to the advent of the Montague-Chelmsford Reforms, but the Committees of those days, like the Central Legislative Assembly itself, were not free from governmental control and interference. They had no powers and privileges; they were not the masters of their own procedure; and they could not even frame rules for their internal working.

Standing Orders of the Central Legislative Assembly provided for three Committees, namely, Committee on Petitions relating to Bills[1], Select Committee on Amendments of Standing Orders[2] and Select Committee on Bills[3]. Of these, the Committee on Petitions relating to Bills could be called a Standing Committee of the Assembly. The Indian Legislative Rules, in addition, provided for the constitution of two Committees, *viz.,* a Joint Committee on a Bill[4] and the Committee on Public Accounts[5].

In fact, the Committee on Public Accounts of the Central Legislative Assembly could hardly be termed as a Parliamentary Committee as it did not function under the control of the House or the Speaker. The Committee was presided over by the Finance Member and its secretarial functions were discharged by the Department of Finance[6].

Apart from Committees of the Legislative Assembly, members of both Houses of the Central Legislature also served on the Standing Advisory Committees attached to various Departments of the Government of India. All these Committees were purely advisory in character and functioned under the control of the Government, and the Minister in-charge of the concerned Department acted as the Chairman of the Committee.

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1. Legislative Assembly Standing Orders, S.O. 80.
2. *Ibid.,* S.O. 56.
3. *Ibid.,* S.O. 40.
4. After a resolution was passed by one House to commit a Bill to a Joint Committee of both the Houses and on the other House having concurred in, each House appointed an equal number of members from amongst its members to serve on the Joint Committee.
5. Indian Legislative Rules, Rules 42 and 51.
6. For detailed information regarding its emergence as a Parliamentary Committee, *see* this Chapter, under the heading "Public Accounts Committee".

After the Constitution came into force, the position of the Central Legislature changed altogether and the Committee system too underwent transformation. Not only did the number of Committees increased but their functions and powers were also enlarged.

A Parliamentary Committee is appointed or elected by the House or nominated by the Speaker[7]; it works under the direction of the Speaker and presents its report to the House or to the Speaker, and the secretarial work for it is done by the Secretariat[8]. The question whether a Committee which does not satisfy all these conditions is a Parliamentary Committee or not is referred to the Speaker whose decision is final[9].

Committees of the Lok Sabha

The Lok Sabha possesses an organised system of Committees[10]. Appointment, term of office, functions and main lines of procedure for conducting business of the Committees are regulated under the provisions of the Rules and the Directions by the Speaker[11] issued under those Rules. There are three sets of rules relating to Parliamentary Committees: 'General Rules'[12], which are applicable to all the Committees; 'Specific

7. Thus, a Parliamentary Committee may be constituted either under the provisions of the Rules or in pursuance of an Act of Parliament [*e.g.* the Joint Committee on Salaries and Allowances of Members of Parliament, Joint Committee on Judges (Inquiry) Rules], or a motion or resolution adopted by the House [*e.g.* the Committee on Bretton Woods Conference, 1946; the Committee on the Conduct of a Member (Mudgal Case, 1951); the Committee on the Conduct of certain members during President's Address (1963); Joint Committee on Salary, Allowances and Other Amenities to Members of Parliament (1968); the Committee on the Welfare of Scheduled Castes and Scheduled Tribes (1968); the Committee on the Conduct of a Member during President's Address (1971); Joint Committee on Amendments to Election Law (1971); Joint Committee of the Houses to examine the question of the working of Dowry Prohibition Act, 1961 (1980); Joint Committee to enquire into Bofors Contract (1987); Select Committee on the Constitution (Seventy- first Amendment) Bill, 1990; Joint Committee on Pre-Natal Diagnostic Technique (Regulation and Prevention of Misuse) Bill, 1991; Joint Committee on the Constitution (Seventy-second Amendment) Bill, 1991; Joint Committee on the Constitution (Seventy-third Amendment) Bill, 1991; Joint Committee on Copyright (Second Amendment) Bill, 1992; Joint Committee to Enquire into Irregularities in Securities and Banking Transactions (1992); Joint Committee on the Constitution (Eightieth Amendment) Bill, 1993; the Representation of People (Amendment) Bill, 1993; Select Committee on the Transplantation of Human Organs Bill, 1993; Select Committee on the Constitution (Scheduled Tribes) Order (Amendment) Bill, 1996; and Joint Committee on the Constitution (Eighty-first Amendment) Bill, 1996]; or under the inherent powers of the Speaker. Examples of the last category are: General Purposes Committee; House Committee; Inscriptions Committee; Committee to Fix Hindi Equivalents; Committee to examine the Working of Catering Establishments in Parliament House (1973); Study Committee on Sports (1976); Committee on the Use of Language (1978); and Committee of Members of Parliament to bring about reconciliation between Nirankaris and Akalis (1983), which worked under the directions of the Chairman, Rajya Sabha.

8. Rule 2(1).

9. On a request made by the Home Minister, an *ad hoc* Committee of the two Houses was constituted with the Speaker as its Chairman to examine the demand for *Punjabi Suba* to assist a Cabinet Committee in arriving at a satisfactory settlement of the question. When a question was raised in the House whether report of the *ad hoc* Committee would be submitted to the Government or to the House, the Speaker observed:

   The report of a Committee of members of Parliament of which the Speaker is the Chairman is presented to Parliament and not to the Government—*L.S. Deb.,* 1-3-1986, c. 3072.

10. Also *see* Subhash C. Kashyap: *Our Parliament,* National Book Trust, New Delhi. 1989, Chapter II; *Parliament of India-Myths and Realities,* New Delhi, 1988, pp. 192-208 and 'Committees in the Indian Lok Sabha' in J.D. Lees and Malcolm Shaw, *Committees in Legislatures,* Duke University Press, 1979, pp. 288-326.

11. Dirs. 48-108A.

12. Rules 253-86.

Rules'[13], which make special provisions for particular Committees; and 'Internal Rules'[14], which regulate the internal procedure of each Parliamentary Committee. 'Internal Rules' are made by the Committees themselves with the approval of the Speaker and are in the nature of detailed working procedure and are framed in conformity with the provisions of the "Rules" and "Directions".

Broad Classification: Committees of the Lok Sabha may be broadly classified into:

Standing Committees and *ad hoc* Committees.

The Standing Committees in terms of their functions can further be divided under five broad headings[15]:

Committees to inquire *(e.g.* Committee on Petitions and Committee on Privileges);

Committees to scrutinize *(e.g.* Committee on Government Assurances and Committee on Subordinate Legislation);

Committees relating to the day-to-day business of the House *(e.g.* Committee on Absence of Members from the Sittings of the House, Business Advisory Committee, Committee on Private Members' Bills and Resolutions, Rules Committee and Committee on Papers Laid on the Table);

Committees concerned with provision of facilities to members *(e.g.* General Purposes Committee, House Committee and Library Committee); and

Committees to control financial and administrative powers of the Government *(e.g.* Committee on Estimates, Committee on Public Accounts and Committee on Public Undertakings).

These Committees have been constituted in terms of the Rules, and are reconstituted annually or at other interval, as the case may be, depending upon the tenure of the individual Committees.

In addition to these, there are other Standing Committees, *viz.* the Joint Committee on Salaries and Allowances of Members of Parliament which has been constituted under the Salaries and Allowances of Members of Parliament Act, 1954[16] the Joint Committee on Offices of Profit, which is constituted on a motion adopted by the Lok Sabha and concurred in by the Rajya Sabha at the beginning of each Lok Sabha[17] the Committee on the Welfare of the Scheduled Castes and the Scheduled Tribes[18] Committee on Welfare of Other Backward Classes, twenty-four Departmentally Related Standing Committees[19] and Committee on Empowerment of Women, to which members of both Houses are elected/nominated. On these Committees, members of both Houses serve jointly.

13. Rules 287-331Q.
14. Framed under Rules 282.
15. *First Parliament* (1952-1957): A Souvenir, p. 92.
16. The Joint Committee on Salaries and Allowances of Members of Parliament was appointed for the first time on 6 September, 1954 in pursuance of section 9(1) of the Salaries and Allowances of Members of Parliament Act, 1954. The Short title of the Act was later amended to read 'Salary, Allowances & Pension of Members of Parliament Act, 1954'.
17. Not constituted in Sixth Lok Sabha.
18. Constituted in terms of Rule 331B.
19. Fifth Schedule of Rules.

The *ad hoc* Committees may be broadly classified under two headings. First there are the *ad hoc* Committees which are constituted, from time to time, either by the Lok Sabha on a motion adopted in that behalf, or by the Speaker, to inquire into and report on specific subjects, *e.g.* the Committee on the conduct of a member (Mudgal Case, 1951)[20] the Committee on the conduct of certain members during the President's Address (1963)[21] Railway Convention Committees; Joint Committee on Salary, Allowances and other Amenities to Members of Parliament (1968)[22] Committee on the Welfare of Scheduled Castes and Scheduled Tribes (1968)[23] Committee on the conduct of a member during President's Address (1971)[24] Joint Committee on Amendments to Election Law (1971)[25] Joint Committee of the Houses to examine the question of the working of the Dowry Prohibition Act, 1961 (1980)[26] Joint Committee to enquire into Bofors Contract (1987)[27] Committee on Inscriptions in Parliament House[28]; Committee to Fix Hindi Equivalents for Parliamentary, Legal and Administrative Terms[29]; Committees on Draft Five Year Plan[30]; Committee to examine the working of catering establishments in the Parliament House (1973)[31]; Study Committee on Sports (1976)[32]; Committee on the Use of Language (1978)[33]; Committee of Members

20. Appointed on a motion adopted by the Provisional Parliament- P. Deb., (II), 8-6-1951, cc. 10457-65.
21. Appointed by the Speaker in pursuance of the decision taken by the Lok Sabha on 18 February 1963—*L.S. Deb.,* 18-2-1963, cc. 2-10; 19-2-1963, cc. 173-74, 200.
22. Constituted in pursuance of a motion adopted by the Lok Sabha on 26 April 1968 and concurred in by the Rajya Sabha on 10 May, 1968—*R.S. Deb.,* 26-4-1968, cc. 301-03; *R.S. Deb.,* 10-5-1968, cc. 2237-276.
23. Constituted in pursuance of a motion adopted by the Lok Sabha on 30 August, 1968 and concurred in by the Rajya Sabha on 25 November, 1968—*L.S. Deb.,* 30-8-1968, cc. 3486-542; *R.S. Deb.,* 25-11-1968, cc. 1225-280.
24. Appointed by the Speaker on 5 April, 1971 in pursuance of the decision of the House on 2 April, 1971—*L.S. Deb.,* 2-4-1971, cc. 188-223, 239-46, 271-72.
25. Appointed in pursuance of a motion adopted by the Lok Sabha on 22 June 1971, and concurred in by the Rajya Sabha on 25 June, 1971—*L.S. Deb.,* 22-6-1971, cc. 176-82; *R.S. Deb.,* 25-6-1971, cc. 262-63.
26. Constituted in pursuance of a motion adopted by the Lok Sabha on 19 December 1980, and concurred in by the Rajya Sabha on 24 December, 1980—*L.S. Deb.,* 19-12-1980 cc. 359-61; *R.S. Deb.,* 24-12-1980, cc. 279-80.
27. Constituted in pursuance of a motion adopted by the Lok Sabha on 6 August, 1987 and concurred in by the Rajya Sabha on 12 August, 1987—*L.S. Deb.,* 6-8-1987, cc. 484-569; *R.S. Deb.,* 12-8-1987, cc. 287-401.
28. Appointed by the Speaker in consultation with the Chairman, Rajya Sabha, on 27 April 1956. It was reconstituted on 29 May 1957.
29. Appointed by the Speaker in consultation with the Chairman, Rajya Sabha, on 5 May 1956.
30. Committees on the Draft Second Five Year Plan were appointed on the recommendation of the Business Advisory Committee (1 LS) and members of the Rajya Sabha were associated with those Committees on a motion adopted by the Lok Sabha on 11 May 1956 and concurred in by the Rajya Sabha on 14 May 1956-35R (BAC-1LS) and *L.S. Deb.*, 11-5-1956, cc. 7986-93. Similarly, Committees on the Draft Third Five Year Plan were appointed in pursuance of an announcement made by the Speaker in the House on 6 September 1960—*L.S. Deb.,* 6-9-1960, cc. 7381-82. On request made by the Minister of Planning, the Speaker agreed to the formation of Committees for considering the Draft Fourth Five Year Plan—*Bn. (II),* 15-9-1966. Similarly, in December 1973, five Committees were formed to consider the Draft Fifth Five Year Plan—*Bn. (II),* 17-12-1973.
31. Appointed by the Speaker, Lok Sabha, on 7 September 1973 on the recommendation of the General Purposes Committee and in consultation with the Chairman, Rajya Sabha.
32. Constituted by the Speaker, Lok Sabha, on 15 May 1976.
33. Constituted by the Speaker, Lok Sabha on 24 November 1978—*L.S. Deb.,* 24-11-1978, cc. 317-18.

of Parliament to bring about reconciliation between Nirankaris and Akalis (1983)[34]; Joint Committee to enquire into irregularities in securities and banking transactions[35]; Joint Committee to suggest facilities and remuneration for Members of Parliament[36]; Joint Committee on catering in Parliament Complex; Committee on Installation of Portraits/Statues of National Leaders in Parliament Complex; Committee on Provision of Computers to Members of Parliament, etc.; and Committee on Members of Parliament Local Area Development Scheme (Lok Sabha) to monitor and review periodically the performance and problems in implementing the MPLAD Scheme while considering complaints received from the members of the Lok Sabha in regard to the scheme[37]. JPC to examine the constitutional and legal position relating to Office of Profit (2006)[38], and Committee to Enquire into misconduct of MPs of Lok Sabha (2007)[39]. Joint Parliamentary Committee to examine matters relating to allocation and pricing of Telecom Licences and Spectrum (2011)[40]; Joint Parliamentary Committee on Welfare of Other Backward Classes[41] and Committee on Violation of Protocol Norms and Contemptuous Behaviour of Government Officers with Members of Lok Sabha (2012)[42].

The second category of *ad hoc* Committees comprises of those which are set up to advise the House. Under this category fall the Select or Joint Committees on Bills which are appointed on a motion made in the House to consider and report on a specific Bill. These Committees are distinguishable from the other *ad hoc* Committees in-as-much as they are concerned with Bills and the procedure to be followed by them is laid down in the Rules and Directions by the Speaker.

However, the normal procedure of appointing a Joint Committee on a Bill on the basis of separate motion moved and adopted in the House was not followed in the case of the Joint Committee on Constitution (Eighty-first) Amendment Bill, 1996[43]. During the discussion stage itself on the motion for consideration on 13 September, 1996 of the said Bill, it was decided by the House to refer the Bill to a Joint Committee by authorising the Speaker to constitute the Joint Committee in consultation with the Chairman, Rajya Sabha. As required under the Rules, no separate motion for reference of the Bill to a Joint Committee was moved in the House.

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34. Constituted by the Speaker, Lok Sabha on 26 August 1983 in consultation with the Chairman, Rajya Sabha—*L.S. Deb.,* 26-8-1983, c. 526; 8-12-1983, cc. 322-335.
35. Appointed in pursuance of a motion adopted by the Lok Sabha on 6 August 1992 and concurred in by the Rajya Sabha on 7 August 1992.
36. Constituted by the Speaker, Lok Sabha on 31 May 1993 in consultation with the Chairman, Rajya Sabha.
37. Constituted by the Speaker, Lok Sabha on 22 February 1999.
38. Appointed in pursuance of a motion adopted by the Lok Sabha on 17 August 2006 and concurred in by the Rajya Sabha on 18 August 2006.
39. Constituted by the Speaker, Lok Sabha on 16 May 2007 after consultation with Leaders of different parties on the previous day.
40. Appointed in pursuance of a motion adopted by the Lok Sabha on 24 February 2011 and concurred in by the Rajya Sabha on 1 March 2011.
41. Appointed in pursuance of a motion adopted by the Lok Sabha on 21 December 2011 and concurred in by the Rajya Sabha on 22 December 2011.
42. Constituted by the Speaker, Lok Sabha on 2 August 2012.
43. Constituted by the Speaker, Lok Sabha on 7 October 1996 in consultation with the Chairman, Rajya Sabha.

Constitution of a Joint Committee

A Joint Committee, composed of members of both the Houses, is constituted either on a motion adopted by one House and concurred in by the other, or by communication between the Presiding Officers of the two Houses[44], or under the Rules[45]. Such a Committee can be constituted only when there is an agreement between the two Houses. In case there is no such agreement, a Joint Committee cannot be constituted.

The Committees of Public Accounts and Public Undertakings are not Joint Committees. They are primarily Committees of the Lok Sabha. The Committees are formed on a motion adopted by the Lok Sabha and members of the Rajya Sabha are nominated to these Committees in response to an independent motion requesting for the association of the members of the Rajya Sabha with the Committees, adopted by the Lok Sabha and concurred in by the Rajya Sabha. Even if the Rajya Sabha does not concur with the motion or the members of the Rajya Sabha do not associate with Committees, the Committees continue to function. In case the members of the Rajya Sabha associate with the Committees, they have equal right with the members of the Lok Sabha to vote and take part in the proceedings of the Committees[46].

Appointment of Members to Committees

Members are appointed or elected to a Parliamentary Committee by the House on a motion made and adopted, or nominated by the Speaker[47].

Committees Appointed on a Motion Adopted by the House

Select or Joint Committees on Bills are the Committees which are appointed on motions adopted by the House. The motion for reference of a Bill to a Select Committee sets forth the names of members proposed to be appointed to the Committee. Only members of the Lok Sabha are proposed for appointment to the Committee. However, Ministers who are members of the Rajya Sabha may also be appointed as members of a Select Committee of the House but they are not entitled to vote in the Committee. In the case of a Government Bill referred to a Select Committee, the Minister in charge of the Bill is appointed a member of the Committee while in the case of a Private Member Bill, the member in-charge of the Bill and the Minister to whose Ministry the subject matter of the Bill pertains, are appointed members of the Select Committee.

Similarly, members to a Joint Committee on a Bill are appointed on a motion adopted by the House and concurred in by the other House.

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44. For example, the Speaker, in 1954, appointed a Committee on Offices of Profit in consultation with the Chairman, Rajya Sabha, to consider matters connected with the disqualification of members under art. 102(l)(a). Similarly, the Speaker constituted, in 1956, Committees on Inscriptions in Parliament House and to Fix Hindi Equivalents for Parliamentary, Legal and Administrative Terms; in 1964, Committees on Construction of Additional Parliamentary Building and Portraits and Statues in Parliament House in consultation with the Chairman, Rajya Sabha.

45. Such as the Library Committee.

46. *H.P. Deb.,* 10-5-1954, c. 6960.

    All reports of the Public Accounts Committee, including those in excess grants or charged appropriations, are approved by the entire Committee. So far, no voting has taken place at any sitting of the Committee when the excess grants or charged appropriations were considered. However, should a question of voting on excess grants arise, the members of the Rajya Sabha will not participate in such voting.

47. Rule 254(1).

Apart from the Select or Joint Committee on a Bill, members may also be appointed to an *ad hoc* Committee on a motion adopted in that behalf. Such a motion sets forth the names of members proposed to be appointed to the Committee, the quorum necessary to constitute its sittings, and other instructions to the Committee[48].

Committees Elected by the House

Members of the Committees on Public Accounts, Estimates, Public Undertakings, Committee on Welfare of Other Backward Classes and Welfare of Scheduled Castes and Scheduled Tribes are elected every year by the members of the Lok Sabha. For this purpose, motions must be moved in and adopted by the House. The motions indicate the manner of elections, that is according to the principle of proportional representation by means of single transferable vote[49], exercised by members of the House present and voting. No postal ballot is permissible for election to the Committees.

The motion for election to any of these Committees also specifies the number of members proposed to be elected, and is moved before the expiry of the term of the outgoing Committee by its Chairperson or in the Chairperson's absence by any other member of the Committee so authorized by the Chairperson. However, at the commencement of a new Lok Sabha after the general elections, such motions are moved by the Leader of the House/Minister of Parliamentary Affairs[50].

At the commencement of a new Lok Sabha after general elections, members of the Lok Sabha are also required to be elected to the Joint Committee on Offices of Profit. [51] Necessary motion in this regard is moved by the Minister of Law and Justice.

Members may also be elected to an *ad hoc* Committee set up in pursuance of motion adopted by the House on that behalf [52].

After a motion for election of members to the Committee on Estimates, Committee on Public Accounts, Committee on Public Undertakings, Committee on the Welfare of the Scheduled Castes and Scheduled Tribes, Committee on Welfare of Other Backward Classes and Joint Committee on Offices of Profit or any *ad hoc* Committee is adopted, a detailed programme of dates for nomination, withdrawal of candidature and for holding elections is notified in the Bulletin[53]. At the expiry of the time fixed for

48. For example Joint Committee to enquire into irregularities in securities and banking transactions appointed in pursuance of a motion adopted by the Lok Sabha on 6 August 1992 and concurred in by the Rajya Sabha on 7 August 1992.

49. Rules 309(1) and 311(1), 312B(1), 331B(1). The object of holding elections according to the principle of proportional representation by means of the single transferable vote is that every Party or Group may, as far as possible, get representation in the Committee in proportion to their numerical strength in the House.

50. *L.S. Deb.,* 24-5-1957, cc. 1886-87; 26-5-1971, cc. 183-86; 9-7-1977, cc. 1-4; 24-7-1980, cc. 232-36; 26-3-1985, cc. 211-14.

51. *Ibid.,* 3-8-1959, cc. 142-46; 8-6-1962, cc. 9740-42; 5-6-1967, cc. 2959-63; 15-6-1971, cc. 195-98; 25-11-1980, cc. 254-57; 2-4-1985, cc. 264-67. The Joint Committee on Offices of Profit was not constituted during the Sixth Lok Sabha.

52. Examples of Committees in this category are: Committee on Bretton Woods Conference (1946) *L.S. Deb.,* 30-1-1946, p. 247; Committee to Review Conventions *re.*: Separation of Railways from General Finance (1949)-*C.A.* (*Leg.*) *Deb.*, 1-4-1949, p. 2210; Joint Committee on Offices of Profit (1959)—*L.S. Deb.,* 3-8-1959; cc. 145-46; Joint Committee to enquire into Bofors Contract (1987), *L.S. Deb.,* 6-8-1987, cc. 484-569; *L.S. Deb.,* 12-8-1987, cc. 287-401.

53. During 17th Lok Sabha, last date for withdrawal from election to EC and PAC for term 2023-24 was fixed for 22 Mar. 2023. However, sitting of Lok Sabha for 22 Mar. 2023 was cancelled and thus, it was decided to extend last date of withdrawal till 23 Mar. 2023 upto 1600 hrs. to give Members sufficient

receipt of nominations, a list of candidates standing for election is prepared and copies thereof are displayed on the Notice Boards for the information of members. In case the number of valid nominations after withdrawal is equal to the number of vacancies, all the candidates are declared elected and their names are published in the *Bulletin.* If the number of valid nominations is less than the number of vacancies, all the candidates are declared duly elected and a further programme of election is notified to fill the remaining vacancy(ies). This process is repeated as long as the number of candidates is less than the number of vacancies to be filled. If the number of members validly nominated, after withdrawals, if any, exceeds the number of vacancies, an election is held in accordance with the regulations framed by the Speaker for holding of such elections[54].

On a motion moved by the Minister concerned, members of Parliament are elected by either House to serve on Committees or bodies other than Parliamentary Committees which are set up in pursuance of the provisions of the Constitution, or under the provisions of an Act of Parliament, or in accordance with the provisions of any resolution of the Government constituting such a Committee or body—Elections to such Committees or bodies are held in the same manner as in the case of other Parliamentary Committees[55].

Committees Nominated by the Speaker

Members to specified Parliamentary Committees may be nominated by the Speaker after consultation with the Leader of the House and the Leaders of the Opposition Parties and Groups in the House.

At the commencement of a new Lok Sabha, the Leader of the House is asked by the Secretariat to suggest, in order of priority, a panel of names of members of the Government party to be placed before the Speaker for nomination to the Committees. Similarly, the leaders of the Opposition Parties or Groups in the House are addressed to suggest, in order of priority, a panel of two or three names from amongst the members of their Groups or Parties[56]. The Speaker, in his discretion, selects the members out of those panels for nomination to the Committees. However, the practice of calling for a panel of names for nomination of members of the ruling party or other Parties/Groups has been discontinued long back. The present practice is to make a proportionate allocation of the seats available on the two Groups of Committees, namely, 24 DRSCs and other Standing Committees separately to various parties and groups according to their respective strength in the House. As per allocation of seats approved by the Speaker, the Leaders of Parties are requested in writing to suggest only a name each of their members for each seat allocated to a party on a Committee for consideration and nomination by the Speaker. As far as possible, the different parties and groups are represented on a Committee in proportion to their respective strength in the House. The members selected for nomination to a Committee are asked to furnish their written

time to withdraw from the election. Revised date was notified in Bn. (II), 22.03.2023 para 6468.

54. These regulations are 'Regulations for Holding of Elections to Committees by Means of Single Transferable Vote'—For text, *see* Appendix VII of the First Edition.

55. Dir. 108(A).

56. "While requesting the Parties and Groups to suggest the names of members for nomination by the Speaker to Committees, the practice is to write that 'in case of Committee on Subordinate Legislation, name of a lawyer-member may be suggested, as far as possible', the reason being that the Committee on Subordinate Legislation is required to scrutinise rules and regulations framed under the provisions of various Acts."

consent to serve on the Committee, if nominated.

Reconstitution of Committees nominated by the Speaker: The question of reconstitution of Parliamentary Committees nominated by the Speaker is considered every year. It is up to the Speaker to reconstitute a Committee or not. However, as per a convention developed since 1959, all Standing Parliamentary Committees are reconstituted[57] every year. With a view to ensuring representation of every party/ group on Parliamentary Committees, seats on Committees are rotated every year amongst various parties/groups in proportion to their respective strength in the House.

Filling of Casual Vacancies in Committees

Casual vacancies in a Parliamentary Committee are filled by appointment or election by the House on a motion made, or made by nomination by the Speaker, as the case may be. Any member appointed, elected or nominated to fill a casual vacancy holds office for the unexpired portion of the term for which the member in whose place he is appointed, elected or nominated would have normally held office[58]. In the case of the Joint Committee on Salary and Allowances of Members of Parliament, a member of the Joint Committee holds office as such member for one year from the date of his nomination[59]. The procedure followed in filling a casual vacancy is generally the same as for original appointment thereto.

Term of Office

Committees Nominated by the Speaker

A Parliamentary Committee nominated by the Speaker holds office for a period 'not exceeding one year' or for a period specified by the Speaker or until a new Committee is nominated by him[60].

The term of office of the Committee on Private Members' Bills and Resolutions, Committee on Papers Laid on the Table, Committee on Subordinate Legislation, Committee on Government Assurances, Committee on Absence of Members from the Sittings of the House, Committee on the Welfare of Scheduled Castes and Scheduled Tribes, Committee on Empowerment of Women, House Committee and Library Committee is for a period 'not exceeding one year'[61]. The Business Advisory Committee, Committee on Petitions, Committee of Privileges and the Rules Committee continue in office till reconstituted by the Speaker[62].

If no term of office has been specified by the Speaker in regard to an *ad hoc* Committee appointed by him, the Committee continues in office till the completion of its work and presentation of its report, if any.

Committees Elected by the House

Members of the Committee on Public Accounts, Committee on Estimates,

57. In Sixth Lok Sabha, the Committee of Privileges which was constituted on 1 July 1977, was not reconstituted in 1978 and the same Committee continued in office till 31 May 1979.
58. Rule 254(3).
59. Section (2A) of Salary, Allowances and Pension of Members of Parliament Act, 1954.
60. Rule 256.
61. Rules 293(2), 305A(2), 318(2), 324(2), 325, 331B(2), 331O(5) and Rule 1(2) of House Committee Rules.
62. Rules 287, 306, 313 and 330, read with Rule 256.

Committee on Public Undertakings, Committee on the Welfare of Scheduled Castes and Scheduled Tribes and Committee on Welfare of Other Backward Classes are elected by the House for a term 'not exceeding one year'[63]. These Committees except Committee on Welfare of Other Backward Classes, are normally elected in the month of April each year for the term beginning on 1 May and ending on 30 April of the following year. The Committee on Welfare of Other Backward Classes is normally elected before the expiry of its term and its one-year term begins from the date of its first meeting. In the case of a new House, they are elected as soon as may be after the new House meets and hold office for the period specified in the motion (usually ending on 30 April of the following year).

Where it is found necessary to extend the term, a motion is moved in and adopted by the House to that effect after a motion to suspend the relevant rule in its application to the motion for extension of the term of office has been adopted[64].

There is no fixed term of office for Select or Joint Committees on Bills. The motion which is moved in the House for reference of a Bill to a Select or Joint Committee generally specifies the date by which, or the period within which, the Committee might present its report. In case the House has not fixed any time for the presentation of the report, the Committee is required to present its report before the expiry of three months from the date on which the House adopted the motion for reference of the Bill to the Select Committee[65].

Committees Appointed/Elected on a Motion or Resolution

The motion for the appointment or election of a Committee by the House may either specify its terms of office[66] or may indicate the date[67] by which or the period[68] within which the Committee might present its report.

Where the House has not fixed any time for the presentation of a report by a Committee,

63. Rules, 309(2), 311(2) and 312B(2) and 331B(2). The members of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes constituted in pursuance of the motion adopted by the Lok Sabha on 13-8-1973 were to hold office for a period of two years from the date of the first meeting of that Committee. However, their terms of office were subsequently extended upto 31-3-1976 by two motions adopted by the House—*L.S. Deb.,* 28-7-1975 and 5-2-1976.

64. During the Fourth Session of the Fourth Lok Sabha, it was considered necessary to extend the terms of the three financial Committees. The relevant motions in respect of each Committee were adopted on 20 March 1968. In the case of the Committee on Public Accounts and the Committee on Public Undertakings, another motion was moved and adopted, intimating to Rajya Sabha that the term of office of the present members of these Committees had been extended upto 30 April 1968 and recommending to that House "that they too take such action as they deem fit in regard to the association of members of Rajya Sabha with the said Committees".

In July 1975 and February 1976, the terms of office of the members of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes were extended—*L.S. Deb.,* 28-7-1975 and 5-2-1976.

As the one-year term of *ad hoc* OBC Committee (2018-19) was to end on 24.01.2019, it was considered necessary to extend the term of the Members of the Committee till the last day of the tenure of the Sixteenth Lok Sabha. A motion in that regard was adopted by the House on 20 December, 2018. The Rajya Sabha had also concurred with the motion passed by Lok Sabha, during the sitting held on 04.01.2019. Bn. (I) 20.12.2018.

65. Rule 303(1), First Proviso.

66. *L.S. Deb.,* 3-8-1959, c. 145.

67. *C.A.* (*Leg.*) *Deb.,* 1-4-1949, p. 2210; *L.S. Deb.,* 22-4-1960, cc. 13255-95.

68. *H.P. Deb., (II)*, 6-6-1951, cc. 10259-303; 8-6-1951, cc. 10457-65.

the Committee is required to present its report within one month of the date on which reference to the Committee was made. However, the time for the presentation of the report by the Committee may be extended by the House on a Motion moved in that behalf[69].

Committees Appointed under a Statute

In the case of a Committee constituted under an Act of Parliament, the term of office of the Committee is generally laid down in the relevant statute.

Other Committees

Apart from the above Committees, a Committee may also be appointed by the Speaker to aid and advise him in the discharge of his functions or to report on some matter pertaining to the House or its members. Such a Committee holds office for a term specified by the Speaker or till such time as a new Committee is appointed by him. Where no term is specified by the Speaker, the Committee continues in office till the completion of its work and presentation of its report, if any.

Objection to Membership

The appointment of a member to a Parliamentary Committee may be objected to on the ground that he has a personal, pecuniary or direct interest of such an intimate character that it may prejudicially affect the consideration of any matter by the Committee[70]. Such an interest should separately belong to the person whose inclusion in the Committee is objected to, that is, it should not be in common with the public in general or with any class or section thereof or on a matter of State policy. The member who has taken objection is required to state precisely the ground of his objection and the nature of the alleged interest, whether personal, pecuniary or direct, of the member whose inclusion is objected to in the matters coming up before the Committee. The member, whose membership has been objected to, may also be asked by the Speaker to state his position. Where there is dispute on facts, the Speaker may call for documentary or other evidence from both the members. The decision given by the Speaker is treated as final[71].

When the matter is referred to the Speaker and until the Speaker's decision is known, the member whose membership is objected to continues to be a member of the Committee; he can take part in its discussions but is not, however, entitled to vote[72]. If the Speaker holds that the member has a personal, pecuniary or direct interest in the matter before the Committee, his membership ceases forthwith, but the proceedings of the sittings of the Committee at which that member might have been present are not affected by the decision of the Speaker[73]. It is also incumbent on the member having a

69. Rule 277(1).

70. Rule 255. In the First Lok Sabha, the Committee on Estimates appointed a Sub-Committee to inquire into the working of the Hindustan Shipyard Ltd. One of the members of the Sub-Committee was also the President of the Hindustan Shipyard Labour Union. An objection was raised to his inclusion in the Sub-Committee in view of the direct interest that he had as the President of the Labour Union. The Speaker, thereupon, ruled that he would have the visit of the Sub-Committee postponed and in the meanwhile would reconsider the question of personnel and the terms of reference of the Sub-Committee. However, before this could be done, the term of office of the Committee expired and consequently the Sub-Committee ceased to function.

71. Rule 255 (d).

72. Rule 255 (e)

73. Rule 255 (f).

personal, pecuniary, or direct interest in any matter to be considered by the Committee to state his interest therein to the Speaker through the Chairperson of the Committee[74].

Membership of Committee on Estimates or Public Accounts or Public Undertakings and of Government Committees

Wherever the Chairperson or a member of the Committee on Estimates, Public Undertakings or Public Accounts is invited to accept membership of any Committee constituted by Government, the matter is submitted to the Speaker before the appointment is accepted[75]. If the Speaker considers it not appropriate that the Chairperson or the member concerned should serve on the Government Committee so long as he remains a member of the Parliamentary Committee, he does not permit the Chairperson or the member to accept the appointment on the Government Committee. Where, in the interest of parliamentary work, he permits them to do so, he directs that the report of the Government Committee be placed before the Parliamentary Committee concerned for such comments as the latter might deem fit to make before it is presented to the Government[76].

Whenever a member who is serving on a Committee constituted by Government is elected to any of these Committees, the matter is required to be placed before the Speaker to decide whether the member might be permitted to continue his membership

74. Dir. 52A; *see* also Chapter 12–'Conduct of Members'.

On 5 May 1959, a member of the Joint Committee on the Banking Companies (Amendment) Bill, 1959, wrote to the Speaker that he was acting as legal advisor to certain Banks and enquired whether he could continue to be the member of the Committee. The Speaker directed that the letter might be sent to the Chairman of the Committee to be read out to the Committee and if no objection was taken by any member he might continue as a member, but if objection was taken, the Speaker would decide the matter in the light of the facts then disclosed. The same member was subsequently appointed as Chairman and he read out the letter to the Committee at its first sitting. As no objection was raised by any member, the matter was not pursued further—*Min.* [J.C. on Banking Companies (Amendment) Bill, 1959] 9-5-1959.

Certain petitions relating to the Prohibition of Manufacture and Import of Hydrogenated Vegetable Oil Bill were received by the Committee on Petitions. As the Chairman of the Committee had sponsored the Bill, the Speaker appointed another member to act as the Chairman for the sitting of the Committee on 17 December 1950 when those petitions were to be considered.

75. Dir. 97.

76. In one case, while according permission to the appointment of a member of Committee on Estimates on the Enquiry Committee set up by the President in 1957 to look into the Affairs of the Banaras Hindu University, the Speaker directed that the report of the Enquiry Committee should not be published before consulting the Committee on Estimates which was then engaged in the examination of the estimates of the Ministry of Education. This was accordingly done.

The Speaker granted permission to the Chairman, Estimates Committee, to accept the membership of the Purchase Advisory Council in 1957, with the directions that the Chairman should resign that membership when he felt that there was a likelihood of conflict of duties.

On 28 January 1958, while according permission to the appointment of a member of the Estimates Committee on the Salt Enquiry Committee, the Speaker directed that the member should be careful in seeing that there was serious conflict of views in the recommendations of the Salt Enquiry Committee and those expressed previously by the Committee on Estimates in its Fifteenth Report (First Lok Sabha) specially with regard to 'the abolition of the Salt Organisation and Company Form of Management'.

In 1958, the Speaker, while according permission to the appointment of a member of the Estimates Committee on the Executive Council of the Visva Bharati University, directed that his appointment might come into effect from a date subsequent to 30 April 1958 when the Committee on Estimates was likely to finalise its report on the same subject. The member was accordingly appointed to the Executive Council of the Visva Bharati University with effect from 1 May 1958.

of the Government Committee[77]. The Speaker may or may not permit a member to continue on the Parliamentary Committee[78]. If the Speaker permits a member to continue membership of a Government Committee, he may require that the report of the Government Committee be placed before the Parliamentary Committee concerned for such comments as the latter may deem fit to make before it is presented to the Government[79]. Where the subject of inquiry of a Committee set up by Government and the matter to be examined by any of the Parliamentary Committees is the same, the Speaker may, while granting permission to a member to serve on both the Committees, direct that the member concerned should not participate in the proceedings of the Parliamentary Committee concerned when the specific subject comes up for consideration[80].

Resignation from and Vacation of Seats in a Committee

A member may resign his seat from a Committee by writing under his hand addressed to the Speaker[81]. The letter of resignation, which should be in clear and unambiguous terms, becomes effective only after it is received in the Secretariat and takes effect from the date of resignation specified in the letter of resignation[82]. If no date is specified in the letter, the resignation takes effect from the date of the letter[83] and where the letter does not bear any date, then from the date of its receipt in the Secretariat[84]. The resignation is automatic and is not subject to acceptance by the Speaker. It can become ineffective only if any defect is found in it[85]. In the case of Joint Committees, a member may resign by addressing the resignation letter to the Presiding Officer of the House to which he belongs. In such case, efforts are made to notify the resignation of a member from the membership of the Joint Committee in the *Bulletins* of both the Houses simultaneously.

If a member, after being elected to a Committee resigns from the membership of the Committee before its constitution, the name of the member is not included in the

77. Dir. 97A.

78. On election to the Estimates Committee (1958-59), a member who was leader of a Study Team on Social Welfare of the Committee on Plan Projects, resigned from the Estimates Committee lest there might arise some difficulty in continuing both as a leader of the Team and a member of the Committee.

79. An Enquiry Committee was set up on 18 April 1957, by the Delhi Administration to review the conditions of non-Government aided schools. The Chairman of that Committee was subsequently elected to the Estimates Committee (1957-58). On a question being raised whether the enquiry conducted would impinge on the work of Estimates Committee in regard to the examination of estimates of the Ministry of Education, the Speaker directed that the report of the Enquiry Committee be submitted to the Chairman, Estimates Committee. However, no conflict in the recommendations of the two Committees, in regard to Elementary Education, was found.

80. On election to the Estimates Committee, a member who was also a member of the Study Team on Social Welfare of the Committee on Plan Projects sought permission of the Speaker to serve on both the Committees. As a particular matter was being examined both by the Study Team and the Estimates Committee, the Speaker, while acceding to the request of the member, directed that he should not take part in the proceedings of the Estimates Committee in regard to that matter. Accordingly, the member did not attend the sitting of the Committee when that matter was considered and the draft report thereon adopted.

81. Rule 257.

82. *Ibid*.

83. *Ibid.*

84. *Ibid.*

85. For example, the letter of resignation would become ineffective if it is not addressed to the Speaker, or is not signed by the member concerned, or is conditional, etc.

composition of the Committee at the time of issue of Bulletin. However, the factum of resignation is reflected in the said Bulletin[86]. The process to fill up the vacancy so arisen is taken up after the constitution of the Committee.

A vacancy may also be caused when a member of the Committee dies or resigns his seat in the House or otherwise ceases[87] to be a member of the House.

If a member of the Committee on Petitions or Public Accounts or Estimates or Public Undertakings or Subordinate Legislation or Government Assurances or Welfare of Scheduled Castes and Scheduled Tribes or Committee on Welfare of Other Backward Classes or Empowerment of Women or Departmentally Related Standing Committee (DRSC) is appointed as a Minister, he ceases to be a member of the Committee from the date of such appointment[88]. In such case, no formal letter of resignation is required nor cessation of membership is notified in the *Bulletin.* If a member of a Committee is absent from two or more consecutive sittings of the Committee without permission of the Chairperson of the Committee, a motion may be moved in the House for the discharge of such member from the Committee[89]. In the case of Committees on which members are nominated by the Speaker, such a member may, however, be discharged by the Speaker[90]. On adoption of such a motion by the House, or an order being passed by the Speaker, as the case may be, the member concerned ceases to be a member of that Committee. Where a member is a member of a Committee by virtue of the office he holds, he ceases to be a member of the Committee when he vacates that office[91]. The member cannot, however, resign from the membership of that Committee till he holds that office[92].

Resignations from the Membership of Other Bodies

When a member of the Lok Sabha representing Parliament on a Government Committee, Board, Body, etc. seeks to resign from the membership of that Body by addressing the Speaker, he is advised to address his resignation to the Chairperson/ Prescribed Authority of that Committee, Board, Body, etc. where he is a member by virtue of the office he holds. He ceases to be a member of the Committee when he vacates that office[93].

86. *Bn. (II)* 19.04.21 para 2485.

87. R.D. Bhatulare who was the Chairman of the Committee of Privileges (1972-73) ceased to be a member of the Lok Sabha on his appointment as Governor. Consequently, he ceased to be a member and Chairman of the Committee of Privileges. Members of the Rajya Sabha serving on Committees cease to be members of Committees on their retirement from the Rajya Sabha.

88. Rules 306, 309(1), 311(1), 312(B), 318(1), 324(1) , 331B(1), 331D(2) and 331O(3).

89. Rule 260.

90. *Ibid*.

91. This is applicable to the Speaker in the case of the Business Advisory Committee, Rules Committee and General Purposes Committee and to the Deputy Speaker, Members of the Panel of Chairpersons of Standing Parliamentary Committees of the Lok Sabha and Leaders of recognised Parties and Groups in the House in the case of the General Purposes Committee.

92. In April 1983, Atal Bihari Vajpayee, who was member of GPC by virtue of his being Leader of BJP, sought to resign from the membership of GPC. He was informed that the membership of GPC being *ex-officio,* he will continue to be a member of the GPC till he holds the office of the Leader of BJP Group in the Lok Sabha. In 1988, C. Madhav Reddy, Leader of Telugu Desam Group in the Lok Sabha, sought to resign from the membership of GPC (1987-88). He was informed that as long as he continued to be a leader of Telugu Desam Group in the Lok Sabha, it would not be possible to nominate any other member from his Group to the General Purposes Committee.

93. This is applicable to the Speaker in the case of the Business Advisory Committee, Rules Committee

Powers of Committees

Powers of the Committees of the Lok Sabha[94] are as laid down in the Constitution[95], the Rules[96] and the Directions issued thereunder by the Speaker[97] from time to time. Rules relating to certain Committees, instead of conferring specific powers on them, provide that the general rules applicable to Parliamentary Committees shall apply to them with such adaptations, whether by way of modification, addition or omission, as the Speaker may consider necessary or convenient[98].

Under the provisions of the Salary, Allowances and Pension of Members of Parliament Act, 1954, the Joint Committee on the Salaries and Allowances of Members of Parliament has the power[99] to regulate its procedure. Besides the Act, the rules framed under the said Act empower[100] the Joint Committee to appoint one or more Sub-Committees. In the case of a Joint Committee on a Bill, the motion moved in the House for reference of a Bill to a Joint Committee does not specifically confer any power on the Joint Committee but provides that the general Provisions of the Rules of Procedure of the Lok Sabha relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make[101]. Sometimes, in the case of *ad hoc* Committees appointed by the House on a motion adopted in that behalf, the motion for appointment of such a Committee may specifically confer on the Committees some of the powers which are commonly possessed by other Committees of the Lok Sabha[102].

The powers which are generally possessed in common by all Committees of the Lok Sabha are briefly described in the following paragraphs.

Power to appoint Sub-Committees

A Committee may appoint one or more Sub-Committees, each having the powers of the whole Committee, to examine matters which may require detailed study or investigation. In pursuance of this power, a number of Standing Committees as also Select or Joint Committees on Bills have appointed sub-Committees from time to

and General Purposes Committee, and to the Deputy Speaker, members of the Panel of Chairpersons of Standing Parliamentary Committees of the Lok Sabha and Leaders of recognised Parties and Groups in the House in the case of the General Purposes Committee and members elected/nominated to serve on various Govt. Bodies.

94. For the appointment, duties and powers of the Chairperson of a Committee, *see* Chapter–8-Parliamentary Functionaries.

95. Art. 105(3).

96. Rules 263(1), 269(2) and (3), 270, 271, 272, 273, 275(1), 276, 278, 281, 282 and 302.

97. Dirs. 57(1), 98(2), 99(1), 100, l0l(i) and (iv) and 101A(i) and (iii).

98. Rule 3 of the General Purposes Committee Rules; rule 9 of House Committee Rules; and rule 6 of Library Committee Rules.

99. Salary, Allowances and Pension of Members of Parliament Act, 1954, s. 9(2).

100. Rule 9(1) of the Rules of Procedure of the Joint Committee on the Salaries and Allowances of Members of Parliament.

101. For an example of the motion, *see L.S. Deb.,* 19-9-1963, cc. 7136-37.

If a motion to constitute a Joint Committee is initiated by the Rajya Sabha, the motion makes a provision that the rules relating to Parliamentary Committees of that House will apply to such Committee.

102. For example, *see* the motion for the appointment of the Committee on the Conduct of a Member *(Mudgal Case,* 1951)—*P. Deb.* (II), 8-6-1951, cc. 10457-65, also motion for the appointment of the Joint Committee to enquire into Bofors Contract—*L.S. Deb.,* 6-8-1987, cc. 561-62.

time for detailed study of specific matters to assist them in the redrafting of particular clauses of a Bill[103]. In certain Committees, there are Standing Sub-Committees, namely,

(i) Sub-Committee of the Business Advisory Committee for selection of admitted notices of 'No-Day-Yet-Named Motions' for discussion in the House[104], and

(ii) accommodation Sub-Committee of the House Committee[105]. Similarly, prior to the constitution of the Committee on Public Undertakings, the Committee on Estimates used to appoint a Standing Sub-Committee on Public Undertakings[106], every year, immediately after its own constitution. The Committee on Estimates, whenever it decides to examine the estimates of the Ministry of Defence, appoints a Sub-Committee for examining the estimates of that Ministry[107] and the Chairperson of the Committee himself is the Chairperson of the Sub-Committee.

If the Deputy Speaker is a member of a Sub-Committee, he is *ex-officio* appointed Chairperson of the Sub-Committee.

Power to take Evidence or Call for Documents

A Committee may take oral and/or written evidence or call for documents in connection with a matter under its consideration, examination or investigation[108].

Power to Send for Persons, Papers and Records[109]

(See this Chapter, under 'Evidence,' *infra)*

Power to make Special Reports

A Committee has the power to make a special report on any matter that arises or comes to light in the course of its work which it may consider necessary to bring to the notice of the Speaker or the House, as the case may be, notwithstanding that such matter is not directly connected with, or does not fall within, or is not incidental to, its terms of reference[110].

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103. For example, Sub-Committees were appointed by the Joint Committee on the Companies Bill, 1953; Select Committee on the Women's and Children's Institutions Licensing Bill, 1953; Select Committee on the Representation of the People (Second Amendment) Bill, 1955; Joint Committee on Code of Civil Procedure (Amendment) Bill, 1974; Joint Committee of the Houses to examine the question of the working of the Dowry Prohibition Act, 1961; and Joint Committee on the Railways Bill, 1986.

104. The practice of appointment of a Sub-Committee of BAC to examine 'No-Day-Yet-Named Motions' has been discontinued since 1971. *See* p.777, *infra.*

105. Rule 4(1) of the H.C. Rules.

106. After the constitution of a separate Committee on Public Undertakings, the Estimates Committee (1964-65) appointed a Sub-Committee to examine the working of the statutory and other Government bodies not falling within the purview of the Committee on Public Undertakings.

107. Dir. 101(i). Sub-Committees on Defence were appointed by the Estimates Committee during 1956-57 and 1957-58. For detailed working of the Sub-Committee, *see* this Chapter, under "Committee on Estimates".

108. Rule 269.—For details, *see* this Chapter, under the heading 'Evidence', *infra.*

109. Rule 270 and Dirs. 99(2) and 101A(iii).

110. Rule 276.

Two special reports were presented to the Speaker by the Committee on the Conduct of a Member *(Mudgal Case,* 1951).

Two special reports on the working of the various Cess Funds were presented to the House by the Committee on Public Accounts—19R and 20R (PAC-2LS)

Power to pass Resolutions on Matters of Procedure

Where a case warrants a special procedure for conducting the business of a Committee, that Committee may pass resolutions on matters of procedure relating to it for the consideration of the Speaker who may make such variations in procedure as he may consider necessary[111].

Power to make Detailed Rules

To supplement the provisions contained in the Rules and the Directions issued by the Speaker, a Committee may, with the approval of the Speaker, make detailed rules of procedure for its internal working[112].

Sittings of Committees

Committees generally hold their sittings during sessions of the Lok Sabha, but are otherwise empowered to sit during the intersession period. By reason of the prorogation of the House, any business before a Committee does not lapse and the Committee continues to function notwithstanding such prorogation[113]. When the House is in session, the Committees normally do not meet after the sitting of the House has commenced and before 03.00 PM hours[114]. If a Committee is meeting whilst the House is sitting, the Chairperson of the Committee is required, on a division being called in the House, to suspend proceedings of the Committee for such time as will, in his opinion, enable the members to vote in a division[115].

Adherence to social distancing protocol in the wake of corona virus pandemic, the sittings of the Rajya Sabha were held from 10 AM to 3 PM and that of Lok Sabha from 4 PM to 9 PM during the Monsoon Session in the year 2020 and the first part of the Budget Sessions of years 2021 & 2022. Instructions were issued for scheduling sittings of Parliamentary Committees keeping in view the timings of sittings of Lok Sabha/Rajya Sabha and also the provisions contained in Direction 51.[116]

The date and time of sitting of a Committee are fixed by the Chairperson of the

111. Rule 281.

The Committee on the Conduct of a Member (*Mudgal Case,* 1951) decided upon the procedure to be followed at its subsequent sittings. The Speaker approved the procedure and also issued further directives to the Committee.

112. Rule 282.

In pursuance of this power, most of the Standing Committees of the Lok Sabha have framed 'Internal Rules' for regulating their internal procedure.

113. Rule 284.

114. Dir. 51. The intention behind this direction is to ensure quorum in the House and to enable members to participate in the Question Hour and other proceedings in the House—L.S. Deb., 6- 4-1956, c. 1861.

The direction has been relaxed at times by the Speaker to meet the needs of an occasion. See Min. (CPR) 17-12-1958 and 5-3-1959; Min. (CP) 9-9-1957; and 15-12-1958; Min. [SC on Representation of the People (Amdt.) Bill, 1958] 12-12-1958; Min. [SC on Representation of the People (Amdt.) Bill, 1961] 17-8-1961 and 18-8-1961; Min. (EC) 3-12-1959; 16-12-1959; 17-12-1959; 18-12-1959; 21-12-1959; 22-12-1959; Min. (BAC) 10-2-1958; Min. (JC on Bofors Contract) 21-4-1988.

Due to COVID pandemic, the timings of the Houses were staggered and changed vide Bulletin Part-II (No. 1399 dated 1st September, 2020; No. 1852 dated 14th January, 2021; No. 2619 dated 16th July, 2021 and No. 3318 dated 25th November, 2021). Accordingly, the sittings of the Committee were held before/after the bulletenised timings of the House.

115. Rule 265.

116. CB-I Circular No. 32231 dated 11.09.2020 and No. 32994 dated 31.01.2022.

Committee[117]. Where the Chairperson is not readily available, the Secretary-General may fix the date and time of sitting; but in the case of a Select or Joint Committee on a Bill, he does so in consultation with the Minister in-charge of the Bill[118].

Cancellation of Sittings of Committees

No sitting of a Committee shall be cancelled or preponed or postponed by the Chairperson of a Committee by reason only of his absence from the sitting already fixed or his immediate non-availability for the sittings.[119]

Pandemic of COVID-19[120]

COVID-19 pandemic restrictions had affected the working of Parliamentary Committee and meetings could not be held during the lockdown period. However, after relaxations in lockdown restrictions w.e.f. 1st July, 2020, Parliamentary Committees started holding their sittings. COVID-19 protocols were strictly followed during the sittings of the Committees and the Ministries/Departments appearing for evidence before the Committees were advised to restrict the number of officials to the maximum of 5 (five) in order to maintain social distancing. The system of Verbatim proceeding through physical presence of Reporter was suspended and arrangement of audio devices for getting audio recording in meetings were made by CPWD. Circulation of papers among members was carried out electronically.

Venue of Sittings

A sitting of a Parliamentary Committee or a Sub-Committee, whether formal or informal, is invariably held within the precincts of the Parliament House[121]. If for any reason, it becomes necessary to hold a sitting of a Committee or a Sub-Committee outside the Parliament House, the matter is referred to the Speaker whose decision is final[122].

117. Rule 264.

118. *Ibid.,* Provisos.

119. Dir. 51A by L.S. Bn. (II), dated 5. 25-6.2010, para 1522.

120. Committee Coordination Branch had issued Notes/Circulars dated 03.07.2020, 06.07.2020, 09.07.2020, 20.07.2020, 10.11.2020 & 22.12.2020.

121. Rule 267 and Dir. 50(1).

122. *Ibid*.

For instance, the following Committees have held sittings outside the Parliament House with the approval of the Speaker.

The Committee on Estimates held sittings at Nainital during June 1955.

The Joint Committee on the University Grants Commission Bill held sittings in the Bombay Legislative Building at Poona in July 1955.

The Public Accounts Committee met at Simla in June 1956 and again in June 1958. The Committee met at Trivandrum from 27 October 1965, to 1 November 1965, and again in September 1966. The Committee on Public Undertakings met at Trivandrum in February, 1966.

The Joint Committee on the Constitution (Amendment) Bill 1967 by a private member, Nath Pai held some sittings in the Conference Hall of the Mysore Vidhan Sabha, Bangalore, July 1968. The Select Committee on Taxation Laws (Amendment) Bill, 1969, held sittings in the Council Chamber, Calcutta from 8 to 10 January 1970; in the Council Hall, Bombay, from 15 to 17 January 1970; in the Central Hall, Legislators Hostel, Madras, on 5 and 6 February 1970; in the Conference Hall, Vidhana Soudha, Bangalore, on 7 February 1970; in the Legislative Assembly Building, Srinagar on 19 and 21 June; at the Pahalgam Club, Pahalgam, on 20 June; and at the Gulmarg Club, Gulmarg, on 22 June 1970.

The Select Committee on the Indian Penal Code (Amendment) Bill, 1967 held sittings in the Council Hall, Bombay from 16 to 18 September, 1968; Joint Committee on Commissions of Inquiry (Amendment) Bill, 1969 held sittings in Assembly Building, Srinagar, from 21 to 23 October 1970;

The present practice is that sitting of Parliamentary Committees outside the Parliament House are not allowed[123].

The Parliamentary Committees, while on study tour, may hold informal sittings at the place of their visit[124], but at such sittings no decisions are taken nor is any evidence recorded[125]. Normally no study tours are undertaken by the Committees when the House is in session.

Sometimes, the terms of reference of a Committee may specifically mention about the venue of sittings of the Committee[126].

Quorum

The quorum to constitute a sitting of a Committee is, as near as may be, one- third of the total number of members of the Committee[127]. While calculating one-third of the members of Committee, it should be with reference to the total number of members of a Committee irrespective of vacancies in the Committee and the fraction if any should be ignored[128]. Thus, for instance in a DRSC having strength of 31 members, the quorum to constitute a sitting of the Committee shall be ten members.[129]

Sub-Committees of Joint Committee on Code of Civil Procedure (Amendment) Bill, 1974 held sittings at Madras-Bangalore from 16 to 21 September 1974; Ahmedabad-Bombay from 8 to 12 October 1974, Calcutta-Bhubaneshwar from 30 December, 1974 to 3 January 1975, and at Guwahati-Shillong from 9 January to 13 January 1975, Lucknow from 17 to 18 January 1975, and Chandigarh from 29 to 30 May 1975; Joint Committee on Khadi and Village Industries Commission (Amendment) Bill 1978 held sittings at Ahmedabad (in the Conference Room of the Physical Research Laboratory) on 25 October 1978 and at Patna on 18 January, 1979 at the residence of Jayaprakash Narayan to record his evidence; Joint Committee on the Railways Bill, 1986 held sittings at Bombay from 24 to 27 June 1987, at Calcutta from 11 to 12 September 1987, at Bangalore from 22 to 23 June 1988 and at Hyderabad from 24 to 25 June 1988.

123. Min. (R.C.), 18-8-1968, para 3.

124. The Standing Committee on Housing and Urban Affairs undertook Study Tour to Agra and Jaipur from 12 to 14 November, 2021 with the prior approval of the Hon'ble Speaker. At Jaipur, Hon'ble Speaker addressed the Committee, officers of the Ministry of Housing and Urban Affairs, State Government of Rajasthan and Central PSUs viz. NBCC and HUDCO, before the commencement of the informal meeting with the aforementioned officials on 14 November, 2021.

    The Standing Committee on Rural Development and Panchayati Raj, as per their mandate, undertake extensive study visits to the rural areas of different parts of the states of the Country to monitor and assess the implementation of the various schemes of the Government of India under the domain of Ministries of Rural Development and Panchayati Raj through interaction with the beneficiaries of rural development schemes and the concerned officials responsible for the implementation of the schemes.

125. Dir. 50 (2).

126. The terms of reference of the Committee on the Conduct of a Member (*Mudgal Case,* 1951) stated that the Committee had the power to hear and/or to receive evidence, oral or documentary, in Bombay and/or any other place in India as the Speaker might decide—*P. Deb.* (II), 8-6-1951, cc. 10464-65. The terms of reference of the Joint Committee to enquire into Bofors Contract (1987) provided *inter alia* that "If that Committee wish to nominate a Sub-Committee to visit a foreign country for specified purposes connected with the enquiry, the matter shall be referred to the Speaker, who may take such decisions and give such directions as he thinks fit, provided that such Sub-Committee shall not hold sittings, record evidence or take decisions in a foreign country." However, no such Sub-Committee was nominated by the *Committee—L.S. Deb.,* 6-8-1987, cc. 561-62.

127. Rule 259(1).

128. On a question raised by the Committee on Information Technology, it was decided *vide* SG's order dated 12 April 2005 that while calculating quorum under rule 259, the fractions, if any, should be ignored.

129. A convention was developed by EC in November 1957 whereby the Committee did not insist on quorum at its sittings where official witnesses were examined on the ground that no decisions were taken at such sittings. Over the years, the convention had also been adopted and followed by most of the Committees including DRSCs. However, it was felt subsequently that the convention was contrary

Where a Committee is appointed or elected on a motion or a resolution adopted by the House, the quorum to constitute a sitting of the Committee is generally specified in the motion or resolution moved in the House[130]; otherwise the general rule relating to quorum, *i.e.* one-third of the total number of members of the Committee applies[131]. The quorum of the Committee is invariably specified in the motion moved in the House for reference of a Bill to a Joint Committee and it is usually fixed as one-third of the total number of members of the Committee[132]. Where a Parliamentary Committee is constituted under an Act of Parliament, the quorum of the Committee may be laid down in the Act or the rules framed in pursuance of the provisions of the Act[133].

In special circumstances, the quorum to constitute a sitting of a Committee may, under orders of the House or the Speaker, be reduced to less than one-third of the total number of members of the Committee[134].

The usual practice is for the Chairperson of a Committee to satisfy himself that there is a quorum at the commencement of a sitting or at the time when votes are taken. At any other time any member of the Committee present at the sitting can draw the attention of the Chairperson to the lack of quorum[135]. If at any time during any such

to the provisions of rule 259 as the rule does not allow a Committee or its Chairman to relax the requirement of quorum at any sitting on any ground. It was, therefore, decided *vide* SG's orders dated 9 April 2008 that the provisions of rule 259 regarding quorum at sittings of Parliamentary Committees should be enforced strictly regardless of the nature of business to be transacted.

130. *P. Deb.* (II), 8-6-1951, cc. 10457-65; *L.S. Deb.,* 3-8-1959, cc. 143-46; 6-8-1987, c. 561.

131. Rule 259(1); Railway Convention Committees of 1954 and 1960—*H.P. Deb.,* (II), 12-5-1954, cc. 7171-72; *L.S. Deb.,* 22-4-1960, cc. 13255-295.

132. *L.S. Deb.,* 29-4-1959 and 30-4-1959, cc. 14118-119 and 14309-310; 3-12-1959, cc. 3232-33.

133. *See* Rule 6(1) of the Rules of Procedure of the Joint Committee on Salaries and Allowances, framed under section 9(2) of the Salary, Allowances and Pension of Members of Parliament Act, 1954.

134. The quorum of the Committee to fix Hindi Equivalents for Parliamentary, Legal and Administrative Terms (1956), which consisted of 33 members, was reduced from eleven to five by Speaker Ayyangar in view of the peculiar circumstances and urgency of the matter.

135. On 25th February, 2020, Sitting of the Committee (2019-20) was held for oral evidence of the representatives of the Ministry of Information and Broadcasting and the Ministry of Communications (Department of Telecommunications) on Demands for Grants (2020-21). This Sitting was held as a part of the schedule already approved by Hon'ble Chairperson and as per the confirmations, 13 Members were to attend the sitting. At the outset the issue of lack of quorum was brought to the notice of Hon'ble Chairperson who however decided that the sitting may be continued in anticipation of more Members attending the sitting subsequently. However, only 8 Members finally attended the sitting against the minimum requirement of 10 Members to constitute the quorum. Since no objection was raised by anyone, the sitting was not treated as adjourned. In view of the exceptional situation and the fact that examination of Demands for Grants is a time-bound exercise and the examination had to be completed within the Session, sitting of the Committee held on 25th February, 2020 was treated as a valid sitting of the Committee with the approval of Chairperson on 11.03.2020.

In addition to this, there have been instances, both in 16th Lok Sabha and 17th Lok Sabha, when Sittings due to lack of Quorum have been treated in some cases as valid and in some other invalid. Sittings which were held valid despite lack of quorum during 16th L.S. were on 21.05.2015, 17.11.2017, 19.04.2018, 28.05.2018, 12.06.2018, 15.10.2018, 16.11.2018 and 25.02.2019. Sittings considered invalid due to lack of quorum during 17th L.S. were on 09.12.2020, 22.01.2021, 28.07.2021, 08.12.2021, 03.07.2023 and 29.11.2023.

On 10 October 2022, Sitting of Committee on External Affairs was scheduled for interaction with the Parliamentary Delegation from the National Assembly of the Republic of Korea. Only 8 members attended the sitting out of the required quorum of 10. As per the directive of the Speaker, Lok Sabha to seek relaxation from the Competent Authority in case of lack of quorum in the meeting

sitting, there is no quorum, the Chairperson of the Committee is required to suspend the sitting until there is a quorum or adjourn the sitting to some future date[136]. When a Committee has been adjourned for lack of quorum on two successive dates fixed for the sitting of the Committee, the Chairperson of the Committee is required to report the fact to the House[137] or the Speaker, whosoever has appointed the Committee[138]. The House or the Speaker, as the case may be, may then decide the course of action to be taken in the matter depending on the merits of each case[139].

Admission of Strangers

The sittings of Parliamentary Committees are held in private and are not open to public[140]. No outsider or representative of the press is admitted to the sittings. The Committees do not associate any person or body from outside, formally or informally, with their deliberations and as such all persons other than the members of a Committee and officers of the Secretariat are required to withdraw when the Committee is

of the Committee on External Affairs with foreign delegations, the matter was placed before the Speaker, Lok Sabha who granted his approval for the meeting.

136. Rule 259(2); Rule 6(2) of the Rules of Procedure of JSA.

A sitting dated 26-4-2013 of the Standing Committee on Defence was cancelled for want of quorum.

The sittings of the Committee on Empowerment of Women were adjourned due to lack of quorum on 05.06.2023, 30.05.2022 and 28.08.2020 during the 17th Lok Sabha.

On 5th September, 2023, a Sitting of the Committee on Public Undertakings (2023-24) was held to take oral evidence of the representatives of Balmer Lawrie & Co. Ltd. in connection with the horizontal examination of the subject "Review of Performance of Petroleum & Natural Gas CPSUs". This Sitting was held as a part of the schedule already approved by Hon'ble Chairperson well in advance and as per the confirmations from 8 Members to attend the Sitting. At the outset the issue of lack of quorum was brought to the notice of Hon'ble Chairperson. Hon'ble Chairperson, while expressing his concern and taking into consideration the time and expenditure incurred by the Members and representatives of Balmer Lawrie & Co. Ltd. on travel from Kolkata decided to hear the representatives on the subject, in anticipation of more Members joining the sitting later during discussion. However, only 6 Members finally attended the Sitting against the minimum requirement of 7 Members for a quorum for the Sitting. During the course of discussion the Committee informally deliberated extensively on various issues with the representatives. Since the quorum to continue the meeting could not be met, Hon'ble Chairperson decided that the sitting may be finally adjourned to future date. Subsequently, in the next sitting held on 19 September, 2023, Hon'ble Chairperson recalled that the last sitting of the Committee held on 5 September, 2023 was adjourned due to lack of quorum, in which the Committee informally deliberated on various issues with representatives of Balmer Lawrie. A Member of the Committee proposed that all the important issues informally discussed with representatives of Balmer Lawrie at the sitting of the Committee held on 5 September, 2023 may be taken on record officially and treated as prelude to the discussion being held in the sitting to which the Committee agreed.

The precedent was followed in the case of the sittings of CoPU held on 22 November, 2023 (adjourned due to lack of quorum) and 14 December, 2023 in which the representatives of Department of Telecommunications (Ministry of Communications) were called for oral evidence in connection with the comprehensive examination of the subject "Bharat Sanchar Nigam Limited (BSNL)".

137. Rule 259(3).

138. Rule 259(3), Proviso; and Rule 6(3) of the Rules of Procedure of JSA.

139. The Chairman of the Select Committee on the Notaries Bill, 1951, reported to the House that the Committee had to adjourn on two successive occasions for want of quorum with the result that no progress could be made in the work of the Committee. The House granted extension of time for presentation of report of the Committee—*P. Deb.* (II), 28-9-1951, c. 3617; and 1-10-1951, cc. 3914-15.

The sittings of the Committee on Petitions to consider a petition on the Finance Bill, 1955, could not be held on 15 and 16 April 1955 for want of quorum. When the fact was reported to the Speaker, he ordered that the petition might be circulated to all members *in extenso* as the Bill was then pending before the House.

140. Rule 266.

deliberating[141]. Certain persons may, however, with the prior permission of the Committee or its Chairperson, be present at a sitting of the Committee when the Committee is taking evidence, but they are not allowed to take part in any manner in the proceedings nor can they sit in the body of the Committee[142].

Admission of Members who are not Members of Committee

The practice regarding admission to the sittings or association with the proceedings of a Parliamentary Committee of members who are not members of that Committee differs from Committee to Committee. In certain Committees[143] such a member may, under orders of the Chairperson of the Committee, be invited to attend its sittings as a special invitee, but he is not entitled to vote. In the Committee of Privileges no member other than the members of the Committee can be associated with the deliberations of the Committee when a specific question of a breach of privilege or contempt of the House is to be considered[144]. In the case of the Committee on Estimates, a member who is not a member of the Committee may, with the permission of the Chairperson, attend the sittings of the Committee when evidence is being taken but not when the Committee is deliberating. Such a member cannot take part in any manner in the proceedings of the Committee nor can he sit in the body of the Committee[145]. In the case of a Select Committee on a Bill, a member who is not a member of the Committee may be present during the deliberations of the Committee, but he cannot address the Committee nor can he sit in the body of the Committee[146]. In the case of Joint Committee on a Bill if it is later felt that the association of some particular member would help the Committee in its deliberations, that member can be invited as an expert witness but he cannot otherwise be associated with the deliberations of

141. Rule 268. In the case of a Select or a Joint Committee on a Bill, the official Draftsman concerned with the Bill is invariably allowed to be present at the sittings of the Committee.

142. A member of the Rajya Sabha or a State Legislature or an Officer of a State Legislature may, with the permission of the Chairperson, attend the sittings of the Committee on Estimates only when evidence is being taken, but cannot take part in any manner in the proceedings of the Committee nor can he sit in the body of the Committee.

On 4 December 1956, when an official of the Department of Parliamentary Affairs came to attend the sitting of the Business Advisory Committee in the absence of the Minister of Parliamentary Affairs, the Chairman of the Committee objected to his presence at the sitting and the official was not allowed to attend the sitting.

143. These Committees are:

Business Advisory Committee, Committee on Government Assurances, Committee on Petitions, Committee on Private Members' Bills and Resolutions, Committee on Subordinate Legislation, General Purposes Committee, House Committee and the Rules Committee—*see* Internal Rules of BAC, CGA, CP, CPB, CSL, GPC, HC and RC; Min. (RC), 29-4-1958.

On a written request made by a member of the Business Advisory Committee belonging to the Opposition Group, the Speaker has occasionally permitted another member of that Group to attend the sittings of the Committee-Min. (BAC), 23-5-1957, 15-7-1957, 11-11-1957, 15-11-1957, 10-2-1958, 14-4-1958, 22-4-1960.

144. On 18 February 1959, when the Committee of Privileges (2LS) was examining a question of breach of privilege (*Mathai Case,* 1959), a member of the Committee suggested that the member or Chairman of the Committee of Privileges of the Rajya Sabha, who were also then examining the same question, might be associated with the Committee's deliberation. The Chairman of the Committee ruled that in view of Rules 266 and 268, no outside person or body could be associated formally or informally with the deliberations of the Committee.

145. Rule 23 of I.R. (EC).

146. Rule 299.

the Committee[147]. A Minister who is not a member of a Select or Joint Committee on a Bill may, with the permission of the Chairperson of the Committee, address the Committee[148] but he is not entitled to vote.

Proceedings in Committees

Proceedings in Committees are largely conducted in the same manner as in the House but in a more intimate and informal atmosphere. When a Committee is deliberating, a member can speak more than once on a question under consideration. After the Chairperson is satisfied that sufficient discussion has taken place, he puts the question to the Committee and ascertains its decision. All questions at a sitting of a Committee are decided by a majority of votes of the members present and voting[149] and in the case of an equality of votes on any matter, the Chairperson or the person acting as such, shall have a second or casting vote[150]. Except in the case of Select or Joint Committees on Bills, questions are not formally put to the vote of the Committee and as far as possible, unanimous decisions are taken. In rare cases when there is a difference of opinion in a Committee, either both opinions are included in the report of the Committee or a reference to the difference of opinion is recorded in the minutes of the Committee. A question on which a Committee has already taken a decision may

147. In the Joint Committee on the Merchant Shipping Bill, 1958, when the Minister of Transport and Communications suggested that a member of the Rajya Sabha, whose name had been omitted from being included in the Committee, might be invited to attend the sittings of the Committee so that his expert knowledge of Indian shipping could be available to them, the Speaker ruled that the Committee could call him as an expert witness but could not otherwise associate him in their deliberations.

148. Rule 299. Proviso.

The Minister of Revenue and Civil Expenditure participated in all the sittings of the Select Committee on the Life Insurance Corporation Bill, 1956, and took part in the proceedings. The Minister of Industry addressed the Joint Committee on the Parliament (Prevention of Disqualification) Bill, 1957, on 26 July 1958—*see* also Min. [J.C. on Constitution (Seventeenth Amendment) Bill, 1963], 23-1-1964. The Prime Minister Morarji Desai addressed the Joint Committee on the Khadi and Village Industries Commission (Amendment) Bill, 1978 at their sitting held on 27 September 1978. The Minister of Information and Broadcasting, Purushottam Kaushik, addressed the sitting of the Joint Committee on the Prasar Bharati (Broadcasting Corporation of India) Bill, 1979 held on 16 August 1979. The Minister of State in the Ministry of Parliamentary Affairs, Sheila Dikshit, attended the sitting of the Joint Committee on the Lokpal Bill, 1985 held on 4 May 1988.

149. Rule 261.

150. Rule 262

A sitting of the Standing Committee on Information Technology (2019-20) had been convened on 20.11.2019 for a briefing by the representatives of Ministry of Electronics and Information Technology (MeitY), Ministry of Home Affairs (MHA) and Department of Atomic Energy (DAE) on the subject 'Citizens' Data Security & Privacy' wherein 24 Members attended the Sitting. Before the representatives from the Ministries could be called in to tender evidence, some Members of the Committee raised objections to discuss the subject on the ground that the Committee were going beyond their mandate as outlined in Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha. Even after detailed discussion on the issue, the dissenting Members persisted in their demand that the question should be put to vote, under Rule 261 and matter be referred to the Hon'ble Speaker for final decision. Thereafter, the Committee deliberated and framed the question "that the Standing Committee does not have the jurisdiction to consider today's topic without special reference from the Hon Speaker". This question was put to vote and it was decided for an open voting as per provisions of Rule 261. Twelve Members voted in favour of not proceeding with the Sitting and preferred referring the matter to the Speaker, while twelve Members voted in favour of proceeding with the Sitting. As there was a tie, the Chairperson, exercised his second or casting vote under provisions contained in Rule 262 of the Rules of Procedure and Conduct of Business in Lok Sabha and the motion to refer the matter to the Speaker was defeated. The Committee, thereafter, proceeded with the Sitting and the representatives of the above Ministries were called in to tender their evidence.

be reopened at the same or a subsequent sitting of the Committee with the permission of the Chairperson[151].

A verbatim record of the proceedings is kept when a witness is examined by the Committee[152] or if it is otherwise considered necessary, depending upon the nature and importance of the matter discussed by the Committee[153]. The *verbatim* proceedings are for the use of the Committee only and no part thereof can be communicated, shown for reference or divulged to anyone who is not a member of the Committee without the permission of the Speaker unless and until the proceedings have been laid on the Table[154].

The proceedings of a Committee are treated as confidential and it is not permissible for a member of the Committee or anyone who has access to those proceedings to communicate, directly or indirectly, to the press or any other person any information regarding the proceedings, including the report or any conclusions arrived at finally or tentatively, before the report is presented to the House[155].

However, in the case of Joint Committee to enquire into irregularities in securities and banking transactions, the Committee decided that in view of the widespread public interest, the Chairman should brief the press about the deliberations of the Committee, as the motion adopted by the House provided that the Committee might, if need arises, in certain matters, adopt a different procedure with the concurrence of the Speaker, the Speaker accorded the necessary approval and the Chairperson briefed the press at the end of each meeting of the Committee.

Mute Clippings of Sittings of Parliamentary Committees[156]

In order to familiarize the public in general about the activities of their Representatives, mute Short Clippings at the Commencement of each sitting of Parliamentary Committees showing the visuals of Chairpersons, Members and Officials have been recorded and aired by Sansad TV erstwhile Lok Sabha Television (LSTV).

Evidence

A Committee may take oral and/or written evidence in connection with a matter under its consideration, examination or investigation, and every Committee has the

151. Dir. 54.

See, for example, Min. [S.C. on the Government Premises (Eviction) Amendment Bill, 1954] 30 April 1955, 25, 27 August 1955.

In the case of Committee on Private Members' Bills and Resolutions, a Bill categorised as 'B' in any one session, may, on application from the sponsor of the Bill, be considered for recategorisation during a later session—40R(CPB-1LS).

152. Rule 273(v).

153. For example, when the Committee on Estimates considers its draft reports; when the Committee on Private Members' Bills and Resolutions examines Bills seeking to amend the Constitution; and when the Committee of Privileges arrives at its decisions. The proceedings in the Rules Committee are recorded *verbatim* as they bring out the implications of the rules. Proceedings of the sittings of the Joint Committee to enquire into Bofors Contract (1987) were recorded *verbatim.*

154. *Verbatim* proceedings may be made available to members in the discretion of the Speaker in response to a specific request made in the House—*L.S. Deb.,* 12-8-1966.

155. Dirs. 55(1) and 65(1).

156. Committee Coordination Branch *vide* note dated 10.11.2020 had issued a Note regarding 'Recording of Mute Short Clippings at the Commencement of each sitting of Parliamentary Committees by Lok Sabha Television (LSTV)'.

power to send for persons, papers and records[157]. Provided if any question arises whether the evidence of a person or the production of a document is relevant for the purposes of the Committee, the question shall be referred to the Speaker whose decision shall be final[158] . All questions at any sitting of a Committee shall be determined by a majority of votes of the members present and voting[159] and in the case there is of an equality of votes on any matter, the Chairperson or the person acting as such, shall have a second or casting vote.

Examination of Witnesses[160]

A Committee may take evidence of experts or interested parties on their own initiative or on requests made[161] 'Evidence of officials of Government of India and Undertakings' and 'Evidence of officials of State Governments' are governed by the Directions 59 and 60 by the Speaker Lok Sabha. When felt necessary, the Committee may also call for oral evidence of non-official witnesses such as experts, representatives of industries, civil society organisations, prominent public personalities, retired Government officials, Media Group, Legal experts, academicians, etc., whose evidence is considered to be of help to the Committee in their investigations. On certain occasions, the non official witnesses from abroad have also appeared before the Committee when their testimony was considered to be essential for examination of the subject under consideration[162].

157. Rule 270.

158. Rule 270

159. Rule 261

160. Rule 273

161. Dir. 57(1)

162. There are two instances in the Standing Committee on Information Technology of calling non-official witnesses from abroad - one during the tenure (2014-15) and the other during the tenure (2018-19). One of the subjects selected by the Standing Committee on Information Technology (2014-15) was 'Net Neutrality' and while examining the subject the Committee decided with the approval of Competent Authority to hear the views of an expert, namely, Shri Vishal Mishra, a faculty Member in the Columbia University, U.S.A who had expressed his willingness to depose before the Committee. Accordingly, he was called to depose before the Committee on 11.08.2015. No TA/DA was, however, claimed by him for travelling to India and there was no financial implication in inviting him to the sitting of the Committee.

In another instance, the Standing Committee on Information Technology (2018-19) had selected the subject 'Safeguarding citizens' rights on social/online news media platforms'. The Committee had desired to call the CEO or the next senior official in the hierarchy of Twitter and Face book Group to depose before the Committee as per Rule 270 of the 'Rules of Procedure and Conduct of Business in Lok Sabha'. Since senior functionaries of these companies operated from California, U.S.A, they had to travel from abroad for attending the sittings. The summoning of official/ non official witness by the Committee is governed by the Directions by the Speaker/Rules of Procedure and Conduct of Business in Lok Sabha. The Directions/Rules are, however, silent on inviting non-official witnesses from overseas to depose before the Committee. It was learnt that there had been a few precedents when non-official witnesses from a foreign country had deposed before the Committees such as the 36th Report of the Standing Committee on Energy (1995-96) on 'Fast Track Power Projects– An Evaluation' relating to Ministry of Power wherein representative of Dhabol Power Co.– Ms. Rebecca Mark from United States had deposed before the Committee in the capacity as Chief of Enron Company. Therefore, the Standing Committee on Information Technology (2018-19) obtained the approval of Hon'ble Speaker on 11th February, 2019 before inviting the CEO/senior functionaries of Twitter and Face book group to the sittings of the Committee. Accordingly, the sittings of the Committee were convened on 25th February, 2019 and 5th March, 2019 wherein the representatives of Twitter and Face book Group respectively were called to depose before the Committee. No TA/DA was, however, claimed by them for travelling to India.

The Ministers are generally not called before the Committees to give evidence. The Joint Committee to enquire into irregularities in securities and banking transactions, however, decided to call for written information on certain points from Ministers/ ex-Ministers and to call them for evidence before the Joint Committee, if considered necessary on account of the wide ramifications of the subject under examination. The Speaker, while according the necessary approval, stated that this was being done in view of the uncommon nature of the case and the views expressed by the Leaders of all Parties at the time of constituting the Committee and also subsequent to that. The Committee called certain information in writing and also took evidence of the Ministers of Finance and Health & Family Welfare.

Where the disclosure of a document is, however, likely to be prejudicial to the safety or interest of the State, the Government may decline to produce it before a Committee[163].

163. Rule 270, Second Proviso.

In accordance with an established convention, secret documents required by a Parliamentary Committee are confidentially made available by the Ministry or Department or Undertaking to the Chairman in the first instance, unless it is certified by the Minister concerned that such document could not be made available on the ground that its disclosure would be prejudicial to the safety or interest of the State. The Chairman gives due consideration to the wishes of the Ministry or Department or Undertaking before making any such document available to the members of the Committee. Any difference of opinion between the Ministry, etc. and the Chairman is settled by discussion, and in the last resort by reference to the Speaker. The plea on non-disclosure of a document on grounds of safety or interest of the State has to be taken by the Minister himself. It would not be adequate or proper for any civil servant to advance this plea before the Speake or the Chairman of a Parliamentary Committee.

(i) On 13 July 1956, the Minister of Defence handed over a few reports to the Chairman, Estimates Committee, for use in connection with the examination of the estimates of the Ministry of Defence with a request to treat them as secret documents. Those reports were not circulated to the members of the Sub-Committee (Defence) of the Estimates Committee. The information contained in them was, however, utilized in determining the methodology of inquiry.

(ii) During their examination of audit para 16 of the Report of the Comptroller & Auditor General of India for 1971-72 on Revenue Receipts (Vol. 1) relating to import of serviceable woollen garments as rags, the PAC (1973-74) desired to be furnished with full facts relating to inter-ministerial meetings held in this regard and the PM's approval in the matter. The Cabinet Secretariat declined to furnish the requisite files invoking the second Proviso to Rule 270. Later the Minister of Works, Housing and Parliamentary Affairs also addressed a D.O. to the Speaker, Lok Sabha stating that the papers of the Cabinet Secretariat which the Chairman of PAC wishes to see were not relevant for the purpose of the Committee's inquiry. He also requested the Speaker to call for the relevant papers and to give a ruling in the matter.

The Speaker ruled *inter alia* as follows:

"....the details of the discussion held between the Ministers and the approval given by the Prime Minister to the recommendations of the Ministers are no longer relevant within the meaning of Rule 270 of the Rules of Procedure and Conduct of Business in Lok Sabha".

(iii) While examining para 27 of the Report of the Comptroller & Auditor General of India for the year 1972-73, relating to purchase of Milo from abroad, the PAC (1974-75) called for certain information from the Department of Food. The Minister of State for Agriculture and Irrigation certified that the production of the documents in question would be prejudicial to the safety and interest of the State. The Government also invoked the second Proviso to Rule 270. The Minister's request was acceded to by the Speaker.

(iv) The PAC while examining audit para 27 of the report of Comptroller & Auditor General of India for the year 1974-75 asked for certain documents from the Ministry of Food. The Ministry of Food invoked the second Proviso to Rule 270. On the attention of the Ministry being drawn to the well established convention of making secret documents available to the Chairman of the Committee, the Minister of State for Agriculture and Irrigation discussed the matter with the Speaker, Lok Sabha. While acceding to the request of the Minister, he directed that the papers might be shown to the Chairman only. Accordingly, the papers were made available to the Chairman, PAC.

(v) During the course of their examination of audit para 35 of the Report of the Comptroller

If at any time any question arises whether the evidence of a person or the production of a document is relevant for the purpose of the Committee, the question is referred to the Speaker whose decision is final[164]. Similarly, if an officer of a State Government is required to be examined by a Committee or if a paper, document or record of a State Government is required to be produced before a Committee, the orders of the Speaker are required to be obtained in each case before the officer or the State Government concerned is asked to comply with the request[165].

Where the Speaker decides that it is not necessary to summon a particular State officer as a witness or that the State Government need not be asked to produce a paper, document or record, his decision is conveyed to the Committee through its Chairperson[166] .

A Committee can take evidence of experts, public bodies, associations, individuals or interested parties *suo motu* or on requests made by the persons or bodies interested in or affected by the subject matter under consideration or examination of the Committee[167]. In the case of a Select or Joint Committee on a Bill, if the Committee

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& Auditor General of India for 1985-86, Union Government (Defence), the PAC (1987-88) asked the Ministry of Defence to furnish certain documents. The same were made available to the Chairman. However, he directed that as the documents were very voluminous, the same should be made available to the Director of Audit (Comptroller & Auditor General of India) for comprehensive examination. As the documents were not made available to the Audit, the matter was again taken up with the Secretary/ Ministry of Defence. The Minister of Defence informed the Chairman that all the documents except one had been made available to the Audit. He also reiterated that the document in question could be shown to the Chairman, PAC which was accepted by the Chairman.

(vi) The Committee of Privileges during the course of examination of a question of privilege against the Editors of Indian Express, Financial Express and Jansatta for allegedly casting reflections on a member of Parliament, in an article captioned "An MP and two Accounts" published in their issues dated 14 March 1988, called for from the Ministry of Finance certain documents relevant to the matter pending consideration before the Committee. The Ministry of Finance, while sending the requisite documents, stated that since the said documents had been classified as 'secret', the same might be put up to the Chairman, Committee of Privileges for his perusal only.

The Committee directed that the Minister of Finance might be asked to state if he would have any objection to the Chairman showing the said documents or he would like to certify that the documents could not be made available to members of the Committee on the ground that their disclosure would be prejudicial to the safety or interest of the State. On the Ministry of Finance intimating, with the approval of the Minister of State for Finance, that the disclosure of the documents was not considered to be prejudicial to the safety or interest of the State, the Chairman made the said documents available to the members for perusal during the course of the sitting of the Committee on 14 July 1988.

164. Rule 270, First Proviso.

165. Dir. 60(1).

The Home Secretaries to the Government of Punjab, Uttar Pradesh and West Bengal were, with the permission of the Speaker, examined by the Joint Committee on the Arms Bill, 1958, on 14, 15 and 18 July 1959.

The Law Secretaries to the Governments of Himachal Pradesh, Punjab, Uttar Pradesh and Maharashtra were, with the permission of the Speaker, examined by the Joint Committee on the Criminal Law (Amendment) Bill, 1980 on 30 June, 1, 4 and 27 July 1981, respectively.

The representatives of the Fisheries Departments of the State Governments of Tamil Nadu, Andhra Pradesh, Odisha, Maharashtra, Karnataka and Kerala were, with the permission of the Speaker, asked by the Standing Committee on Agriculture, Animal Husbandry and Food Processing to tender evidence on 2 June, 2023 before the Committee on 'The Coastal Aquaculture Authority (Amendment) Bill, 2023'.

166. Dir. 60(2).

167. Dir. 57(1).

decides to hear evidence, it issues generally a press communique[168] inviting interested parties to send written memoranda containing their views on the Bill. After considering the written memoranda received from the persons or organisations, the Committee or the Chairperson, when so authorised, selects the parties who may be called to give evidence before the Committee. It is also within the discretion of a Select or Joint Committee on a Bill to invite written opinions on a Bill from experts or individuals or organisations instead of hearing them[169]. Where a Ministry, Department or an Undertaking is required to give evidence before a Committee on any matter, it is represented by the Secretary or the head of the Department or the Undertaking, as the case may be[170]. If for any reason such an officer cannot attend a Committee on any particular occasion, the Chairperson of the Committee, may, on a request being made to him, permit any other senior officer to represent the Ministry, Department or Undertaking before the Committee on that occasion[171]. If required by a Committee, the Ministry, Department or Undertaking concerned has to furnish for circulation to the members of the Committee sufficient number of copies of any memorandum containing its views on the matter under consideration well in advance of the date on which its representatives have to give evidence before the Committee.[172]

Procedure for Securing Attendance of Witnesses

A witness includes a representative of a Ministry, Department, Public Undertaking or any organisation or any other person. A witness may be called either by a letter or by issue of a formal summons to give evidence before a Committee and/or to produce before it any document required by the Committee[173]. Generally, a letter is addressed and formal summons are issued to a witness only when a Committee is conducting an investigation of a judicial character.

If a witness fails to appear before a Committee when summoned or called by a letter or a person refuses to produce any document when so required by a Committee, his conduct constitutes contempt of the House and may be reported to the House by the Committee.[174]

168. *See,* for example, reports of Joint Committees on the Arms Bill, 1958, the Companies (Amendment) Bill, 1959, the State Bank of India (Subsidiary Banks) Bill, 1959, the State Bank of India (Amendment) Bill, 1959, the Banking Companies (Amendment) Bill, 1959, the Marriage Laws (Amendment) Bill, 1981, and the Life Insurance Corporation Bill, 1983.

169. The Joint Committee on the University Grants Commission Bill, 1954, invited written opinions on the Bill from the Vice-chancellors of all Indian Universities instead of calling them for oral evidence.

170. Dir. 59(1).

On 9 July 1951, the Public Accounts Committee postponed examination of accounts relating to the Supreme Court when they noticed that an Assistant Registrar of the Supreme Court had been deputed to attend the sitting.

In August 1955, on finding a Deputy Secretary deputed to represent the Ministry of Rehabilitation at their sitting, the Public Accounts Committee deferred consideration of the accounts of that Ministry till the Secretary of the Ministry himself appeared before the Committee.

171. Dir. 59(1), Proviso.

172. Dir. 59(2).

173. Rule 269(1).

174. Hon'ble Chairperson of the Committee on Empowerment of Women did not accede to the request for exemption by CMD, Solar Energy Corporation of India (SECI) from appearing before the Committee during its Study visit at Ahmedabad on 17.01.2024 as no specific reason was cited by him in his request to grant exemption. Since he failed to appear before the Committee even after conveying the

If a witness to be examined by a Committee is in jail, his attendance before the Committee, if considered necessary, is secured through the Home Ministry and the State Government concerned.

When the Parliamentary Committee on the Demand for *Punjabi Suba,* on requests made to them, decided on 1 February 1966, to hear a detenu detained under orders of the Punjab Government, the Home Ministry and the Punjab Government were asked in writing and telegraphically, respectively, to ensure the detenu's appearance before the Committee on February 4 at 15.00 hours. The detenu who was then in the Central Jail, Delhi, was brought to Parliament House on the appointed date and time under police escort and was received at the main gate by the Watch and Ward Officer,[175] Lok Sabha. The police escort waited at the Outer Reception Office and the Watch and Ward Officer conducted the detenu to the waiting room for witness. From there, the staff attending the Committee took the detenu to the Committee Room. After his evidence before the Committee, he was conducted to the main gate by the Watch and Ward Officer and handed over to the waiting police escort for being taken back to jail.

Counsel for a witness: Generally, a witness is heard in person by a Committee. In special circumstances, however, especially in inquiries or investigations of a judicial character, a witness may be permitted to be represented or accompanied by a counsel[176].

Evidence on oath: Ordinarily, oath or affirmation is not administered to witnesses appearing before the Committees. An oath or affirmation is administered to a witness only where the investigation is of a judicial or *quasi-judicial* nature and the truth of the facts has to be ascertained[177].

Procedure for Examining Witnesses

Before a witness is called for examination, the Chairperson and members of the Committee briefly confer and decide upon the lines to be followed in the examination of the witness and the questions to be asked of him[178]. The Chairperson first asks the witness such questions as he may consider necessary with reference to the subject

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decision of the Hon'ble Chairperson, as directed by the Hon'ble Chairperson, the matter was placed before the Hon'ble Speaker who directed that the matter may be referred to Privileges Committee for their examination and report.

175. Redesignated as Joint Secretary, Security.

176. Rule 271. In the *Mudgal Case,* the motion constituting the Committee provided that "Shri H.G. Mudgal has leave to be heard before the Committee by himself or by counsel, if he thinks fit, and that the Committee may hear counsel to such extent as they think fit on behalf of any other person"—*P. Deb.* (II), 8-6-1951, cc. 10464-65.

177. Rule 272(1). In the *Mudgal Case,* and the *Deshpande Case,* the Committees examined witness on oath—*see* Report of Committee on the Conduct of a Member *(Mudgal Case),* 1951, and Report of the Committee of Privileges *(Deshpande Case),* 1952, respectively. Joint Committee to enquire into Bofors Contract decided to take evidence on oath. Accordingly, all the witnesses (including official witnesses) were administered oath by the Chairman—*see* Report of the Joint Committee.

178. Rule 273(i) In the case of the Estimates Committee, the Public Accounts Committee, and the Committee on Public Undertakings, a list of points and/or questions for oral examination of witnesses, incorporating therein any suggestions received from members of the Committee, is prepared and circulated to the members of the Committee before the oral examination of witnesses actually takes place. Besides financial Committees, this practice is in vogue in several other Parliamentary Committees such as Committee on Subordinate Legislation, Committee on Petitions, Committee on Papers Laid on the Table and Committee on Government Assurances, etc.

matter under consideration or any subject connected therewith[179]. Thereafter, other members of the Committee may, one by one, ask the witness any other question[180]. In the case of a Select or Joint Committee on a Bill, where a witness is called to give evidence after considering a written memorandum submitted by him, examination of the witness is confined mainly to matters not clarified in his memorandum and to such other matters as may arise therefrom. The questions asked are confined to matters that affect the interest represented by the witness or upon which he is competent to express an opinion. After all the members of the Committee have finished with their questions, the Chairperson may ask the witness to place before the Committee any other relevant points which may not have been covered and which the witness thinks are essential to be placed before the Committee[181]. A witness may also, with the permission of the Chairperson, place before the Committee any other relevant information which may not have been already placed before the Committee[182].

Decorum and etiquette to be observed by witnesses: All witnesses, when appearing before a Committee or a Sub-Committee thereof, have to observe a proper decorum and etiquette consistent with the courtesy and respect due to a Committee of Parliament. Points of conduct and etiquette to be observed by the witnesses have been drawn up for their guidance[183]. A copy of these points, where considered necessary, is either sent to the witness when he is called to appear before a Committee or shown to him when he personally comes for evidence.

Restriction of number of witnesses to depose before the Committee in the light of COVID-19 Pandemic:[184]

The Ministry/Department appearing for evidence before the Committee were advised to restrict the number of officials to a maximum of 5.

Verbatim Record of Evidence

A *verbatim* record of the proceedings of a Committee is kept when a witness is called to give evidence before the Committee[185]. Relevant portions of the *verbatim* proceedings of the sitting, at which evidence has been taken, are forwarded by the Secretariat to the witness and the members concerned for confirmation and return by a specified date[186]. If corrected copies of the proceedings are not received back by the specified date, the reporter's copy is treated as authentic[187]. In exceptional cases, reasonable cause being shown, corrections received after the specified date may be admitted.

Corrections, if any, must be made neatly and legibly by the witness or the member in ink in his own handwriting.

179. Rule 273 and Dir. 62(1).
180. *Ibid.*
181. Rule 273(iv).
182. Dir. 62(2).
183. Points of Conduct and Etiquette are maintained by the Committee Branches.
184. Committee Coordination Branch *vide* its Circular No. 32117 dated 3rd July 2020
185. Rule 273 (v)
186. Dir. 65(2).
187. *Ibid*.

A witness or a member cannot make corrections for the purpose of improving the literary form or altering the substance of the proceedings by additions or deletions. The corrections, if any, are to be confined to correction of inaccuracies which may have occurred in the process of reporting[188].

The verbatim reporting of the proceedings includes reporting through electronic mode. Arrangements are made during the parliamentary sessions for audio recording of the proceedings which are handed over to the Verbatim Reporting Service Branch for transcription[189].

Secret or Confidential Documents Submitted to a Committee not to be Quoted

Whenever a secret or confidential paper or document is circulated to the members of a Committee, the contents of such paper or document must not be divulged by any member of the Committee either in a minute of dissent or in his speech on the floor of the House or otherwise, without the prior permission of the Speaker[190]. Where such permission has been obtained, any restriction imposed by the Speaker in regard to the manner in which, or the extent to which, the information contained in the document may be divulged, has to be strictly observed by the member concerned[191]. In the case of a Select or Joint Committee on a Bill, although secret or confidential documents circulated to members of the Committee cannot be referred to in minutes of dissent or speeches in the House, arguments contained in such documents may be advanced without quoting the source or the authority[192].

Prohibition on Publication of Evidence before it is Reported to the House

Evidence given before, or a document submitted to a Committee, is always treated as confidential and no part thereof can be divulged or shown for reference to anyone who is not a member of the Committee unless and until the same has been laid on the Table[193]. All documents, representations or memoranda addressed to a Committee and received in the Secretariat form part of the records of the Committee and can neither be withdrawn nor altered without the knowledge and approval of the Committee[194]. In the case of a Select or Joint Committee on a Bill, while acknowledging receipt of a representation or memorandum addressed to the Committee, the sender is informed that as his representation or memorandum has gone into the records of the Committee, the same should be treated as strictly confidential and not circulated to anyone else. No person can, without the permission of the Speaker, quote from or, send to anyone else, copies of any document submitted to a Committee unless and until the same has been presented to the House either along with the report of the Committee or separately[195]. If any person

188. Dir. 65(3).

189. The circular no. 32122 dated 6th July, 2020 issued by the Committee Coordination Branch reads: 'It has also been decided that the Members/officials who speak during the Sittings may be requested to introduce themselves so that the views/comments are duly identified and recorded against their names in the audio recording'.

190. Dir. 55(2).

191. *Ibid*.

192. Min. [JC on the Code of Criminal Procedure (Amendment) Bill, 1954], 27-8-1964.

193. Rule 275(2); Dirs. 55(1) and 65(1).

194. Rule 269(3).

195. Dir. 74.

seeks permission to make use of the representation or memorandum submitted by him to a Committee, he is, when so permitted, required to make use of only the arguments or points contained in his representation or memorandum without alluding to the fact that such considerations have also been urged by him in the representation, etc. submitted to the Committee[196]. When copies of the relevant portions of the *verbatim* proceedings of the sitting of a Committee at which evidence has been given are forwarded to a witness or a member for correction and return, he is informed that it is neither permissible to take out copies of those proceedings nor can the proceedings be quoted anywhere or made use of in any manner without the permission of the Committee.

It is a breach of privilege for any person to publish any part of the evidence given before, or any document submitted to, a Committee before such evidence or document has been reported to the House.

It is at the discretion of the Committee to treat as secret or confidential any evidence, oral or written, given before it[197]. Even where a witness expressly desires his evidence to be treated as confidential, the Committee may decide otherwise and make it available to the members of the House[198]; where the Committee decides to treat the evidence as confidential, it is not printed along with other evidence nor presented to the House but the Committee may decide to place a few copies thereof in the Library for reference by members only[199]. However, all evidence given before and documents submitted to a Committee are available to all members of the Committee[200]. Generally, the *verbatim* record of evidence given before a Committee is kept with the Secretariat for reference by members of the Committee, but on occasions such record of evidence or a summary thereof has been circulated to members of the Committee[201].

196. Permission to publish the representations/memoranda submitted to the Joint Committee on the Companies Bill, 1953, and the Joint Committee on the Merchant Shipping Bill, 1958, was refused to the persons concerned on the ground that the same had not been laid on the Table.

    Similarly, the Department of Company Law Administration were not granted permission to print the written evidence submitted by them to the Joint Committee on the Companies Bill, 1953, because the documents in question had not till then been laid on the Table, even though that evidence was to form part of the record for official use only.

    Permission to make use of arguments or points contained in their representations or memoranda submitted to the following Committees was granted to certain persons and associations:

    Joint Committee on the Merchant Shipping Bill, 1953; Select Committee on the Wealth Tax Bill, 1957; and Select Committee on the Expenditure Tax Bill, 1957.

    In February 1969, permission was granted to P.G. Mavalankar to include in the Laski Institute's proposed publication, the full text of evidence given by him and Santhanain before the Joint Committee on Constitution (Amendment) Bill, 1967 by Nath Pai.

197. Rule 269(2).

198. Dir. 58.

199. On the express desire of some witnesses, the evidence given by them before the following Select/ Joint Committees was treated as confidential and it was not printed with the evidence of other witnesses:

    (i) Joint Committee on the Arms Bill, 1958; (ii) Select Committee on the Taxation Laws (Amendment) Bill, 1973; (iii) Joint Committee on the Marriage Laws (Amendment) Bill, 1982; (iv) Joint Committee on the Life Insurance Corporations Bill, 1983.

200. Rule 273(vi).

201. Verbatim record of evidence given before the following Select/Joint Committee was circulated to members of the Committee:

    (i) Select Committee on the Life Insurance Corporation Bill, 1956; (ii) Joint Committee on the Criminal Law (Amendment) Bill, 1980; (iii) Joint Committee on the Lokpal Bill, 1985; and

Laying of Evidence on the Table

It is for the Committee to decide if the whole or part of the evidence given before them or a summary thereof should be laid on the Table[202]. The general practice in this regard varies from Committee to Committee. The Committee on Estimates has decided that the evidence it takes need not normally be published with its reports[203]. A resume of the evidence is invariably embodied on the minutes of the sittings of the Committee which are laid on the Table as soon as possible after the presentation of the report to which they relate.

Where evidence was taken by the erstwhile Sub-Committee on Public Undertakings of the Committee on Estimates, the minutes of the sittings at which evidence was taken were laid on the Table together with the minutes of the sitting of the whole Committee at which the report of the Sub-Committee was adopted by the whole Committee[204].

The evidence given before the Committee on Public Accounts is also not normally laid on the Table. Where, however, the Committee on Public Accounts decides to lay the evidence on the Table, it is printed in the form of a separate volume which is deemed to form part of the report of the Committee dealing with the relevant accounts and audit report thereon. Evidence given before a Sub-Committee of the Committee on Public Accounts is not printed *verbatim;* only the minutes of the Sub-Committee are appended to its report which, on approval by the Committee, are included in the report of the whole Committee[205]. The evidence given before the Committee of Privileges, unless decided otherwise by the Committee[206], forms part of, and is appended to, the report of the Committee which is laid on the Table[207]. If a Select or Joint Committee on a Bill decides that the evidence given before it need not be laid on the Table, it does not form part of the report of the Committee[208]. Where it is decided that only a summary of the

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(iv) Joint Committee on the Railways Bill, 1986.

A summary evidence given before the Joint Committee on the Companies Bill, 1953, was circulated to members of the Committee.

In the case of the Estimates Committee and Public Accounts Committee, only the minutes containing a resume of evidence given before these Committees are circulated to members of the Committee.

202. Rule 275(1).

203. Min. (EC), 7-2-1953.

The reason for not publishing the evidence given before the Estimates Committee is that if the witnesses appearing before the Committee know that their evidence would be printed and published, they may be on guard and the Committee may, to that extent, be deprived of the benefit of free and frank expression of views by witnesses. Especially in the case of non-official witnesses, who speak in confidence, their evidence has been found to be of great value by the Committee in arriving at proper conclusions. If the evidence of the non-official witnesses is to be published, they may be hesitant to speak out so frankly and, in some cases, they may even be reluctant to give evidence before the Committee.

204. Min. (EC), 11-4-1960.

205. In the case of its Sub-Committee on the Delhi Transport Authority (Bus Section) 1950-51 to 1953-54, the Public Accounts Committee adopted the report of the Sub-Committee as its report and the evidence given before the Sub-Committee was also printed along with the report.

206. *See* SR (CPR-2LS), p. 12; 11R (CPR-2LS), p. 6.

207. *See* the *Deshpande Case,* 1952, 4R (CPR-2LS); 7R (CPR-2LS); 12R (CPR-2LS); 13R (CPR-2LS).

208. Min. [SC on the Government Premises (Eviction) Amendment Bill, 1954], 27-8-1955; and Min. [SC on the Securities Contracts (Regulation) Bill, 1954] 18-2-1956.

evidence may be laid on the Table, the evidence is printed in summary form as part of the report presented to the House[209]. In the case of a Select or Joint Committee on a Bill, laying of evidence on the Table *in extenso* is more common and where the Committee so decides, the evidence is printed in a separate volume[210]. Similarly, memoranda, etc. submitted by organisations, associations or individuals who give evidence before a Select or Joint Committee on a Bill may, if the Committee so decides, be laid on the Table as an Appendix to the evidence[211]. The Committee may also decide that such memoranda, etc. need not be laid on the Table along with other evidence but a few copies thereof may be placed in the Library for reference by members[212].

Circulation of Evidence to Members of the House

Copies of the evidence given before a Committee are made available to members of the House only after the evidence has been laid on the Table. In an urgent case, however, particularly when the House is not in session, the Speaker may, in his discretion, direct that such evidence be confidentially made available to members before it is formally laid on the Table[213].

Sub-Committees

A Sub-Committee, having the powers of the whole Committee, may be appointed by a Parliamentary Committee to examine any matter that may be referred to it which requires detailed study or investigation[214]. The order of reference to a Sub-Committee clearly states the point or points for investigation[215]. The members of a Sub-Committee are appointed from amongst the members of the whole Committee. If the Chairperson of a Committee is a member of a Sub-Committee thereof, he automatically becomes the Chairperson of the Sub-Committee. Otherwise, the Chairperson or the convener of a Sub-Committee is appointed by the Chairperson of the whole Committee[216]. The Chairperson of the Committee on Estimates is usually the Chairperson of the Sub-Committee on Defence and in the case of the Accommodation, Sub-Committee of the House Committee, the Chairperson, House Committee, is the *ex officio* Chairperson of the Sub-Committee[217].

The procedure followed in the Sub-Committee is, as far as practicable, the same

209. *See* Reports of the JCs on the Displaced Persons Compensation and Rehabilitation Bill, 1954; the Code of Criminal Procedure (Amendment) Bill, 1954; and the Lokpal and Lokayukta Bill, 1968.

210. In the case of Select Committees on the Electricity (Supply) Amendment Bill, 1954, and the Life Insurance Corporation Bill, 1956 and Joint Committees on the Companies Bill, 1953, the Motor Vehicles (Amendment) Bill, 1955 and Joint Committee on the Life Insurance Corporation Bill, 1983, the evidence given before the Committees was laid on the Table *in extenso* in a separate volume.

211. *See* Evidence volumes of the Joint Committees on the Motor Vehicles (Amendment) Bill, 1955, and the Banking Companies (Amendment) Bill, 1959.

212. Memoranda, etc. submitted by individuals or associations to Select Committee on the Life Insurance Corporation Bill, 1956, the Joint Committee on the Arms Bill, 1958, Joint Committee on the Mental Health Bill, 1978 and the Joint Committee on the Life Insurance Corporation Bill, 1983, were not appended to the Evidence laid on the Table, but a few copies were placed in the Library for reference by members.

213. Rule 275(3), Proviso.

214. Rule 263(1).

215. Rule 263(2).

216. Dir. 56(2).

217. Rule 4(1) of the House Committee Rules.

as in the whole Committee[218]. The Chairperson of the whole Committee may, subject to any general or special directions issued by the Speaker, gives such directions on matters of procedure to the Chairperson or convener of a Sub-Committee as may be necessary for the regulation and organization of work of the Sub-Committee[219].

The report of a Sub-Committee, signed by the Chairperson of the Sub-Committee, is submitted to, and considered by, the whole Committee; if the report of the Sub- Committee is approved at the sitting of the whole Committee, it is deemed to be the report of the whole Committee[220]. The report of a Sub-Committee may also be appended to the report of the whole Committee when the latter is presented to the House or the Speaker[221].

Record of Decisions of a Committee

Minutes of Sittings

Soon after each sitting of a Committee, minutes of the proceedings of the sitting, giving names of the members and officers present, the duration of the sitting and the decisions arrived at are prepared and, after approval by the Chairperson or the member who presided at the sitting, circulated to the members of the Committee[222].

However, in the case of the Committee on Public Accounts, only consolidated minutes of the sittings of the Committee relating to the examination of particular accounts are circulated to members of the Committee. Minutes of the sittings of a Sub-Committee are generally circulated only to members of the Sub-Committee, but in the case of a Sub-Committee of the Committee on Public Accounts, minutes of the sittings at which evidence is given are circulated to members of the whole Committee.

Where considered necessary, a copy of the minutes of a sitting of a Committee or Sub-Committee or relevant extracts there from may also be sent to the Ministry or other authority concerned[223]. If any member desires to make any alteration in the minutes on the ground that they are not in conformity with the decision arrived at, the matter is considered by the Committee or Sub-Committee at its next sitting and the decision taken thereon is incorporated in the minutes of the sitting[224]. The minutes are treated as confidential until presented to the House[225].

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218. Dir. 56(3).
219. Dirs. 101(iii) and 101A(vi).
220. Dir. 56(1) and Rule 263(1) (2)—*See* report of the Joint Committee of the Houses to examine the question of the working of the Dowry Prohibition Act, 1961. The report of the Sub-Committee was submitted to the Joint Committee on 6 August 1982.
221. *See* reports of Joint Committee on the Companies Bill, 1953, Select Committee on the Representation of the People (Second Amendment) Bill, 1955, Committee on Offices of Profit, 1955, and Joint Committee on the Parliament (Prevention of Disqualification) Bill, 1957.
222. Rule 274 and Dir. 66.
223. Dir. 66(3).

    In the Public Accounts Committee, extracts of the minutes are not circulated to any Ministry but the minutes are sent to the Comptroller and Auditor General for information.

    In the Business Advisory Committee, a copy of the minutes of each sitting is also sent to the Department of Parliamentary Affairs.

    In the General Purposes Committee and the House Committee, when so decided, relevant extracts from the minutes are forwarded to the Ministries/Departments concerned for necessary action.
224. Dir. 66(4).
225. Dir. 66(5).

Laying of minutes on the Table: The practice regarding laying of the minutes of the sittings on the Table varies according to the nature of work of the Committee. Minutes of the sittings of the Business Advisory Committee, General Purposes Committee and the Joint Committee on Salaries and Allowances of Members of Parliament are not laid on the Table. In the case of the Committee on Absence of Members from the Sittings of the House, Government Assurances, Petitions, and Private Members' Bills and Resolutions, the minutes of the sittings held during a session are laid on the Table by the Chairperson or, in his absence, by any other member of the Committee, before the termination of the session[226]. If any of these Committees holds its sittings when the Lok Sabha is not in session, the minutes of those sittings are laid on the Table during the next Session at the first convenient opportunity[227]. In the case of the Committee of Privileges, Committee on Public Accounts, Committee on Subordinate Legislation, Joint Committee on Offices of Profit, and Select or Joint Committees on Bills, minutes of the sittings of the Committee form part of, and are appended to, the relevant report of the Committee which is presented to, or laid on the Table of the House[228]. Minutes of the sittings of the Rules Committee are laid on the Table by the Deputy Speaker if he is a member of the Committee or, in his absence, by any other member of the Committee soon after the relevant report has been so laid[229] or the Minutes are appended to the relevant report when it is laid on the Table. Usually an entry is made in the *List of Business* for the day on which the minutes of sittings of a Committee are to be laid on the Table[230].

Reports of Committees

The Report of a Committee may be either preliminary or final[231]. A Committee may, if it thinks fit, make a special report on any matter that arises or comes to light in the course of its work, and which it may consider necessary to bring to the notice of the Speaker or the House, notwithstanding that such matter is not directly connected with, or does not fall within, or is not incidental to, its terms of reference[232].

Time Limit for Presentation of Report

Standing Parliamentary Committees generally present their reports to the House or to the Speaker, as the case may be, from time to time[233].

226. Rule II of IR (CAM); Rule 13(1) of IR (CGA); Rule 10(1) of IR (CP) and Rule 8 of IR (CPB).

227. Rule 13(2) of IR (CGA) and Rule 10(2) of IR (CP).

228. Rule 8 of IR (CPR); IR (PAC-1LS), p. 39, para 71; Rule 8 of IR (CSL); Rule 11 of IR (JCOP) and Rule 9 of IR (S/JCs).

229. Rule 7 of IR (RC).

230. Dir. 67(2).

231. Rule 277(2).

In the *Blitz Case,* 1961, the Committee of Privileges presented a preliminary report to the House before its final report—12R and 13R(CPR-2LS).

232. Rule 276.

Two special reports were presented to the Speaker by the Committee on the Conduct of a Member *(Mudgal Case,* 1951**).**

Two special reports on the working of the various Cess Funds were presented to the House by the Public Accounts Committee—19R and 20R (PAC-2LS).

233. Dir. 68(1).

On account of the nature of their work, the General Purposes Committee, the House Committee and the Joint Committee on Salaries and Allowances of Members do not make any formal reports either to

Where a matter is referred to a Committee by the House and the House has not fixed any time for presentation of report by the Committee, the report is required to be presented to the House within one month of the date on which the reference was made to the Committee[234].

Extension of time for Presentation of Report

If a Committee anticipates that it will not be possible for it to present its report to the House by the stipulated date, the Committee authorises the Chairperson or, in his absence, any other member of the Committee, to move a motion in the House for extension of time for the presentation of the report[235]. The motion is then moved in the House by the person so authorised and the date up to which extension of time is sought is specified in the motion on a reasonable presumption that the House would be in session on that date. If the House is not in session or is not likely to re-assemble till after the expiry of the date fixed for the presentation of the report, the Chairperson of the Committee, on being so authorised by the Committee, moves the Speaker to grant the required extension of time on behalf of the House[236]. Where the Speaker grants an extension of time on behalf of the House, he informs the House of it as soon as it re-assembles[237]. In the case of a Joint Committee of the Houses, if the Speaker grants an extension of time on behalf of the House, a message is sent to the Rajya Sabha informing that House about the extension granted by the Speaker[238].

Preparation and Circulation of Draft Report

The draft report is prepared by the Secretariat on the basis of the minutes of the sittings of the Committee[239], and consists of the substance of the deliberations of the Committee together with their recommendations. In the case of a Select or Joint Committee on a Bill, the draft report is prepared on the pattern laid down in a direction issued by the Speaker on the subject[240]. Where a Committee has taken evidence, the fact is specifically mentioned in the report of the Committee[241]. In the case of a Select

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the House or to the Speaker. Other Standing Parliamentary Committees present their reports generally to the House. In the case of the Committee of Privileges where a question of privilege has been referred to the Committee by the Speaker under Rule 227, the report is presented to the Speaker who may pass final orders thereon or direct that it be laid on the Table— *See* 1R-7R and 10R (CPR-2LS).

234. Rule 277(1).

235. Rule 277(1). Proviso.

236. For instance, extension of time was granted by the Speaker on behalf of the House in the case of Joint Committee on the Code of Civil Procedure (Amendment) Bill, 1955, and Joint Committee on the Citizenship Bill, 1955.

237. *See* for example, *L.S. Deb.,* 21-11-1955, c. 5.

238. *See* for example, *L.S. Deb.,* 22-11-1955, cc. 181-82.

239. Dir. 68(2).

240. Dir. 84.

241. Dir. 70(1).

In the case of the Committee on Estimates and the Public Accounts Committee, the names of the witnesses who give evidence before the Committee appear in the minutes of the sittings of the Committee below the names of the members of the Committee.

In the case of a Select or Joint Committee on a Bill, whenever evidence of associations, public bodies, individuals, etc., is taken by the Committee, the fact is mentioned in the report, and an appendix

or Joint Committee on a Bill, when any petitions, representations or memoranda on the Bill are received by the Committee, the report states the number of such documents, their particulars and the action taken by the Committee thereon[242].

The draft report as prepared by the Secretariat is placed before the Chairperson of the Committee for approval[243].

After the draft report has been approved by the Chairperson cyclostyled or proof copies thereof, together with any other documents connected therewith are, under the directions of the Chairperson, circulated to members of the Committee well in advance of the date fixed for the consideration of the draft report by the Committee[244].

Consideration and Adoption of Draft Report by Committee

On the date fixed for the consideration[245] of the draft report by the Committee, the Chairperson reads out the draft report paragraph by paragraph, putting the question to the Committee at the end of each paragraph, "That the paragraph do stand part of the report"[246]. A member objecting to any part of the report as not being in conformity with the decisions arrived at by the Committee may propose an amendment. The amendment, if accepted by the Committee, is incorporated in the report[247].

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attached thereto gives the names of the associations, etc. and the dates on which they gave evidence before the Committee.

242. Dir. 83.

See, for example, reports of Joint Committees on the Banking Companies (Amendment) Bill, 1955, the Indian Electricity (Amendment) Bill, 1958, and the Arms Bill, 1958.

243. Dir. 68(2). In the case of the Select or Joint Committees on Bills, draft report is first sent to the Draftsman and representatives of the Ministry attending the sittings of the Committee for factual verification and return—*see* this Chapter, under 'Select and Joint Committees on Bills'.

244. Dir. 69(1). For procedure in regard to circulation of draft report on a Bill examined by a Committee, see under 'Select or Joint Committees on Bills'. The Joint Committee to enquire into Bofors Contract, at their sitting held on 15 April 1988, decided that in view of the sensitive nature of the subject under examination, the copies of the draft report need not be circulated to the members in advance. Instead, the report might be studied by the members in the Committee Room itself and one sitting of the Committee might be devoted for the purpose. Accordingly, copies of draft report were circulated to the members in the Committee Room at the sitting of the Committee held on 21 April 1988—Min. (JC on Bofors Contract), 15-4-1988 and 21-4-1988.

Due to the unprecedented situation arising out of Covid-19 Pandemic, the sitting of the Standing Committee on Labour (2019-20) could not be held to consider and adopt draft Report on 'The Industrial Relations Code, 2019'. The draft Report, as approved by the Chairperson, was circulated and considered through Digital Mode (uploading on Members' Portal as well as through email) on 15.04.2020 requesting Members to convey their concurrence or otherwise by 22.04.2020. While 14 Members conveyed their concurrence, 01 Member concurring with the Report gave some suggestions, and 03 Members gave their Notes on Dissent, which were appended with the Report. The Report, as adopted through Digital Mode, was presented by the Chairperson to Speaker on 23.04.2020 under Direction 71 A since the House was not in Session.

245. In the case of the Business Advisory Committee or the Committee on Absence of Members from the Sittings of the House, the reports of the Committee, after they are approved by the, Chairperson are presented to the House direct without being placed before the Committee.

Likewise, in the case of the Rules Committee, the reports of the Committee are, after approval by the Speaker, who is the *ex-officio* Chairperson of the Committee, laid on the Table in terms of Rule 331.

246. Dir. 69(2).

247. *Ibid*. The Chairperson, in her/his introductory remarks at the Sitting of the Committee for consideration and adoption of the draft report, ask the Members to make suggestions or amendments, if any, to the draft Report, otherwise the draft Report may be considered as adopted.

After the report is adopted by the Committee, it is signed by the Chairperson on behalf of the Committee. If the Chairperson is absent or is not readily available, the Committee may choose another member of the Committee to sign the report on their behalf[248]. The Committee also fixes a date for the presentation of the report to the House by the Chairperson and, in his absence, by another member of the Committee.

Minutes/Notes of Dissent

Reports of Parliamentary Committees are based on decisions arrived at by a majority of members of the Committee present and voting[249]. Except in the case of Select or Joint Committees on Bills[250], and Departmentally related Standing Committees minutes/notes of dissent are not appended to the reports of the Committees[251], the reason being that the Committees, working as they do on behalf of the House, function as one entity and their decisions are as far as possible unanimous, irrespective of party affiliation of the members of the Committee. Where it is not possible to reach unanimity in a Committee, the majority decision prevails. If a minute of dissent is allowed, issues in a Committee are likely to be judged and decided upon on party lines[252]. Further, this may harden the attitude of individual members and there may be little incentive to compromise. The inclusion of majority and minority views in a report of the Committee would not only detract from the value of their recommendations but it would also weaken the impact of those recommendations on the executive which is charged with their implementation. On the other hand, in the case of a Select or Joint Committee on a Bill, the Bill referred to the Committee is again considered by

248. Rule 277(3) and Dir. 71.

The reasons for this provision are that on occasions it may not be possible for all the members of the Committee to be available to sign the report when it is finalised. Besides, issues in a Committee are decided by a majority of votes of members present and voting and, as such, the Chairperson is the most appropriate person to authenticate the decisions arrived at by the Committee and to report on their behalf.

249. Rule 261.

250. For details, regarding appending of the minutes of dissent to the report in the case of Select or Joint Committees on Bills, *see* this Chapter, under 'Select or Joint Committees on Bills'.

251. Dir. 68(3).

In the case of the Committee on the Conduct of a Member (*Mudgal Case,* 1951), some members of the Committee, who were otherwise in agreement with the report of the Committee, were permitted by the Committee to append to the report 'notes' as distinguished from the minutes of dissent, dealing with the general question of standard of conduct of a member of Parliament— Report of the Committee on the Conduct of a Member (*Mudgal Case,* 1951).

Similarly, the Committee of Privileges, in the *Deshpande Case,* 1952, permitted some of its members to append to the report a note urging freedom from arrest of members under the Preventive Detention Act during sessions of the House and also declaring the District Magistrate, Delhi, to be guilty of sending misleading information to the Speaker—Report of the Committee of Privileges on the *Deshpande Case,* 1952.

In the case of the Joint Committee to enquire into Bofors Contract, when the Committee were considering their draft report, a member desired to know whether he could append a note/minute of dissent to the report. The Chairperson observed that in view of the provisions of Dir. 68, no note or minute of dissent could be appended to the report. The member then addressed a letter to the Speaker, requesting that he might give direction to the Chairperson to 'record and include the note of dissent' by him or by any other members, if any. The Speaker, thereupon, directed that the note by the member might be appended to the report. The member was asked to give his note by 13.00 hours on 25 April 1988. The note in question was received in the Speaker's office at 10.55 hours on 25 April 1988. The Committee considered the said note at their sitting held on the same day and as per direction of the Speaker, decided to append the note received from the member after adoption of the report of the Committee as 'Post Script'. *See* Report of the Joint Committee to enquire into Bofors Contract.

252. Contrary views of members in the case of Financial Committees are recorded in the minutes of the Committees. *See,* for instance 86R (EC-2LS) on State Trading Corporation and 89R (EC-2LS) on the Ministry of Rehabilitation.

the House along with the report of the Committee. The House considers all the views contained in the report and yet it is at liberty to arrive at its conclusions independently of the recommendations of the Committee.

Making the Report Available to Government before Presentation to the House

Normally, no part of the report of a Committee can be divulged or shown to anyone who is not a member of the Committee until the report has been presented to the House or laid on the Table[253]. The Committee may, however, if it thinks fit, make available to the Government for factual verification any completed part of their report before presentation to the House[254]. While forwarding such reports to a Ministry/ Department, it is enjoined on them to treat the contents of the reports as 'confidential'/'secret' until they are finalised and presented to the House[255].

Presentation of Report to the House or the Speaker

When the report of a Committee is to be presented to the House, an entry is usually made in the List of Business for the relevant day. The report is presented to the House by the Chairperson of the Committee or, in his absence, by any other member of the Committee who is so authorised by the Committee and while presenting the report the member confines oneself to a brief statement of fact. There is no debate on the statement or the report at this stage[256]. In the case of Joint Committees, a copy of the report is also simultaneously laid on the Table of the Rajya Sabha by a member of the Rajya Sabha on the Committee, so authorised by the Committee for the purpose.

If a Committee completes its report when the House is not in Session, it may authorise its Chairperson to present the report to the Speaker[257]. The Committee may, in appropriate cases, make a specific request to the Speaker that he/she may direct that matters of factual nature or patent errors be corrected in the report before it is printed, published or circulated and later presented to the House[258]. A report of the Committee which has been presented to the Speaker when the House is not in session is

253. Rule 275 and Dir. 55.

254. Rule 278.

Advance copies of the reports of the Public Accounts Committee are not usually forwarded to Government. There have been two exceptions when advance copies of 6R and 8R (PAC-1LS) were forwarded to the Ministries concerned a day before their actual presentation to the House.

In the Committee on Estimates, advance copies of the draft report marked 'secret' are sent to the concerned Ministry or Department or Undertaking and also to the accredited Division of the Ministry of Finance for verification of factual details.

Draft reports of the Committee on Estimates which concern more than one Ministry are usually sent to the Ministry of Finance (Deptt. of Expenditure) which acts as a co-ordinating agency.

The narration portion of the draft Reports of the Standing Committee on Defence is forwarded to the Ministry of Defence for factual verification as well as security vetting keeping in view the sensitive nature of the subject.

255. Rule 278.

256. Rule 279(2).

257. Dir. 71A(1).

45R(EC-1LS) was adopted by the Estimates Committee on 22 December 1956. As the House was not in session then and it was not likely to assemble again till March 1957, the report was presented by the Chairperson to the Speaker who ordered its publication and circulation to members—Bn. (II), 5-2-1957, para 567.

258. Dir. 71A(4).

presented to the House during the next session at the first convenient opportunity by the Chairperson or, in his absence, by another member of the Committee[259] who, while presenting the report, confines oneself to a brief statement to the effect that the report was presented to the Speaker when the House was not in session, and where the Speaker had given order for its printing, publication and circulation, that fact is also reported to the House[260].

If, after presentation of the report to the Speaker, the Lok Sabha is dissolved before the report could be presented to the House, a copy of the report is laid on the Table of the new House by the Secretary-General. While laying the report on the Table, the Secretary-General makes a statement to the effect that the report of the Committee was presented to the Speaker of the preceding Lok Sabha before its dissolution. Where the Speaker had ordered that the report be printed, published and circulated, that fact is also reported to the House by the Secretary-General[261]. In the case of the Public Accounts and Public Undertakings Committees or a Joint Committee, a copy of the report is also simultaneously laid on the Table of the Rajya Sabha.

Reports of Committees and the House

It is open to the House to discuss any of the reports presented to it but in practice it is guided by conventions in regard to the reports of some Committees, and by the Rules in respect of the other Committees. In relation to the action taken or not taken by the House on them, the reports of Parliamentary Committees may be divided into four broad categories:

reports which are not discussed;

reports which are always discussed;

reports which are discussed and adopted; and

reports which may or may not be discussed.

All these categories of reports are dealt below *seriatim.*

Reports which are not discussed by the House

By convention, the reports of the following Committees are not discussed:

Public Accounts Committee; Estimates Committee; Committee on Public

259. Dir. 71A(5). 5R(CPR)(6LS) presented to the Speaker on 31 May 1979 was laid on the Table of the Lok Sabha by the Secretary on 9 July 1979. *See L.S. Deb.,* 9-7-1979, cc. 294-95. Also Bn. (II), 4-7-1979, para 1485.

260. Dir. 71A(5). The Chairperson, Standing Committee on Labour (2019-20) presented 8th and 9th Reports on 'The Industrial Relations Code, 2019' and 'The Code on Social Security, 2019' to the Speaker on 23.04.2020 and 31.07.2020 respectively under Direction 71 A since the House was not in Session. As per Direction 71(5), the Reports were required to be presented to the House during the next Session at the first convenient opportunity by the Chairperson or in the absence of Chairperson, by a Member of the Committee. As the term of the Committee (2019-20) was up to 12.09.2020, the Committee for the term 2020-21 was yet to be constituted and the next Session was to commence on 14.09.2020, Secretaries Generals of Lok Sabha and Rajya Sabha laid a copy of each of the Reports on the Table of Lok Sabha and Rajya Sabha respectively on 15.09.2020.

261. Dir. 71A(6).

During 16th Lok Sabha, when the House was not in Session, the 25th, 26th, and 27th Reports of the Committee on Rural Development were submitted for being presented to the Speaker on 31.08.2016, *i.e.,* the last day of term of the Committee. The Speaker accorded the approval of presentation of the Reports through fax.

Undertakings; Committee on Subordinate Legislation; Committee on Government Assurances; Committee on Petitions; Committee on Papers Laid on the Table; Committee on the Welfare of Scheduled Castes and Scheduled Tribes; Committee on Empowerment of Women and Departmentally Related Standing Committees.

A discussion may be allowed to be raised in the House in respect of a report of these Committees only if there is a serious disagreement between a Committee and the Government on a specific issue. Such a situation has arisen only once since 1947[262].

Reports which are Discussed by the House

The reports of Select or Joint Committees on Bills are not formally adopted but they are always discussed when the Bills as reported by them are considered.

After the presentation of the final report of a Select or Joint Committee on a Bill, the member in-charge moves that the Bill as reported by the Committee be taken into consideration[263]. The debate on such a motion is confined to a consideration of the report of the Committee and the matters referred to in that report or of any alternative suggestions consistent with the principle of the Bill[264].

Reports which are Discussed and Adopted by the House

Reports of the Business Advisory Committee and the Committee on Private Members' Bills and Resolutions fall under this category. In the case of these reports[265], motions are moved that the House agrees, or agrees with amendments, or disagrees with them and the recommendations contained in them can be implemented only after the reports are adopted by the House. Amendments may be moved to such a motion that the reports may be referred back to the Committee without limitation or with reference to any particular matter. The time allotted for discussion on such motions is not more than half an hour.

Reports which may or may not be Discussed by the House

Under this category fall the reports of the Committee of Privileges, Rules Committee and the Committee on Absence of Members. Motions for consideration of these reports are moved only in certain cases[266]. As regards the *ad hoc* Committees which present their reports to the Speaker or the House, it is open to the House to discuss them or not[267]. The reports of Committees which are presented to the Speaker can be discussed only if the Speaker has caused such reports to be laid on the Table.

Disagreement between a Committee and the Government

The recommendations of a Parliamentary Committee are normally accepted and implemented by the Government. If in regard to any recommendation the Government

262. The Fifty-fifth Report of the Public Accounts Committee, as it pertained to a specific issue, was discussed in the Lok Sabha on 22 August 1966, on a motion for consideration of the report moved by a private member—*see* this Chapter under 'Public Accounts Committee'.

263. Rule 77.

264. Rule 78—*see* also *H.P. Deb.* (II), 25-7-1952, c. 4573.

265. Rules 290 and 295.

266. For details, *see* this Chapter, under the respective Committee.

267. Report of the Joint Committee to enquire into Bofors Contract, which was presented to the House on 26 April 1988, was discussed by the House on a motion under Rule 193—*L.S. Deb.,* 4-5-1988, cc. 505-625 and 628-74; 5-5-1988, cc. 346-421.

hold a view different from that of the Committee, the Government have to apprise the Committee of the reasons that might have weighed with them in not accepting or implementing the recommendation. The matter is considered by the Committee and a further report, if deemed necessary, may be presented to the House.

In the case of the Fourth Report of the Public Accounts Committee, 1952-53, the Government deviated from this procedure and laid a statement on the Table on 11 August 1953, without placing the views before the Committee in the first instance. The Committee sought the Speaker's guidance in the matter, who directed that a circular should be sent to all the Ministries laying down that in those cases where Government were not in a position to implement a recommendation made by a Committee and the Government had reasons to disagree with the recommendation of the Committee, the Ministry concerned should, in consonance with the well-established procedure, place its views before the Committee who may, if it thinks fit, present a further report to the House after considering the views of the Government in the matter.

Where a difference of opinion between the Committee and the Government remains unresolved, the case is referred to the Speaker for guidance.

Printing and Publication of Reports

The report of a Committee, together with the connected documents, if any, is printed either before or after its presentation to the House or the Speaker as may be convenient[268]. Normally, the report of a Committee is printed before it is presented to the House. Where, however, time is too short to get a report printed, the report may be presented to the House in cyclostyled or typed form[269]. The report is printed as soon as possible thereafter. Until a report is presented to the House, it is treated as confidential[270]. It becomes a public document only after its presentation to the House[271].

The report of a Select or Joint Committee on a Bill, including notes or minutes of dissent, if any, and the Bill as reported by the Committee, are also published in the Gazette after presentation to the House for information of the public[272]. Where the report of a Committee has been presented to the Speaker when the House is not in session, the Speaker may, when so requested, order the printing, publication or circulation of the report[273]. Where a report is so published or circulated under orders of the Speaker, that fact is notified in the *Bulletin* for information of members[274].

268. Dir. 72(1).
269. In the case of Select or Joint Committees on Bills, the general practice is to present the report of the Committee to the House in cyclostyled or typed form together with the Bill as reported by the Committee and to print the report as soon as possible after its presentation to the House.
270. Dir. 72(2).
271. Rule 369(2).
272. Rule 305.
273. Rule 280 and Dir. 71A(2).
274. Dir. 71A(3). *See* Bn. (II), 5-2-1957, para 567.

Curtailing Printing of Reports of Parliamentary Committees[275]

Keeping in view the technological advancement and in order to reduce the consumption of paper, the printing of number of copies of Reports of the Parliamentary Committees have been curtailed to barest minimum (11 in English version and 10 in Hindi version in 2019 as opposed to 1400 in English and 400 in Hindi printed in the past).

Circulation of Reports

As soon as possible after the presentation of the report to the House, copies thereof are circulated to members of the Lok Sabha, Ministries/Departments of the Government of India and such other persons or authorities as may be determined from time to time[276]. Copies of the report are also supplied to press correspondents immediately after the presentation of the report to the House and made available to the public at the Sales Counter of the Secretariat and through other authorised selling agencies all over the country.

In the case of a Select or Joint Committee on a Bill, copies of the report along with the printed copies of the Bill as reported by the Committee and copies of reports of other Joint Committees are also sent to the Rajya Sabha Secretariat for circulation to members of the Rajya Sabha.

If the report of a Committee has been presented to the House in cyclostyled or typed form, a few copies of the report are placed in the Library immediately after the presentation of the report to the House for reference by members. Printed copies of such a report are circulated to members and others concerned as and when they are available. In the case of a report which is presented to the Speaker when the House is not in session and which has been printed and circulated under orders of the Speaker prior to its presentation to the House, the report is released to the press only after a week from the date of despatch of copies to members[277].

Effect of Prorogation on Business Pending before Committees

Any business pending before a Committee does not lapse by reason only of the prorogation of the House and the Committee continues to function notwithstanding such prorogation[278]. Even in the old Central Legislature, although there was no specific provision to that effect in the Standing Orders, in actual practice every pending business before the Committees survived prorogation of the Assembly. Bills pending in Parliament do not lapse consequent on prorogation of the Houses[279]. On a point

275. Committee Coordination Branch *vide* Note dated 01.11.2019 had issued a Note regarding "Updated Mailing List for circulation/e-mail of Printed/Cyclostyled/copies of Reports of Parliamentary Committees" in continuation of CCB's Note dated 18.11.2016.

276. Rule 305 and Dir. 72(3).

277. Dir. 73.

67R and 68R (EC-1LS) were presented to the Speaker on 29 March 1957, by which time the Lok Sabha had adjourned *sine die.* These reports were printed and circulated to members of the Lok Sabha with the approval of the Speaker under Rule 280. The reports were released to the press one week after their circulation to members.

The intention behind the practice is that a report should be made available to others only after the members have received their copies.

278. Rule 284.

279. Art. 107(3).

raised in the House, it was held by the Speaker that Bills pending in Parliament, including those in the Committee stage, could be examined, considered and reported upon by the Committee even when the House itself was not sitting or when it had been prorogued[280].

In 1956, a question arose whether a Parliamentary Committee, not connected with the consideration of a Bill, could function during the inter-session period, notwithstanding the fact that the parent body, *viz.* the Lok Sabha itself had been prorogued. The Attorney-General, to whom the matter was referred for opinion, expressed the following view:

> Committees not connected with Bills can function during the inter-session period if the Rules of Procedure so provide. There would seem to be nothing incongruous in the Committees functioning when, the parent body is unable to function. The parent body would by its procedural rules authorise the Committees to function so that the power and the authority of the Committees to function will be derived from the parent body.[281]

The Rules Committee (First Lok Sabha) concurred with the above opinion and with a view to putting the matter beyond any doubt and also confirming the established practice—which had been in existence since the inception of the old Central Legislative Assembly—recommended[282] a new rule which specifically provided that any business pending before a Committee did not lapse by reason only of the prorogation of the House and that the Committee continued to function despite such prorogation[283].

> The drastic consequences commonly associated with the prorogation in the United Kingdom have attended in India not on prorogation but only upon dissolution of the Lok Sabha. In the United Kingdom, the effect of prorogation and dissolution of Parliament on pending business is practically the same. In India, right from the beginning of the old Central Legislature, a distinction has been made between prorogation and dissolution in so far as their effect upon pending business is concerned. Prorogation has always been understood as not constituting an interruption in continuity of the life of the House and its Committees whereas dissolution has been taken as marking the end of the House and the Committees thereof.

Unfinished Work of Committees

When a Committee is unable to complete its work before the expiration of its term or before the dissolution of the Lok Sabha, it reports that fact to the House[284]. In such cases, any preliminary report, memorandum or note that may have been prepared by the Committee or any evidence that may have been taken by it is made available to the succeeding Committee[285]. The work of the Committee on Estimates, being of a continuous nature, the general practice has been that the work left unfinished at the end of the term of a Committee is taken up for examination by the succeeding Committee

280. *L.S. Deb.,* 26-7-1956, cc. 978-86.
281. 8R (RC-1LS), pp. 20-21.
282. *Ibid*.
283. Rule 284.
284. Rule 285.
285. *Ibid*.

from the stage where it was left[286]. Likewise, scrutiny of replies or statements of action taken by the Ministries or Departments of the Government of India on the reports of the Committees is also of a continuous nature. Any unfinished part of such scrutiny consequent on the expiry of the term of a Committee or on the dissolution of the Lok Sabha is taken up by the succeeding Committee from the stage where it was left by the previous Committee[287]. Similarly, all assurances, promises, undertakings which remain unimplemented at the expiry of the term of the Committee on Government Assurances are pursued by the succeeding Committee which report upon their implementation to the House. In respect of the assurances, promises or undertakings which remain unimplemented at the time of the dissolution of the Lok Sabha, the general practice followed by the Committee on Government Assurances is to select such of the assurances, etc. as are of a substantial character and of considerable public importance and to incorporate them in their report to the House with a specific recommendation to the effect that those assurances, promises and undertakings might be implemented by the Government[288]. The implementation of such assurances, etc. is then watched by the succeeding Committee of the new House.

Having described broadly the salient features of Parliamentary Committees in general, the rest of this chapter briefly deals with the composition, functions and working of each Committee of the Lok Sabha and of the twenty-four Departmentally Related Standing Committees.

Development of new Software

A Software has been launched for all the Parliamentary Committees to increase efficiency and effectiveness in their working. Data related to number of Sittings of Committees, Reports presented, acceptance of Recommendations of Committee Reports, categorizations of Recommendations, gist of Important Recommendations, attendance of Members in the Sittings, attendance of Members in Study Tours, etc. have been fed into the Software by Committee Branches for auto generation of Reports during 17th Lok Sabha. Various templates for Notices/O.Ms./Correspondence etc. commonly used by Parliamentary Committees have been made available in the software. All Members of the Parliamentary Committees (both Lok Sabha and Rajya Sabha) have been connected to the portal. In Phase-III, it is proposed to connect the Ministries/Departments with the Committee Portal.

B. INDIVIDUAL COMMITTEES

Business Advisory Committee

At the commencement of the House or from time to time, as the case may be, the Speaker may nominate a Committee called the Business Advisory Committee consisting of not more than fifteen members including the Speaker who shall be the Chairperson of the Committee.[289] No specific term of its office is laid down in the Rules

286. For example, see 6R, 7R and 10R (EC-1LS) and 33R (EC-2LS).

287. See, for example, 149R (EC-2LS) re. action taken by Government on the recommendations contained in 86R (EC-2LS); 1R (EC-3LS) re. action taken by Government on the recommendation contained in 81R (EC-2LS); 42R (PAC-2LS) showed inter alia action taken on recommendations contained in 18R; and 25R (PAC-2LS) 7R (PAC-2LS) showed inter alia action taken on recommendations contained in 16R and 23R (PAC-1LS).

288. See, for example, 4R (CGA-1LS) and 2R (CGA-2LS).

289. Rule 287.

but like all other Parliamentary Committees, it holds office until a new Committee is nominated[290]. Casual vacancies are filled by nomination of new members for the unexpired term of the Committee.

The need to have a Committee of the House entrusted with the task of allocating time to various Government legislative and other business was greatly felt by Speaker Mavalankar. In his letter of 28 March 1951 to the Leader of the House, he observed that in the absence of any procedure regarding allocation of time in respect of various items of business, excepting financial matters, the Speaker was always placed in a delicate position in regard to curtailment of debate and, in particular, in accepting a closure motion, if moved. He did not approve of the British procedure[291] of an 'allocation of time' motion as it might prove to be cumbrous and much time might be spent over the motion itself. The Speaker said that he would prefer to entrust the duties connected with 'allocation of time' to a steering Committee of the House. The Leader of the House agreed to the suggestion, and rules were accordingly framed to set up the Committee[292].

In view of the limited membership of the Committee and a large number of Opposition Groups in the House, it is not possible for the Speaker to nominate members from each and every Group. In order to make Business Advisory Committee as broad based as possible so that its recommendations could be acceptable to all sections of the House, it has been the practice to invite, as special invitees to its sittings, leaders/representatives of parties having strength of five members and above which are not represented on the Committee. The Deputy Speaker, if not nominated on the Committee, may be invited to attend its sittings as a special invitee under specific orders of the Speaker. The members so invited take part in the deliberations of the Committee without the right to vote, and they are also not counted for the purpose of quorum. A member of the Committee, on appointment as Minister, normally resigns from the Committee although there is no bar to his continuance as member of the Committee. The Minister of Parliamentary Affairs is always nominated to the Committee as it is only through him that the views of the Leader of the House on a particular subject are known to the Committee.

Functions

The function of the Committee is to recommend time for the discussion of various stages of Government Bills and other business[293] which the Speaker, in consultation with the Leader of the House, may direct to be referred to the Committee[294]. However, in practice, the Committee also recommends allocation of time for discussion of financial business namely, general discussion on the Budget, Demands for Grants in respect of

290. Rule 256.

291. When parliamentary time is not sufficient to get through legislation, the procedure in England is that an 'allocation of time' motion in regard to a number of Bills specified in the motion is placed before the House for discussion and after it has been adopted by the House, the Speaker is empowered to put the necessary questions to dispose of each Bill within the allotted time.

292. Min. (RC), 15-5-1951.

293. The term "other business" has been defined to mean business other than private members' Bills and Resolutions. L.S. Ntfn. No. 783-C1/58, *Gaz-Ex.* (1-1), 7-5-1958.

Allocation of time to private members' Bills and Resolutions is considered by the Committee on Private Members' Bills and Resolutions.

294. Rule 288.

various Ministries, Finance Bill and discussion on the Motion of Thanks on the Address by the President, though the power to allot time to such items is vested in the Speaker in consultation with the Leader of the House. In appropriate cases, the Committee may recommend that a Bill should be referred to a Select or Joint Committee instead of being taken up into consideration and passed straightaway[295].

All proposals for late sittings of the House, dispensing with the question hour or lunch hour, extension of sittings of the House beyond normal hours of adjournment and fixing of additional sittings/cancellation of sittings are also generally placed before the Committee for its recommendation. Besides, meetings of the Committee are also utilized by members to suggest to the Speaker to allot time for discussion on a 'No-Day-Yet-Named-Motion' or to admit a 'Short Duration Discussion' given notice by them or by other members of their party. The decision on all such suggestions is, however, within the exclusive domain of the Speaker.

The priority in respect of Government business is determined by the Government[296]. In certain cases, the Committee has, however, recommended priority to individual items of business[297] or suggested the hour and date on which an item of business be taken up[298] or recommended postponement of certain items of business if sufficient time was not available during the session for disposal of business placed before the Committee for allocation of time.

The Committee has at times *suo motu* recommended to the Government to bring forward a particular subject for discussion in the House and also recommended allocation of time for such discussion[299].

At times, the Committee may even recommend that any item of business may be disposed of by the House without discussion[300]. The Committee may also re-examine the allocation of time already approved by the House in respect of a Bill in the light of subsequent developments and recommend that the time be increased[301] or reduced[302].

The Committee may also reconsider[303] the time allotted for discussion and voting on Demands for Grants (General) to various Ministries and Departments to accommodate the views expressed by members on the floor of the House.

Where the subject matter of two or more items of business so warrants, the

295. 19R and 20R (BAC-4LS)

296. *L.S. Deb.,* 28-11-1955, c. 661; 29-8-1962, c. 4788.

297. 26R (BAC-1LS); 7R (BAC-2LS).

298. 47R (BAC-1LS); 5R, 6R, 9R (BAC-2LS); 6R (BAC-10LS); 5R (BAC-11LS).

299. It was at the initiative of the Committee that discussions were held on certain subjects of current and topical interest, *e.g.* Peaceful Uses of Atomic Energy; Economic Policy of the Government; Agrarian Policy of the Government; Press Commission Report and GATT.-22R (BAC-1LS); New Education Po!icy-23R (BAC-8LS); Environment-27R (BAC-8LS); Revival of Sati-42R (BAC- 8LS); Price-rise-44R (BAC-8LS); Population growth-54R (BAC-8LS); National Cultural Policy- An Approach Paper-35R (BAC-10LS); National Housing Policy-43R (BAC-10LS); Global Warming- 37R(BAC-14LS); Indo-US Nuclear Deal-43R (BAC-14LS).

300. Bn. (II), 21-12-1967, para 430 and *L.S. Deb.,* 23-12-1967, cc. 9698-9706; 47R (BAC-8LS); 54R (BAC-8LS); 26R (10LS); 13R (11LS); 2R & 19R(BAC-15LS).

301. 30R (BAC-1LS); 9R (BAC-3LS); 14R (BAC-9LS); 18R (BAC-9LS); and 17R (BAC-10LS).

302. 45R (BAC-1LS); 9R (BAC-9LS).

303. 52R (BAC-8LS); 9R (BAC-9LS).

Committee recommends combined discussion of those items in the House[304].

On occasions, the Committee has considered certain procedural matters[305] or certain special matters which do not lie within the scope of its normal duties[306].

Method of Working

A few days before the commencement of each session, the Leader of the House furnishes through the Minister of Parliamentary Affairs a programme of Government legislative and other business. On receipt of a request from the Ministry of Parliamentary Affairs, the Speaker fixes the date and time for sitting of the Committee and a notice of the sitting is accordingly issued to all members and special invitees. The Committee allocates time to such government Bills, financial business or other items of Government Business as might be suggested by the Minister of Parliamentary Affairs for their particular sitting's agenda.

Where in respect of an item of business the presence of the Minister concerned is felt necessary, he is also invited to attend the sitting[307].

If at any sitting the requisite quorum is not made, the Speaker may informally take the opinion of the members present as to the allocation of time to the various items of business listed in the notice, and in such a case the Committee does not present any report to the House but the Speaker informs the House of the consensus of the members present at that sitting and allots time to various items after taking the sense of the House[308].

Like other Parliamentary Committees, the Committee may work through its Sub-Committees when a matter is required to be considered in detail.

From 1962 till the end of the Fourth Lok Sabha, the Speaker used to appoint a Sub-Committee of the Business Advisory Committee to examine the No-Day-Yet-Named Motions. The function of the Sub-Committee was to select and recommend to the Government as to which of the admitted motions tabled by the private members

304. For example, the Committee has recommended joint discussion on two or more Bills [29R (BAC-1LS); 1R, 42R, 60R (BAC-2LS); 32R (BAC-8LS); 5R (BAC-8LS); 64R (BAC-8LS); 16R (BAC-9LS); 10R (BAC-10LS); 32R (BAC-14LS); 33R(BAC-15LS); 42R(BAC-16LS), 43R (BAC-16LS), 17R (BAC-17LS), 42R(BAC-17LS) on a statutory resolution and a Bill [26R, 35R (BAC- 2LS); 48R (BAC-8LS); 65R (BAC-8LS); 13R (BAC-9LS); 34R (BAC-10LS); 1R (BAC-11LS)]; 1R(BAC-16LS), 13R(BAC-16LS), 25R(BAC-17LS), 42R(BAC-17LS) on two motions [27R, 29R, 39R, 41R, 44R (BAC-2LS); 23R (BAC-8LS)] on Demands for Excess Grants (General) and (Railways), [32R (BAC-2LS), 49R (BAC-8LS)], 1R(BAC-16LS), and on a motion and a short duration discussion (BAC-2LS).

305. For instance, the Committee has recommended procedure for—

> Regulating discussion in the House on Cut Motions, publication of Minutes of Dissent to the Reports of the Select Committees, disposal of amendments to the Estate Duty Bill—*Bn. (II),* 17-4-1953, p. 603.

306. On 3 September 1965, in view of Pakistan's aggression, the Committee suggested that the Ministry of Defence should make available to members every day a news bulletin giving latest position other than what appeared in the newspapers of the day on the situation in Jammu and Kashmir. This was done by the Ministry and copies of these bulletins were kept in the Parliamentary Notice Office for information of members.

307. For instance, on 6 August 1962, the Minister and Deputy Minister of Railways also attended the sitting of the Committee when the question of providing a discussion on the railway accidents was considered by it.

308. *L.S. Deb.,* 4-3-1961, cc. 2936-37.

might be put down for discussion in the House. Since 1971, however, the practice has been discontinued.

On certain occasions, *ad hoc* Sub-Committees have also been appointed—for example, to prepare a detailed time-table for consideration of clauses of a Bill, to suggest allocation of time to various Bills and other business to be taken up during the session after coming to a decision as regards the importance, etc. of various Bills, to suggest allocation of time to supplementary or excess Demands for Grants, to suggest allocation of time for discussion of Five Year Plan, and to formulate points on which debate should take place in respect of a subject put down for discussion (such as 'Economic Policy of Government').

The report of a Sub-Committee is normally considered by the whole Committee or as an alternative it is circulated to members of the whole Committee and their views are invited by a specified hour and date. If no comments are received within that time, the report is taken as approved by the whole Committee. After approval of the Speaker, either the report is presented to the House[309] or the recommendations of the Committee are published in the *Bulletin*[310]. In some cases, the report of the Sub-Committee has been submitted direct to the Speaker and, on approval by him, published in the *Bulletin*[311]. Where considered appropriate, the Speaker may make an announcement in the House on the recommendations of the Sub-Committee[312] or direct that the recommendations be forwarded to the concerned Minister for necessary action[313].

Report and Minutes

The report of the Committee, after it is approved by the Speaker or the member who presided at the sitting of the Committee, is presented to the House without being placed before the Committee.

When the Speaker presides over a sitting, the report is signed by him[314] but is presented to the House normally by the Minister of Parliamentary Affairs or by some other member of the Committee who actually attended the sitting at which the decisions were arrived at[315].

In the absence of the Speaker from a particular sitting, the Deputy Speaker presides over the sitting and the report is signed by him *'for* Chairperson' if he is a member of

309. 35R (BAC-1LS) and *L.S. Deb.* 11-5-1956, cc. 7986-93.

310. Bn. (II), 19-9-1955, paras 2455 and 2456; 1-3-1956, para 2899.

311. Recommendations made by the Sub-Committee on 21 November 1960 for distribution of time to various clauses of the Companies (Amendment) Bill were approved by the Speaker himself and published in the *Bulletin* without their being placed before the whole Committee.

312. Bn. (II), 2-9-1953, para 800.

313. A copy of the report of the Sub-Committee, appointed by the Committee on 12 September 1955, to examine the details of expenditure to be given in the Books of Supplementary Demands for Grants, was sent to the Minister of Finance for necessary action.

314. The Speaker signs the report as Chairperson of the Committee. Till February 1963, he/she used to sign as the Speaker. The change was effected on the suggestion of a member when the motion for adoption of a report was moved in the House on 20 February 1963.

315. 28R (BAC-4LS) presented on 18 February 1969, by a member of the Committee as after reshuffle of portfolios of Ministers, the new Minister of Parliamentary Affairs was not a member of the Committee. The new Minister, however, moved the motion for adoption of the report of 19 February 1969 as under the rules the motion can be moved by any member—*L.S. Deb.,* 19-2-1969, c. 196.

the Committee. In case the Deputy Speaker is not a member of the Committee, he may preside over the sitting but the report is signed[316] *'for* Chairperson' by the Minister of Parliamentary Affairs or some other member of the Committee who attended the sitting[317].

When the office of the Speaker falls vacant due to resignation, death or otherwise, the duties of the office of the Speaker are performed by the Deputy Speaker under article 95(1) of the Constitution till the election of the new Speaker. In such an event, the Deputy Speaker, if not a member of the Business Advisory Committee, may preside over the sitting of the Committee and sign[318] the report as "Chairperson *(Ex-Officio)*".

The report is usually presented on the same day on which the sitting of the Committee is held. An entry regarding presentation of the report is made in the *List of Business* only when the report is to be presented on the following day.

After a report of the Committee has been presented to the House, a motion that the House do agree with the report of the Committee is entered[319] in the *List of Business* on the following day in the names of two members of the Committee[320]. If the report deals with the matters other than the allocation of time to Government Business, the motion for adoption of the report may be included in the *List of Business* in the name of the Deputy Speaker, if he/she is a member of the Committee[321].

Where it is not found possible to present a report on the same day on which the Committee held its sitting but its adoption is considered necessary by the House before the business in respect of which allocation of time recommended in the report is taken up, copies of the report are circulated to members in advance of its presentation to the House and the report is presented to the House on the following day and immediately thereafter the motion for adoption of the report is moved[322]. Where the circumstances so warrant, the report of the Committee may be presented and adopted on the same day on which a sitting of the Committee is held. In such a case the member, while presenting the report, reads out the text to the House and copies of the report are circulated to members after its adoption[323].

Where there is no time to convene a sitting of the Committee to consider allocation of time to Government business, the Speaker may take the sense of the House and allot time when the item listed in the agenda is reached[324].

316. 5R (BAC-8LS); 16R (BAC-8LS); 34R (BAC-8LS); 39R (BAC-8LS); and 47R (BAC-8LS).
317. 47R(BAC-14LS) was signed by Deputy Speaker who presided over the BAC Meeting even though he was a special invitee and not a member of the BAC.
318. 3R (BAC-6LS).
319. Rule 290.
320. Generally, it is put down in the name of the Minister of Parliamentary Affairs and the Minister of State for Parliamentary Affairs, who are usually members of the Committee. The Minister of Parliamentary Affairs, Bhisma Narain Singh, being a member of Rajya Sabha, was invited to the sittings of the Committee as a special invitee. However, reports of the Committee were presented by him in the House.
321. *L.S. Deb.,* 11-5-1956, c. 7986.
322. The Third Report (BAC-2LS) was circulated to members on 15 July 1957, the day on which the sitting of the Committee was held. The report was presented to and adopted by the House on 16 July 1957—*L.S. Deb.,* 16-7-1957, cc. 3662-63.
323. *L.S. Deb.,* 3-8-1957, cc. 6863-65.
324. *Ibid.,* 5-8-1986, cc. 251-53; 7-8-2023, page nos. 401-421; 11-8-2023, page nos. 292-312.

In an urgent case, the recommendations of the Committee may be announced in the House by the Speaker and the sense of the House taken in regard thereto[325]. The motion that the House do agree with the report of the Committee is normally adopted by the House unanimously. It is, however, open to members to suggest variation in the time recommended in respect of the various items of business or to suggest modifications to any other recommendation of the Committee by tabling suitable amendments[326] to the motion. An amendment can also be moved that the report be referred back to the Committee either without limitation or with reference to a particular matter[327], or the House may otherwise agree to refer it back[328].

In accordance with an established convention, amendments are generally not moved to the motion although in rare cases amendments thereto have been moved and pressed to the vote of the House[329].

Not more than half an hour is allotted for the discussion on the motion and no member can speak for more than five minutes on such a motion[330].

After the report is agreed to by the House, the allocation of time in respect of Bills and other business as approved by the House takes effect as if it were an order of the House and is notified in the *Bulletin*[331]. Allocation of time is, however, not published in the *Bulletin* regarding those items of business which have already been disposed of by the House[332]. If a member, after the allocation of time has been published in the *Bulletin,* makes the representation for increasing the time allotted to a particular item of the business or tables a motion to that effect before that item is taken up in the House, the matter may be placed before the Committee for reconsideration.

At the appointed hour, in accordance with the allocation of time order for completion of a particular stage of a Bill or other business, the Speaker has the power to put forthwith every question necessary to dispose of all the outstanding matters in

325. *Ibid.,* 26-3-1957. Thereafter, the allocation of time order was published in the Bn. (II), 26-3-1957, para 4111.

326. On 4 May 1973 when a member gave notice of a substitute motion to the motion regarding adoption of 29 Report (BAC-5LS) seeking to include three Short Duration Discussions in the Report for being taken up during the next week, the notice was disallowed by the Speaker and the member informed. When the member sought to raise the matter in the House, the Speaker ruled that amendment could be moved to change allocation of time recommended by Committee but new items of business could not be added by amendments, and that suggestions for adding new items could be made when the Minister of Parliamentary Affairs made statement regarding business for the following week—*see* also *L.S. Deb.,* 17-12-1981, cc. 319-23.

On 25 April 2013, a member gave notice under Rule 290 to include two more items for discussion when the 47R (BAC-15LS) was listed for representation to the House on that date. The notice was disallowed by the Speaker and the member was informed that amendment can be moved only for change in allocation of time and not for addition of new items of business, that too only on the motion for adoption of the Report.

327. Rule 290, First Proviso—*L.S. Deb.,* 3-11-1966, cc. 870-71.

328. *L.S. Deb.,* 4-12-1967, cc. 4504-09; 24-7-1968, c. 1125.

329. *Ibid.,* 24-7-1956, cc. 1688-99; 22-11-1960, cc. 1594-97; 3-11-1966, cc. 843-73.

330. Rule 290, Second Proviso; *L.S. Deb.,* 24-4-1963, c. 11087.

331. Rule 290A.

332. 26R (BAC-8LS); *L.S. Deb.,* 8-8-1986, cc. 281-82 and 47R (BAC-8LS); 36R (BAC-10LS); 37R (BAC-10LS); 43R (BAC-10LS); 3R (BAC-11LS); 46R (BAC-14LS); 47R (BAC-14LS); 48R (BAC-14LS) Para No. 7211 of Bulletin-Part II dated 4-8-2023, Para No.7484 of Bulletin-Part II dated 21-9-2023.

connection with that stage of the Bill or other business[333]. This power is, however, sparingly exercised by the Speaker.

No variation in the allocation of time order is made except on a motion made with the consent of the Speaker and accepted by the House[334]. Where the House, while adopting the report, keeps open the question of allotment of time in respect of a particular Bill, the time in respect of that Bill is varied as the House may decide.

The Speaker is, however, authorised, after taking the sense of the House, to increase the time, not exceeding one hour, without any motion being moved[335]. The time may also be extended by the Speaker by more than one hour without any motion being moved if Government have no objection to the extension of time[336] or the House agrees to sit late beyond its normal hours of sitting[337].

The minutes of the Committee are treated as confidential and are neither laid on the Table nor circulated to members of the Committee unlike the practice followed in the case of other Parliamentary Committees[338]. Where a matter on which action is to be taken by the Government finds a place only in the minutes and not in the report presented to the House, relevant extracts from the minutes are forwarded to the Minister concerned[339]. Copy of the minutes is also sent to the Minister of Parliamentary Affairs.

Committee on Private Members' Bills and Resolutions

In order to examine Bills seeking to amend the Constitution of India before their introduction in the House, to categorise all Bills introduced by private members and to recommend time for discussion of such Bills or resolutions tabled by private members, there is a Committee on Private Members' Bills and Resolutions. For the purpose of determining the urgency and importance of these Bills and before reporting their findings to the House, the members in-charge of the Bills are asked in writing to send their views, if any, regarding classification of their Bills for the consideration of the Committee, and where considered necessary, the representatives of the Ministries concerned are invited to the sittings of the Committee to present their views on the provisions of the Bill in question. The Committee is thus in a better position to assess the relative importance of various Bills and recommend the time that should be allotted for them.

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333. Rule 291.

Time allotted for the discussion of an item of business includes the time taken by all incidental discussions, points of order, etc.—*L.S. Deb.*, 24-8-1955, cc. 11049-50; 20-7-1956, c. 437.

334. Rule 292.

335. Rule 292, Proviso.

The discretion to increase the time is not exercised by the Speaker in the case of items of business for which a maximum time-limit is prescribed in the Rules, *e.g.,* short duration discussion under Rule 193, half-an-hour discussion under Rule 55, etc. In such cases, a formal motion for suspension of the specific provision regarding time-limit in the relevant Rule has to be moved and agreed to by the House (*L.S. Deb.,* 20-11-1958, cc. 857-58) unless the Government are willing to extend the time beyond the maximum time-limit. *L.S. Deb.,* 21-8-1959, c. 3564; 22-8-1959, c. 3847; 26-8-1969.

336. *L.S. Deb.,* 4-4-1960, cc. 9577-78; 12-11-1962, c. 916; 22-11-1962, c. 3070; and 26-11-1962, c. 3375.

337. *Ibid.,* 22-3-1960, cc. 7249-50; 20-8-1962, c. 2976; 10-11-1962, cc. 815-17; 2-9-1966, c. 8848; and 8-12-1969, cc. 226-27.

338. Until April 1961, the practice was to circulate the minutes of each sitting to members of the Committee and the invitees.

339. Dir. 66(3).

The Committee consists of not more than fifteen members nominated by the Speaker[340]. In view of the importance of the Committee, the Deputy Speaker is invariably included as a member thereof and as far as possible every section of opinion in the House is represented therein.

On 13 March 1953, a suggestion was made in the Lok Sabha that a Standing Committee on Private Members' Bills might be constituted to examine all Bills tabled by private members and to categorise them according to their relative importance[341]. In pursuance of the recommendations of the Rules Committee as adopted by the House, the Committee on Private Members' Bills was constituted for the first time on 1 December 1953, with an initial membership of 10. On 13 May 1954, the membership was increased from 10 to 15 and the functions were enlarged so as to cover private members' resolutions also within its ambit[342]. The Committee was accordingly designated as the Committee on Private Members' Bills and Resolutions[343].

The term of the Committee is one year, usually beginning on 1 June of every year and ending on 31 May of the following year.

Functions

The functions of the Committee are: to examine and classify all private members' Bills according to their nature, urgency and importance after they have been introduced and before they are taken up for consideration in the House; to recommend allotment of time to private members' Bills and resolutions; to examine private members' Bills seeking to amend the Constitution before their introduction in the House; to examine a private member's Bill which is opposed in the House on the ground that the Bill initiates legislation outside the legislative competence of the House; and to perform such other functions in respect of private members' Bills and Resolutions as may be assigned to it by the Speaker from time to time[344]. A brief description of some of the major functions of the Committee is given in the following paragraphs.

Categorisation of Bills

Prior to December 1953, *i.e.,* before the appointment of the Committee, private members' Bills after introduction were put down for consideration and passing strictly in accordance with the order of priority gained by them at the ballot held for the purpose. In this process, a comparatively less important Bill which gained priority at the ballot sometimes occupied all the private members' time blocking the more important Bills. In order to prevent such contingencies, it was considered necessary that one of the functions of the Committee should be to examine all Bills at the initial stage and to categorise them on certain principles.

The Bills are classified according to their nature, urgency and importance into two

340. Rule 293.
341. *P. Deb.,* (II), 13-3-1953, cc. 2030-33.
342. Rule 294; Min. (RC), 11-12-1953, p. 27.
343. Min. (RC), 22-12-1953.
344. Rule 294.

categories, namely, Category 'A' and Category 'B'[345].

At their sitting held on 6 March 1954, the Committee laid down the following principles which are taken into consideration while classifying private members' Bills[346]:

that in the light of public opinion there is a general necessity and demand for the measure proposed;

that the Bill seeks to provide for a lacuna or to remedy a defect in an existing legislation;

that it is not opposed to the Directive Principles of State Policy as defined in the Constitution or to the secular nature of the State, or to public policy and opinion;

that there is already a Bill in the legislative programme due for consideration by the House;

that there is a possibility of a comprehensive measure being introduced by Government at a later date; and

that the Bill proposed is of such importance and urgency that irrespective of a more comprehensive Bill being introduced later, its consideration earlier will at least bring about a statement of Government policy or help in settling an important issue.

The general principles followed in categorising a Bill under category 'A' are its public importance and urgency. Those categorised as 'B' contain a lesser element of urgency or importance.

A Bill placed in category 'B' may be re-categorised in any subsequent session if the Committee, on an application made by the member incharge of the Bill, is satisfied that its upgrading has now become necessary[347].

345. Rule 294(l)(b).

346. 8R (CPB-1LS).

347. 40R (CPB-1LS); *L.S. Deb.*, 2-12-1965, c. 1092.

Instances of Bills which on reconsideration were reclassified from category 'B' to category 'A':

(i) The Fixation and Regulation of Wages of Hard Coke Oven and Ceramic Industries Employees Bill, 1985 [11R(CPB-8LS)].

(ii) The Public and Private Schools (Abolition) Bill, 1985 [40R(CPB-SLS)].

(iii) The Motor Vehicles (Amendment) Bill, 1986 (Amendment of section 2, etc.) [26R(CPB- 8LS)].

(iv) The Constitution (Amendment) Bill, 1991 (Amendment of article 58, etc.) by (Pandit) Vishwanatli Sharma [11R(CPB-10LS)].

(v) The High Court at Bombay (Establishment of a Permanent Bench at Colliapur) Bill, 1993 by Udaysingrao Gaikwad [26R(CPB-10LS)].

(vi) The Lotteries (Prohibition) Bill, 1996 by Vijay Goel [6R(CPB-11LS)].

(vii) The High Court at Allahabad (Establishment of a Permanent Bench at Meerut) Bill, 1996 by Amar Pal Singh [11R(CPB-11LS)].

(viii) The Compulsory Teaching of Yoga in Educational Institutions Bill, 2014 by Dr. Ramesh Pokhriyal 'Nishank', M.P.

(ix) The Constitution (Amendment) Bill, 2014 *(Insertion of new articles 16A and 29A)* by Shri Nishikant Dubey, M.P.

(x) The Constitution (Sixth Tribes) Order (Amendment) Bill, 2014 *(Amendment of the Schedule)* by Shri Nishikant Dubey, M.P.

(xi) The Bihar Reorganisation (Amendment) Bill, 2014 *(Amendment of the Eighth Schedule)* by

The question of re-categorisation of a Bill may be referred back to the Committee for reconsideration by moving an amendment to the motion for adoption of the relevant Report of the Committee[348]. Once the Committee has considered and rejected the request for re-categorisation and the relevant report is adopted by the House, subsequent request from the member during the session for re-categorisation of the Bill is not entertained by the Committee[349].

Examination of Bills Seeking to Amend the Constitution

A private member is free to introduce any Bill excepting one to amend the Constitution. Every Bill seeking to amend the Constitution, notice of which has been given by a private member, is examined by the Committee and only when the Committee recommends introduction thereof that a motion for leave to introduce the Bill is included in the List of Business[350].

However, when the Committee on Private Members' Bills and Resolutions was not constituted, orders of Hon'ble Speaker were obtained for inclusion of the Constitution (Amendment) Bills in the List of Business for introduction.[351]

In the case of Bills seeking to amend the Constitution, the following principles were recommended by the Committee and approved by the House on 26 February 1954[352]:

Such Bills should be brought forward only when it is found that the interpretation of the various articles has not been in accordance with the intention behind these articles or when certain glaring inconsistencies have come to light. Amendments of this nature should normally be brought forward by the Government.

Some time should elapse before any such amendment is brought forward so that a proper assessment of the working of the Constitution can be made.

Notices of Bills from private members should be examined in the background of the proposals which the Government may be considering at the time so that consolidated proposals are brought forward.

A private member's Bill raising an issue of far-reaching importance and public interest should be allowed to be introduced. In determining the importance of the matter raised in the Bill, it should be seen if there are parallel provisions in the Constitution to satisfy the current ideas and public demand at the time.

Allocation of Time to Bills and Resolutions

One of the important functions of the Committee is to recommend the allocation of time to all private members' Bills and Resolutions; in the case of Bills, this is done

Shri Nishikant Dubey, M.P. [5R(CPMBR-16LS)]

348. *See* 65R, 67R and 68R (CPB-4LS) *re.* the Categorisation of Bihar Legislative Council (Abolition) Bill.
349. J.B. Kripalani's the Conferment of Decoration (Abolition) Bill, 49R and 59R (CPB-4LS).
350. Rule 294.
351. During the 17th Lok Sabha, a total of 117 Constitution (Amendment) Bills were permitted by Hon'ble Speaker for inclusion in the List of Business and were introduced in the House.
352. IR (CPB-1LS).

after their introduction in the House and in the case of resolutions after notices tabled by members gaining priority in the ballot have been admitted. The Committee usually recommends two hours time for consideration and subsequent stages of a Bill as also for discussion of a resolution.

After the adoption of the report of the Committee by the House, the allocation of time in respect of Bills and resolutions takes effect as if it were an order of the House[353]. The time allotted for the discussion of a Bill or a resolution can thereafter be extended[354] or reduced[355], on a motion moved by a member and adopted by the House. However, as per present practice, the time is extended just by taking the sense of the House and without formal motion being moved in the House for that purpose[356].

When a point of order relating to a particular business before the House is raised, the time taken in the disposal of that point of order is also counted towards the total time allotted for that business[357].

Procedure for Convening Sittings

Three weeks before the commencement of each session, a tentative programme of the sittings of the Committee is prepared in such a way that—

there is at least one day in between the date of the sitting of the Committee and the date on which the report of the Committee is to be presented to the House; and

there is at least one day in between the date of presentation of the report and the date on which the motion for adoption of the report by the House is to be moved.

The motion for adoption of the report is invariably put down as the first item in the agenda on the first available day allotted to private members' business.

The tentative programme of the sittings of the Committee is approved by the Chairperson.

Members concerned with a Bill may be invited to attend the sittings of the Committee to present their views in regard to allocation of time to Bills as also the categorisation of Bills[358]. Where so desired by the Chairman or the Committee, representatives of the Ministries concerned may also be invited to attend a sitting to present their views[359].

However, the practice in vogue since February 1979 is that members sponsoring the Bills are individually addressed and requested to send their views in writing about

353. Rule 296.

354. *L.S. Deb.,* 2-4-1955, cc. 4147-48; 4-5-1956, c. 7348; 21-2-1958, c. 2041; 7-8-1959, c. 1269; 4-3-1960, c. 4300; 7-9-1962, c. 6899; and 27-4-1963, c. 12834.

355. *Ibid.,* 31-8-1956, cc. 5115-16; and 4-3-1960, c. 4333.

356. *L.S. Deb.,* 23-11-1956, c. 921; 27-7-1957, c. 2483; 4-12-1959, c. 3529; 16-8-1963. cc. 793-94; 28-11-1969, cc. 270-74; 20-11-1970, cc. 335-66; 4-5-2007, c. 378; and 30-11-2007, c. 574.

357. *Ibid.,* 20-7-1956, c. 437.

358. Dir. 27.

359. The practice in the past (up to the Seventh Session of the Second Lok Sabha) was to invite representatives of the Ministries concerned, as a rule, to attend the sittings of the Committee.

classification of their Bills for consideration of the Committee. Where considered necessary, the Committee invites the members-in-charge to appear before them to present their views in regard to their Bills. Where so desired by the Chairperson or the Committee, the opinion of the Ministry of Law and Justice is obtained on a Bill for consideration of the Committee.

As regards resolutions, the members whose resolutions are being included in the List of Business are not invited to attend the sitting of the Committee to present their views regarding allocation of time to their resolutions unless a specific request is made in this regard by the member and agreed to by the Committee or where the Committee itself consider it necessary or desirable to call him.

Copies of the agenda are made available to members sufficiently in advance of the date of sitting[360]. With effect from 18 July, 2016, Notice and Agenda are also provided to members of the Committee online through e-portal.

Verbatim record of proceedings is not kept except when an important issue is before the Committee. The recommendations of the Committee are contained in their reports which are presented to the House by the Chairperson or in absence of Chairperson by any member of the Committee[361].

Minutes

The decisions of the Committee are recorded in the minutes which are prepared by the Secretariat and approved by the Chairperson or the member who presided at the sitting of the Committee[362].

An authenticated copy of the minutes of the sittings held during a session is laid on the Table during the last week of the session. An entry regarding this is included in the *List of Business* for the day on which the minutes are to be laid on the Table[363]. In case the members in whose names the entry has been included in the list are not present, the minutes are laid by any other member of the Committee present in the House.

Report

The report of the Committee is approved by the Chairperson and an entry in respect of the motion for presentation of the report is included in the *List of Business.* Usually the report is presented to the House a day after the sitting of the Committee but in special circumstances it may be presented on the same day when the sitting is held[364].

The report is circulated to all the members on the day on which the report is

360. The past practice of supplying, alongwith the agenda, copies of memoranda on Bills and reactions of Government, if any, on any matter before the Committee, has since been dispensed with.

361. Rule 279(1).

362. Dirs. 66(1) and 66(2). The past practice of circulating the minutes of each sitting to members of the Committee has now been discontinued.

363. Dir. 67.

364. During the Ninth Session of the Second Lok Sabha, a sitting of the Committee scheduled to be held on 17 November 1959, could not be held on that day for want of quorum. Consequently, the next day, *i.e.* 18 November 1959, was fixed *in lieu* thereof. But on account of the death of a sitting member of the House on that day, the sitting was cancelled and was held instead on 19 November 1959, and the report of the Committee was presented to the House on the same day—[51R (CPB-2LS)].

presented. With effect from 20 July 2016, report is also being uploaded on e-portal of members on the day of its presentation. The report is adopted in the House on the day allotted for private members' business on a motion moved by the Chairperson or any other member so authorised by the Chairperson that the House do agree with the report. However, in certain exigencies, the report may be presented and adopted on the same day[365]. The motion for adoption is taken up as the first item before the commencement of private members' business at that sitting. On adoption of the motion, the classification of Bills and allocation of time to Bills and Resolutions become an order of the House.

The discussion on the motion for adoption of the report is not to exceed half an hour and no member can speak for more than five minutes on such a motion[366].

Amendments may also be moved that the report be referred back to the Committee either without limitation or with reference to any particular matter[367]. If the allocation of time recommended in respect of a Bill or a resolution is desired to be varied, it is open to a member to move an amendment to the relevant report of the Committee containing the recommendations regarding allocation of time when the motion for its adoption is taken up in the House.

Select or Joint Committees on Bills

On a motion moved in and adopted by the House, Bills are from time to time referred to Select Committees composed of members specifically named in the motion. Bills may likewise be referred to Joint Committees, with the concurrence of the Rajya Sabha, composed of members of both the Houses. Such Select or Joint Committees are *ad hoc* Committees which are appointed for consideration of particular Bills referred to them.

Select or Joint Committees on Bills are appointed at the first stage of the second reading of a Bill in the House. At this stage, the member in-charge of the Bill may himself move that the Bill be referred to a Select Committee of the House or to a Joint Committee of the Houses with the concurrence of the Rajya Sabha. If the motion moved by the member in-charge is that the Bill be taken into consideration, any other member may move an amendment for the reference of the Bill to a Select or Joint Committee[368]. When the motion or amendment, as the case may be, is adopted, the Bill

365. A Sitting of the Committee was held on 2 January 1991. Eleventh Report (9LS) relating to that sitting was to be presented to House on 3 January 1991. Due to several members trying to raise matter regarding alleged threat of arrest to Speaker by a Union Minister, House was adjourned and report could not be presented on that day. Report was, therefore, presented to House on 4 January, 1991 after Question Hour and adopted just before private Members' business was taken up on that day. Copies of report were distributed to members through Publications Counter after its presentation on 4 January 1991 and also circulated on same night alongwith other parliamentary papers through Distribution Branch. [L.S. Deb. 4-1-1991]

366. Rule 295.

The time-limit was relaxed on 11 December 1953 in connection with the adoption of the first Report of the Committee (First Lok Sabha) and the discussion was resumed on 26 February 1954—*A.S. Deb.,* (II), 11-12-1953 and 26-2-1954, c. 2052 and c. 852, respectively.

367. Rule 295.

For instance, 42R (CPB-ILS) was referred back with reference to a particular matter. *L.S. Deb.* (II), 16-12-1955, c. 2938. *See* also *L.S. Deb.,* 18-3-1960, c. 6837; 67R (CPB-4LS); 12-11-1970, c. 267; 14R (CPB-7LS); and 20-2-1981, c. 412-13.

368. Rules 74 and 75; *see* also Chapter 22-Legislation.

stands referred to a Select Committee, and in case the Bill is to be referred to a Joint Committee, the motion or amendment, as adopted, is transmitted to the Rajya Sabha for their concurrence and appointment of members of that House on the Committee.

However, in the case of constituting the Joint Committee on the Constitution (Eighty-first Amendment) Bill, 1996 (Insertion of new articles 330A and 332A), the House, at its sitting held on 13 September 1996, during the discussion on the motion for consideration of the Constitution (Eighty-first Amendment) Bill, 1996 (Insertion of Articles 330A and 332A), authorised the Speaker to refer the Bill to the Joint Committee of the two Houses in consultation with the Chairman, Rajya Sabha[369].

Membership of Select Committee

The names of members proposed to be appointed on a Select Committee are set out, as already stated, in the motion of reference itself. The membership of Select Committees is not fixed. It may vary from Committee to Committee, but the normal membership is between 30 and 35[370].

Membership of Joint Committee

The motion for reference of a Bill to a Joint Committee gives the number and names of the members of the Lok Sabha to be appointed to the Committee and also the number of members from the Rajya Sabha to be appointed by that House. The proportion of members of a Joint Committee from the Lok Sabha and Rajya Sabha is 2:1. The actual membership of a Joint Committee is not fixed. It varies from Committee to Committee, the most usual number being 30 or 31[371].

369. Report of the Joint Committee on the Constitution (Eighty-first Amendment) Bill, 1996 (Insertion of New Articles 330A and 332A).

370. Financial Bills, which are not normally referred to Joint Committee under the Rules are generally referred to Select Committees consisting of larger number of members. For instance, the Gift-Tax Bill, 1958, and the Estate Duty (Amendment) Bill, 1958, were referred to Select Committees consisting of 43 members each. There are also instances when Select Committees were constituted with less number of members. For instance, the Indian Railways (Amendment) Bill, 1961 was referred to Select Committee consisting of 21 members. Similarly, the Select Committees on the Representation of the People (Amendment) Bill, 1961 consisted of 15 members; the Major Port Trusts Bill, 1962 consisted of 21 members; the Companies (Amendment) Bill, 1963 consisted of 18 members; the Delhi High Court Bill, 1965 consisted of 23 members; the Essential Commodities (Second Amendment) Bill, 1967 consisted of 21 members; the Banking Laws (Amendment) Bill, 1967 consisted of 22 members; the Indian Penal Code (Amendment) Bill, 1967 consisted of 12 members; the Enlargement of the Appellate (Criminal) Jurisdiction of the Supreme Court Bill, 1967 consisted of 22 members; the Advocates (Second Amendment) Bill, 1968 consisted of 24 members; the Central Excise Bill, 1969 consisted of 24 members; the Select Committee Diplomatic Relations (Vienna Convention) Bill, 1971 consisted of 19 members; the Payment of Gratuity Bill, 1971 consisted of 20 members; the Chit Funds Bill, 1980 consisted of 21 members; the Select Committee on the Constitution (Seventy-first Amendment) Bill, 1990 consisted of 20 members; the Transplantation of Human Organs Bill, 1993 consisted of 21 members; and the Select Committee on the Constitution (Scheduled Tribes) Order (Amendment) Bill, 1996 consisted of 15 members.

371. In the Joint Committee on the States Reorganisation Bill, 1956 (constituted on 2 May 1956), there were 51 members; the Constitution (Thirty-second Amendment) Bill, 1973 consisted of 60 members; the Public Financial Institutions Laws (Amendments) Bill, 1973 consisted of 60 members while in the Joint Committee on the Parliament (Prevention of Disqualification) Bill, 1957 (constituted on 21 December 1957) there were only 30 members; the Tripura Land Revenue and Land Reforms Bill, 1959 consisted of 30 members; the Manipur Land Revenue and Land Reforms Bill, 1959 consisted of 30 members; the Delhi Land Holdings (Ceiling) Bill, 1959 consisted of 30 members; the Extradition Bill, 1961 consisted of 21 members; the Joint Committee of the Houses to examine the question of the working of the Dowry Prohibition Act, 1961 consisted of 21 members; the Slum Areas (Improvement and Clearance) Amendment Bill, 1963 consisted of 24 members; the Prevention of Food Adulteration (Amendment) Bill, 1963 consisted of 33 members; the

There are no rules about the procedure to be followed by a Joint Committee. A self-contained motion is, therefore, moved in the House for the purpose and the concurrence of the other House in the motion carries with it their agreement to the prescribed procedure. The motion lays down the quorum for a sitting of the Joint Committee, the rules of procedure which would apply to the Committee, the time by which the Committee is to present the report and finally a request to the other House to agree to join the Committee and to communicate the names of their members who have been appointed to the Committee. Usually the rules relating to the Committees of the House in which the motion originates apply to the Joint Committee.

The motion, on adoption, is transmitted to the other House for their concurrence. The other House, on receipt of the motion, is at liberty to discuss the principles of the Bill and to suggest any directions that may be given to the Joint Committee (to which the originating House must agree before they become binding) and to nominate their members to serve on the Committee. Concurrence in the motion for reference of a Bill to a Joint Committee by the other House does not commit that House to the principles underlying the Bill[372].

Judges (Enquiry) Bill, 1964 consisted of 30 members; the Delhi Administration Bill, 1965 consisted of 33 members; the Patent Bill, 1965 consisted of 48 members; the Representation of the People (Amendment) Bill, 1966 consisted of 36 members; the Scheduled Castes and Scheduled Tribes Order (Amendment) Bill, 1967 consisted of 33 members; the Patents Bill, 1967 consisted of 33 members; the Union Territory (Separation of Judicial and Executive Functions) Bill, 1968 consisted of 33 members; the Insurance (Amendment) Bill, 1968 consisted of 33 members; the Criminal and Election Laws (Amendment) Bill, 1968 consisted of 33 members; the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Bill, 1969, consisted of 30 members; the Joint Committee on Amendments to Election Laws, 1970 consisted of 21 members; the Joint Committee on the Khadi and Village Industries Commission (Amendment) Bill, 1978 consisted of 30 members, the Joint Committee on the Air (Prevention and Control of Pollution) Bill, 1978 consisted of 30 members; the Joint Committee on the Scheduled Castes and Scheduled Tribes Order (Amendment) Bill, 1978 consisted of 30 members; the Joint Committee on the Criminal Law (Amendment) Bill, 1980 consisted of 33 members; the Joint Committee on Marriage Law (Amendment) Bill, 1981 consisted of 21 members; the Joint Committee on LIC Bill, 1983 consisted of 30 members; the Constitution (Seventy-first Amendment) Bill, 1990 (Amendment of Articles 81, 82, 170 and 327) consisted of 20 members; the Constitution (Seventy-third Amendment) Bill, 1991 (Insertion of New Part IXA and addition of Twelfth Schedule) consisted of 30 members; the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Bill, 1991 consisted of 22 members; the Constitution (Seventy-second Amendment) Bill, 1991 consisted of 30 members; the Constitution (Eightieth Amendment) Bill, 1993 (Insertion of new articles 24A, 28A, 102A and 191A) and Amendment of article 329 and Ninth Schedule and the Representation of the People (Amendment) Bill, 1993 consisted of 30 members; and the Constitution (Eighty-first Amendment) Bill, 1996 (insertion of new articles 330A and 332A) consisted of 31 members. Joint Committee on the Protection of Plant Varieties and Farmers Right Bill, 1999 consisted of 30 members. Joint Committee on the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005 consisted of 30 members, Joint Committee to examine the Constitutional and Legal Position relating to Office of Profit consisted of 30 members; Joint Parliamentary Committee to Examine Matters Relating to Allocation and Pricing of Telecom Licenses and Spectrum consisted of 30 members; Joint Parliamentary Committee on the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Second Amendment) Bill, 2015 consisted of 30 members; Joint Parliamentary Committee on the Enforcement of Security Interest & Recovery of Debts Law and Miscellaneous Provisions (Amendment) consisted of 30 members; Report of Joint Parliamentary Committee on the Insolvency & Bankruptcy Code, 2015 consisted of 30 members; Report of the Joint Parliamentary Committee on the Citizenship (Amendment) Bill, 2016 consisted of 30 members; Joint Parliamentary Committee on the Financial & Deposit Insurance Bill, 2017 consisted of 30 members; Joint Parliamentary Committee on the Personal Data Protection Bill, 2019 consisted of 30 members; Joint Committee on the Biological Diversity (Amendment) Bill, 2021 consisted of 31 members; Joint Committee on the Multi-State Co-operative Societies (Amendment) Bill, 2022 consisted of 31 members; Joint Committee on the Jan Vishwas (Amendment of Provisions) Bill, 2022 consisted of 31 members; Joint Committee on the Forest (Conservation) Amendment Bill, 2023 consisted of 31 members; Joint Committee on the Waqf (Amendment) Bill, 2024 consisted of 31 members.

372. *L.S. Deb.,* 17-12-1953, cc. 24-27, 28**;** 3-4-1956, cc. 6745-6747.

The House which initiates a motion for appointment of a Joint Committee is in-charge of the Committee and the Chairperson of the Committee functions under the directions of the Presiding Officer of that House[373]. The extension of time for presentation of the report of the Committee, if required, has to be asked for from that House. If such extension is granted to the Joint Committee, the other House is informed by means of a formal message.

Members of Select or Joint Committees

Only names of such members are proposed to a Select or Joint Committee as are willing to serve on it[374]. The mover obtains their consent before proposing their names in the House[375].

The Minister in-charge of the Bill or dealing with the subject-matter of the Bill is normally included as a member of the Committee as his presence is necessary for explaining the Government's point of view in the Committee. The mover of the motion (or amendment) for reference of a Bill to a Select or Joint Committee is normally appointed a member of the Committee although the mover's exclusion from the Committee does not render the motion invalid[376].

The composition of a Select or a Joint Committee reflects the strength of the various Parties and Groups in the House(s) and in this sense the Committee is a microcosm of the House or the Houses[377].

Members who are entirely opposed to the principle of the Bill should keep out of it[378] as also those who have a personal, pecuniary or direct interest of an intimate character in the subject-matter of that Bill.

Only one Bill is referred to one Committee: As a general rule, only one Bill is referred to a Select or a Joint Committee, but in case there are two Bills dealing with a similar subject matter, they may be referred to the same Select or Joint Committee by means of a single or separate motion[379].

Adding of Members on Select or Joint Committee

When a Bill is already under reference to a Select Committee, more members can be added to the Committee by moving a motion in that regard in the House[380]. Such a motion is moved by the member in-charge of the Bill or the Chairperson of the Committee.

373. Rule 283.

374. Rule 254(2).

375. *L.A. Deb.,* 22-2-1921, p. 332; *see* also *H.P. Deb. (II)*, 21-11-1953, c. 126 and *L.S. Deb.,* 26-11-1956, c. 1064.

    The motion to refer the Official Languages (Amendment) Bill to a Joint Committee of the Houses was not put to vote as the consent of certain members, whose names were included in the motion, had not been taken—*L.S. Deb.,* 13-12-1967, cc. 6714-16.

376. *L.S. Deb.,* 4-5-1954, c. 6479.

377. The Speaker has observed that a Select Committee must be as representative of the House as possible—*H.P. Deb*., 8-12-1953, c. 1669.

378. During the discussion on the motion to refer the Banaras Hindu University Bill to a Select Committee, the Speaker observed that members who are entirely opposed to the principle of the Bill should keep out of the Select Committee—*L.S. Deb.,*14-8-1958, cc. 949-52.

379. *See* Chapter 22—Legislation.

380. *L.A. Deb.,* 30-8-1939, p. 149.

In the case of a Joint Committee, the motion for addition of members is moved in and adopted by the House in which the Bill originated and is concurred in by the other House. The motion gives the number and names of members from the originating House and the number of members from the other House proposed to be added to the Committee. The motion also contains a request to the other House to agree to the addition of members and to communicate the names of members desired to be added by that House to the Committee.

Filling of Casual Vacancies in Select or Joint Committee

When a casual vacancy occurs in a Select Committee, the fact is intimated to the Ministry of Parliamentary Affairs with a request to state whether the Government proposes to fill the vacancy and, if so, to intimate the name of the member proposed for the vacancy.

On receipt of the name of the member from the Ministry of Parliamentary Affairs, a motion is moved in the Lok Sabha by the Chairperson or any other member so authorised by the Committee.

Normally, no need is felt for filling a casual vacancy in a Select Committee because by the time the vacancy can be filled the work of the Committee is generally over.

The procedure for filling a casual vacancy in a Joint Committee is the same as that in respect of a Select Committee except for the following:

In case of a Joint Committee initiated by the Lok Sabha—

if the vacancy is in the membership from the Lok Sabha, a motion setting forth the name of the member proposed to fill the vacancy is moved by the Chairperson or any other member so authorised by the Committee. After the motion is adopted, the Rajya Sabha Secretariat is informed of the fact by a letter; if the vacancy is in the membership from the Rajya Sabha, the vacancy is filled by that House on a recommendation made to that effect in a motion adopted by the Lok Sabha. The motion after being carried in the Lok Sabha is transmitted to the Rajya Sabha for their concurrence and nomination of a member of that House to fill the vacancy. On receipt of a message from the Rajya Sabha concurring in the motion, it is reported to the Lok Sabha.

The same procedure is followed in the reverse order in the case of a Joint Committee initiated by the Rajya Sabha.

Term of Office

As a Select or Joint Committee on a Bill is an *ad hoc* Committee for the consideration of a particular Bill referred to it, it becomes *functus officio* when it has presented its report[381].

Chairperson's Duties, Powers, etc.

The Chairperson of a Select or a Joint Committee[382], besides performing the duties and exercising the powers, etc., which are common to the Chairperson of all Parliamentary Committees[383], discharges some additional functions: Chairperson

381. *L.S. Deb.,* 16-7-1956, cc. 8-9.

382. For procedures regarding appointment of the Chairperson of a Select or Joint Committee, *see* Chapter 8.

383. For powers and functions of the Chairperson of Parliamentary Committees, *see* Chapter VIII.

decides the admissibility of amendments to be moved at a sitting of the Committee and Chairperson's decision is final[384]; Chairperson's approval has to be obtained before copies of memoranda or representations received on a Bill are made available to members; and the Chairperson orders expunctions of unparliamentary, irrelevant or otherwise inappropriate words, phrases and expressions from the minutes of dissent[385].

Functions of a Select or Joint Committee

The function of a Select or Joint Committee on a Bill is to go through the text of the Bill, clause by clause[386], in order to see that the provisions of the Bill bring out clearly the intention behind the measure, that there will be no procedural defect in its working, that the Bill does not offend provisions of the existing law, and that the object proposed to be achieved is adequately brought out.

The Committee may, before or at the time of taking a decision on any provisions of the Bill, invite written memoranda from, or take oral evidence of, experts or interested persons and organisations, or require Government officials to explain the policy behind each clause of the Bill and to give such information as the Committee may desire[387]. After hearing the evidence, if any, the Chairperson puts the Bill before the Committee clause by clause and invites members to offer comments, if any, and thereafter members move their amendments, if any[388]. The Committee then formulates its conclusion as to whether the clause as it stands is adequate and brings out the intention clearly. If in its opinion the wording of the clause is defective or the intention is not clearly brought out or the language is ambiguous, the Committee amends or revises the clause.

At the sittings of the Committee, the Minister concerned and the officials of that Ministry as well as the official Draftsman are also present to explain any point or points on which the Committee may require information[389].

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384. Dir. 75.

The Chairperson of the Joint Committee on Companies (Amendment) Bill, 1959, disallowed the moving of an amendment by the Minister of Commerce which sought to amend a section of the principal Act which was not touched by the amending Bill.

385. Dir. 91.

However, in the case of Select Committee on the Constitution (Scheduled Tribes) Order (Amendment) Bill, 1996, P. Kodanda Ramaiah and Dr. Jayanta Rongpi, M.Ps, in their minutes of dissent, used some inappropriate words and cast aspersions on the Chairman. Since the aspersions were cast on the Chairperson, he referred the matter for expunction to the Speaker who expunged the same reference.

386. Dir. 77.

387. For instance, the Joint Committee on the Arms Bills, 1958, the Banking Companies (Amendment) Bill, 1959, the Companies (Amendment) Bill, 1959, and the Railways Bill, 1986, invited written memoranda from interested parties and also heard oral evidence. At their sitting held on 8 October 1957, the Joint Committee on the Navy Bill decided that the Judge, Advocate as well as some senior officers of the Navy should be present at all the sittings of the Committee to give such clarification on the provisions of the Bill as may be required by members, and that if the Committee considered it necessary, at a later stage, those officers could be formally examined.

388. Dir. 77.

389. For instance during the course of the sittings of the Joint Committee on the Trade and Merchandise Marks Bill, 1958 when evidence of certain Associations was being taken on the Bill, an officer of the Ministry of Commerce and Industry and the Additional Secretary and Chief Draftsman, Ministry of Law took part in the proceedings of the Committee several times for clarifying points with the permission of the Chairman and their speeches were recorded in the day's proceedings.

Oral and Written Evidence before Select or Joint Committee

Generally, at its first sitting, the Committee decides whether it would take evidence on the Bill[390]. In arriving at this decision the Committee takes into consideration the nature of the Bill, the various interests that are directly affected by the measure and whether expert evidence would be desirable or helpful.

The Committee may decide to take evidence either on its own initiative or on separate request made to that effect[391].

In case the Committee decides to take evidence, usually a press note is issued inviting memoranda on the Bill from interested associations or organisations[392], and a date is fixed by which memoranda are to be sent to the Secretariat. Memoranda received after the specified date may be accepted with the permission of the Chairperson.

Normally, the Committee authorises the Chairperson to go through the memoranda received and to decide as to which associations and individuals should be invited to give evidence. For this purpose, only those associations or individuals who have made a specific request are invited. The Chairperson also keeps in view that the main representatives of each type of affected interests, *i.e.* employers, employees,

390. The Joint Committees on the Arms Bills, 1958, and the Motor Transport Workers Bill, I960, decided at their first sitting to hear evidence on the Bills—Min. (J.C. on Arms Bill), 8-5-1959 and Min. (J.C. on Motor Transport Workers Bill) 7-9-1960. In the case of the Code of Criminal Procedure (Amendment) Bill, 1954, the Joint Committee decided against taking evidence on the Bill since the Government had given the Bill the widest possible publicity and had obtained opinion upon it from all sections of the people—Min. [J.C. on Code of Criminal Procedure (Amendment) Bill, 17-7-1954].

391. (i) A serving Secretary to the Government of India made a request to the Chairman that he might be permitted to appear in his personal capacity before the Joint Committee on the Constitution (Amendment) Bill by a private member. As directed by the Committee [Min. (J.C.) on the Constitution (Amendment) Bill by Nath Pai, 23-10-1967], after he had obtained the prior approval of the Government on his own, the officer appeared before the Committee on 26 October 1967.

(ii) At the initiative of the Select Committee on the Constitution (Amendment) Bill by Tenneti Viswanatham, Justice D. Basu of Calcutta High Court appeared before the Committee on 21 and 22 July 1970, and gave his evidence on the provisions of the Bill. Justice Basu, however, clarified at the outset that the evidence he was about to give was in his 'private capacity as an academician'. Earlier, Justice Basu had desired that the request should come through the Ministry of Home Affairs. This was done.

(iii) The Chairman, Select Committee on the Taxation Laws (Amendment) Bill 1973, desired that Justice Debiprosad Pal of Calcutta High Court might be invited to tender evidence at the sittings of the Select Committee held at Calcutta in September 1973. In reply, Justice Debiprosad Pal regretted his inability to appear before the Select Committee and said: "As a sitting Judge of the High Court, I do not think it proper to express any view on the said Bill before the Committee".

(iv) On 26 July 1974, the Registrar, High Court of Karnataka intimated that the Chief Justice, High Court of Karnataka would like to give evidence before the Joint Committee on the Code of Civil Procedure (Amendment) Bill, 1974, if the Committee held its meetings at Bangalore. Since a sub-Committee of the Joint Committee was scheduled to hold its sittings at Bangalore from 19 September 1974 to 21 September 1974 to hear oral evidence, it was decided to call the Chief Justice for evidence before the Sub-Committee.

392. For instance, the Joint Committee on the Banking Companies (Amendment) Bill, 1959, at their first sitting held on 9 May 1959, decided that a press note might be issued advising associations, public bodies and individuals desirous of presenting their views before the Committee in respect of the Bill to send written memoranda thereon to the Secretariat by 10 June 1959. The Committee also authorised the Chairman to decide, after examining the memoranda, as to which associations, public bodies, etc. should be asked to send their representatives to give oral evidence before the Committee.

In the case of the Joint Committee on the Banaras Hindu University (Amendment) Bill, 1958, the Joint Committee, at their first sitting held on 18 August 1958, decided to hear evidence of a member intimately connected with the provisions of the Bill. No press note was issued.

industry, trade, etc. are invited to give evidence.

A memorandum addressed to the Committee forms part of the records of the Committee and is treated as confidential[393]. No person, without the Speaker's permission, can quote therefrom or send copies thereof to anyone else, unless it has been presented to the House either along with the report of the Committee or separately[394]. However, the arguments or points contained in the memorandum can be used in any other communication or used in any other manner but the person so doing cannot allude to the fact that such considerations have been urged in a memorandum submitted to the Select or Joint Committee.

In case a memorandum has been given publicity before sending it to the Committee or if it is addressed to somebody else and a copy thereof is endorsed to the Committee, it is not treated as a communication to the Committee and is either returned to the sender[395]or treated as a representation with the approval of the Chairperson[396].

A member of the Committee can also submit a memorandum containing his views on the Bill[397]. Copies of the memorandum or extracts therefrom are circulated to the members of the Committee, if so directed by the Chairperson[398].

The number of memoranda or representation received by the Committee are mentioned in the body of the report of the Committee, while the particulars thereof and the action taken thereon are given in the Appendix to the report[399].

Letters are issued by the Secretariat summoning the witnesses for evidence. Along with the letter, a note on points of conduct and etiquette to be observed by the witnesses appearing before a Parliamentary Committee is also sent for the guidance of the witnesses. In the case of associations or public bodies, the letter is addressed to them asking them to send their representatives to appear before the Committee on a specified

393. As soon as a memorandum is received, the sender is informed in writing that the memorandum should be treated as confidential and not circulated to anyone and that its circulation or publicity would constitute a breach of privilege of the Select or Joint Committee which is a Parliamentary Committee.

The Employers' Federation submitted a memorandum to the Select Committee on Payment of Gratuity Bill, 1971. The Federation, on its request, was permitted to make available copies of the memorandum to its constituent members, with the stipulation that contents thereof be treated as confidential and not for publication.

Soon after the Joint Committee on the Constitution (Fourth Amendment) Bill, 1954, had ceased functioning, a representation was received. It was decided that communications addressed to Committee formed part of the records of the Committee, irrespective of the fact whether the communication was sent while the Committee was still deliberating or after it had presented its report.

394. Dir. 74.

395. An individual submitted a memorandum to the Joint Committee on the Merchant Shipping Bill, 1958, copies whereof had already been sent to various journals for publication. The document was not treated as a memorandum to the Committee and was accordingly returned to the sender.

396. The Calcutta Chamber of Commerce, Calcutta sent to the Joint Committee on the Railways Bill, 1986, a copy of their letter addressed to the Prime Minister containing comments/suggestions on the Bill. It was treated as a representation and circulated to the members of the Joint Committee, after obtaining approval of the Chairman.

397. Dir. 81(1).

398. Dir. 81(2). A memorandum submitted by a member of the Joint Committee on the Companies Bill, 1953, was circulated to the members of the Committee after obtaining orders of the Chairman.

399. Dir. 83. The practice of giving these particulars in the report commenced in November 1956, with the report of the Joint Committee on the Motor Vehicles (Amendment) Bill, 1956.

date and time. Normally, they are asked to send two or three representatives to appear before the Committee and to communicate their names in advance to the Secretariat.

In case a Minister who is not a member of the Select Committee desires to address the Committee or to take part in the proceedings of the Committee, he/she is permitted to do so but he/she cannot participate in voting[400].

A Select or Joint Committee may call any member who is not a member of the Committee to give evidence before it[401].

Whenever witnesses are summoned to give evidence, *verbatim* record of the proceedings is kept[402]. Cyclostyled copies of the proceedings of the evidence are normally circulated to all the members of the Committee on the following day.

The Committee decides whether the record of the evidence given before it is to be laid on the Table *in extenso* or in part or in summary form[403] and whether the memoranda submitted by the associations should be printed as appendices to the evidence or laid on the Table or placed in the Library for reference by the members[404].

In case the Committee decides the whole or part or summary of the evidence, as the case may be, is to be laid on the Table[405], it is printed in a separate volume. A copy of such evidence authenticated by the Chairperson is laid on the Table by the Chairperson or the member so authorised by the Committee, either on the day the report of the Committee is presented or on any subsequent day. In the case of a Joint Committee, an authenticated copy of the evidence or summary thereof, as the case may be, is sent by the Secretariat for being laid on the table of the Rajya Sabha simultaneously with its presentation to the Lok Sabha. In case the Rajya Sabha is not in session that day, it is laid on the Table of that House on the day it reassembles. Copies of evidence given before Select or Joint Committees, after they have been laid on the Table, are circulated to all

400. Rule 299.

401. A member of the Rajya Sabha, because of his expert knowledge regarding Indian shipping, was required to give evidence before the Joint Committee on the Merchant Shipping Bill, 1958. He gave evidence before the Committee on 8 July 1958, in the capacity of a representative of the Indian National Steamship Owners' Association.

The Select Committee on the Banaras Hindu University (Amendment) Bill, 1958, decided at their sitting held on 18 August 1958, to call a member of the Lok Sabha who had intimate knowledge of the Banaras Hindu University to give evidence before them. The member gave evidence before the Committee on 19 August 1958.

402. Rule 273(v).

403. Rule 275.

404. In the case of the Joint Committee on the Motor Vehicles (Amendment) Bill, 1955, memoranda submitted by associations and public bodies who gave evidence before the Committee were printed as appendices to the evidence which was laid on the Table.

Copies of memoranda/representations received by the Joint Committees on the Constitution (Twenty-second Amendment) Bill, 1968, and the Lokpal and Lokayuktas Bill, 1968, as decided by the respective Committee, were laid on the Table of both the Houses on 5 March 1969, and 26 March 1969, respectively.

In the case of the Companies (Amendment) Bill, 1959, and the Motor Transport Workers Bill, 1960, the Joint Committee decided that the memoranda submitted by the associations who tendered evidence being very voluminous, need not be printed with the evidence but a few cyclostyled copies of the same may be placed in the Library for reference by the members.

405. Rule 275.

Evidence given before a Select or Joint Committee is not presented to the House with the report but it is laid on the Table separately.

members of the Lok Sabha and the Rajya Sabha and are also made available to the public on sale.

Amendments

The procedure regarding moving of amendments in a Select or a Joint Committee is, as far as practicable, the same as is followed in the House during the consideration stage of a Bill, with such adaptations as the Speaker may consider necessary or convenient[406].

Only members of the Committee are entitled to give notice of amendments[407]. Generally, the rules governing the admissibility of amendments in the House apply in the Committee also[408]. In the Committee, however, unlike in the House, members who give notices of amendments may also give 'Reasons' for the amendments[409].

Notices of amendments tabled in the House by members before reference of the Bill to the Committee also stand referred to the Committee, provided that where notice of an amendment is received from a member who is not a member of the Committee such amendment is not taken up by the Committee unless moved by a member of the Committee[410].

If any question arises whether a particular amendment is within the scope of the Bill or not, the question is decided by the Chairperson of the Committee whose decision is final[411].

Admissible amendments of which notices have been received are arranged in the lists of amendments in the order of the clauses of the Bill to which they relate and in the order in which notices thereof have been received, and are circulated to all the members of the Committee ordinarily on the same day on which they are received[412].

Discussion on an amendment starts on the member's moving the amendment. When the Chairperson considers that an amendment has been sufficiently discussed,

406. Rule 300(2).

407. In the case of Government amendments, the notice must be signed by the Minister who is a member of the Committee.

In the Joint Committee on the Companies Bill, 1953, notice of certain Government amendments signed by the Draftsman was received. The notice was returned for signature by the Minister on the Committee.

408. For conditions of admissibility of amendments in the House, *see* Chapter 22—'Legislation'.

409. In the Joint Committee on the Companies Bill, 1953, it was suggested that the 'Reasons' for each of the Government amendments of which notice had been given should be stated immediately below each amendment in the list of amendments to be circulated to the members of the Committee.

The 'Reasons' for the amendments were, however, given on separate sheets attached to the list of amendments circulated to members.

410. Rule 301.

Notices of amendments falling under this Rule are circulated to all the members of the Select Committee through a separate list and necessary indication is given therein that the amendments fall under this Rule in order to distinguish them from the list of amendments of which notices have been given by the members of the Committee.

Notices of amendments given by a member of the Rajya Sabha, who is not a member of the Joint Committee to which a Bill has been referred, do not stand referred to the Joint Committee under this Rule. In such a case, the member concerned is asked to have his amendments sponsored by a member of the Committee.

411. Dir. 75(2).

412. Copies of all notices of amendments are also supplied to the Draftsman, Ministry of Law, and to the officers of the Ministry concerned who attend the sittings of the Committee. Lists of amendments to the Bills before Committees bear a distinctive heading so that they are not confused with the list of amendments to the Bills before the House.

the Chairperson takes the consensus thereon and announces the decision. Ordinarily no vote is taken because the proceedings in a Committee are not as formal as they are in the House, but if a member insists that a particular amendment be put to vote, votes are taken by show of hands and the majority decision is recorded[413]. Clause already disposed of by the Committee may be reopened with the permission of the Chairperson[414].

Besides giving notices of amendments, a member of a Select or Joint Committee may, at any time before consideration of the Bill is concluded by the Committee, submit a memorandum or a note containing the member's views on the Bill for consideration of the Committee[415]. The Chairperson may, if thinks fit, direct that copies of the note or extracts therefrom be circulated to the members of the Committee[416].

Scope of Deliberations and Inquiry

General discussion on the Bill as a whole is not permissible in a Committee, as the principle of the Bill is accepted by the House on the adoption of the motion for reference of the Bill to the Committee[417]. The Chairperson may, however, permit a general discussion on certain clauses or basic points contained in the Bill so that the Minister in-charge of the Bill may explain the purpose of the Bill or remove doubts, if any, and may also know the mind of the members at the outset so that amendments to the Bill may be moved at the appropriate time according to their wishes[418], if necessary.

Apart from the principle of the Bill to which the House stands committed on the adoption of the motion[419], the House may also give additional directions or instructions to the Committee[420].

A Committee cannot amend or revise the Bill so as to render it obstructive to, or destructive of, the principle of the Bill as referred to the Committee. The principle of the Bill is to be judged from the long title, clauses of the Bill and the Schedules, if any. The whole Bill has to be taken into consideration in ascertaining the principle or scope of the Bill. All amendments or modifications must be within the scope of the Bill and relevant to the subject matter of the clauses or schedules to which they relate[421]. They

413. Total number of votes cast in favour of and against the amendment are recorded in the 'Minutes Book'.

414. Dir. 54. The Supreme Court on Government Premises (Eviction) Amendment Bill, 1954 after concluding their deliberations on Bills met to consider the draft report but at the request of some members postponed it to hear the Minister-in-charge of Bill who was absent on that day. The discussion on the Clauses and Bill was subsequently reopened after hearing Minister and the draft report revised.

415. Dir. 81(1).

416. Dir. 81(2).

417. Dir. 76.

418. For instance, in the case of the following Bills, general discussion was permitted:

The Joint Committee on the Motor Vehicles (Amendment) Bill, 1955, had a general discussion on the provisions of the Bill in respect of certain basic points-Min. (JC), 24-10-1956; the Joint Committee on the Arms Bill, 1958, had a general discussion on clause 4 of the Bill as to whether the Bill should be confined to fire arms only or to all arms in general. Min. (JC), 16-7-1959; The Joint Committee on the Mines and Minerals (Regulation and Development) Bill, 1957, had, as an exception, a general discussion on the provisions of the Bill-Min. (JC), 30-11-1957, 3 and 4-12-1957; The Joint Committee on the Railways Bill, 1986 also had a general discussion on the provisions of the Bill-Min. (JC), 6-1-1988, 7-1-1988, 8-1-1988 and 22-3-1988.

419. *L.S. Deb.,* 30-7-1956, cc. 1527-32.

420. *See,* for instance, the case of the Representation of the People (Amendment) Bill, 1961, *L.S. Deb.,* 14-8-1961, cc. 2218-19.

421. Rule 80(i).

should also be in conformity with the principle of the Bill to which the House has already agreed. It is not open to the Committee to alter the main concept of the Bill.

However, within the limitations referred to above, the powers of a Select or a Joint Committee to make amendments to a Bill are wide and large. A Committee may amend and redraft a Bill completely[422], including the long title[423] and the short title[424] without changing its principle. Likewise, a Committee may insert new provisions[425] in the Bill, restrict the scope of the Bill[426], or even vary the incidence of taxation proposals after obtaining the prior recommendation of the President[427].

While a Committee may, with the permission of the Chairperson, reopen discussion on the clauses of the Bill already disposed of [428], it cannot recommend that it does not agree with the principle of the Bill committed to it[429], though in appropriate cases it may recommend withdrawal of the Bill[430]. In regard to an amending Bill, amendments thereto are to be confined to the sections of the principal Act touched by the amending Bill except in cases where the clauses of the Bill necessarily lead to amendment or modification of any other sections which are intimately connected therewith[431].

Amendments to a Bill accepted by the Committee are incorporated in the Bill by the Draftsman, Legislative Department, who attends all the sittings of the Committee. Where an amendment accepted by the Committee required scrutiny from the drafting point of view, the Draftsman gets the draft approved by the Committee at a subsequent sitting[432].

After the clause-by-clause consideration of the Bill is over, the Draftsman prepares a manuscript copy of the Bill as amended which is then printed and the draft report of the Committee is prepared by the Secretariat[433]. Copies of the draft report are sent to the Draftsman and to the representative of the Ministry who attend the sittings of the Committee for factual verification and return. Their suggestions, if any, are suitably

422. The Muslim Wakfs Bill, 1952, and the Women's and Children's Institutions Licensing Bill, 1953, both Private Members' Bills, were completely redrafted by the Select Committee. Similarly, the Scheduled Tribes (Recognition of Farmers Rights) Bill, 2005 was completely redrafted by the Joint Committee.

423. The original long title of the Women's and Children's Institutions Licensing Bill, 1953, read as 'A Bill to regulate and license institutions caring for women and children'. The Select Committee amended it to read as 'A Bill to provide for the licensing of institutions for women and children and for matters incidental thereto'.

424. The short title of the Legal Practitioners Bill, 1959, was amended by the Joint Committee to 'Advocates Bill'.

425. The Joint Committee on the Merchant Shipping Bill, 1958, inserted several new clauses providing for the constitution of a National Shipping Board and for the creation of a Shipping Development Fund; the Select Committee on the Constitution (Scheduled Tribes) Order (Amendment) Bill, 1996, which was constituted to provide for the inclusion of the Koch-Rajbongshi community in the list of Scheduled Tribes in relation to the State of Assam, inserted other communities of Assam in the Bill.

426. The scope of the proceedings of Legislatures (Protection of Publication) Bill, 1956, was restricted by the Select Committee to the proceedings of Parliament only.

427. In the case of the Expenditure Tax Bill, 1957, the Select Committee varied the incidence so as to bring more persons under the purview of the expenditure tax—*see* Report of the S.C.

428. *Min.* [S.C. on the Government Premises (Eviction) Amendment Bill, 1954] 30-4-1955; pp. 25-27 and 30-8-1955.

429. *L.A. Deb.,* 19-2-1926, pp. 1541-45.

430. The Children Bill, 1954—*see* Report of the S.C.

431. *P. Deb. (II),* 8-2-1951, cc. 2573-81; *L.S. Deb.,* 28-7-1955, cc. 8752-54.

432. For instance, clause 9 of the Navy Bill, 1957.

433. Dir. 68(2).

incorporated in the draft report. The draft report, after having been factually verified, is submitted to the Chairperson for approval.

Copies of the draft report, as approved by the Chairperson, are circulated to all the members of the Committee and the Draftsman and the representative of the Ministry concerned. Together with the copies of the draft report, printed copies of the Bill as amended by the Committee are also circulated.

Nature and Contents of Report

The report is drafted according to a set pattern in accordance with the provisions of the direction issued by the Speaker on the subject[434].

In the introductory paragraphs, general information about the Bill and the proceedings of the Committee are given: the date of introduction of Bill; the dates on which the motion for reference of the Bill to Committee was moved, discussed and adopted in the House or the Houses, as the case may be; particulars of sittings held by the Committee; extension of time, if any, obtained for presentation of the report, etc. If any memoranda or representations are received by the Committee or any evidence is taken by the Committee or if any study tours are undertaken by it, this fact is mentioned therein. Similarly, if the Committee appoints any Sub-Committee, mention thereof is made and the report of the Sub-Committee is annexed as one of the appendices to the report.

In the main part of the report, where observations of the Committee on the changes made by them in the Bill and their general recommendations are given, the remarks are strictly confined to the amendments actually made by the Committee to the Bill and any general recommendation which the Committee may have decided to include in their report for the attention of the House and/or of the Government. In dealing with the amendments made by the Committee, arguments or elaborate reasons are not advanced, but only indication of the direction along with an amendment has been made is given.

The report finally concludes with the usual recommendation to the House that the Bill, or the Bill as amended by the Committee, be passed, or with any other relevant recommendation[435]. Where the Bill has been altered, the Committee may, if it deems fit, make a recommendation to the member in-charge of the Bill that his next motion should be a motion for circulation of the Bill as amended by the Committee, or, where the Bill has been circulated, for its recirculation[436].

Consideration of Draft Report and the Bill as Amended by the Committee

The draft report and the Bill as amended are considered by the Committee at their last sitting. The Chairperson first places before the Committee the Bill as amended, and the Committee considers whether all the amendments accepted by them and embodied in the minutes have been properly incorporated in the printed copy of the Bill. The member who has an objection to any part of the Bill as amended as not

434. Dir. 84.

435. The Select Committee on the Children Bill, 1954 (as passed by the Rajya Sabha) made the recommendation 'that the mover of the Bill be granted permission to move the necessary motion for the withdrawal of the Bill'.

436. Rule 303.

being in conformity with the decisions of the Committee, when called upon by the Chairperson to speak, states briefly the grounds of objection and proposes amendments to the Bill to bring it in line with the decisions of the Committee. The amendments, if accepted, are incorporated in the Bill. No new amendments to the Bill are ordinarily accepted at this stage[437]. Thereafter, the Bill as amended is adopted by the Committee.

On the adoption of the Bill as amended, the draft report is placed by the Chairperson before the Committee for adoption[438]. After the draft report and the Bill as amended are adopted, the Committee fixes a date not beyond the one fixed by the House for the presentation of the report, and the Committee authorises the Chairperson, or in his absence any other member, to present its report to the House. In the case of a Joint Committee, a member of the Rajya Sabha or in the member's absence any other member of that House is chosen for laying a copy of the report on the Table of that House simultaneously with its presentation to the Lok Sabha.

A date is also fixed by the Committee for handing in the minutes of dissent, if any, to the Secretariat and the date so fixed is communicated by a letter to all the members of the Committee for their information. The minutes of dissent, if any, are appended to the report before its presentation to the House.

Minutes of Dissent and Notes

The report of the Committee is based on majority decisions, but any member of the Committee disagreeing with the report or a part thereof may append a minute of dissent on any matter connected with the Bill or dealt with in the report. A minute of dissent cannot be premature or conditional in any respect and can be given by a member only after the report has been considered and adopted by the Committee[439].

Minutes of dissent have to be written in ink or typed on foolscap paper are required to be given to the officer of the Committee or handed in at the Parliamentary Notice Office on or before the date and time fixed for this purpose by the Committee[440]; those received after the expiry of the specified time, but before the presentation of the report to the House, may be entertained and appended to the report with the permission of the Chairperson. Minutes of dissent, given in Hindi, are presented as such and no English version thereof is included in the report.

It is permissible for members to give minutes of dissent jointly. A minute of dissent cannot be given after the report has been presented to the House[441] nor can it be altered by the member after the presentation of the report[442]. It has to be couched in temperate and decorous language and should not cast aspersion on the Committee or refer to any discussions in the Committee. In case it contains such words or expressions, they are

437. In the Joint Committee on the Mines and Minerals (Regulation and Development) Bill, 1957, the Chairman permitted certain new amendments being moved by a member. *Vide* para 5 of the minutes, 13-12-1957.

438. Dir. 69(2).

439. Rule 303(4), read with Dir. 89.

440. Dir. 85.

441. Dir. 90.

442. Only corrections which come within the ambit of editing are permitted.

expunged under the orders of the Chairperson[443] or the Speaker[444]. If expunctions are made under the orders of the Chairperson, the member concerned is informed of the Chairperson's decision with a view to affording the member an opportunity to make an appeal to the Speaker if he/she so wishes and the Speaker's decision in the matter is final[445].

If a member, who is absent from the sitting or sitting at which the draft report is considered and adopted by the Committee, wants to give a minute of dissent the member is required, under a direction of the Speaker, to certify in writing that he/she has read the report[446]. In case the member sends a minute of dissent without the required certificate, the minute of dissent is appended to the report with a foot-note that the certificate required under the direction has not been furnished. Where a minute of dissent does not bear any date, the date on which it is received in the Secretariat is so indicated thereon against the name of the signatory[447].

A member who is in agreement with the report and yet thinks that a particular matter has not been given proper emphasis or who desires to make further suggestions in respect of any matter connected with the Bill or dealt with in the report, may give a 'note' (as distinguished from a minute of dissent) to the report. Notes, like minutes of dissent, are also appended to the report when it is presented to the House. The procedure for submission of notes to the report is the same as is followed in regard to minutes of dissent.

Presentation of Report to the House

The report presented to the House generally consists of the following papers arranged in that order:

List of members of the Committee[448]; report of the Committee, signed by the Chairperson; notes and minutes of dissent, if any, in original; printed copy of the Bill as reported by the Committee and authenticated by the Draftsman concerned; text of the motion (or motions in the two Houses) appointing the Committee; report of the Sub-Committee, if any, together with the minutes of the Sub-Committee; statement in regard to memoranda/representations received by the Committee, if any; list of witnesses who gave evidence before the Committee, if any; minutes of sittings of the Committee; and other important papers, if any made available to the members of the Committee and approved by the Chairperson of the Committee for presentation to the House[449].

In the case of a Joint Committee, an authenticated copy[450] of the report together

443. Dir. 91(1).

444. Rule 303(6).

445. Dir. 91(2); *L.S. Deb.,* 2-8-1968, cc. 3915-23. A member made an appeal to the Speaker against expunction of certain paragraphs from his minutes of dissent appended to the report which had been presented to the House. The Speaker directed the restoration of two paragraphs. This was done by issuing a corrigendum to the report. The paragraphs were also published in the Gazette and circulated to members.

446. Dir. 87. On conclusion of the clause-by-clause consideration of the Bill by Select or Joint Committee, the Chairperson informs the Committee of the provisions of Dir. 87. On the same day, a letter is also sent to all the members drawing their attention to the Direction.

447. Dir. 86.

448. The List also indicates the names of the Draftsman concerned and the officer of the Secretariat attached to the Committee.

449. Dir. 92.

450. The copy is authenticated by the officer attached to the Committee.

with copies of the other papers referred to in the preceding paragraph, is sent by the Secretariat to the Rajya Sabha Secretariat for being laid on the Table of the Rajya Sabha simultaneously with its presentation to the Lok Sabha. In case the Rajya Sabha is not in session on that day, it is laid on the Table of that House on the day it reassembles.

If the Lok Sabha is not in session on the date fixed for the presentation of the report, the report is presented to the Speaker. In such cases, the Speaker arranges to have the report laid on the Table as early as possible after the House reassembles[451].

Extension of Time for Presentation of the Report

The motion for reference of a Bill to a Select or a Joint Committee invariably mentions a specific date[452] or gives an indication of the time by which the report is to be presented to the House[453]. If, however, the House does not prescribe any time for the presentation of the report, the report is required to be presented before the expiry of three months from the date on which the House adopts the motion for reference of a Bill to the Committee[454]. If at the time of consideration of the motion for reference of a Bill to a Select or Joint Committee, or in exceptional circumstances, soon after the adoption of such motion, it is considered necessary to alter the date of presentation of the report of the Committee, alteration is made through an amendment to the motion, moved in and adopted by the House[455].

Alteration in the date of presentation made through an amendment to the motion for reference of a Bill to Select or Joint Committee is distinct from a motion seeking extension of time for presentation of a report when the Committee finds itself unable to present the report by the appointed date.

Whenever the progress of a Committee in regard to a Bill is such that the presentation of the report to the House is likely to be delayed, the matter is brought to the notice of the Speaker as soon as it becomes clear to the Chairperson that such delay is likely to occur. The Chairperson briefly states the circumstances necessitating delay, Chairperson's estimate of the time required to complete the work and any other matter which, in Chairperson's opinion, may be brought to the notice of the Speaker[456]. Thereafter, the Committee authorises the Chairperson, or in his absence any other member of the Committee, to move in the House for extension of time for the presentation of the report to a definite date which is to be specified in the motion[457]. One day before the day on which the motion for extension of time is to be moved in the House, a memorandum giving reasons for asking extension of time duly signed by the Chairperson of the Committee is circulated to all members. Where it is not feasible or necessary to call a sitting of the Committee merely for authorising the Chairperson to move for extension of time, the Chairperson, on his own, after informing the Speaker, moves the motion in the House for an extension of time. The date upto which the time for presentation

451. Dir. 80(2).
452. *See* for instance, *L.S. Deb.,* 14-8-1961, cc. 2218-20.
453. *L.S. Deb.,* 1-5-1961, cc. 14702-03; 5-5-1961, cc. 15819-20.
454. Rule 303(1), First Proviso.
455. *L.S. Deb.,* 24-8-1956, cc. 4339 and 4370; 25-8-1956, cc. 4400-02.
456. Dir. 79(2).
457. Dir. 80(1), *L.S. Deb.,* 20-11-1961, c. 185.

of the report of the Committee is sought to be extended is specified in the motion on a reasonable presumption that the House would be in session on that date[458].

If need is felt by the Committee for extension of time for the presentation of the report and the House is not in session at that time and is also not to assemble till after the expiry of the date fixed for the presentation of the report, the Chairperson, on being authorised by the Committee in that behalf, approaches the Speaker who grants the necessary extension of time on behalf of the House and informs the House as soon as it reassembles[459].

The motion for extension of time is included in the *List of Business* on or before the date originally fixed for the presentation of the report to suit the convenience of the Chairperson of the Committee. As the motion for extension of time is a formal matter, usually no discussion on the motion takes place in the House. However, it is open to the House to discuss the motion[460]. In the case of a Joint Committee, after the motion is adopted by the House, the Rajya Sabha is informed of it through a message.

A Committee may be granted more than one extension of time for the presentation of the report[461].

Printing and Distribution of Copies of the Report

Immediately after the report has been presented to the House, a few typed or cyclostyled copies of the report are placed in the Library for reference by members. Copies are also supplied to the press representatives at the same time.

Committee on Papers Laid on the Table

During a session, a large number of papers are laid on the Table of the House every day by Ministers. In view of the volume and variety of these papers, the House, by itself, is not in a position to give a closer scrutiny to all these papers. As there is no prior circulation of these papers, members are not in a position to raise objections, if any, as and when these are laid. Only in those cases where there was delay in laying the papers, objections were raised from time to time by members on the floor of the House and the Minister concerned was asked to explain the delay. Anticipating such objections, it became a practice on the part of the concerned Minister to annex an explanatory note or memorandum to those papers in the event of a delay. Later on, it was found that even the explanatory memorandum given by the Minister for delay was inadequate and often unsatisfactory. Sometimes papers laid on the Table by a Minister were objected to on the ground of unconstitutionality or impropriety. The House, in

458. Dir. 80(2).

459. *See,* for instance *L.S. Deb.,* 21-11-1955, c. 5.

460. *L.S. Deb.,* 28-8-1961, cc. 5204-05; and 29-8-1961, c. 5503.

461. The Joint Committee on the Religious Trusts Bill, 1960, was granted extension four times. *L.S. Deb.,* 18-11-1960, c. 1094; 28-2-1961, c. 2188, 29-8-1961, c. 5503 and 7-12-1961, c. 3847.

The Joint Committee on the Lokpal Bill, 1985, was granted extension seven times. *L.S. Deb.,* 12-3-1986, c. 26; 23-7-1986, c. 298, 4-12-1986, cc. 347-48, 30-4-1987, cc. 354-55, 19-8-1987, 7-12-1987 and 10-5-1988.

The Joint Committee on the Railways Bill, 1986 was granted extension four times. *L.S. Deb.,* 27-2-1987, cc. 249-50, 25-8-1987, c. 313, 2-12-1987, c. 226 and 5-5-1988, c. 33.

fact, as a whole, did not have the time to go into all these matters. These considerations necessitated the constitution of the Committee on Papers Laid on the Table which came into existence on 1 June 1975.

Composition and Term

The Committee consists of not more than 15 members nominated by the Speaker for a term not exceeding one year[462] from the date of its constitution. The Chairperson of the Committee is appointed by the Speaker from amongst the members of the Committee.

Scope and Functions

The functions of the Committee are[463] to examine all the papers laid on the Table of the House by Ministers and to report to the House:

(a) whether there has been compliance of the provisions of the Constitution, Act, rule or regulation, under which the paper has been laid;

(b) whether there has been any unreasonable delay in laying the paper;

(c) if there has been such delay, whether a statement explaining the reasons for delay has been laid on the Table of the House and whether those reasons are satisfactory;

(d) whether both the Hindi and English versions of the paper have been laid on the Table; and

(e) whether a statement explaining the reasons for not laying the Hindi version has been given and whether such reasons are satisfactory.

A provision has also been made[464] in the rules that a member wishing to raise any of the matters which come within the functions of this Committee shall refer it to the Committee and not raise it in the House.

As per the direction 73A of the Directions by the Speaker, Lok Sabha, the Minister, with regard to the Ministry concerned, shall make once in six months a statement in the House regarding the status of implementation of recommendations contained in the Reports of Departmentally Related Standing Committees of Lok Sabha.

Such statements when laid by the Ministers concerned are not examined by the Committee on Papers Laid on the Table.

Similarly, the matters examined by the Committee on Subordinate Legislation, such as Regulation, Rules, Sub-Rules, Bye-Laws etc. whether laid on the Table of the House or not are also not examined by the Committee.

Procedure of Working

As and when papers are laid on the Table, the Secretariat examines them and selects those (particularly the annual reports/audit reports of various organisations) in which there has been an apparent delay on the part of Government in laying them on

462. Rule 305A.
463. Rule 305B.
464. Rule 305C.

the Table of the House. The Ministry concerned is then addressed in the matter with a view to ascertaining the facts of the case, including the reasons for the delay in laying the paper on the Table of the Houses, etc. On receipt of the reply from the Ministry the matter is placed before the Committee in the form of a Memorandum. In case the Committee required further information on any point arising out of the Government's reply, the officials of the concerned Ministry may be called upon to tender evidence before the Committee. In an appropriate case, the Committee may also undertake an on-the-spot study tour. Finally, on the basis of the information thus gathered, the Secretariat prepares a draft report for the consideration of the Committee. The report, after it is adopted by the Committee, is presented to the House by the Chairperson or in the Chairperson's absence by any other member so authorised by the Committee.

The main guidelines laid down by the Committee in respect of laying of papers on the Table of the House are:

(i) All autonomous organisations/companies, etc. should lay their annual reports/ audit reports within 9 months after the close of the accounting year unless otherwise stipulated in the relevant act or rules, etc. And if for any reason these reports cannot be laid within the stipulated period the Ministry should lay within 30 days of expiry of that period of 9 months or as soon as the House meets, whichever is later, a statement explaining the reasons why the report and accounts could not be laid within the prescribed period[465];

(ii) autonomous organisation which lay only their annual reports should do so within 6 months after the close of the accounting year[466];

(iii) The administrative Ministries should prepare and lay along with the annual reports/audit reports, their own "Review" on the working of the organisations or undertakings under their control, bringing out clearly the achievements or shortcomings of those organisations. Where Government are in agreement with the information given in the report, Government should lay along with the report a statement saying that they are in agreement with the report and hence no review is being laid[467];

(iv) All organisations which are financed out of the funds drawn from the Consolidated Fund of India wholly or partly should lay their annual reports/ audit reports before both the Houses of Parliament irrespective of the fact whether the rules of such organisations provide therefore or not. The Government should also consider the feasibility of amending the relevant rules/statutes, etc. of organisations to make it obligatory on the part of the Ministry concerned to lay the reports of such organisations within nine months of the close of the accounting year[468].

Annual Report and Audited Accounts are to be laid by the following entities:

The societies/organisations receiving one time assistance of Rs. 5 crore or above are required to lay their annual reports and audited accounts before Parliament. In the

465. 2R (CPL-5LS), para 4.16.

466. 1R (CPL-5LS), para 1.17.

467. 2R (CPL-5LS), para 4.18.

468. 2R (CPL-6LS), paras 1.12 and 1.14.

case of a society receiving one time assistance between Rs. 10 lakh and Rs. 5 crore, it is incumbent upon Ministries/Departments of Government of India to include in their own annual reports a statement showing the quantum of funds provided to each of these societies and the purpose for which the funds were utilised, for the information of Members of Parliament.[469]

The Voluntary Organisations receiving recurring grants-in-aid of Rs. 50 lakh are also required to lay their Annual Reports and Audited Accounts before Parliament within nine months of the close of the succeeding financial year. In case of private and Voluntary Organisations receiving recurring grants-in-aid between Rs. 10 lakh and 50 lakh, all the Ministries/Departments of the Government of India are required to include in their Annual Report a statement showing the quantum of funds provided to each of these private and voluntary organizations and the purpose for which they were utilized, for the information of Parliament.[470]

All Statutory/Autonomous Organizations, Public Undertakings, Corporations, Joint Ventures, Societies, etc. which are financed by funds drawn from the Consolidated Fund of India of Rs. 2 crore and above[471] are required to lay their Annual Reports/ Audited Reports. In case where these Organizations etc. receive funds less than Rs. 2 crore, Ministries/Departments of the Government of India are required to include in their Annual Report, a Statement showing the quantum of funds provided to each of these Organizations and the purpose for which the funds were utilized for the information of the Parliament.[472]

Briefing session with the representatives of the Comptroller & Auditor General.

During examination of the reasons for delay in laying of the requisite documents, many administrative Ministries/Organizations have submitted that the audit by the Comptroller &Auditor General sometimes takes longer than the stipulated time as per General Financial Rules and as such the laying of the documents in Lok Sabha gets delayed. The Committee on Papers Laid on the Table, therefore, held a briefing session with the representatives of the Comptroller & Auditor General to ensure that the requisite Audited Accounts of various Autonomous Bodies, Public Undertakings, Joint Ventures, Commissions, Institutes etc. are received by various Autonomous Bodies, Public Undertakings, Joint Ventures, Commissions, Institutes etc. within the stipulated time *i.e.* by 31st December of each year.[473]

Committee on Petitions

At the commencement of the Lok Sabha, or from time to time, as the case may be, the Speaker nominates a Committee on Petitions[474]. The Committee holds office for the period specified by the Speaker or until a new Committee is constituted. However, as per practice, at the end of the one-year term of the Committee, the Speaker's orders

469. Circular No. 32137 dt. 13.07.2020 of the Committee on Papers Laid on the Table (Committee Branch-II), Lok Sabha.

470. *Ibid.*

471. After being voted by Parliament, in the form of Shares, Subsidies, Grants-in-aid, etc. either wholly or partly.

472. Circular No. 32137 dt. 13-07-2020 of the Committee on Papers Laid on the Table (Committee Branch-II), Lok Sabha.

473. LAFEAS-CB-II 055/7/2022-CB-II dated 05-04-2022.

474. Rule 306.

are taken whether to reconstitute the Committee or to allow the same Committee to continue in office.

The Committee consists of not less than 15 members, nominated in proportion to the strength of the Parties and Groups in the House so as to make it representative of all shades of opinion in the House[475].

The Committee on Petitions is one of the oldest Committees of the House and dates back to the Legislative Assembly of the pre-Independence era. It owes its origin to a resolution moved by a member in the then Council of States on 15 September 1921[476]. The resolution called for the setting up of a Committee on public petitions with powers to take evidence. The matter was examined by a Committee appointed by the Government. This Committee did not favour giving to the Legislature the powers proposed in the resolution. The right of petitioning the Legislature, limited to public business, was, however, recommended by it[477], and in pursuance of this recommendation, Speaker Whyte constituted the Committee on 20 February 1924[478]. Its strength was fixed at five and remained unchanged until early 1954. In April of that year, its strength was raised to fifteen in order to provide adequate representation to all Parties and Groups in the House. The Committee was known as the 'Committee on Public Petitions' until 1933, when its name was changed to 'Committee on Petitions'.

Functions

A petition can be presented by a Member to the House with the consent of the Speaker[479]and the said Petition shall be countersigned by the Member concerned. The Petition submitted online through Members' Portal shall be deemed to be countersigned by the Member[480]. However, no debate is permitted on the presentation of the Petition[481]. The Committee examines every petition which after presentation to the Lok Sabha stands referred to it[482]. It is the duty of the Committee to report to the House on specific complaints made in the petitions after taking such evidence as it deems fit, and to suggest remedial measures either in a concrete form applicable to the case under review or to prevent such cases in future[483]. The Committee may also direct that the petition be circulated *in extenso* or in summary form to all members of the House[484]. In the case of petitions on matters of general public interest the Committee examines the suggestions made therein, calls for factual comments from the Ministries concerned,

475. *See* Chapter 8–Parliamentary Functionaries, *re:* Procedure adopted for appointment of a Chairperson of a Committee.

476. *C.S. Deb.,* 15-9-1921. Vol. II, p. 197.

477. Report of the Committee on Public Petitions, 1922, paras 9-13. The Report was published in Gaz. (1), 1-4-1923, pp. 334-38.

478. *L.A. Deb.,* 20-2-1924, p. 817.

479. Rule 160

480. Rule 164(1) [Sub. by L.S. Bn. (II) dated 02-08-2017, para 5673.]

481. Rule 167

482. Rule 169. However, in the case of a petition on a Bill pending before a Select or Joint Committee, the petition is referred to that Committee without being presented to the House and the petitioner is informed accordingly. Dir. 38(3).

483. Rule 307(3).

484. Rule 307(l) and (2). In practice, the Committee directs circulation of only those petitions which deal with Bills or other matters pending before the House.

where necessary, and makes suitable recommendations in its report to the House.

The Committee also considers representations, including letters and telegrams from various individuals and associations, which are not covered by the Rules relating to petitions, and gives directions for their disposal[485]. It does not consider anonymous letters or letters on which names and/or addresses of senders are either not given or are illegible, or letters which do not contain any specific prayers. The Committee does not also take into consideration endorsement copies of letters addressed to persons or authorities other than the Speaker or the House unless there is a specific request on such a copy praying for redress of the grievance. Such anonymous letters or endorsement copies are summarily filed in the Secretariat[486].

After a petition has been presented to the House, a serial number is allotted to it and the petition stands referred to the Committee[487]. A memorandum is then prepared by the Secretariat for the consideration of the Committee.

Sittings

When the date and hour of a sitting of the Committee have been fixed, notice thereof, along with the agenda to be considered by the Committee, is circulated well in advance of the date so fixed. The items of the agenda for a sitting are arranged in the following order:

> admitted petitions presented to the House; memoranda on the admitted petitions; memoranda on implementation of the recommendations of the Committee contained in its earlier reports; and memoranda on important representations, if any.

If at any sitting of the Committee a petition relating to a Bill sponsored by the Chairperson of the Committee is to be considered, the Speaker appoints another member to act as the Chairperson for that particular sitting.

In the case of a petition received on a Bill which is under discussion in the House or is likely to be taken up immediately for discussion or which is likely to be passed by the House on the day of presentation of the petition, the Committee meets immediately to consider it[488]. In such cases as also in respect of a petition on any other matter connected with the business pending before the House, the Committee, as a rule, does not make a separate inquiry or submit its recommendations to the House, but directs that the petition, where it complies with the rules, be circulated to members *in extenso* or in summary form[489].

Discussion on a Bill is not barred if certain petitions against that Bill are pending before the Committee[490].

485. Dir. 95. Pursuant to the observations made by the Speaker [*vide* (CP-1L.S.), Appendix VII], the Committee commenced considering representations with effect from 25 April 1956. In its report to the House, the Committee does not give any details about the representations considered.

486. Dir. 95, Proviso.

487. Rule 169. From the Sixth Session of the First Lok Sabha, 1954, petitions on Bills pending before the House are allotted consecutive serial numbers during the lifetime of each Lok Sabha and are not separately printed as papers to the relevant Bills.

488. Dir. 94.

489. *L.S. Deb.,* 3-5-1963, cc. 13624-25; 6-5-1963, cc. 14013-15.

490. *Ibid.,* 21-12-1964, cc. 5995-6005.

The sittings of the Committee are held in private[491]. At such sittings, the Committee deliberates or occasionally examines witnesses according to the agenda circulated in advance. When the Committee deliberates, all persons other than the members of the Committee and officials of the Secretariat have to withdraw[492]. When the Committee is taking evidence, members other than the members of the Committee may watch the proceedings of the Committee with the permission of the Chairperson.

If the Committee feels that a member other than a member of the Committee can be of assistance to it because of his connection with, or special knowledge of, the facts stated in the petition or representation, that member may be invited to attend the sitting of the Committee under orders of the Chairperson[493]. Such members withdraw as soon as they have rendered the necessary assistance to the Committee.

The Committee may take evidence of experts or interested parties on the petitions/ representations on their own initiative or on requests made. The witnesses who express their desire to appear before the Committee are required to supply sufficient number of copies of written memoranda for circulation among Members of the Committee who may consider the same at their sitting and then decide whether such witnesses may be called to appear before the Committee[494] .

Contents of Report

The report is drafted on the basis of the minutes of the sittings of the Committee. The introductory paragraphs give the number and dates of the sittings held since the presentation of the last report, the subject-matter of the petitions considered at these sittings in chronological order, the date of adoption of the report, etc. The report then deals in detail with the petitions examined by the Committee. It gives the date of presentation and name of the member presenting the petition. Thereafter, the specific grievance or complaint of the petitioner and arguments advanced by the petitioner to reinforce his plea are enumerated. Wherever comments of the Ministry concerned, of a factual nature, have been obtained for the perusal of the Committee, a summary thereof is incorporated. In conclusion, the decision of the Committee or its recommendations in regard to the disposal of the petition or its suggestion about remedial measures either in a concrete form applicable to the case under review or to prevent such cases in future is given.

Other matters considered by the Committee and dealt with in their report include action taken by the Government on the recommendations of the Committee contained in their earlier reports or the decisions of the Committee to pursue their recommendations with the Government in spite of the difficulties pointed out by the Government in implementing them or to accept the reply of the Government explaining the reasons for non-implementation of certain recommendations.

The report also makes a mention of the total number of representations received from various individuals, associations, etc. which are inadmissible as petitions to

491. Rule 266.

492. Rule 268. As an exception, when the Committee was deliberating on representation regarding the rationalisation scheme of N.E. Railway, the officials of the Ministry of Railways were, on 17 February 1959, permitted by the Chairman to take part in a preliminary discussion after their evidence was over.

493. Dir. 57.

494. Rule 307A (1) and (2). [Inserted by *L.S. Bn. (II)* dated 02-8-2017, para 5673.]

the House but have been considered by the Committee at their sittings held during the period under report[495]. Where the Committee feels that facts arising out of a representation ought to be brought to the notice of the House, a mention of it is made in the report with suitable recommendations[496]. In the end, the report gives the number of cases in which, through the Committee's intervention, petitioners have been granted speedy or due relief [497].

No minute of dissent can be submitted or appended to the report of the Committee[498].

Nature of Recommendations

In the case of petitions on Bills or other matters pending before the House, the Committee generally does not make any recommendations but circulates the petitions *in extenso* or in summary form to the members of the House and makes a report to the same effect giving the dates on which the petitions were circulated[499]. Where, however, adequate time is available before the subject matter of the petition is to be taken up in the House, the Committee examines the petition in detail and makes a suitable recommendation thereon to the House.

In the case of petition on matters of general public interest[500], the Committee reports to the House giving the facts as stated by the petitioner, the comments of the Ministry concerned obtained thereon, and their conclusions or recommendations.

The recommendations of the Committee may be:

that the petitioner's suggestion(s) *in toto* ought to be implemented; or

that the petitioner's suggestions in the form modified by or acceptable to the Committee ought to be implemented; or

that no action is necessary on the petition since the facts or comments furnished by the Ministry concerned or the action taken by the Government meet adequately the petitioner's points, or the Committee are in agreement with the Government's views, or the suggestions would not be feasible as they involve undue additional financial burden on, or heavy loss to, revenue or would hurt the country's economy; or

that remedial measures either in a concrete form applicable to the—case under review or to prevent such cases in future might be taken.

Action to Implement Recommendations

After the report of the Committee has been presented to the House, copies thereof are forwarded to the Ministries concerned with the subject-matter of the recommendations made by the Committee. The Ministries are required to furnish to

495. This practice of including other matters in the reports began with the First Report of the Committee, during the Second Lok Sabha.

496. *See* 10R (CP-2LS).

497. *Ibid*.

498. Dir. 68(3).

499. Min. (CP-1LS), 28-7-1956.

500. For details regarding matters of general public interest, *see* the relevant footnote in Chapter 34–Petitions and Representations, under the heading 'Scope of Petitions'.

the Secretariat statements of actions taken or proposed to be taken by them on the recommendations. The information so received is placed before the Committee in the form of a memorandum.

When the Ministry concerned has implemented the recommendations or taken action in implementation thereof, that fact is reported by the Committee to the House. Where a Ministry feels any difficulty in implementing some or all of the recommendations of the Committee, it makes a submission to the Committee pointing out the obstacles in the way of implementation of the recommendation(s). The Committee may either accept the replies or decide to press the recommendations. The decision of the Committee is included in its report to the House.

Representations to the Committee

Public bodies, associations or individuals can submit representations to the Committee on any matter within the jurisdiction of the Lok Sabha[501].

A representation relating to a Bill pending before a Select or Joint Committee is forwarded to that Committee, like petitions on Bills, without being placed before the Committee on Petitions[502]. Other representations on matters within the purview of the Government of India are placed before the Committee.

Where the Committee feels that there is a *prima facie* genuine grievance, it directs in the first instance that facts might be obtained from the Ministry concerned, and after considering the reply of the Ministry, or getting further clarification from the Ministry or the petitioner, the Committee directs that the petitioner might be informed suitably of their decision[503]; where the Committee feels that though the grievance appears to be genuine it is not of general public importance, it directs that the representation in original be forwarded to the Ministry concerned for disposal after due consideration.

The Committee does not usually call for facts from the Ministry concerned if the representations relate to minor or trivial matters. After considering the representations or the facts thereon whenever these have been obtained under their directions, the Committee where it feels that the grievance ventilated in the representation is genuine but decided not to take it up with the authorities, directs that the representation might be forwarded in original to the Ministry concerned[504] for disposal and the petitioner is also apprised accordingly; and where in its opinion the grievances are trivial or purely personal and do not require its intervention, the Committee invariably directs that these might be filed[505].

Before disposing of representations, the Committee may invite the petitioner(s) to appear before them and explain their grievances and the remedy sought for. Thereafter, the Committee usually calls the representatives of the concerned Ministry for evidence. On the basis of information collected from the petitioner and the Ministry, the Committee makes a report to the House with suitable recommendations in regard

501. For details, *see* Chapter 34—Petitions and Representations, under the heading 'Representations'.
502. Dir. 38(3), Second Proviso.
503. Min. (CP-2LS), 9-9-1957.
504. *Ibid.,* 8-4-1959.
505. *Ibid.,* 12-8-1959, 14-8-1959 and 20-8-1959.

to the representation and may also suggest remedial measures to be taken to alleviate the grievances/complaints of general public importance. The Committee also watches the implementation of its recommendations made through various reports and may present Action Taken Reports to the House[506].

The Committee receives around 2000 petitions/representations from various individuals, associations, etc. on yearly basis. Petitions/representations which meet the requirements of rules, directions and internal working procedure are examined by the Committee before preliminary comments from the Ministries/Departments of Government of India are sought. The Committee may take further consequential action as deemed fit.

Public Accounts Committee

The Lok Sabha, having voted large sums of the tax-payers' money, in the interest of the tax-payers expects, in due course, a detailed account of how the moneys have been spent. It must satisfy itself that the moneys so voted were directed to the intended purpose and were spent prudently and economically. The Comptroller and Auditor-General examines[507] the yearly accounts of the Government and after scrutiny certifies the accounts, subject to such reservations as he/she chooses to make, and submits the reports to the President who causes them to be laid before the Parliament[508]. It is difficult, if not impossible, for the Lok Sabha to examine in detail the accounts which are complex and technical; further, it cannot spare the time required for such examination. The Lok Sabha has, therefore, constituted a Committee—the Committee on Public Accounts—and entrusted it with the detailed examination of those accounts.

Composition

The Committee consists of not more than fifteen members from the Lok Sabha and seven members from the Rajya Sabha[509] who are elected by the respective House every year from amongst its members according to the principle of proportional representation by means of the single transferable vote. A Minister is not elected a member of the Committee, and if a member, after election to the Committee, is appointed a Minister, he ceases to be a member of the Committee from the date of such appointment[510].

The term of office of members of the Committee is one year[511]; it can, however, be extended in a special case by a motion adopted by the House[512]. A new Committee is elected every year before the expiry of the term of office of the outgoing Committee, but it enters upon office only on the expiry of the term of the previous Committee. Usually, the Committee is set up in May every year and its term expires on April 30 of the following year.

506. *See,* for instance, 10R (CP-2LS); 5R, 6R, 7R (CP-8LS).

507. Art. 149.

508. Art. 151.

509. Since 1954-55, seven members of the Rajya Sabha have been associated with the Committee.

510. Rule 309(1).

511. Rule 309(2).

Pursuant to the recommendation made by the Second Conference of Chairmen of Public Accounts Committees on 14 March 1959, a convention has been adopted by Parties and Groups in Parliament whereby no member is normally elected to the Committee for more than two consecutive terms.

512. *L.S. Deb.,* 20-3-1968, cc. 1828-33.

The first Committee set up in 1921 under the Montague-Chelmsford Reforms of 1919 consisted of 12 members out of which 8 were elected by the non-official members of the Central Legislative Assembly according to the principle of proportional representation by means of the single transferable vote. Of the members elected at the time of constitution of the Committee, not less than half, selected by lot, were to retire on the expiry of one year from the date of their election and the rest on the expiry of the second year from the date. The retiring members were eligible for re-election[513]. Three members were nominated by the Governor-General. The Finance Member was the Chairman of the Committee, and in the case of an equality of votes on any matter, he had a second or casting vote[514]. From 1950, when the Constitution came into force, the strength of the Committee was raised to 15 members and all were elected from amongst the members of the Lok Sabha. Since 1954-55 the Committee consists of 22 members, 15 from the Lok Sabha and 7 from the Rajya Sabha.

In the beginning, the term of the Committee was for a period of three years, coinciding with the life of the Assembly. By an amendment to the Indian Legislative Rules in 1933, it was provided that when the duration of the Legislative Assembly was extended beyond the period of three years, a new Committee would be constituted at the end of the said period of three years as if a new Assembly had commenced[515].

Casual vacancies occurring in the Committee are filled on a motion moved in the House concerned. The motion in the Lok Sabha is moved by the Chairperson of the Committee, and in the Rajya Sabha by a member of the Committee from that House. Members elected to fill the casual vacancies serve for the unexpired term of the Committee.

When any member of the Committee from Rajya Sabha retires under the provisions of the Constitution[516] from that House, the vacancy caused in the Committee by such retirements is filled by nominating another member from that House. In such cases a motion is moved in the Lok Sabha recommending to the Rajya Sabha that they do agree to nominate another member from that House to associate with the Committee for the unexpired term of the Committee. The Lok Sabha is officially informed through a message about the name of the member appointed by that House. On retirement from the Rajya Sabha if the member is re-elected to that House, he/she is eligible for membership of the Committee again.

Up to the year 1949-50, casual vacancies in the Committee were filled by election according to the principle of proportional representation by means of the single transferable vote by the non-official members of the Assembly, if the member who vacated the seat had been an elected member. If the vacancy occurred by the vacation of a seat by a nominated member, it was filled by nomination by the Governor-General. A member elected or nominated to the casual vacancy held office for the period for which the person in whose place he has been elected or nominated would have normally

513. Indian Legislative Rules, 1938, rule 51(4).

514. Indian Legislative Rules, 1921, rule 51(2) and (3).

515. Indian Legislative Rules, 1938, rule 51(6).

516. Art. 83(1).

held office[517].

Chairperson of the Committee: The Chairperson of the Committee is appointed by the Speaker from amongst the members of the Committee[518] and Chairperson's term of office is one year, as that of the Committee. Up to the end of the Third Lok Sabha, the Chairman of the Committee had been chosen from the majority party in Parliament. However, in 1967, a member of the Opposition Group (Swatantra) was, for the first time, appointed Chairman of the Committee and the practice has since continued.

The Finance Member of the Governor-General's Executive Council was the Chairman of the Committee when it was set up for the first time in 1921. The term of office of the Chairman was co-terminus with the term of the Committee (which was three years)[519]. The Finance Member/Minister ceased to act as the Chairman of the Committee in 1950 when the Constitution came into force, and the secretarial functions of the Committee which till then were in the hands of the Ministry of Finance were also taken over by the Parliamentary (now Lok Sabha) Secretariat.

Functions

The main functions of the Committee are to examine the Appropriation Accounts showing the appropriation of sums granted by Parliament for the expenditure of the Government of India, the annual Finance Accounts of the Government of India and such other Accounts laid before the House as the Committee may think fit[520]. In scrutinising the Appropriation Accounts of the Government of India and the report of the Comptroller and Auditor-General thereon, the Committee has to satisfy itself: that the moneys shown in the accounts as having been disbursed were legally available for, and applicable to, the service or purpose to which they have been applied or charged; that the expenditure conforms to the authority which governs it; and that every reappropriation has been made in accordance with the provisions made in this behalf under the rules framed by competent authority[521].

The Committee has also[522] to—

examine the statement of accounts showing the income and expenditure of State corporations, trading and manufacturing schemes, concerns and projects together with the balance sheets and statements of profit and loss accounts which the President may have required to be prepared or are prepared under the provisions of the statutory rules regulating the financing of a particular corporation, trading or manufacturing scheme or concern or project and the report of the Comptroller and Auditor-General thereon (excluding such public undertakings as have been allotted to the Committee on Public Undertakings)[523];

517. Indian Legislative Rules, 1921, rule 51(3).
518. Rule 258(1).
519. Indian Legislative Rules, 1921, rule 51(1).
520. Rule 308(1).
521. Rule 308(2).
522. Rule 308(3).
523. Pursuant to a resolution adopted by the House on 20 November 1963, the Committee on Public Undertakings was set up with effect from 1 May 1964. For details, *see* this Chapter, under 'Committee on Public Undertakings'.

examine the statement of accounts showing the income and expenditure of autonomous and semi-autonomous bodies, the audit of which may be conducted by the Comptroller and Auditor-General of India either under the directions of the President or by a statute of Parliament[524]; and

consider the reports of the Comptroller and Auditor-General in cases where the President may have required the Comptroller and Auditor-General to conduct an audit of any receipts or to examine the accounts of stores and are laid in the House under Article 151 (1) of the Constitution of India.

Excess Expenditure

If any money has been spent on any service during a financial year in excess of the amount granted by Parliament for that purpose, the Committee examines with reference to the facts of each case the circumstances leading to such an excess and makes such recommendations as it deems fit[525]. If considered necessary, the Committee submits a separate report on excesses[526]. The report sets out the various excesses with the reasons for them, and states the objections, if any[527], to their being approved. If the Committee has recommended the regularisation of the excesses, Demands for Excess Grants are presented to the House and the Minister of Finance, Railways or both, as the case may be, approaches the House for grants/appropriations to cover the excess expenditure[528].

In order to expedite the regularisation of excesses over grants, the Committee has recommended that the Comptroller and Auditor-General should report these excesses to Parliament in advance of his Audit Report on the Appropriation Accounts[529].

According to present procedure for regularization of excess expenditure, the Ministries/Departments of Government of India are required to furnish to the Public Accounts Committee, Explanatory Notes along with the relevant Appropriation Accounts. Thereafter, the Public Accounts Committee proceeds to examine, in the light of Explanatory Notes furnished by the Ministries/ Departments concerned, the circumstances leading to such excesses and presents a Report thereon to Parliament. Pursuant to the Recommendations/Observations made in the Report of the Committee, the Government initiates necessary action to have the excesses regularized by Parliament, under Article 115 (1)(b) of the Constitution, either in the same Session in which the Committee presents its Report or in the Session following it.

524. The Committee examined the Audit Report on the Accounts of the Damodar Valley Corporation [18R, 20R (PAC-1LS)], the Delhi Road Transport Authority, [3R, 5R, 14R (PAC-2LS)], and the Accounts, etc. of a number of Statutory Corporations and Government Companies.

525. Rule 308(4).

526. The Committee have presented a number of separate reports, *e.g.,* 21R, 24R (PAC-1LS); 2R, 9R, 10R, 16R, 23R, 27R (PAC-2LS).

527. There has been no such case so far.

528. *Vide* art. 115. Though there was no express statutory provision in this regard prior to 1950, the Public Accounts Committee (1921-23) made an important recommendation on the subject;

> The excess would in the first instance be examined by the Public Accounts Committee and in making a demand for an excess grant, Government would place before the Assembly any recommendation that the Committee might desire to make.

529. 21R (PAC-1LS), para 8.

Nature and Scope of Examination

The functions of the Committee extend 'beyond the formality of expenditure to its wisdom, faithfulness and economy'. The Committee thus examines cases involving losses, nugatory expenditure and financial irregularities. When any case of proved negligence resulting in loss or extravagance is brought to the notice of the Committee, the Ministry concerned is called upon to explain as to what action, disciplinary or otherwise, has been taken to prevent a recurrence. In such cases the Committee also records its opinion either disapproving the action of the Government or passing strictures against the extravagance or lack of proper control by the Ministry or Department concerned[530].

Another important function of the Committee is the discussion of points of financial discipline and principle[531].

The Committee is not concerned with questions of policy in the broad sense. As a rule, it expresses no opinion on points of general policy, but it is within its jurisdiction to point out whether there has been extravagance or waste in carrying out that policy[532].

Since one of the functions of the Committee is to act as the check on unwise methods of expenditure, it undoubtedly possesses the power, if necessary, to intervene in matters of administration and to examine the systems under which the Ministries work. Such intervention is, however, rare. The Committee usually concentrates on the general control to secure economy and leaves questions of internal administration to the Ministry concerned[533]. It can nevertheless call attention to weak points in the administration itself, leaving it to the Ministry to remedy them[534].

> The functions of the Committee, set up under the Indian Legislative Rules in 1921, were confined to the scrutiny of the audited and appropriation accounts of the Governor-General in Council, with a view to satisfying itself that the money voted by the Assembly had been spent within the scope of the demand granted by the Assembly. The Committee was also to bring to the notice of the Assembly every re-appropriation from one grant to another grant; every re-appropriation within a grant which was not made in accordance with rules prescribed by the Finance Department; and all expenditure which the Finance Department had asked for[535].
>
> The Committee in the early period of its work was not entrusted with the examination of accounts relating to defence expenditure as that expenditure was 'non-voted'. In 1923, however, it was decided to submit a copy of the Auditor-General's report on defence accounts to the Committee for information only. Subsequently, a decision was taken to subject the report of the Auditor-General to the scrutiny of a Departmental Committee (called the Military Accounts Committee), consisting of the Finance Member, the Finance Secretary and the Army

530. *See* 7R, 17R, 22R (PAC-1LS) and 17R (PAC-2LS).

531. *See* 3R (PAC-1LS) and 8R (PAC-2LS).

532. Dir. 98; *see* also 4R, 25R (PAC-1LS) and 18R (PAC-2LS).

533. *Verbatim Progs.* P.A.C. 23-7-1959, Chairman's observations.

534. 1R (PAC-1LS), para 39; 6R (PAC-1LS), para 85; 11R (PAC-1LS), para 90; 13R (PAC-1LS), para 57; and 20R (PAC-1LS), para 35.

535. Indian Legislative Rules, 1921, rules 52(1) and (2).

Secretary, and to place the report of this Committee before the Public Accounts Committee which the latter could incorporate in its own report.

The constitutional position of the Committee on Public Accounts was examined in 1926 and a conclusion was reached that the Committee was entitled to consider and offer comments on the Audit and Appropriations Report and the Auditor-General's report relating to the expenditure, voted or non-voted, or receipts. The defence expenditure thus came under the jurisdiction of the Committee. But the Military Accounts Committee continued to examine the defence accounts as before prior to their submission to the Public Accounts Committee. In 1931, on the recommendations of the Public Accounts Committee, the Military Accounts Committee was reconstituted to consist of the Finance Member as Chairman, the Finance Secretary and three non-official members nominated by the Public Accounts Committee from amongst its members. The Military Accounts Committee so reconstituted continued to function till 1947. The defence expenditure having become a voted expenditure, thereafter, the Appropriation Accounts of the Defence Services and Audit Reports thereon were considered and dealt with by the Committee as a whole in the same way as other voted expenditure and the *ad hoc* Military Accounts Committee ceased to function.

Examination of Revenue Matters

The receipts of the Customs Department had been a subject of Audit scrutiny since 1929. The Audit of receipts from Union Excise, Corporation Tax and Income Tax had been taken up on a permanent basis by the C&AG only from 1 April 1961. The First Report on the Audit of these Revenue Receipts was given by the C&AG in the Audit Report (Civil), 1962. A beginning was made by the Public Accounts Committee (1962-63) towards examination of these receipts and it presented a separate Report on the subject, namely, the sixth Report (Third Lok Sabha). The practice of scrutinising the Reports of the C&AG on Revenue Receipts has since been followed regularly by the Committee which now examines various aspects of Government's tax administration, including cases involving under-assessment, tax evasion, non-levy of duty, mis-classification, etc.

Suo Motu Examination of Reports of Comptroller and Auditor-General before their Presentation to Parliament

The Committee can examine the Audit Report even before it is presented to Parliament but the Committee cannot submit any report thereon to the House until the relevant Accounts and Audit Reports are formally laid before Parliament[536].

Examination of cases not included in the Reports of Comptroller and Auditor-General

The Committee has of its own accord inquired into the various irregularities which have become public or which have been brought to the notice of the Government, even

536. In 1950, in consultation with the Ministries of Finance and Law, it was decided that the Appropriation Accounts and Audit Reports thereon be circulated to members of Parliament, pending their presentation to Parliament. As regards the question whether the Public Accounts Committee can proceed to examine those documents, Speaker Mavalankar decided that the Committee should examine them at that stage, as this would give them more time to do the work but they could not submit any report thereon to the House until the relevant Accounts and Audit Reports were formally laid before the House.

though no formal Audit Reports were presented on the subjects or were presented later[537].

During 1958-59, the Public Accounts Committee examined the working of two Cess Funds[538]— Coal Mines, Labour Safety and Conservation Fund and Coal Mines, Labour Housing and General Welfare Fund, even though there was no mention about these funds in the Audit Report. Similarly, matters regarding unauthorised import of infected hop plants; foreign participation and collaboration in a number of medical and agricultural research projects and experiments carried out in India; tax evasion by a foreign bank; planning process and monitoring mechanism in relation to irrigation projects; time and cost overrun in the development and production of the Main Battle Tank; impact on the central excise duty concessions in respect of manmade fibres and yarn granted in the Budget, 1988 on prices; alleged unauthorised importations of plant and machinery; misdeclaration and under-invoicing of goods by a textiles manufacturer, etc., were examined[539] by the Committee without these being based on audit paragraphs. The Public Accounts Committee (1995-96 and 1996-97) also selected the subject of "Privatisation of Bailadila Iron Ore Mines" for detailed examination on the basis of observations made by the Speaker during the course of a debate on this subject in the Lok Sabha. In view of the severe hardships and the inhuman conditions faced by the lakhs of devotees thronging the hill shrine of Sabarimala the Public Accounts Committee (2003-04) selected the subject "Pilgrimage to Sabarimala– Human Problems and Ecology" for detailed examination and presented its Report[540] to Parliament. On the basis of nationwide concerns expressed over alleged irregularities committed in the allocation of 2G Spectrum under the Unified Access Service Licence (UASL) regime, the Public Accounts Committee (2009-10) under the Chairmanship of Gopinath Munde, member, decided to take up the subject Recent Developments in the Telecom Sector, including Allocation of 2G & 3G spectrum, for detailed examination and report. The subject was carried forward by the next Committee (2010-11) under the Chairmanship of Dr. Murli Manohar Joshi. The Committee called for relevant documents from different Ministries/Departments and took evidence of the representatives of the Department of Telecommunications, Ministry of Finance, one ex-Chairman, TRAI and one non-official expert from the Telecom Sector. The C&AG Report on the subject was tabled in the Parliament thereafter (No. 19 of 2010-11).

The PAC (2018-19) selected the subject "Pradhan Mantri Swasthya Suraksha Yojana" for examination in their sitting held on 14 May, 2018. Later, when C&AG Report No. 10 of 2018 titled "Performance Audit of Pradhan Mantri Swasthya Suraksha Yojana" was presented to the Parliament on 7 August, 2018, the subject was selected for examination by the PAC in their sitting held on 7 September, 2018. PAC examined the subject and presented their 134th Report (16th Lok Sabha) thereon to both Houses

537. For instance, the Committee of 1953-54 considered the report of the Fertilizer Enquiry Committee by Justice Rajadhyaksha, the report of the Enquiry into the purchase and utilisation of agricultural implements from a firm by N.V. Divatia—12R (PAC-1LS); the report of a Departmental Committee (known as the Champhekar Committee) appointed by the Government of India to took into the affairs of the Mahanadi Bridge-11R (PAC-1LS).

538. The Committee (1958-59) appointed a Sub-Committee on Cess Funds which submitted two reports (19 and 20). These reports, after adoption by the main Committee, were presented to Parliament.

539. The Committee presented 136, 167 & 176 Reports (5 LS), 141 (7 LS), 156, 164 and 168 Report 8 LS).

540. The Committee presented 63 R (13LS) and 18 R (14 LS) on the subject.

of Parliament on 21 December, 2018.[541]

Examination of Cases referred to the Committee

In 1986, the Chairman, Rajya Sabha made a reference to the Public Accounts Committee to examine the propriety of the Government issuing and laying certain notifications seeking exemption from levy of customs and Central Excise Duties on the eve of the Budget, 1986. The Committee examined the issue in-depth and furnished a reply to the Chairman, Rajya Sabha giving their comments on the reference. On 11 November 1986, the Chairman, Rajya Sabha made an announcement in the House on the observations of the Committee received by him.

The Committee also examined a specific case in pursuance of a reference made by the Speaker, Lok Sabha, on a specific request by the Minister of Finance for making a comprehensive inquiry into all aspects of the issue relating to refunds of Central Excise Duties in cases of unjust enrichment, and presented a Report[542] thereon.

A later development in the working of the Committee has been its detailed evaluation of performance of the executive in implementing nation-wide development programmes affecting vast segments of the population. The Committee has produced[543] reports on National Highways; Food for Work programme; Planning process and monitoring mechanism in relation to irrigation projects; Drought Prone Area Programme; District Industrial Centres; IRDP; NREP; Central Pollution Control Board; Janata Cloth Scheme; National Cancer Control Programme, etc. In the recent years the Committee examined and presented Reports[544] on Ganga Action Plan; National Scheme of Liberation and Rehabilitation of Scavengers and their Dependents; National AIDS Control Programme; Department of Ayurveda, Unani, Siddha & Homoeopathy; *Sarva Shiksha Abhiyan* Scheme, Tsunami Relief and Rehabilitation, National Programme for Nutritional Support to Primary Education (Mid-Day Meal Scheme), Accelerated Irrigation Benefits Programme, National Rural Health Mission, Accelerated Rural Water Supply Programme, Members of Parliament Local Area Development Scheme, Water Pollution in India, Integrated Child Development Services (ICDS) Scheme, Disaster preparedness in India, Indira Awas Yojana, Hydrocarbon Production Sharing Contracts, XIX Commonwealth Games 2010, Tribal Sub-Plan, Pradhan Mantri Gram Sadak Yojana, Pradhan Mantri Swasthya Suraksha Yojana, Implementation of Prime Minister's Employment Generation Programme[545] etc.

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541. During the 16th Lok Sabha, the Committee selected subjects for in-depth examination from various significant sectors relating to various Ministries *viz.* India's Energy Scenario - Challenges and Prospects (2015-16); Recent Developments in the Telecom Sector including allocation of 2G and 3G Spectrum Technology (2015-16 and 2016-17); Modernisation of Railway Stations (2015-16 to 2017-18); Scrutiny of Public Expenditure under non-lapsable Central Pool of Resources in Ministry of Development of North Eastern Region (2015-16 to 2018-19); Indian Infrastructure Debt Funds (2015-16 to 2018-19); Border Area Development Programme (2015-16 to 2018-19); Bad Debts in Public Institutions (2016-17 to 2018-19); Review of Monetary Policy (2016-17 to 2018-19); Public- Private Partnership (PPP) Projects (2016-17 to 2018-19); Implementation/Seeding of AADHAAR (2018-19) etc.

542. 22R (9 LS).

543. The Committee presented 88, 90, 141, 175, 219R (7 LS); 91 and 94R (8 LS), respectively, on these subjects.

544. The Committee presented 62 Reports (13 LS); 9, 19, 38, 43R (14 LS) respectively, on these subjects.

545. 67R (14 LS), 9R, 31R, 32R, 35R, 55R, (15 LS), 8R, 14R, 25R, 43R, 47R, 74R, 85R, 92R, 134R (16LS), 31R (17LS).

Another important feature of the working of the Committee has been to conduct system appraisals in the field of revenue collection with a view to ascertaining as to what extent the existing systems have been able to fulfil the underlying objectives. The Committee has produced reports[546] on Customs Receipts—Working of Inland customs Bonded Warehouses, Union Excise Duties—Price Lists, Assessment Procedure—Summary and Scrutiny Assessment, Assessment of Lottery Business, Project Import, Assessment of Small Scale Industrial Undertakings, Assessment of Religious and Charitable Trusts, Functioning of Investigation Circles, System Defects in the Working of Chief Accounting Offices, Union Excise Duties—Provisional Assessments, the Advance Licencing Scheme, Union Excise Duties—Different classification for Similar Products; Assessment of Private Schools, Colleges and Coaching Centres; Status of Improvement of Efficiency through the 'Restructuring' of the Income Tax Department; Service Tax on Banking and other Financial Services, Tax Administration, Implementation of Agriculture debt waiver and debt relief scheme, 2008, Duty drawback Scheme, Exemptions to Charitable Trusts and institutions, Performance of 100 percent Export Oriented (EOU) Scheme, Administration of Prosecution and Penalties in central excise and service tax, Assessment of entities engaged in Health and allied sector, Assessments relating to agricultural income, Assessment of Assessees in Entertainment Sector, Levy of Anti Dumping Duty on Imports etc[547].

Examination of Cases pending before a Court of Law

If the Committee is examining or proposes to examine a case the subject-matter of which is under adjudication by a court of law and the Government put forth the plea that an examination of the case at that stage by the Committee would be prejudicial to the interest of the case, the Committee postpones consideration of that case[548].

Consideration of Audit Reports and Selection of Paragraphs

At the beginning of the term of each Committee, the Secretariat circulates to the members of the Committee the Reports of the C&AG that have been laid on the Table of the House since the time the last selection of paragraphs for in-depth examination by the Committee was made. In its first meeting the members of the Committee suggest the important Audit Reports/paragraphs which, according to them, might be selected for in-depth examination. After detailed deliberations, the Committee selects the more important Audit Reports/paragraphs for examination during the course of the year keeping in view the availability of time. In making these selections, the Committee is assisted by the Officers of the Secretariat and the representatives of Audit.

Although the Committee takes up only a limited number of Audit Reports/paras every year for detailed examination, it has evolved a built-in system from 1982 onwards to see that action is initiated promptly by the Executive on all the Audit paragraphs. Under this system, the Ministries/Departments concerned are required to intimate to the Committee, through the Ministry of Finance, corrective action taken or proposed to be taken on all the paragraphs contained in the Reports of the C&AG within a period

546. The Committee presented 124, 145, 173R (8 LS); 8, 23, 32, 97, 102, 116R (10 LS); 14, 24R (11 LS), 1R (13 LS); 14 and 29R (14 LS), respectively, on these subjects.

547. 79R, 87R, 95R(15LS), 7R, 27R, 45R, 63R,103R (16 LS), 49R(17 LS),51R(17 LS), 48R(17 LS).

548. *See* 12R (PAC-1LS), paras 3 and 6.

of four months[549] from the date of the laying of the relevant Audit Reports on the Table of the House. This system ensures the accountability of the Executive in respect of all the issues dealt with in the Audit Reports.

Audit Para Monitoring System-Monitoring Submission of Action Taken Notes on Audit Paras

The Committee in its 11th report (15th Lok Sabha) on 'Non-compliance by Ministries/Departments in timely submission of Action Taken Notes on Non-selected Audit Paragraphs' recommended developing a computerized system to monitor and keep track of these Action Taken Notes (ATNs) submitted by the Ministries/ Departments. In pursuance of this recommendation, the Monitoring Cell under the Ministry of Finance, Department of Expenditure created a Management Information System/portal named 'Audit Para Monitoring System' which became functional from 16.04.2011. The entire process of Audit Para settlement now is online and paperless. This system has streamlined and speeded up the submission of ATNs on C&AG Paras while enabling real time monitoring of the same. Further, the APMS facility has also been extended to PAC Reports for monitoring timely submission of the ATNs on Reports of the Committee by the respective Ministries/Departments.

Sub-Committees and Working Groups

Whenever the Committee decides to examine a matter involving serious financial irregularities, etc., referred to in the Appropriation Accounts or Audit Reports thereon, or even otherwise, it may appoint a Sub-Committee to go into that matter. A Sub-Committee, so appointed, has the powers of the undivided Committee and its report, after the Committee's approval, is deemed to be the report of the whole Committee.

From the year 1967-68 the Chairperson every year constituted an 'Action Taken Sub-Committee' consisting of the conveners of the different working groups of the Committee to examine and report on the replies of the Government to the recommendations contained in the earlier reports of the Committee.

From 2009-10 onwards, a Sub-committee on Civil Ministries and Non-compliance of timely submission of Action Taken Notes was also constituted. This Sub-committee was responsible for monitoring the timely submission of Action Taken Notes on Audit paragraphs and reports that had not been selected for examination during a particular term.

In 2018-19, a Sub-Committee[550] on Implementation of Recommendations was constituted to assess the implementation of recommendations made by the Committee in their various reports[551].

With a view to enabling the Committee to apply itself intensively to certain aspects of its work, Working Groups can be constituted by the Chairperson, in consultation with the members of the Committee, as soon as a new Committee is formed. Members of the Groups are chosen by the Chairperson having regard, as far as possible, to the known

549. Revised period introduced *w.e.f.* the Reports of the C&AG for the year ending 31 March 1996 onwards *vide* 9R (11 LS).

550. In 2021-22, the aforesaid Sub-Committee was again constituted.

551. *See* also Section on 'Implementation of recommendations of PAC'.

aptitude of the members and other factors. The Chairperson also appoints a convener and an alternate convener for each Working Group, one or the other of whom acts as the leader of the Group concerned and presides over its sittings.

Working Groups were constituted during each term of the Committee for the different Accounts such as Civil, Defence, Railways, Posts, etc. At times, there have been occasions when two or more Accounts were entrusted to the same Group. Each Group made a detailed study of the Accounts and Audit Report thereon assigned to it. The Group was assisted by the Comptroller and Auditor-General or by the senior officer with all connected material. In consultation with the Comptroller and Auditor-General or his representatives, the Audit paragraphs were classified under three heads: most important; important; and not so important. The idea underlying the classification was to devote greater attention to important paragraphs so that the examination could be conducted in depth. The Working Group did not present any report on its working to the Committee as it worked purely in an informal manner. In the 17th Lok Sabha, Working Groups were formed to prioritise examination of relatively important subjects[552]. Apart from constituting Working groups on Finance and Defence, other similar subjects based on Audit reports were grouped together and Working groups were formed.

On-the-spot Study Group

Whenever any irregularities are disclosed in an Audit paragraph or in the Appropriation Accounts relating to a particular office, factory, installation or institution which necessitate an on-the-spot study in order to make an assessment of the actual working of that organisation, institution, etc., the Committee undertakes tour with the approval of the Speaker.

Such tours are undertaken either by the whole Committee or by its Study Groups.

Members in their individual capacity do not undertake such on-the-spot study.

At the place of the visit[553], the Committee does not sit as a Committee. It does not hear witnesses, nor calls for documents, nor examines the officers. In the course of the tour, the Committee's inquiry is not, however, necessarily limited to the points raised in the Appropriation Accounts and Audit Report. No physical verification of stock or stores is conducted by the Committee but the storage conditions and system of store-keeping and stock verification may be studied generally.

Impressions of visits: A note summing up the impressions of the study tour is prepared and further information, if any, required by the Committee in the light of the visit is collected from the Ministries concerned. The notes thus prepared are for the use and information of members.

Members of the Committee cannot individually communicate to the Ministry or the Minister their views or impressions on the working of a Government office, project or undertaking which they might have gathered as a result of their on-the-spot study.

552. Members were chosen for Working Groups on the basis of order of preference given by them.

553. The first visit undertaken by the Sub-Committee of the Public Accounts Committee was in December 1952, to the Hirakud Dam Project for the purpose of witnessing, on the spot, construction of various works, *viz.* bridges, irrigation canals, dams, etc.

Comptroller and Auditor-General

The Comptroller and Auditor-General (C&AG) is an important adjunct of the Committee. C&AG is appointed by the President by warrant under his hand and seal and can only be removed from office in like manner and on like grounds as a judge of the Supreme Court[554]. The appointment is made by the President on the advice of the Prime Minister. Before the Comptroller and Auditor-General enters upon this office, he/she subscribes before the President or some other person appointed in that behalf by the President, an oath or affirmation according to the form set out in the Constitution[555].

The duties and powers of the Comptroller and Auditor-General have been described elsewhere[556]. The Audit Reports of the Comptroller and Auditor-General stand automatically referred to the Committee.

When the official witnesses are being examined by the Committee, the Comptroller and Auditor-General sits to the right of the Chairperson and assists as the evidence is being taken. As per established convention, With the permission of the Chairperson, C&AG may ask a witness to clarify a point or pose a question and may further make a statement on the facts of the case[557].

To assist the Committee in the examination of matters contained in Audit Reports/ paragraphs, the Comptroller and Auditor-General furnishes to the Committee a Memorandum of Important Points (MIP) on each para/report selected by the Committee. The MIPs alongwith the Background Note form the basis for framing the Questionnaire for seeking advance information from the concerned Ministry or List of Points to be used during evidence/examination of witnesses on the subject. The Questionnaires/List of Points framed by the Secretariat of the Committee are prepared *inter-alia* by taking inputs from study tour notes of the Committee, relevant debates of the House, replies to questions in the Houses, press reports and previous reports of the Committee on the subject, and by considering global parameters wherever applicable. These questions assist Members in examination of representatives of the organisation or Ministry concerned.

Sittings of the Committee

Soon after the Committee is constituted, a preliminary sitting is held to consider and select the subjects to be examined during the year.

A day (usually the first day of the programme) is set apart for an informal sitting of the Committee when members discuss with the Comptroller and Auditor-General or with one of C&AG's senior officers the important points arising from the Accounts to be examined:

According to the decision of the Committee which examined the Accounts of

554. Arts. 148(1) and 124(4).

555. For specimen of the form, *see* Form IV—Third Schedule to the Constitution.

556. *See* Chapter 8—'Parliamentary Functionaries'. Also *see* the C.A.G. (Duties, Powers and Conditions of Service) Act, 1971.

557. In a sitting of the PAC held on 9 January 2007, Chairman, PAC clarified that CAG has a right to intervene and ask questions with the permission of the Chair.

1926-27, the first ten minutes of each sitting, where departmental witnesses were called in, used to be devoted each day to a preliminary consultation between the members and the Comptroller and Auditor-General. Proceedings of such sittings were recorded. However, a practice has subsequently developed whereby the proceedings of briefing sessions are not recorded.

Evidence

The Committee calls officials to give evidence in connection with the examination of accounts relating to a particular Ministry[558]. A Minister is not called before the Committee either to give evidence or for consultation in connection with the examination of those accounts[559]. Where a Minister makes a specific request to appear before the Committee, he/she may be permitted only if the Chairperson considers it desirable after he/she has had a talk with the Minister[560]. The normal practice is that after the deliberations are concluded, the Chairperson may, when he/she considers it necessary, have an informal talk with a Minister relating to the accounts of that Ministry which were under consideration of the Committee in order to apprise the Minister of:

(i) any matter of policy laid down by a Ministry with which the Committee do not fully agree; and

(ii) any matter of secret and confidential nature which the Committee would not like to bring on record in their report.

The Committee may reconsider its conclusions in the light of such talk/interaction but the Committee does not otherwise pursue further any of the matters with the Minister after they have been brought to the notice of the Minister concerned by the Chairperson. However, such informal talks/interaction between the Chairperson and the Minister concerned have seldom taken place.

Examination of the representatives of Private Companies, Non-Government Bodies, etc.

Where the Committee takes up examination of the working of an agreement entered into by the Government of India with a private company or any other non-Government body, the Committee may, if it deems fit, summon or give an opportunity to the representatives of the company or the non-Government body, as the case may be, to appear before it and to give evidence on any points arising therefrom on which the Committee might desire to have further information or the representatives might wish to give elucidation[561].

Preparation and Presentation of Report

After the examination of the Appropriation Accounts and Audit Reports thereon has been completed and all relevant information obtained from Government, the draft report

558. In the past, the Public Accounts Committees (1952-53 and 1953-54) of Parliament had taken evidence of the officers who were no longer working in the concerned Department. In 1974, the Committee allowed appearance of an ex-officer of a Department to tender evidence before the Committee. The PAC (1987-88) took evidence of the retired Chief of Naval Staff.

559. Dir. 99(1).

560. 50R (PAC-3LS)—such instances are, however, rare.

561. Dir. 100.

is prepared by the Secretariat based on the evidence, oral and written, given before the Committee by the departmental representatives. The draft report is then submitted to the Chairperson for approval and a copy thereof is forwarded to the Comptroller and Auditor-General for factual verification. When the Committee sits to consider the draft report as approved by the Chairperson, the Comptroller and Auditor-General is also present at the sitting to point out changes in the facts and figures, where necessary.

No minute of dissent is permissible.

The report as finally adopted by the Committee is presented to the House by the Chairperson or in the Chairperson's absence by any other member of the Committee so authorised by the Chairperson. A copy of the report is also laid on the Table of Rajya Sabha by a member of the Committee from Rajya Sabha, duly authorised by the Committee. In case the Rajya Sabha is not in session on the date when the report is presented to the Lok Sabha, an authenticated copy of the report is sent to the Rajya Sabha Secretariat with an intimation about the presentation of the report to Lok Sabha and a request that the report be laid on the Table of Rajya Sabha when it sits next.

The report of the Committee consists of an Introduction, Composition of the Committee that selected/examined the subject, the Report, Minutes of the relevant sittings of the Committee and Appendices (containing notes submitted by the Ministries and decided by the Committee to be incorporated in the report). Where the material to be incorporated in the report becomes bulky, it is split up into two or more volumes.

Implementation of the Recommendations

Initially a statement showing action taken or proposed to be taken by the Government on the recommendations of the Committee was compiled by the Secretariat. This statement enabled the Committee to watch how far its recommendations have been implemented by the Government. The statement, in which each recommendation of the Committee on the Accounts of a particular year was also summarised, was forwarded to the Ministries concerned for necessary action, who was required to keep the Secretariat informed of the action by them on these recommendations. On the basis of the information thus furnished, the statement was revised and brought up-to-date[562] and was placed before the Committee when it next took up the examination of the Accounts relating to the respective Ministries. The statement enabled the Committee to know at a glance the action taken or proposed to be taken in respect of each of the recommendations listed therein.

562. In April 1955, the Comptroller and Auditor-General suggested that with a view to ensuring expeditious action being taken on the recommendations of the Committee, the Cabinet Secretariat might be entrusted with the work of consolidating the comments of the various Ministries of the Government of India and submitting them to the Committee early in the year. Centralising of these functions in the Cabinet Secretariat did not seem to the Committee to be the solution for the delays that occurred in the implementation of their recommendations. On the other hand, the Committee thought that this course would divide the responsibilities of the Ministries in the matter of furnishing information to the Committee. It would also mean duplication as the Secretariat already consolidated the information and presented it to the Committee.

The existing arrangement makes the Ministries directly responsible to the Committee and also facilitates disposal of work by the Committee.

In the beginning, the decisions arrived at by the Government on the recommendations made by the Committee in its report were recorded in a Resolution of the Finance Department which was also published in the Gazette. This practice was reviewed in 1929 and in pursuance of the recommendation of the Committee (1929-30), the practice of issuing an omnibus Resolution was discontinued in 1930 and instead the Finance Department started issuing quarterly statements of action taken by various Departments of the Government of India on the recommendations of the Committee[563]. The practice of preparing quarterly statements was discontinued at a later stage and only one statement, which *inter alia* included items which remained outstanding from the previous reports, was compiled on the basis of the information furnished by the Ministries concerned. This system continued till 1950 when the secretarial functions of the Committee were transferred to the Lok Sabha Secretariat.

At the sitting held on 17 August, 1972, the PAC decided to review the implementation by Government of the recommendations of the Committee relating to Customs made during the period from 1962 to 1972.

During the Fifth Lok Sabha, the Committee presented two Review Reports *viz.* 89th Report relating to implementation of recommendations on Customs (1962-72) and 186th Report relating to implementation of recommendations made on "Corporation Tax and Income Tax" during 1964-74.

A Sub-Committee on Implementation of Recommendations of PAC (2018-19) was constituted by the Chairperson to ascertain the actual implementation of the recommendations made by the Committee in their various Reports presented during 16th Lok Sabha. The Sub-Committee was allotted 46 Reports (27 Original and 19 Action Taken Reports). The Sub-Committee examined aspects relating to implementation of recommendations contained in seven of the allotted Reports and finalised the report on the subject. Subsequently, the Public Accounts Committee (2019-20) presented the 5th Report (17 Lok Sabha) on the subject Report to Parliament.

In the sixties, the practice of presenting separate Action Taken Report on such main report of the Committee set in. An Action Taken Report is based on the set of replies received from the Government normally within six months of presentation of the main report. I. Report; II. Recommendations/Observations which have been accepted by Government; III. Recommendations/Observations which the Committee do not desire to pursue in view of Government's replies; IV. Recommendations/Observations in respect of which replies of Government have not been accepted by the Committee; and V. Recommendations/Observations in respect of which final replies of Government are still awaited. After presentation of Action Taken Report Government are supposed to intimate to the Committee the action taken or proposed to be taken on the recommendations contained in Chapter I and final replies in respect of Chapter V. Statements containing these Government replies are laid on the Table of both the Houses without further comments of the Committee. However, the Committee may, if it thinks fit, present another Action Taken Report[564] on the recommendations included in Chapter V, *i.e.* the recommendations in respect of which Government had furnished interim replies/no reply at the time of finalisation

563. Finance Department, Government of India, Res. No. D/1200-B, dt. 13 June 1930.

564. The Committee (1977-78) presented 64th Action Taken Report.

of its Action Taken Report.

Procedure in Case of Disagreement between the Government and the Committee

Recommendations of the Committee are treated with respect by the Government and most of them are accepted and implemented. In the event of any disagreement between the Government and the Committee in regard to any recommendation contained in the report of the Committee, the Government have, in the first instance, to apprise the Committee of the reasons that might have weighed with them in not accepting or implementing a recommendation.

The Action Taken Sub-Committee of the Public Accounts Committee used to examine the 'Action Taken' notes received from the Ministries/Departments and drew up separate 'Action Taken' reports which were subsequently adopted by the Committee and presented to the House. Before finalising its report the Action Taken Sub-Committee would call[565] the representatives of the Ministries/Departments for informal discussions and thus obtain clarification on points arising out of the notes furnished by the Government and also speed up the replies in cases where they were not received.

As per practice evolved over the years, this work is being carried out by the Main Committee and representatives of the Ministries/Departments are only called if the replies are unduly delayed or merit discussion.

In the case of the Fourth Report of the Committee, 1952-53, the Government deviated from this procedure and laid a statement on the Table on 11 August 1953, without placing the views before the Committee in the first instance. Thereupon, the Speaker directed that a circular should be sent to all the Ministries that in cases where Government had reasons to disagree with the recommendation of the Committee, the Ministry concerned should, in consonance with the well-established procedure, place its views before the Committee who may, if they think fit, present a further report to the House after considering the views of the Government in the matter.

Again in 1954, the Minister concerned laid a copy of the note on the Table which had been submitted to the Committee in connection with its observations in the Ninth Report (1953-54), without waiting for the Committee to consider that note and present a further report in the matter to the House. A brief statement by the Finance Minister was also laid along with the note with a request to the House to treat the matter as closed. The Committee considered the procedure as inappropriate and expressed the view that in accordance with the well-established parliamentary practice the consideration stage by the House should arise only after the Committee had made its final recommendation after reconsideration of the Government's views[566].

Discussion on the Report

Although it is open to the Lok Sabha to discuss reports of the Committee, such discussion is seldom held, but members may make use of the Committee's reports in

565. The Committee (1986-87) took the evidence of the representatives of the Ministry of Railways and Deptt. of Public Enterprises.

566. 14R (PAC-1LS), para 21; *see* also *L.S. Deb.,* 12-8-1966, cc. 4517-25.

their speeches during the discussion on the Budget, Demands for Grants etc. However, if there is a specific issue over which there is a divergence of opinion between the Committee and the Government or a Minister, that issue can be brought before the House and discussed[567]on a motion, the discussion being confined to the remarks, observations and comments of the Committee, and neither the motion nor a substitute motion thereto is put to the vote of the House[568].

Till 1946, reports of the Public Accounts Committee had been discussed in the Legislative Assembly on a formal motion moved by the Finance Member. Discussion on the report in the Assembly commenced from the year 1930 on the recommendation of the Committee itself which had in its report said that 'the Government should consider the best methods of giving effect to the strong desire expressed in the Assembly that the House should be given an opportunity to discuss in general terms the report of the Public Accounts Committee on which the excess grants were based[569]. The first discussion was confined to questions of general nature and scope of the Committee. The motion was not put to vote[570]. The following year, however, after the Finance Member had replied to the debate on the report of the Committee, the motion was put to the vote of the House and adopted. This procedure continued to be in force except that in 1944 an amendment to the motion of the Finance Member was also moved and adopted by the House[571]. Another change took place in 1946. The Finance Member, while moving the motion for the consideration of the Committee's report that year, also moved for the regularisation of the expenditure incurred in excess of voted grants during the year to which the report related[572].

Conference of Chairpersons of PACs of Parliament of India and State/UT Legislatures

Conferences of Chairpersons of PACs of Parliament of India and State/UT Legislatures are organized from time to time by the PAC, Parliament of India[573]. Based on the experiences garnered during functioning of the Committees, both at the Central and State level, agenda for discussion during the Conference is mutually decided by the participants and proceedings are then shared with all the participants.

Golden Jubilee of Public Accounts Committee

The Golden Jubilee Year of the Public Accounts Committee was celebrated in December 1971. The inauguration of the 50th anniversary of the PAC was held on

567. Addressing the Conference of Chairmen of Public Accounts Committees in 1959, the Speaker said:
"A rambling discussion of the whole report tends to destroy the effectiveness of the recommendations of the Committee. I am, therefore, of opinion that special points should be raised for discussion, more particularly those points where there is an unresolved difference of opinion between the Committee and the Government."

568. *L.S. Deb.,* 22-8-1966, cc. 6076-6236.

569. Public Accounts Committee Report on Accounts of 1926-27, Vol. I, page 8, para II.

570. *L.A. Deb.,* 7-7-1930, p. 26.

571. *Ibid.,* 21-11-1944, pp. 1156-60.

572. *L.A. Deb.,* 31-10-1946, pp. 339-47.

573. 1955 (1 LS), 1959 (2 LS), 1966 (3 LS), 1971 (5 LS-Golden Jubilee, *See* section on Golden Jubilee), 1978 (6 LS), 1983 (7 LS), 1986 (8 LS), 1997 (11 LS), 2001 (13 LS), 2015 (16 LS), 2021 (17 LS-Centenary Celebration, *See* section on Centenary of PAC).

3rd December, 1971 at New Delhi. The inaugural function was graced by the then President of India, Vice-President and Speaker. A Conference of Chairpersons of PACs of State/UT Legislatures was held on 4-5 December 1971 in Parliament House and was inaugurated by the then Speaker.

Centenary of Public Accounts Committee

PAC celebrated its centenary in the year 2021. The centennial celebration was held on 4-5 December 2021. The function was inaugurated by the President of India on 4 December 2021 in the Central Hall, Parliament House (now *Samvidhan Sadan*), New Delhi. The function was also graced by Vice President of India and Chairperson, Rajya Sabha; Speaker, Lok Sabha; and Deputy Chairperson, Rajya Sabha. As part of the celebration, a Conference of Chairpersons of PACs of Parliament of India and State/UT legislatures was held.

A Centenary Souvenir containing *inter alia* Messages/Articles from various dignitaries *viz* President, Prime Minister, Speaker, Parliamentarians/PAC Members, present and former C&AGs, various Parliaments of Commonwealth countries and Chairpersons of PACs of State/UT Legislatures was virtually released by President. Digital Hindi version of the Centenary Souvenir titled 'शताब्दी स्मारिका - (1921-2021)' was released by the Speaker in December 2022.

An exhibition inaugurated by the President highlighting activities and publications (Reports) of PAC was organized in digital format in the Parliament Library Building (PLB) and physical display of exhibits held in Parliament House Annexe.

Compilation of yearly work done by the three Financial Committees E-publication- 'Financial Committees – A Review'

Every year since 1950, the work done by the three financial committees during each term, is compiled by PAC Secretariat into a publication named, 'Financial Committees – A Review'. Since the year 2018-19[574], the publication containing statistical information on the achievements of the financial Committees has been turned into an e-publication and is uploaded on the webpage of the PAC as well as on the digital library platform of the Parliament *i.e. www.eparlib.nic.in.*

Interaction with PACs of State Legislatures/Commonwealth Countries etc.

The PAC of Parliament of India interacts with its equivalent/peers in State Legislatures/Commonwealth countries etc. Meaningful exchanges regarding procedures and practices followed by the Committees take place during such interactions.

Committee on Estimates

So much of the estimates as relates to expenditure other than that charged upon the Consolidated Fund of India is submitted to the Lok Sabha in the form of Demands for Grants, and the Lok Sabha has the power to assent or to refuse to assent to any demand, or to assent to any demand subject to the reduction of the amount specified

574. Prior to 2018-19, the publication was laid in both the Houses of Parliament by the Secretary-General. The practice was discontinued and from 2018-19 onwards, the publication is uploaded after approval from Secretary-General.

therein. It has also the power to discuss but not to vote the estimates which relate to expenditure charged upon the Consolidated Fund of India[575]. The Lok Sabha, even though it discusses the estimates for a sufficiently long period[576], nevertheless finds that it has neither the time nor the flexibility to discuss the details and the technical aspects of the estimates. The Lok Sabha has, therefore, set up a Committee called the Committee on Estimates for this purpose.

After the Constitution came into force, provision was made in the Rules for the setting up of a Committee on Estimates. Speaker Mavalankar, informing the House of the addition made in the Rules, said[577] :

> Consequent upon the provisions of articles 113 to 116, as also independently thereof, it was felt necessary to constitute a Committee on Estimates for better financial control of the House over expenditure by the Executive. The chief functions of this Committee will be to examine such of the estimates as may seem fit to it and to suggest economies consistent with the policy underlying the estimates. There will be, in addition, the usual Committee on Public Accounts. The functions of these Committees will be mutually complementary and, it is expected, they will not only give a picture of the entire financial position but the Committees will be mutually helpful in examining the finances for the future in the light of the expenditure in the past.

It was in 1937 that an enquiry was first made[578] in the Central Assembly whether the Government had any proposal for the setting up of an Estimates Committee on the lines of the Select Committee on Estimates of the House of Commons. The Finance Member (Sir James Gnigg) replied in the negative. In the following year, an amendment was moved by a member to a resolution moved by a private member for the appointment of a retrenchment Committee, the amendment seeking to constitute instead an Estimates Committee. The constitution of an Estimates Committee was favoured by the Finance member but the Assembly, due to certain reasons, did not accept the amendment[579]. Again in 1944[580] when the suggestion for the setting up of that Committee was revived in the Assembly, the Finance Member turned down the proposal on the plea that the Government officials were already over-burdened in assisting the Public Accounts Committee and the Standing Finance Committee.

In 1949, the Secretary of the Constituent Assembly (Legislative), in a Memorandum on the reform of Parliamentary Procedure in India, emphasized the need for subjecting the estimates, presented to Parliament to a detailed examination. Since sufficient parliamentary time could not obviously be made available for examining in detail the estimates nor did the ordinary members possess expert knowledge of details of administration and financial insight, he stressed that for an effective parliamentary control over expenditure, there must be a properly constituted Committee of the House endowed with necessary powers to examine both the appropriation accounts and

575. Art. 113.

576. *See* Chapter 29—'Procedure in Financial Matters'.

577. *P. Deb.,* 1-1-1950.

578. *L.A. Deb.,* 25-8-1937, pp. 506-07.

579. *Ibid.,* 8-4-1938, pp. 2866-67.

580. *Ibid.,* 14-3-1944, pp. 1040-45.

the estimates[581]. The proposal was 'strongly supported' by Speaker Mavalankar. The Government accepted this recommendation and the Minister of Finance referred to it in his Budget speech on 28 February 1950[582].

Composition

The Committee consists of not more than thirty members[583] who are elected by the House every year from amongst its members according to the principle of proportional representation by means of the single transferable vote[584] on a motion adopted by the House. This system of election ensures that each Party/Group is represented on the Committee in proportion to its strength in the Lok Sabha. A motion for election of members to the Committee is moved by the Minister of Parliamentary Affairs at the commencement of each Lok Sabha and in subsequent years by the Chairperson of the Committee or in the Chairperson's absence by any other member of the Committee so authorized by the Chairperson before the term of that Committee is due to expire[585].

In order to maintain continuity in membership of the Committee and to make available to the Committee the experience gained by members for a period longer than one year, a convention has been established that while nominating members for election, Parties and Groups in the House keep in view that as far as possible the same members serve the Committee for two consecutive terms.

A Minister is not elected to the Committee and if any member after his election is appointed a Minister, he/she ceases to be a Member of the Committee from the date of such appointment[586].

The term of the Estimates Committee commences on 1 May every year, but the term of the first Committee of a new Lok Sabha may commence on any day after the constitution of the new House. The term, however, invariably terminates on 30 April of the following year. The term of office of the members of the Committee is limited to the term of the Committee.

Chairperson of the Committee: The Chairperson of the Committee is appointed by the Speaker from amongst the members of the Committee who, besides the functions common to the Chairpersons of Parliamentary Committees in general[587], performs certain other functions in connection with the working of the Committee.[588] For instance,

581. Kaul: Memorandum.

582. *P. Deb.,* 28-2-1950, p. 1002.

583. The first Committee, constituted on 10 April 1950 consisted of 25 members elected by the House, its strength was raised to 30 members from the year 1956-57. Min. (RC-1LS), 28-11-1955.

584. Rule 311(1).

585. The arrangements for election of members to the Committee are made nearly fifteen days in advance of the expiry of the term of the outgoing Committee.

586. Rule 311(1). Chairman of the Estimates Committee, Chintamani Panigrahi, ceased to be the Chairman and member of the Committee on his appointment as Minister of State on 22 October 1986. On 12 May 1986, Sheila Dixit ceased to be member of the Committee on appointment as Minister of State.

587. For general functions of the Chairperson of Parliamentary Committees, *see* Chapter 8— Parliamentary Functionaries.

588. Rule 258(3). Due to ill-health of Shri Girish Bhalchandra Bapat, Chairperson, Committee on Estimates (2022-23), the Committee chose Shri Nihal Chand Chauhan, the senior most Member of the Committee, as Convenor of the Committee for convening sittings, adoption/presentation of Reports, conduct of Study visits, etc.

the Chairperson, by convention, finally decides as to whether a particular document or information, which is held to be secret, need be called for from the Government and whether such information or document need be made available to all the members of the Committee[589]. The Chairperson determines whether cases regarding the classification of 'charged' items in the Budget require to be examined by the Committee[590] and undertakes informal talks with the Ministers or representatives of the Ministries, if necessary, on specified matters[591].

If the Chairperson of the Committee ceases to be a member of the Committee, the Committee does not hold any sittings till a new Chairperson is appointed.[592]

Functions

The Committee examines such of the estimates as may seem fit to it or are specifically referred to it by the House or the Speaker, with a view:

to reporting what economies, improvements in organisation, efficiency or administrative reform, consistent with the policy underlying the estimates, may be effected;

to suggesting alternative policies in order to bring about efficiency and economy in administration;

to examining whether the money is well laid out within the limits of the policy implied in the estimates; and

to suggesting the form in which the estimates shall be presented to Parliament[593].

The Committee does not exercise its functions in relation to such public undertakings as are allotted to the Committee on Public Undertakings under the Rules of Procedure or by the Speaker.

At the beginning of its term every year, the Committee selects subjects concerning any part of the estimates of a Ministry or Ministries for examination during the year.

It is not incumbent on the Committee to examine the entire estimates of any one year. The Committee selects about six to eight Ministries for a year, and reports to

589. Dir. 101 (v) (c).

590. For expenditure charged on the 'Consolidated Fund of India', *see* article 112(3).

591. *See,* for instance, 52R (EC-1LS), para 1; 53R (EC-1LS), para 5.

592. The Chairperson of the Committee on Estimates (2022-23), Shri Girish Bhalchandra Bapat, passed away on 29.03.2023 and no further sitting of the Committee was held as no new Chairperson was appointed for the remaining term of the Committee. The study visit of the Committee scheduled from 26 to 29 April, 2023 with the approval of HS was also cancelled as no new Chairperson was appointed by HS for the remaining term of the Committee.

593. Rule 310.

(i) The Committee on Estimates *vide* their 12th Report, 16 LS, presented to Lok Sabha on 23.02.2016 accorded their concurrence to the proposal of the Ministry of Finance to reduce the number of Demands for Grants from 109 to 98 (excluding the 16 Demands for Grants of the Railways) starting with the fiscal year 2016-17.

(ii) Ministry of Finance (DEA- Budget Division) *vide* their O.M. No. F.1(23)-b(ac)/2016 dated 07.10.2016 sought approval of EC for the proposed change in the format of Statement of Budget Estimates, Demands for Grants and Detailed Demands for Grants. The Committee on Estimates *vide* their 21st Report, 16 LS, presented to Lok Sabha 09.12.2016, accorded their concurrence to the said proposal of Ministry of Finance for structural changes in Union Budget starting from FY 2017-18, *viz.* merger of Railway Budget with Union Budget and removal of Plan–Non-Plan classification in Budget and Accounts.

the House as its examination proceeds. The guiding principle for selection is that one round of examination of the important estimates of all Ministries should, as far as possible, be completed within the life of each Lok Sabha[594].

Ad hoc subjects of importance which *prima facie* appear to deserve examination in detail are also referred to the Committee from time to time by the Speaker or the House. Such references are made either through directions of the Speaker[595] in the House or in the form of communication[596] to the Chairperson of the Committee from the Speaker. The Committee may also take up any matter of sufficient importance for *ad hoc* examination by itself or on the suggestion of a member of the Committee provided that the matter does not relate to a proposal of Government which has not been finalised[597].

Examination of 'Charged' Items

It is open to the Committee to call the details of expenditure charged on the Consolidated Fund of India[598] and to scrutinise whether the classification of items of expenditure between 'voted' and 'charged' has been done strictly in accordance with the provisions of the Constitution and Acts of Parliament[599].

The Ministry of Finance informs the Committee of the decisions which the Government may take from time to time regarding the inclusion of 'charged' item of expenditure in the Budget for the first time, or whenever a change is made in the classification of an item of expenditure from 'voted' to 'charged' or *vice versa*.[600]

Similarly, whenever Government want to make any change in the format or the information to be given in the Budget papers on Demands for Grants, the matter is referred to the Committee for their recommendations[601].

Examination of Matters of Special Interest

The Committee also examines matters of special interest which, though unconnected with the particular estimates, may arise or come to light in the course of its work and which it may consider necessary to bring to the notice of the House[602].

594. Address by the Speaker to the Conference of Chairmen of Estimates Committees, 16-4-1958.

595. *See,* for instance, *P. Deb.,* 15-3-1951, cc. 4623-25 and 24-3-1951, cc. 5030-57; 87R (EC-2 LS) and 59R (EC-2 LS).

596. *See,* for instance, 92R (EC- 2LS); 86R (EC-4 LS); and 87R (EC-4 LS).

597. Min. (EC), 10-7-1952.

598. For expenditure charged on the Consolidated Fund of India, *see* art. 112(3).

599. Min. (EC), 12-10-1950.

600. While examining the Budget Estimates for 1959-60, a question arose whether it was correct to treat the interest payments on capital advanced by the Government of India to Departments run on commercial lines as charged items under article 112 (3)(c). The matter was referred to the Ministry of Finance for clarification. The Ministry decided after consultation with the Comptroller and Auditor-General and the Ministry of Law that such items of expenditure would be treated in future as voted items and not charged because they did not constitute the liability of the Government of India within the meaning of article 112(3)(c). The change in the classification was given effect to in the Budget Estimates for the year 1961-62.

601. 37R (EC-8 LS).

602. For example, the Committee presented reports on 'Administrative, Financial and other Reforms'— 9R (EC-ILS); 'Organization and Administration of Nationalised Industrial Undertakings'-16 R (EC-1LS); 'Preparation of Budget Estimates of Public Undertakings and Presentation of their Annual Reports and Accounts to Parliament'-73R (EC-2LS); 'Public Undertakings—Forms and Organization'-80R (EC-2LS), etc.

After the Committee has selected the subjects, the Ministry concerned is asked to furnish detailed information regarding its organisation, set-up, activities, the broad details of estimates, particulars of expenditure, etc. After studying the material so received, members send their suggestions or any points on which further information is required by them. These points and suggestions are consolidated in the form of a questionnaire and are considered by the concerned Sub-Committee or Study Group. After the questionnaire is approved by the Chairperson, it is sent to the Ministry for furnishing replies.

The fundamental objectives of examination by the Committee are economy and efficiency in administration and ensuring that money is well laid out within the limits of the policy implied in the estimates. The Committee does not go into or comment on a policy approved by Parliament[603] but where it is established on evidence that a particular policy is not leading to the expected or desired results, or is leading to waste, it is the duty of the Committee to bring to the notice of the House that the change in the policy would be desirable.

The Committee is at liberty to examine policies laid down by Governments as distinct from those approved by Parliament. It is also open to the Committee to examine any matter which may have been settled as a matter of policy by the Government in the discharge of its executive functions[604] and the Committee has at times suggested alternative policies in order to bring about efficiency and economy in administration[605].

Formation of Sub-Committees/Study Groups

The Committee may, whenever considered necessary, appoint Sub-Committees and Study Groups for securing flexibility in working and for detailed scrutiny of the subjects selected for examination.

During the first two years of its existence, the Committee did not appoint any Sub-Committee. It was during 1950-51 and 1951-52 that the Committee for the first time appointed Study Groups to which were allocated specific subjects for intensive study.

The formation of Study Groups enables the Committee to divide its work among the members so that they may specialise in particular subjects and study them intensively.

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603. In the course of his address at the inaugural sitting of the Committee (1959-60), the Speaker clarified the exact scope of the function of the Committee in the following words :

> "Your function is not to lay down policy. Whatever policy is laid down by Parliament your business is to see that policy is carried out...not divorced from its financial implications. It is only where a policy involves expenditure and you find that the policy has not worked properly, you are entitled and competent to go into it. Where the policy is leading to waste, you are entitled to comment on it in a suitable way."

604. For instance, the Committee recommended separation of the Transport Ministry from the Ministry of Railways and placing it under the charge of a separate Minister for Transport-19R (EC-1 LS), para 42; amalgamation of the two Shipping Corporations-38R (EC-2 LS), para 24; abolition of the Salt Organisation and creation of an autonomous Salt Board—15R (EC-1 LS), para 21 and 22; re-examination of the question of continued existence of Cantonments—46R (EC-1 LS), para 91.

605. For instance, the Committee suggested transfer of the subject of minor ports from the 'Concurrent List' to the 'Union List'-51R (EC-1 LS), para 44; reduction in the excise duty on steel for securing better export market-33R (EC-2 LS), para 186; re-adjustment in the allocation of funds under the Second Plan and allotment of additional funds for acquisition of ships-38R (EC-2 LS), para 71; levy of customs and excise duties on the aviation fuel used by the Air Corporations-43R (EC-1 LS), para 82 and 83.

The Study Groups are constituted by the Chairperson**.** Members of the Groups are chosen by the Chairperson after taking into account the wishes of the members to serve on them.

The Chairperson also appoints a Convener for each Study Group who acts as the leader of the Group and presides over its sittings. Study Groups are appointed during the term of the Committee to deal with fresh subjects, action taken by Government on earlier reports, and procedural matters. Study Groups may also be appointed to deal with any *ad hoc* subjects.

The Study Group dealing with a fresh subject is required to study intensively the material supplied by the Ministry or Department, etc.; to prepare the questionnaire for issue to that Ministry or Department after approval of the Chairperson**;** to undertake study tours and record impressions thereof; to indicate broad points on which the Secretariat may draft reports; and to discuss draft reports before circulation to the main Committee.

The Study Group dealing with action taken by the Government on earlier reports of the Committee is required to scrutinise replies received from Government; to indicate points on which the Secretariat may draft reports; and to discuss draft reports before circulation to the whole Committee.

The Study Group dealing with the procedural matters is generally composed of Conveners of Groups, and the Chairperson of the Committee acts as its leader. The Group draws up a tentative programme of work for the Committee, Sub-Committee and Study Groups; discusses procedural matters before they are referred to the whole Committee; co-ordinates the work between the various Study Groups or Sub-Committees, etc.

Study Tours by the Committee

The Committee undertakes on-the-spot study tours to acquaint itself with the working of an establishment under examination. Local offices are also visited by the Study Group or Sub-Committee concerned. For the purpose of tours, the Committee usually divides itself into two Study Groups.

Notes relating to the working of the establishments to be visited are called for in advance from the concerned Ministry and circulated to the members of the Study Group. A list of points for informal discussion is also drawn up.

> While on tour the Study Group may hold informal sittings but no decisions are taken at such sittings nor is any evidence taken[606].
>
> The Study Group may discuss points to elicit relevant information but it does not express any view. It is not authorised to give any information or interview to the Press or to any outsider in relation to the discussion held or observations made or impressions gathered.

A note summing up the impressions of the study tour is prepared and further information, if any, required by the Committee in the light of the visit is collected from the concerned Department.

606. Dir. 50(2).

After its approval by the Chairperson/Convenor of the respective Study Group, copies of the note are kept in the room of the Chairperson for reference by members of the Committee.

Evidence

Calling of Official Witnesses

The Committee calls officials concerned to give oral evidence in connection with the examination of the estimates relating to a particular Ministry or Department. Where a Ministry or Department is required to give evidence before a Committee on any matter, the Ministry or Department is represented by the Secretary or the Head of the Department as the case may be. The Chairperson of the Committee may however, on a request being made to him, permit any other senior officer to represent the Ministry or Department before the Committee. Where it is felt that views of Ministries other than those whose estimates are under examination would be useful, their representatives are also called to give evidence on the subject[607]. A Minister is not called before the Committee either to give evidence or for consultation in connection with the examination of the estimates by the Committee[608]. When considered necessary, but only after the deliberations of the Committee are concluded, the Chairperson may have an informal talk with a Minister, the estimates of whose Ministry were under consideration of the Committee, in order to apprise the Minister of any matters of policy laid down by that Ministry with which the Committee do not fully agree and any matter of secret and confidential nature which the Committee would not like to bring on record in its report.[609] Although it is open to the Committee to reconsider its conclusions in the light of such talk, it does not otherwise pursue further any of the matters with the Minister[610].

Formal evidence of a Minister is thus not recorded but informal reference to obtain information may be made to him/her in connection with any matter before the Committee. In their capacity as members of a Commission or a statutory body, Ministers sometimes appear before the Committee and discuss matters[611].

Ministers of State Governments are held in the same position as Ministers of the Union Government, and the Committee accordingly does not summon State Ministers to appear before it. The State Ministers may, however, forward their views to the Chairperson for being brought to the notice of the Committee[612].

607. Min. (EC), 20-12-1958 and 12-3-1959.

608. Dir. 99(1).

609. Dir. 99(2).

610. Dir. 99(3).

611. On 9 April 1958, the Committee discussed with the members of the Planning Commission a few points of general importance relating to the composition, organisation, functions and working of the Commission. Among the members of the Planning Commission, the Ministers who attended in their capacity as members of the Commission were the Minister of Planning, the Minister of Defence and the Deputy Minister of Planning.

    On 30 October 1958, the Committee took evidence of the representatives of the All India Institute of Medical Sciences. Among the representatives of the Institute present before the Committee was the Finance Minister, Bombay, in his capacity as the Chairman of the Finance Committee of the Institute,

612. Request from the Finance Minister, Saurashtra, to permit him to appear before the Committee (1954-55)

Examination of Non-official Witnesses

When necessary, the Committee also calls for oral evidence, experts, representatives of industries, non-official and organisations experts, prominent public men, retired Government officers, etc. whose evidence is considered to be of help to the Committee in its investigations. The selection of non-official witnesses for evidence before the Committee is generally made after taking into account the memoranda, etc. submitted by them.

Examination of the Representatives of Private Companies, Non-Government Bodies, etc.

Where the Committee takes up examination of the working of an agreement entered into by the Government of India with a private company or any non-Government body, the Committee may summon or give an opportunity to the representatives of the Company or the non-Government body, as the case may be, to appear before it and give evidence on any points on which the Committee desires to have further information, or on which the representatives would like to give elucidation[613].

List of Points/Questions for Oral Examination

A list of points and/or questions for oral examination of the official and non-official witnesses, incorporating therein any suggestions that may be received from members, is prepared by the Secretariat for approval of the Chairperson. After the Chairperson's approval, advance copies of the list are circulated to the members of the Committee[614]. The Chairperson puts questions from the list one by one to the witnesses. If a member desires to ask a supplementary question for elucidating a point, it is done so with the permission of the Chairperson[615].

The Minutes of the sittings of the Committee are compiled separately for each report or group of reports as may be convenient. Minutes form part of the Report as Annexure and are presented to the House along with the Report to which they relate.[616]

Recording of Dissenting Views

Minutes of dissent are not appended to a report of the Committee. However, when a member strongly disagrees with certain points in a report and expresses a desire that his views should be recorded, the fact is recorded in the minutes, if agreed to by the Committee.

Preparation of Report

When the examination of any part of the estimates of a Ministry has been completed by the Committee, a draft report is prepared by the Secretariat[617]. After

when it was examining the estimates of the Coal Board. State Collieries and the Salt Organisation, was not acceded to.

613. Dir. 100.

614. 1R (EC), rule 11.

615. *Ibid.,* rule 12.

616. Dir. 67(1); IR (EC), rule 18. Decision taken by the EC at their sitting held on 4 March 1997. The practice from 1950-51 to 1958-59 was to compile the entire minutes relating to the sittings of the Committee during the year in convenient volumes.

617. 1R (EC), rule 19(2); and Min. (EC), 27-9-1958.

the Chairperson's approval, it is circulated to the members of the Committee for being considered and adopted at its sitting[618]. However, in respect of a report of the Sub-Committee on Defence, such portions of the report as are considered by the Chairperson to deal with confidential matters which it is not advisable to make public in the interest of security are not placed before the whole Committee but forwarded by the Chairperson to the Speaker[619].

When members are not likely to assemble together for a period of time, they authorise the Chairperson to finalise the report of the Committee by circulation and in the light of the comments offered by them[620]. Likewise, if a sitting of the Committee called for the purpose of consideration of a draft report is adjourned for want of quorum, the report is adopted by circulation.

Factual Verification of the Reports

Advance copies of the report, as adopted by the Committee excluding recommendations, are marked 'Secret' and sent to the concerned Ministry or Department for factual verification. They are required to treat the contents of the report as secret until it is presented to the House[621]. Draft reports which concern more than one Ministry are usually sent to all concerned Ministries or to the nodal Ministry which acts as the co-ordinating agency.

On receipt of the comments of the Ministry or Department, the Chairperson makes suitable modification in the report to correct factual inaccuracies, if any, or places the matter before the Committee for consideration when additional facts, likely to alter recommendations, are furnished by the Ministry[622] before it is presented to the House.

Discussion on the Report of the Committee

As a convention, reports of the Committee, like those of the Public Accounts Committee, are not discussed by the House, the idea being that as the reports are detailed and deal with diverse subjects, recommendations of the Committee in a general discussion may not be viewed in their proper perspective[623]. The discussion may also not afford sufficient time and scope for presentation of full data which is a prerequisite for proper appreciation of the details of the reports.

Moreover, the discussion of the report in the House may proceed on party lines and thus come in the way of the healthy convention under which the Committee's recommendations are made without reference to party affiliations.

As far as the Government are concerned, they are given full opportunity to present their point of view both at the time of factual verification of a draft report and again at the time of sending intimation regarding action taken on the recommendations of the Committee, and the Government's view point finds due place in the reports of the Committee.

It is open to the members to ask questions during Question Hour or raise points with regard to the implementation of the recommendations of the Committee when the

618. 1R (EC); rule 19(2) & (3).
619. *See* Dir. 101.
620. IR (EC), rule 19(4).
621. 1R (EC), rule 20 and rule 278.
622. 1R (EC), rule 21.
623. *See* Min. (EC), 24-12-1958; 20-2-1959.

Demands for Grants of the Ministry concerned are placed before the House[624].

Implementation of the Recommendations

Although technically the recommendations of a Parliamentary Committee are not formally described as directions by the House, they are in practice regarded as such by a long-standing convention. The recommendations of the Estimates Committee are generally accepted by the Government and acted upon.

After the Committee's report is presented to the House, copies thereof are forwarded to the Ministry concerned by the Secretariat with a request that replies to recommendations contained in the report be sent not later than six months[625] from the date of its presentation to the House. On receipt of the replies showing the action taken by the Government on the recommendations contained in the report of the Committee, these are examined by the Secretariat or the Study Group/Action Taken Sub-Committee appointed for the purpose and is placed before the Chairperson together with the recommendations of the Study Group.

If there is any point which in the opinion of the Study Group and/or the Chairperson requires consideration by the Committee, it is specifically referred to the Committee[626].

On the basis of the comments made by the Committee or the Study Group, a draft Action Taken Report is prepared consisting of the following Chapters:

I. Report; II. Recommendations/Observations which have been accepted by Government; III. Recommendations/Observations which the Committee do not desire to pursue in view of Government's replies; IV. Recommendations/Observations in respect of which replies of Government have not been accepted by the Committee; and V. Recommendations/Observations in respect of which final replies of Government are still awaited[627].

The draft report is considered by the concerned Study Group/Action Taken Sub-Committee and after the Chairperson's approval, it is circulated to the members of the Committee for adoption. Sittings of the full Committee are convened for consideration and adoption of the report. The report, after factual verification by the Ministry or Department concerned, is finalised by the Chairperson and is presented to the House.

Laying of Action Taken Statements

While forwarding the Action Taken Report to the Government, the Ministry concerned shall be asked to furnish as early as possible statements of action taken or proposed to be taken by them on the recommendations contained in Chapter I and final replies to the recommendations contained in Chapter V of the Report. The replies so received are consolidated in the form of a statement and after Chairperson's approval,

624. *L.S. Deb.,* 21-11-1958, cc. 986-87.

625. If the replies are not received within six months, a reminder is issued to the Ministry concerned and they are asked to furnish replies within three months failing which the Committee would finalise report on the action taken by Government without waiting further.

If the Ministry requests for extension of time, the Chairperson may agree to give reasonable extension at his discretion.

626. 1R (EC), rule 23(4); Min. (EC), 8-12-1955.

627. In the case of such replies, suitable mention is also made in Chapter I or in the Introduction to the report. 1R (EC), rule 23(5).

laid on the Table of the House without further processing or comments by the Committee[628].

Report of Government Committee Appointed in Pursuance of Committee's Recommendations

When the Government appoints a Committee pursuant to the recommendations made in report of the Committee, the report of such a Committee is not made public unless it has been seen by the Committee[629].

Committee on Public Undertakings

The introduction of planned economic development in the country and the adoption of the Industrial Policy Resolutions by the House in 1948 and 1956 led to a steady growth of various enterprises which are controlled and managed by the Government of India. Several statutory corporations and Government companies involving large investment of capital funds thus came into existence. The performance of such public undertakings became a live subject for discussion, and the Lok Sabha decided that since the moneys required to finance them are appropriated from the Consolidated Fund of India, Parliament should have adequate control over their affairs. With this object in view, a Committee on Public Undertakings was constituted.

The question of exercising adequate parliamentary control over public enterprises was discussed for the first time in the Lok Sabha in 1953[630]. The creation of separate Parliamentary Committee to look into the affairs of various categories of public corporations, companies and institutions was suggested[631], but Government thought it inadvisable to proceed with the setting up of the Committee at that time[632].

Speaker Mavalankar, in a letter of 19 December 1953, addressed to the Prime Minister, had observed that there was a general feeling in favour of appointing a standing Parliamentary Committee to examine the working of autonomous public corporations. He pointed out that the Estimates Committee and the Public Accounts Committee were already over-burdened with work and would not be able to find time to go into the working of these corporations[633]. The Prime Minister, in his reply, observed that there should be overall control of Parliament over autonomous and semiautonomous corporations. He, however, added that the object of having autonomous corporations would be defeated, to some extent, if there was any interference in their day-to-day working.

The demand for setting up a separate Committee to take over the functions in relation to public corporations or autonomous bodies from the Estimates and the Public Accounts Committee was again put forward in 1956 but with no result[634]. On the suggestion of the Chairman of the Estimates Committee, a Sub-Committee of the Estimates Committee was constituted in July 1957 to deal with the public undertakings.

628. Min. (EC), 10-9-1960; *see* also Dir. 102.

629. *P. Deb.,* (I) 2-4-1954, c. 1680.

630. *H.P. Deb.,* (II), 10-12-1953, cc. 1904-42; and 11-12-1953, cc. 1958-81.

631. *Ibid.,* 10-12-1953, cc. 1918-19.

632. *Ibid.,* c. 1981.

633. *See* 'Parliamentary Control Over State Undertakings', Report of the Sub-Committee of the Congress Party in Parliament (popularly known as the Krishna Menon Committee), p. 8.

634. Min. (R.C.) 17-12-1953 and *L.S. Deb.,* 21-5-1956, cc. 9075-76; 22-5-1956, cc. 9224-26.

On 10 April 1958, the Prime Minister appointed a Sub-Committee of the Congress Party in Parliament to consider the problems relating to State-owned corporations and companies and to suggest how broad supervision could be maintained by Parliament in the day-to-day activities of these concerns. The Sub-Committee endorsed the suggestion of Speaker Mavalankar for the setting up of a separate Committee of Parliament for public undertakings. On 24 November 1961, the Government decided to appoint a Joint Committee on State Undertakings. On the same day a motion for the constitution of the Committee, with 10 members from the Lok Sabha and 5 from the Rajya Sabha, was moved in the House but further discussion was postponed due to objections raised by some members[635]. Later, the matter was taken up in the Rajya Sabha and the members of that House objected to their association with the Committee unless they were given full rights[636]. After taking into consideration the various objections raised by members in both the Houses, the Government, on 21 September, 1963, moved in the Lok Sabha two revised motions for constituting the Committee which were later adopted by the House[637], and the Rajya Sabha also agreed to associate its members with the Committee[638]. In pursuance of these motions, the Committee was constituted for the first time with effect from 1 May 1964.

Composition

When initially set up, the Committee on Public Undertakings consisted of fifteen members. Ten members were elected by the Lok Sabha from amongst its members according to the principle of proportional representation by means of the single transferable vote. Five members from the Rajya Sabha, elected in like manner, were associated with the Committee. In order to cope with the increase in the number of undertakings, the strength of the Committee was raised from fifteen to twenty-two since 1974-75, fifteen members being elected from the Lok Sabha and seven from the Rajya Sabha[639]. The members of the Rajya Sabha are invited to associate with the Committee on a motion adopted by the Lok Sabha and concurred to by the Rajya Sabha. A Minister is not elected a member of the Committee. If a member, after his election to the Committee, is appointed a Minister, he/she ceases to be a member of the Committee from the date of such appointment.

The Chairperson of the Committee is appointed by the Speaker from amongst the members of the Committee.

The term of office of members of the Committee does not exceed one year[640]. However, the term of office of members of the Committee constituted for the first time with effect from 1 May 1964, was for the duration of the Third Lok Sabha, *i.e.* for about three years. "The term of the Committee is usually between 1 May of the year of constitution to 30 April of the following year. In case, if the Committee is constituted later than 1 May of a particular year, like in an election year, the term of

635. *L.S. Deb.,* 24-11-1961, cc. 1010-66.
636. *R.S. Deb.,* 27-8-1962, cc. 3480-86.
637. *L.S. Deb.,* 20-11-1963, cc. 767 and 768.
638. *R.S. Deb.,* 2-12-1963, c. 1766.
639. Rule 312B(1).
640. Rule 312B(2).

that Committee shall nevertheless end on 30 April of the following year[641]".

Filling of Casual Vacancies

Casual vacancies occurring in the Committee are filled on a motion moved in regard thereto in the House concerned. The motion in the Lok Sabha is moved by the Chairperson of the Committee or in the Chairperson's absence by any other member of the Committee so authorized by the Chairperson and in the Rajya Sabha by a member of the Committee from that House[642]. Prior to the moving of such a motion in the Rajya Sabha that they do agree to nominate a member from that House to associate with the Committee for the unexpired term of the Committee, a motion is adopted by the Lok Sabha recommending to the Rajya Sabha to fill a casual vacancy and the Lok Sabha is officially informed through a message about the name of the member elected by that House. The same procedure is followed to fill a casual vacancy when any member of the Committee from the Rajya Sabha retires under the provisions of the Constitution.

Functions

The functions of the Committee are:

(a) to examine the reports and accounts of such public undertakings as have been specifically allotted to the Committee for this purpose[643];

(b) to examine the reports, if any, of the Comptroller and Auditor-General on public undertakings;

(c) to examine, in the context of the autonomy and efficiency of public undertakings, whether the affairs of the public undertakings are being managed in accordance with sound business principles and prudent commercial practices; and

(d) to exercise such other functions vested in the Public Accounts Committee and the Estimates Committee in relation to the public undertakings specified for the Committee as are not covered by clauses (a), (b) and (c) above and as

641. In several occasions, the Committee could not complete their full term of one year on constitution after General Elections and during the last year of Lok Sabha.

642. A motion was to be moved in the Rajya Sabha to nominate three members in the vacancies caused by the resignation of three members from the Committee. There was no member of the Rajya Sabha on the Committee to move the motion (as there had already been two vacancies due to the retirement of members from the Rajya Sabha which had not been filled by then). The motion was moved by the Minister of State in the Department of Parliamentary Affairs—*R.S. Deb.,* 12-5-1956.

643. As per amendment to the Fourth Schedule to the Rules of Procedure and Conduct of Business in Lok Sabha (Lok Sabha bulletin Part II dated 11.03.2015, para 1540), the public undertakings specified for the Committee are:

I. Public undertakings established by Central Acts namely, The Damodar Valley Corporation; The Life Insurance Corporation of India; The Central Warehousing Corporation; The Food Corporation of India; The Airports Authority of India; The National Highways Authority of India.

II. Every Government company whose annual report is placed before the Houses of Parliament under sub-section (1) of Section 394 of Companies Act, 2013 (corresponding sub-section (1) of Section 619A of the Companies Act, 1956).

III. Specific enterprises, namely Hindustan Aeronautics Ltd., Bengaluru, Bharat Electronics Ltd., Bengaluru, Mazagon Dock Ltd., Mumbai and Garden Reach Shipbuilders and Engineers Limited, Kolkata.

As on 31 March 2022, there were 389 Public Undertakings and 7 Insurance Companies within the purview of the Committee.

may be allotted to the Committee by the Speaker from time to time[644].

Besides, a matter of public importance with which a public undertaking is concerned may be referred to the Committee by the Speaker for examination and report[645].

The Committee does not examine and investigate any of the following:

matters of major Government policy as distinct from business or commercial functions of the public undertakings;

matters of day-to-day administration; and

matters for the consideration of which machinery is established by any special statute under which a particular public undertaking is established[646].

The examination of public undertakings by the Committee is generally in the nature of an evaluation of the performance of an undertaking covering all aspects like implementation of policies, programmes, management, financial working, etc.

Procedure in Committee

At the beginning of each term, the Committee selects[647] the subjects or the undertakings for examination during the course of the term. It is also the practice to select[648] a few subjects or undertakings in advance for the ensuing year.

The Committee on Public Undertakings undertakes three kinds of examinations *viz.* Comprehensive examination of a Public Undertaking, examination of Audit Reports/ Paras(Commercial) of the Comptroller and Auditor General of India and Horizontal examination of subjects common to some or all Public Undertakings.

Besides the full-fledged examination of an undertaking or a subject, a Committee can also conduct a limited inquiry into the affairs of an undertaking which are of topical interest. In such cases, the Chairperson is authorised to ascertain full facts from the undertaking concerned without prior reference to the Committee[649].

The Ministry or the undertaking concerned with the subjects to be examined by the Committee is asked to furnish preliminary material for use of the members of the Committee. The material on receipt is circulated to the members who, after going through it, frame questions or points on which further information is required by them. Based on these points as also on an independent scrutiny of the preliminary material and other available literature on the subject, the Secretariat, with the approval

644. State Government Undertakings do not fall within the purview of the Committee. Kerala State came under the President's rule from 10 September 1964, and the Government of India became responsible for the administration of the State. During 1965-66, the Committee took up the examination of seven Kerala State Government Companies under the direction of the Speaker on a request made by the Governor of the State.

645. On request made by a member, the matter *re.* contract entered into by the State Trading Corporation with an American firm for supply of sulphur was referred to the Committee by the Speaker. *L.S. Deb.,* 21-7-1967, cc. 13513-16; 25-7-1967, c. 14472.

646. Rule 312A.

647. After constitution, Committee consider Memorandum No.1 to select subjects for examination during its term.

648. Min. (CPU), 24-12-1964 and 10-3-1966.

649. *Ibid.,* 8-9-1964.

of the Chairperson, prepares a questionnaire for the examination of concerned undertakings and the Ministries. The questionnaire is circulated to the members of the Committee as well as to the concerned undertaking/Ministry well before the evidence of the representatives of undertaking/Ministry is held. If the evidence of an undertaking/ Ministry is not completed on the affixed dates, the undertaking/Ministry is required to send written replies for the remaining questions within a specified period. The replies, when received, are circulated to members of the Committee and if the Committee considers necessary, further evidence of the undertaking/Ministry may be taken.

The Committee may also invite memoranda on the subjects under examination from non-official organisations such as chambers of commerce, trade organisations, professional consultants, companies in the private sector and also from private individuals. Memoranda are called for from such non-official organisations, etc. as have shown a keen interest in the subject or have expert knowledge of the industry and whose views may be of help to the Committee.

The Committee may also call for memoranda from the chief office-bearers of registered unions of the undertakings taken up for examination. As and when the Committee visits any of the undertakings or projects under examination, an opportunity is given to the registered unions of employees or workers of that undertaking to express their views on the working of the undertaking. If it is deemed necessary, the Committee asks the unions to send their representatives to Delhi, at their own expense, to give further evidence before the Committee. The views of the unions on matters like productivity, cost of production, avoidance of waste, efficiency and economy are taken into consideration but the Committee does not go into individual cases or matters pertaining to industrial disputes[650].

Horizontal Study of Public Undertakings

In addition to the public undertakings selected for examination, the Committee also takes up horizontal study of a few common aspects or problems of these undertakings[651]. In such cases, information on the particular aspects or problems selected for examination is called for from all the undertakings. After the information has been received and scrutinised, evidence of the representatives of the concerned Ministries is taken. In other respects, the procedure adopted by the Committee in such horizontal studies does not differ much from that followed in the examination of individual undertakings.

Study Groups/Sub-Committees

After the selection of subjects, Study Groups may be appointed for carrying out detailed studies of the subjects selected and providing assistance to the Committee

650. Min. (CPU), 8-9-1964 and 24-9-1964.

651. The Committee has examined important aspects like Material Management, Financial Management, Public Relations and Publicity, Production Management, Personnel Policies and Labour Management Relations, Role and Achievements of Public Undertakings, Foreign Collaboration in Public Sector Undertakings, Structure of Boards of Management of Public Undertakings, Appointment of Auditors in Government Companies, Management and Control Systems, Productivity in Public Undertakings, Accountability and Autonomy in Public Undertakings, Disposal of scrap of Public Undertakings, Litigations pending in Public Undertakings, Social Responsibilities and Public Accountability of Public Undertakings and Sickness in Public Undertakings, Oil Exploration, Health Insurance, and Performance of Power generating PSUs.

in intensive examination of the subjects. A Sub-Committee may also be appointed to consider the replies of the Government indicating action taken on the various recommendations of the Committee in their earlier reports and also to consider the draft 'action taken' report.

Study Tours

The Committee undertakes tours to make a study of the working of the undertakings under examination if it appears to the Committee that a study on-the-spot should be made[652]. The itinerary is so prepared as to enable the Committee to visit a number of projects and offices of the undertakings under examination in the same tour. The tours are arranged when Parliament is not in session. Besides such tours, visits to a project or an office near about Delhi or visits to local offices are also arranged during a weekend.

The Ministries/Departments concerned are requested to issue instructions to the Public Undertakings and all others concerned that the discussions to be held by the Committee with various PSUs shall be confidential in nature and that it shall not be permissible for the participants in the discussions or anyone who may have access to its proceedings to communicate, directly or indirectly to the media or any unauthorised persons any information regarding its proceedings.

Also to ensure autonomy of the Public Undertakings and enable them to put forward their views independently, the Chief Executives of the Undertakings concerned are directed to be present at the time of visit and discussion by the Committee on Public Undertakings. At the same time, the officials of Ministries/Departments are not permitted to be present during the study-visit and at the informal discussions held by the Committee.

While on tour, the Committee, like the other Parliamentary Committees, holds informal sittings at the place of the visit where the working of the undertaking is discussed with the project authorities but at such sittings, no decisions are taken nor any evidence recorded[653]. Occasionally, the Committee holds discussions with the representatives of non-official organisations to have their views and suggestions on the working of the undertakings under examination. A note summing up the impressions formed and discussions held with the officials and others during the tours is prepared by the Secretariat and circulated to the members of the Committee after it is approved by the Chairperson.

Evidence

The Committee calls officers of the undertaking to appear before it to give evidence in connection with the examination of that undertaking, and the evidence is usually completed in two to four sittings of the Committee. Thereafter, the Committee takes evidence of the officers of the administrative Ministry concerned. Whereas discussion with the Officers of the undertaking relates to matters connected with the detailed working of the organisation, evidence of the Ministry is concerned with policy matters and such other matters for which the Ministry is responsible, partly or wholly. The practice of calling the representatives of an undertaking separately from those of the concerned administrative

652. 1R (CPU), rule 10.
653. *Ibid.,* rule 10(3).

Ministry has been established in view of autonomy claimed for the undertakings and in order to afford them full scope to put forward their points of view freely.

When the evidence of the representatives of an undertaking is being held, the representatives of the administrative Ministry/Department concerned are not permitted to be present and *vice versa*. In case of evidence of the representatives of concerned administrative Ministry/Department, representatives of Undertakings are usually not allowed. However, in exceptional cases at the request of the administrative Ministry/ Department, representatives of the Undertakings may be allowed to be present during the oral evidence of the concerned Ministry/Department. For this purpose, a request from the Secretary of the Ministry/Department explaining the reason as to why the presence of the representatives of Undertakings is necessary should be forwarded to the Committee Secretariat to be placed before the Chairperson/Committee for consideration.

Assistance of Comptroller and Auditor-General

The Committee takes the assistance of the Comptroller and Auditor-General or his representatives in pursuing such matters as have been raised in the Audit Report (Commercial) or in the Audit Reports pertaining to Government companies or statutory corporations which have been taken up for examination. The Committee obtains a 'Memorandum of Important Points' from the Comptroller and Auditor-General on the issues raised in the Audit Reports. Suitable questions are framed on the basis of the Audit Reports and the memorandum furnished by the Comptroller and Auditor-General. When the Committee takes evidence of the representatives of the undertakings under examination, it is assisted by the Comptroller and Auditor-General or his representatives who may, with the permission of the Chairperson, ask a witness to clarify a point or may make a statement on the facts of a case. The association of the Comptroller and Auditor-General or his representatives in the discussion is confined only to points relating to Audit paras; when such discussion is over, they withdraw from the Committee room.

Before taking evidence of the representatives of an undertaking, the Committee holds an informal meeting with the Comptroller and Auditor-General for clarification of any points arising out of the Audit paragraphs.

Preparation and Presentation of Report

After the examination of a subject has been completed, the Committee frames its conclusions and recommendations for inclusion in the report[654]. On the basis of these conclusions and recommendations, a draft report is prepared by the Secretariat. After the Chairperson's approval, it is circulated to the members of the Committee and considered at a sitting held for the purpose [655].

Advance copies of the report (excluding recommendations) as adopted by the Committee are marked "Secret" and sent to the Ministry and undertaking concerned for verification of factual details. Portions of the report which are based on, or are related, to Audit paragraphs are sent to the Comptroller and Auditor-General for factual verification. It is enjoined on them to treat the contents of the report as secret until its

654. On matters of minor importance, the Committee authorises the Chairperson to convey the views of the Committee directly to the Ministry concerned, instead of incorporating them in the report.— Min. (CPU).

655. 1R (CPU), rule 24, Introductory Guide (CPU No. 1005) paras 7.1 – 7.5

presentation to the Lok Sabha[656].

Any comments that may be offered by the Ministry and the undertaking are placed before the Chairperson who makes suitable modifications in the report to correct factual inaccuracies. When additional facts which are likely to alter decisions contained in the report are furnished by the Ministry, the Chairperson may place the matter before the Committee for consideration[657].

An authenticated copy of the report is presented in the Lok Sabha by the Chairperson but if the Chairperson is unable to do so then one of the members of the Committee is authorised to present it on Chairperson's behalf. Simultaneously, the report is laid on the Table of the Rajya Sabha by one of the members of the Committee belonging to that House authorised by the Committee in this behalf. If the Rajya Sabha is not in Session on the day on which the report is to be presented to the Lok Sabha, the report is laid on the Table of that House when it assembles next.

As a convention, the reports of the Committees like those of the Estimates Committee and the Public Accounts Committee are not discussed in the House.

Minutes of Sittings

The minutes of the sittings of the Committee are prepared by the Secretariat for each report and copies thereof, duly authenticated by the Chairperson are laid on the Tables of both the Houses alongwith the report to which they relate[658].

Implementation of Recommendations

After the presentation of the Committee's report to the Lok Sabha, copies thereof are forwarded to the Ministry and the undertaking concerned who are required to furnish to the Secretariat within six months of the presentation a statement showing the action taken by the Government on the recommendations contained in the report. The Committee or the Action Taken Sub-Committee headed by the Chairperson if constituted, examines the statement and prepares an Action Taken Report consisting of the following Chapters:

I. Report;

II. Observations/Recommendations which have been accepted by the Government;

III. Observations/Recommendations which the Committee do not desire to pursue in view of the Government's replies;

IV. Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee;

V. Recommendations/Observations in respect of which final replies of Government are still awaited.

The draft report is later considered and adopted by the whole Committee. The draft 'Action Taken Report' as adopted by the Committee without recommendations is sent to the Ministry/Department and undertaking concerned for factual

656. 1R (CPU), rule 25.

657. *Ibid.,* rule 26.

658. 1R (CPU), Rule (23); Introductory Guide (CPU No.1005), paras 6.8 - 6.11.

verification. The Chairperson of the Committee finalises the Report in the light of comments of the Ministry, etc. and decides the date of its presentation.

Replies received from the Government to the recommendations[659] in respect of which comments were made by the Committee in Chapter I and the final replies to the recommendations contained in Chapter V of the Action Taken Report are laid on the Tables of both the Houses by the Chairperson or a member of the Committee without further processing or comments by the Committee.

Committee of Privileges

Each House of Parliament collectively, and its members individually, enjoy certain privileges, *i.e.* certain rights and immunities without which the House and its members cannot discharge the functions entrusted to them by the Constitution. The object of these privileges is to safeguard the freedom, the authority and the dignity of the House, its Committees and members[660]. Where there is any question of an alleged breach of a privilege, the matter may be examined by the House but generally it is referred by the House to its Committee of Privileges for examination, investigation and report.

At the commencement of a new Lok Sabha and thereafter from time to time, the Speaker nominates the Committee consisting of not more than fifteen members[661]. Usually, the Committee is reconstituted each year alongwith other Parliamentary Committees of the Lok Sabha. In constituting the Committee, the Speaker takes into consideration the claims, interests and the strength of various Parties and Groups in the House so that the Committee is fully representative. The Deputy Speaker, when a member of the Committee, functions as the Chairperson of the Committee[662].

The Committee of Privileges was first appointed by the Speaker on 1 April 1950[663]. Initially, only ten members were appointed to the Committee. Subsequently, the strength of the Committee, as in the case of the other Parliamentary Committees, was increased to fifteen in order to give adequate representation to various Parties and Groups in the House. The Committee reconstituted on 2 May 1955, for the first time consisted of fifteen members[664].

Functions

When leave to raise a question of privilege is granted by the House, the House may consider the question itself and come to a decision or refer it to the Committee for consideration and report on a motion made either by the member who raised the question or by any other member[665]. In practice, the House usually refers almost all questions of privilege to the Committee and reserves its judgment until the report of

659. The Ministry/Department/Undertaking is not required to furnish comments on the 'Action Taken Reports' except in cases where replies to any recommendation in the original reports have been reported as outstanding or the Committee have otherwise specifically desired so in Chapter I of the Report.

660. For details about powers, privileges and immunities of the Lok Sabha, etc., *see* Chapter 11.

661. Rule 313.

662. Rule 258(1), Proviso.

663. *P. Deb.,* (II), 1-4-1950, cc. 2401-02.

664. Bn. (II), 3-5-1955, para 2173.

665. Rule 226.

the Committee is presented[666].

Besides, the Speaker may also *suo motu* refer any question of privilege to the Committee for examination, investigation and report[667]. In such cases, the Committee presents its report to the Speaker who may either direct that the report be laid on the Table[668] or that no further action be taken on the report. When the report is laid on the Table, further action in the matter is taken in accordance with the decision of the House. In certain cases, where the question of privilege was referred to the Committee by the Speaker after a brief discussion in the House, the Committee presented its report to the House[669].

It is the duty of the Committee to examine every question of privilege referred to it to determine with reference to the facts of each whether a breach of privilege is involved and, if so, the nature of the breach, the circumstances leading to it, and make such recommendations as it may deem fit[670]. Thus, the Committee may recommend some specific form of punishment to be awarded to the offenders[671]. The Committee may also suggest the procedure that might be followed by the House in giving effect to the recommendations made by it[672].

The Committee has also sometimes been required by the House or the Speaker to consider questions of procedure relating to the privileges of the House[673]. In one case, the Committees of Privileges of the Lok Sabha and of the Rajya Sabha held joint sittings and presented a joint report on the question of procedure to be followed in cases where a member or an officer of one House is alleged to have committed a breach of privilege or contempt of the other House[674].

With the coming into force with effect from 18 March 1986, of the Members of Lok Sabha (Disqualification on Ground of Defection) Rules, 1985 made by the Speaker under paragraph 8 of the Tenth Schedule to the Constitution[675] an additional function has been assigned to the Committee. The Speaker may, if he/she is satisfied having regard to the nature and circumstances of the case that it is necessary or expedient to do so,

666. *L.S. Deb.,* 27-11-1958, cc. 1669-1756; 10-2-1959, cc. 140-72; 30-8-1960, cc. 5652-54; 20-4-1961, cc. 12659-70; 17-3-1982, cc. 288-90; 29-4-1983, c. 273. There arose a case in 1967 when opinion was divided in the House about the alleged breach of privilege. Instead of referring the matter to the Committee of Privileges, the issue was decided on the floor of the House—*L.S. Deb.,* 5-4-1967, cc. 2914-3001. In another case, in 1970, a question of alleged breach of privilege was decided on the floor of the House without referring the matter to the Committee by summoning two concerned police officers and accepting their apologies—*L.S. Deb.,* 3-12-1970, cc. 185-87.

667. Rule 227.

668. *See* 1 to 7R, 10R (CPR-2LS); 4R (CPR-10LS).

669. *Deshpande Case* (1LS 1952); *Dasaratha Deb Case* (1LS 1952); *Sittha Case* (1LS 1952); *Sundarayya Case* (1LS 1952).

670. Rule 314.

671. *Blitz Case*—13R (CPR-2LS); *S.C. Mukherjee Case*—12R (CPR 4LS); *Kunwar Danish Ali Case*—1R (CPR-17LS)

672. Rule 314; *see* also 1R and 6R (CPR-2LS).

673. 1R and 6R (CPR-2LS).

674. Report of Joint Sitting of Committees of Privileges of the Lok Sabha and the Rajya Sabha (1954).

675. Added to the Constitution by the Constitution (Fifty-second Amendment) Act, 1985, which came into force with effect from 1 March 1985.

refer[676] a petition regarding disqualification of a member on ground of defection to the Committee for making a preliminary inquiry and submitting a report to the Speaker[677]. The procedure[678] followed by the Committee for the purposes of making a preliminary inquiry is generally the same as the procedure for inquiry and determination by the Committee of any question of breach of privilege of the House. The Committee does not come to any finding that a member has become subject to disqualification under the Tenth Schedule without affording a reasonable opportunity to such member to represent his case and be heard in person[679].

The Committee does not associate any person or body from outside, formally or informally, with its deliberations.

When a question of privilege is referred to the Committee by the House or by the Speaker, a memorandum on the subject is prepared by the Secretariat for the consideration of the Committee. The memorandum sets out briefly the issue(s) involved, the facts of the case, and the law, practice and precedents bearing on the question. This memorandum is circulated to the members of the Committee alongwith the notice of the sitting at which the matter is to be considered by the Committee. The Committee may also ask the Secretary-General to have a memorandum prepared for their consideration on any specific point of fact or law involved in the matter[680].

For a proper examination of the question of privilege involved, the Committee may hear the member who raised the question of privilege in the House[681], or permit that member to explain the case in a written statement[682], or hear any other member of the House who may desire to place his views before the Committee on the question

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676. There have been two cases where the Speaker had referred matters arising out of petitions for disqualification under the Tenth Schedule to the Constitution, to Committee of Privileges for making preliminary inquiry and submitting a Report to him. Both cases pertained to the 8th Lok Sabha—(i) *Lalduhoma Case: L.S. Deb.,* 16-11-1987, cc. 263-64 (ii) *Hardwari Lal Case:* Bn. (II), 15-1-1988, para 2034.

677. Rules 2(b) and 7(4) of the Members of Lok Sabha (Disqualification on ground of Defection) Rules, 1985.

678. In the context of petitions for disqualification given by Mohd. Shahid Akhlaque, Bhal Chandra Yadav and Ramakant Yadav, members belonging to BSP, under the Tenth Schedule to the Constitution and Rules made thereunder (referred to the Committee during 14th Lok Sabha), the Committee of Privileges (14LS) after giving a very careful thought to the true import of the term "preliminary inquiry" and without prejudice to the findings and conclusions contained in the Report of the predecessor Committee (Committee of Privileges, 8LS) had come to a conclusion that in such matters the Committee are required only to give their findings on the facts of the case and it isn't the Committee's remit to decide questions of law and arrive at conclusions on the merits of the case and make recommendations. The Committee accordingly *vide* their Sixth, Seventh and Eighth Reports gave their findings only on the facts of the matters. In the subsequent cases too *i.e.,* those pertaining to petitions under the Tenth Schedule to the Constitution (referred to the Committee of Privileges) against Kuldip Singh Bishnoi, Haribhau Rathod, Dr. P. P. Koya, Adv. Tukaram Renge Patil, Rajnarayan Budholiya, Dr. C. Krishnan, L. Ganesan, Gingee N. Ramachandran, S. Ravichandran, MPs, the Committee *vide* their Fourteenth, Fifteenth, Sixteenth, Eighteenth, Twentieth and Twenty-First Reports respectively gave their findings only on the facts of matters.

679. Rule 7(7) of the Members of Lok Sabha (Disqualification on Ground of Defection) Rules, 1985.

680. *Sinha Case* and *Sundarayya Case* (1LS).

681. *Deshpande Case* (1LS); 8R (CPR-2LS).

682. *Dasaratha Deb. Case* (1LS).

of privilege under consideration[683] or decide not to hear that member[684]. Where the breach of privilege involved is that of a member of the House, usually the Committee affords that member an opportunity to explain the case before the Committee in person[685].

The Committee has the power to send for persons, papers and records[686]. A witness may be summoned by an order signed by the Secretary-General to appear before the Committee and to produce such documents as may be required for the use of the Committee[687]. It is the general practice for the Committee to give an opportunity to the person alleged to have committed a breach of privilege or contempt of the House to submit his explanation to the Committee in writing[688], and also in person[689]. The Committee may, under the direction of the Speaker, permit a witness to be heard by a counsel appointed by him and approved by the Committee[690]. The Committee may, where the facts of the case are disputed, administer oath or affirmation to a witness examined before it[691].

Where the charge of a breach of privilege or contempt of the House is based on some document, the Committee may ask for the production of the document in original[692].

The Committee decides in each case whether the evidence, oral or written, given before it should be appended to its report[693]. No minutes of dissent are appended to the reports[694], but the Committee may agree that it be mentioned in the minutes that a member expressed dissent from its report or findings or recommendations[695]. The Committee has also permitted a note containing the views of its member(s) being appended to its report[696].

Consideration of Report

After the report of the Committee has been presented to the House, the Chairperson or any member of the Committee or any other member may move that the report be taken into consideration, whereupon the Speaker may put the question to the House. Before putting the question, the Speaker may permit a debate on the motion which normally does not exceed half an hour in duration. In this debate it is not permissible to refer to the details of the report further than is necessary to make out a case for the

683. *Blitz Case*-13R (CPR-2LS); 12R and 14R (CPR-3LS).

684. 11R (CPR-3LS).

685. *Deshpande Case* (1LS); *Dasaratha Deb Case* (1LS); 4R (CPR-2LS); 8R (CPR-2LS); *Krishnan Manoharan Case* 11R-(CPR-5LS); *Kumvar Ram Case* (CPR-7LS); *Satish Agarwal Case*—5R (CPR-7LS); *Satyanarayan Jatiya Case—SLR* (CPR-7LS).

686. Rule 270.

687. Rule 269.

688. *Deshpande Case* (1LS); *Sundarayya Case* (1LS); 7R, 11R, 12R and 13R (CPR-2LS); 1R (CPR-3LS).

689. *Deshpande Case* (1LS); *Blitz Case*—13R (CPR-2LS).

690. Rule 271.

691. Rule 272; *Deshpande Case* (1LS).

692. *Sinha Case* (1LS); SR (CPR-2LS).

693. In a case, in response to the wishes of the House, the Committee agreed to append the written statement and oral evidence of a member given before it-4R and 7R (CPR-3LS).

694. Dir. 68(3); MR (CPR-3LS).

695. 3R, 4R, 5R, 11R and 13R (CPR-3LS).

696. *Deshpande Case* (1LS); 4R and 5R (CPR-3LS); *Indira Gandhi Case* 3R (6LS).

consideration of the report by the House[697].

To the motion that the report be taken into consideration, there can be a motion or an amendment that the House agrees, or disagrees, or agrees with amendments, with the report.

> After the motion that the report be taken into consideration was adopted, a motion that the person incriminated against be asked to attend the House was moved and held to be in order, before the motion that the House agrees or disagrees, or agrees with amendments, with the report, was moved[698].

A motion or an amendment relating to matters not covered by the report under consideration or referring the report back to the Committee is not in order[699]. In case of further developments after presentation of the report, the House may consider the matter itself instead of referring it back to the Committee[700].

However, on a motion moved by the Leader of the House, a report was referred back to the Committee for consideration of certain matters arising out of that report[701]; and on another occasion, after hearing the member who had originally raised the question of privilege, a report was referred back, at the consideration stage, for reconsideration of the Committee[702]. On one occasion, the House, while accepting the findings of the Committee, referred back the report to the Committee for a review of the quantum of punishment to be awarded[703].

Where the Committee reports that no breach of privilege of the House has been committed, no further proceedings are usually taken in reference to the report[704]. However, on the Committee reporting that no breach of privilege has been committed and recommending that no action be taken in the matter, the House may consider the report and then resolve that the matter need not be proceeded with[705].

Where a regret is expressed or clarification is given by the alleged offender, the Committee may not give a finding whether or not a breach of privilege has been committed and recommend that no further action be taken by the House in the matter[706]. In such cases, the recommendation is invariably accepted by the House.

A motion that the report of the Committee be taken into consideration is normally accorded the priority assigned to a matter of privilege unless there has been delay in bringing it forward. The Speaker fixes the date on which the motion can be taken up,

697. Rule 315(1) and (2).

698. *L.S. Deb.,* 18-8-1961, cc. 3064-65 *re.* 13R (CPR-2LS).

699. *Ibid.,* 24-2-1959, cc. 2692-715.

700. *Ibid.,* 19-8-1961, c. 3333 *re.* 13R (CPR-2LS).

701. This was in connection with the expunction of a written statement and oral evidence of a member given before the Committee.

702. *L.S. Deb.,* 24-11-1969, cc. 210-22.

703. *Kunwar Ram Case*—2R (CPR-7LS); *L.S. Deb.,* 13-7-1982, cc. 616-66.

704. For instances, *see Deshpande Case* (1LS-1952); *Dasaratha Deb Case* (1LS-1952); *Sinha Case* (1LS-1952); *Sundarayya Case* (1LS-1952); 4R and 5R (CPR-2LS); and *Dr. Nagendra Singh's Case*-1R (CPR-2LS).

705. *See* 8R (CPR-2LS); *L.S. Deb.,* 24-2-1959, cc. 2692-2715.

706. *Kunwar Ram Case*—2R (CPR-7LS); *Bhogendra Jha Case*—4R (CPR-7LS).

after taking into consideration the state of business before the House and the urgency of the matter. The Speaker may also consult the Leader of the House before giving the decision in the matter. However, if a date has already been fixed for the consideration of the report, the motion is given priority on the day so appointed. In case considerable time has elapsed since the report was presented, the Speaker has the discretion to disallow notice of a motion for consideration of that report[707].

Committee on Subordinate Legislation

With the ever-widening governmental activity in a welfare State, subordinate legislation has become a necessity[708]. While Parliament lays down broad principles in a legislative measure, it leaves it to the Executive to frame, in conformity with those principles, formal and procedural details about that measure in the form of rules, regulations, etc. The authority so delegated to the Executive has to be kept under scrutiny. Parliament exercises the necessary check and control in this respect through the Committee on Subordinate Legislation. It is the function of the Committee to see that the rule-making power of the Executive, conferred by the Constitution or delegated by the Parliament, is being exercised within the scope of such delegation[709]. Each House of Parliament has its own Committee and they function independent of each other.

Composition

In the Lok Sabha, the Committee consists of fifteen members who are nominated by the Speaker[710]. In making selection from a panel of names submitted by the Leader of the House and by the Leaders of other Parties and Groups, the Speaker gives preference to those who have legal background and experience.

The suggestion for having a Standing Committee on Subordinate Legislation was first made in the Provisional Parliament during the Budget Session in 1950[711]. The rules for constituting such a Committee were framed and incorporated in the Rules on 30 April 1951[712]. The first Committee was constituted on 1 December 1953, and consisted of ten members. The strength of the Committee was raised to fifteen by amending the relevant rule on 9 January 1954[713].

The term of office of the Committee is one year from the date of its appointment[714]. Like most other Standing Committees, the Committee on Subordinate Legislation is constituted in the beginning of a new Lok Sabha and then reconstituted annually.

Functions

The main function of the Committee is to scrutinise and report to the House whether the powers to make regulations, rules, sub-rules, bye-laws, etc. (hereinafter

707. Rule 316.

708. For details, *see* Chapter 24—Subordinate Legislation.

709. For observations of the Law Commission of India on the working of the Committee, *see* 14th Report of the Commission, Vol. II, p. 706.

710. Rule 318.

711. *P. Deb.,* (II), 11-4-1950, p. 2783.

712. Min. (RC-1LS), 24-4-1951.

713. *Ibid.,* 17-12-1953.

714. Rule 318(2).

referred to as 'orders') conferred by the Constitution, or delegated by Parliament, are being properly exercised within such delegation[715].

The Committee also examines Bills which seek to delegate powers to make 'orders' or to amend earlier Acts delegating such powers, with a view to seeing whether suitable provisions for the laying of the 'orders' before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, have been made therein, as also for their being subject to modification by both the Houses before the expiry of the session immediately following the session or the successive sessions aforesaid[716].

The Speaker, if he so desires, may refer a Bill containing provisions for delegation of legislative powers to the Committee to examine the extent of such powers sought to be delegated[717]. Where powers are proposed to be delegated to State Governments or other authorities for bringing into operation any subsidiary provisions or for making any further 'orders', the Committee is to examine the necessity for such delegation as well as the extent and the manner in which such powers are to be exercised by the subordinate authorities concerned. If the Committee is of the opinion that the provisions delegating legislative powers should be annulled wholly or in part, or should be amended in any respect, it reports that opinion and the grounds thereof to the House before the Bill is taken up for consideration or further consideration in the House[718].

Besides reporting to the House its opinion about annulment or modification of any 'order', the Committee brings to the notice of the House any other matter relating to 'orders' which it feels should be placed before the House[719].

715. Rule 317.

716. In practice, all Bills are examined by the Secretariat immediately after their introduction in, or on being transmitted by the Rajya Sabha to the Lok Sabha. If a Bill does not contain provisions for laying of 'orders' for their being subject to modification by Parliament, the matter is placed before the Committee and necessary amendment to the Bill is sponsored by a member of the Committee wherever possible. Such amendments are normally accepted by the House. *See* 3R (CSL-2LS), paras 25-29 and 5R (CSL-2LS) paras 28-29. Where the Bill in question is to be referred to a Select/Joint Committee, this defect is brought to the notice of that Committee at the appropriate time for incorporating the necessary provision in the Bill—5R (CSL-2LS), paras 26-27. *re*. the Gold (Control) Bill, 1963.

717. During the discussion on the motion for consideration of the Essential Services Maintenance Bill, 1968, the Chair referred the Bill to the Committee for examination and report, when doubts arose whether the delegation of rule-making powers contained in the Bill was of a normal or exceptional nature. The Committee was of the opinion that although the delegation of powers was normal and within the ambit of the legislative policy laid down in the Bill, the relevant clause of the Bill should be recast to provide for a positive approval by Parliament of the rules framed thereunder within forty days from the day of their being laid on the Table or from the reassembly of Parliament, as the case may be; otherwise, the rules would cease to be operative. The amendment recommended by the Committee was adopted by the House—*See* 3R (CSL-4LS); *L.S. Deb.,* 12-12-1968, cc. 173-74 and 17-12-1968, cc. 217-25, 227-369 and 370.

718. Dir. 103 A.

719. The Committee has brought several matters before the House in the form of recommendations *e.g*. giving of short-titles 3R (CSL-1LS), Para 44, 3R (CSL-2LS) Para 59, 2R (CSL-4LS) Para 21, 8R (CSL- 5LS) Paras 25-28, 3R (CSL-8LS) Para 27, 17R (CSL- 8LS) Para 51, 2R (CSL-13 LS) Para 5.4, 2R (CSL-13 LS) Paras 8.3 & 9.4, 7R (CSL- 13LS) Para 3.5, 9R (CSL-13LS) Para 6.3, 14R (CSL-13LS) Para 3.3, 8R(CSL-14LS) Para 4.6, 18R (CSL-14LS) Para 3.10, 33R (CSL-15LS) Para 2.5; the numbering of amending rules 12R (CSL-2LS) Para 13, rules to be self contained and executive instructions are no substitute to statutory rules 1R (CSL-4LS) Para 13, 13R (CSL-8LS) Paras 34-35, 15R (CSL-8 LS) Paras 28 & 57, 9R (CSL- 13 LS) Para 2.5, 19R (CSL-14LS) Para 3.4, 28R (CSL-16LS) Paras 1-8; provision of footnote 3R (CSL-12LS) Para 5.3, 2R (CSL-13LS) Para 9.4, 5R (CLS-13LS) Para 4.3, 1R (CSL-14LS) Para 2.24, 2R (CSL-14LS) Para 3.4, 3R(CSL-15LS) Para 1.7;

In practice, the Committee scrutinises all 'orders' made by the Government of India or by any other subordinate authority[720] ultimately responsible to the Government, and which are published in the Gazette or laid on the Table. The Committee does not scrutinise the 'orders' which are made by the State Governments in exercise of powers conferred on them by an Act of Parliament[721]. Similarly, the Committee does not scrutinise the rules which are made by the Supreme Court under article 145, by High Courts under the Code of Civil Procedure, and the rules made by the President in consultation with the Chairman of the Rajya Sabha and the Speaker of the Lok Sabha[722].

Scope of Deliberations and Inquiry

While examining an 'order', the Committee considers in particular[723] whether it is in accord with the general objects of the Constitution or the Act pursuant to which it is made[724] whether it contains matter which in the opinion of the Committee should more properly be dealt with in an Act of Parliament[725]; whether it contains imposition of any tax[726]; whether it directly or indirectly bars the jurisdiction of the courts[727]; whether it

principle of Natural Justice 1R (CSL-5LS) Para 25, 1R (CSL-6LS) Para 54, 2R (CSL-13LS) Para 2.5, 1R (CSL-8LS) Para 41, 6R (CSL-8LS) Paras 47-49, 7R (CSL-14LS) Para 3.9, 22R(CSL-14LS) Para 4.18; 10R (CSL- 16LS) Paras 1.4 & 1.5; vague expression 7R (CSL-6LS) Paras 50-51, 13R (CSL-8LS) Para 16, 16R (CSL-8LS) Paras 20-21, 3R (CSL-8LS) Para 11, 9R (CSL-10LS) Para 12; 3R (CSL-11LS) Para 2.3; 13R (CSL-14LS) Para 2.3; 16R (CSL-14LS) Para 1.5; 21R (CSL-14LS) Para 2.6; 17R (CSL-15LS) Paras 2.3-2.4; 32R (CSL-15LS) Para 2.8; Delay in framing of Rules 24R (CSL-10LS) Paras 1.7-1.9; 1R (CSL-14LS) Para 3.12, 27R (CSL-15LS) Paras 5.4 and 5.7.

720. For instance, 'orders' of legislative character issued by the Textile Commissioner in exercise of powers delegated by the Government of India under the Essential Commodities Act, 1955, or the rules made thereunder—*See* 2R (CSL-2LS), paras 55-62; bye-laws, etc. made by various Cantonment Boards under the Cantonments Act, 1924.

721. For instance, the orders made by the State Governments under the Motor Vehicles Act, 1939, the Real Estate (Regulation & Development) Act, 2016 and the Street Vendors (Protection of Livelihood Regulations of Street Vending) Act, 2014 under several labour laws enacted by Parliament.

722. For instance, rules made by the President after consultation with the Speaker/Chairman under Art.98(3).

723. Rule 320.

724. In the case of the Delhi Transport Authority Rules, 1952, the Committee observed that the Chairman's powers to overrule the views of the Chief Accounts Officer were contrary to section 16(3) of the Delhi Road Transport Authority Act, 1950, under which the rules had been framed— 2R (CSL-1LS), paras 20-22. For other similar instances, *see* 3R (CSL-1LS), paras 30-31; 4R (CSL-1LS), paras 18-20; 6R (CSL-1LS), paras 29-31; 1R (CSL-2LS), paras 30-33, 62 and 72; 5R (CSL-2LS), paras 24 and 25; and 20R (CSL-5LS), para 111.

725. The provisions of rule 6A of the Cinematograph (Censorship) Rules, 1951, as inserted by SRO 85 of 1953, were regarded by the Committee as substantive which ought to have been incorporated in the relevant Act rather than in the rules—2R (CSL-1LS), paras 6-8. Subsequently, the provisions were incorporated in the Act—4R (CSL-2LS), p. 19, item 1; *see* also 2R (CSL-1LS) paras 23-24; 3R (CSL-1LS), para 8; 3R (CSL-2LS), paras 21-25; and 19R (CSL-5LS), para 27.

726. 'The Committee has observed that the power to impose fees by rules or bye-laws should expressly be given in the parent Act—, *see* 1R (CSL-2LS), paras 9-13, 67-72, 99-101 and 131-133; 2R (CSL-2LS), paras 9-11, 26-27, 35-40 and 55-59; 5R (CSL-2LS), paras 4-9; 22R (CSL-7LS), para 43; and 19R (CSL-8LS), para 49.

727. Provision of rule 6A was held by the Committee to oust the jurisdiction of courts and accordingly the provision was beyond the limits of rule-making powers—2R (CSL-1LS), paras 6-8; *see* also 1R (CSL-1LS), paras 14-17, and 26R (CSL-7LS), paras 28-29. 2R (CSL – 3LS), Para 29, 6R (CSL – 5LS), Paras 27-28, 17R (CSL – 7LS), Para 27, 21R (CSL – 8LS), Paras 12, 31 - 32, 4R (CSL – 10LS), Para 9.9. 3R (CSL – 11LS), Paras 3.3, 5.4, 5.5 & 7.4, 3R (CSL – 12LS), Para 1.4. 15R (CSL – 13LS), Para 1.5. 5R (CSL – 14LS), Para 2.5. 19R (CSL-15LS), para 2.6; 32R (CSL – 15LS), paras 3.5-3.6; 37R (CSL-15LS), para 2.4; and 6R (CSL-16LS), para 3.7.

gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power[728]; whether it involves expenditure from the Consolidated Fund of India or the Public Revenues; whether it appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made[729]; whether for any reasons its form or purport calls for any elucidation[730]; and whether there appears to have been unjustifiable delay in its publication[731] or in laying it before Parliament[732].

Normally, all 'orders' should be published before the date of their enforcement or they should be enforced from the date of their publication. However, if in any particular case the 'orders' have to be given retrospective effect in view of any unavoidable circumstances—the retrospection having otherwise legal validity—a clarification is required to be given either by way of an explanation in the 'orders' or in the form of a footnote to the relevant 'orders' to the effect that no one will be adversely affected as a result of the retrospective effect being given to such 'orders'[733].

While examining an 'order', the Committee also keeps in view the following points:

that it is couched in simple language[734]; that it contains, if it is an amending

728. *See* 3R (CSL-2LS), paras 7-9 and 6R (CSL-2LS), paras 18-19–*see* also *Indian Sugars and Refineries Ltd. v. State of Mysore and others,* A.I.R. 1960, Mysore 326; 2R (CSL-4LS), para 10; 7R (CSL-4LS), para 49; and 4R (CSL-6LS), para 9. 14R (CSL-5LS) Para 34, 19R (CSL-5LS) Paras 8-11, 4R (CSL-7LS) Paras 35-39, 7R (CSL-10LS) Paras 6-7, 3R (CSL-12LS) Para 8.4, 4R (CSL-12LS) Para 5.4, 3R(CSL-13LS) Para 3.5, 9R (CSL- 13LS) Para 6.7, 2R (CSL-14LS) Para 4.4, 15R (CSL-14LS) Para 4.5, 3R (CSL-15LS) Para 1.5, 4R (CSL-15LS), para 1.6;17R (CSL-15LS), para 1.3; 36 R (CSL-15LS), paras 1.4-1.5; 2R (CSL-17LS), para 1.10; and 6R (CSL-17LS), paras 1.6-1.7.

729. 2R (CSL-1LS), paras 25-27, 4R (CSL-1LS), paras 22-24; 2R (CSL-2LS), p. 17, item 6; and 2R (CSL-6LS), para 14.

730. On the recommendation of the Committee, the term "Port Authority" was subsequently defined in the Calcutta Dock Workers (Regulation of Employment) Scheme, 1956, 2R (CSL-2LS), p. 20, item 13. For another instance, *see* 4R (CSL-2LS), paras 12-13; 23R (CSL-7LS), para 67; 5R (CSL-16LS), paras 1.4-1.5; and 11R (CSL-17LS), para 10.

731. The Committee reported a number of cases where corrigenda to statutory rules, etc. had been published after an inordinate delay—*see* 6R (CSL-1LS), paras 26-28; and 6R (CSL-8LS), para 67 and also cases where unjustifiable delay has been caused in publication due to delay in Printing of Gazette Notification *see* 24R (CSL-10LS) Paras 2.8-2.13 & 2.15-2.16; 8R (CSL-14LS) Paras 4.2-4.5; 22R (CSL-14LS) Paras 1.12-1.13; 23R (CSL-14LS) Para 2.7; 3R (CSL-15LS), para 1.3; 4R (CSL-15LS), para 2.4; 16R (CSL-15LS), para 1.6; 19R (CSL-15LS), para 3.4; 22R (CSL-15LS), paras 3.5-3.6; 23R (CSL-15LS), para 1.3; 25R (CSL-15LS), paras 1.4-1.5, 32R (CSL-15LS), paras 1.5-1.6; 33R (CSL-15LS), para 1.3 &2.3; 38R (CSL-15LS), para 2.8; 39R (CSL-15LS), paras 3.8-3-9; 2R (CSL-16LS), paras 2.4-2.5; 10R (CSL-16LS), paras 3.5-3.6; 13R (CSL16LS), paras 1.9-1.10 & 1.13-1.14; 2R (CSL-17LS), para 1.7; 6R (CSL-17LS), para 1.3; 7R (CSL-17LS), para 1.6; and 13R (CSL-17LS), paras 1.5-1.6 & 1.9-1.10.

732. For instance, a total of 222 cases involving delay in the laying of the orders on the Table were reported by the Committee during the First Lok Sabha, 279 cases during the Second Lok Sabha and 160 cases during the Third Lok Sabha; 93 cases during the Fifth Lok Sabha see 3R (CSL- 6LS), para 7; and 99 cases during the Sixth Lok Sabha. The Committee also brought several matters before the House in the form of recommendation for delay in laying of Orders -Appending of explanatory note see 6R (CSL – 3LS), Para 38, 15R (CSL-14LS) Paras 1.4-1.5, 18R (CSL-14LS) Para 3.5, 21R (CSL-14LS) Para 4.8, 22R (CSL-14LS) Para 4.3, 23R (CSL -14LS), Para 1.9, 3R (CSL-15LS), para 3.7; 16R(CSL-15LS), para 1.4; 33R (CSL – 15LS), paras 3.3-3.4; 39R(CSL-15LS), para 1.9; 2R(CSL-16LS), para 1.3; 22R(CSL-16LS), paras 2.4-2.5; 26R(CSL-16LS), part-II, para 2; 4R(CSL-17LS), para 10; 10R(CSL-17LS), paras 4-6; 19R(CSL-17LS), paras 4-6; 24R(CSL-17LS), paras 37-39; and 27R(CSL-17LS), paras 29-30.

733. 2R, 5R and 7R (CSL-4LS), paras 10, 22 and 51, respectively.

734. 3R (CSL-1LS), para 9 and 6R (CSL-2LS), para 21.

regulation or rule, adequate references to the principle regulation, rules, etc., and to the last amendment, if any, so that one could keep a track of the amendments in the principal rules[735]; that it indicates exact statutory authority under which it has been made[736]; that it does not involve sub-delegation of legislative power without the authority of the parent Act[737] or where sub-delegation is authorised, it should not be wide and general, without proper safeguards[738]; that it is not likely to cause any hardship to any citizen on the ground of lack of 'adequate notice provisions'[739], that it does not contain provisions whereby the Executive is empowered to issue orders affecting the interests of citizens without affording them an opportunity of being heard, and without the right of appeal[740]; that it does not contain any provision which may result in arbitrary exercise of powers[741]; and that any of its provisions is not unjustifiable on general democratic principles[742] and is not ambiguous[743].

Where an Act provides that certain matters might be regulated by rules, regulations, etc. framed thereunder, the Committee considers and reports to the House if there has been an undue delay in framing such rules[744].

Since there is no general statutory obligation[745] on the Government to reprint

735. 3R (CSL-1LS), para 45. 3R(CSL-12LS), para 5.3; 2R(CSL-13LS), para 9.4; 5R(CSL-13LS), paras 4.2-4.3; 1R(CSL-14LS), para 2.4; 2R(CSL-14LS), para 3.4; 8R(CSL-14LS), para 4.7; and 3R(CSL-15LS), para 1.7.

736. 6R (CSL-1LS), paras 75-76; 1R (CSL-1LS), paras 76-86; and 2R (CSL-2LS), paras 4-8.

737. 2R (CSL-2LS), paras 41-43.

738. 6R (CSL-1LS), paras 8-13.

739. 3R (CSL-1LS), paras 16-19; and 6R (CSL-ILS), paras 57-59; *see* also 1R (CSL-1LS), paras 38-42.

740. 6R (CSL-1LS), paras 6-7; 6R (CSL-2LS), p. 16, item 2: 1R (CSL-2LS), paras 134-37 and S.O. 1671 of 1958; 2R (CSL-2LS), para 26(2) and S.O. 1670 of 1958 and 10R (CSL-16LS), para 1.5.

741. Certain Control Orders, issued under the Essential Commodities Act, 1955, conferred wide powers of search, seizures, etc. without safeguards like the presence of witnesses, preparation of inventory, etc., as required under the law of criminal procedure. At the instance of the Committee, the Control Orders were amended suitably— 6R (CSL-1LS), paras 15-17; 4R (CSL-2LS), paras 28-30, and 6R (CSL-2LS), p. 10, item 11, 8R (CSL-5LS), paras 8, 16 & 20; 17R (CSL-5LS), para 21; 12R (CSL-6LS), para 38; 3R (CSL-11LS), para 1.7; 4R (CSL-11LS), paras 1.4-1.5; 2R (CSL-12LS), para 4.10; 1R (CSL-14LS), para 1.25; 3R (CSL-14LS), para 2.4; 8R (CSL-14LS), para 1.5; 16R (CSL-14LS), para 4.6; 23R (CSL-14LS), para 1.6; 3R (CSL-15LS), para 2.4; 28R(CSL-16LS), part-II, para 8; 19R (CSL-17LS), para 38; and 28R (CSL-17LS), para 2.4

742. 6R (CSL-1LS), paras 18-22 and G.S.R. 958 of 1959.

743. 1R (CSL-1LS), paras 152-155 and S.R.Os. 2220-21 of 1957; 1R (CSL-2LS), paras 144-151 and 156-171. and 3R (CSL-2LS), paras 30-45, 7R (CSL-6LS), paras 50-51; 3R (CSL-8LS), para 11; 13R(CSL-8LS), para 16; 16R(CSL-8LS), paras 20-21; 17R(CSL-8LS), paras 8, 15, 83, 91 & 95; 19R(CSL-8LS), paras 20, 24 & 41-42; 9R(CSL-10LS), para 12; 3R(CSL-11LS), para 2.3; 13R(CSL-14LS), para 2.3; 16R(CSL-14LS), para 1.5; 21R(CSL-14LS), para 2.6; 23R(CSL-14LS), para 3.2; 2R(CSL-15LS), para 1.6; 3R(CSL-15LS), para 3.4; 5R(CSL-15LS), paras 1.8 & 3.4; 14R (CSL-15LS), para 1.3; 17R(CSL-15LS), paras 2.3-2.4; 22R (CSL-15LS), paras 2.3-2.4; 25R (CSL-15LS), paras 3.4-3.5; 32R(CSL-15LS), para 2.8; 36R(CSL-15LS), para 3.6; 38R(CSL-15LS), paras 3.3-3.4; 39R(CSL-15LS), para 2.7; 9R(CSL-16LS), para 4; 12R(CSL-16LS), para 1.5 and 13R(CSL-17LS), para 1.13.

744. 3R (CSL-2LS), paras 4-6; 5R (CSL-2LS), paras 32-35, where the Committee fixed a maximum period of six months within which rules should be framed after the commencement of the Act. The Committee also brought several matters before the House in the form of recommendations on instances of delay in framing of rules-*see* 24R (CSL-10LS), paras 1.7-1.9; 1R (CSL-14LS), para 3.12; 27R (CSL-15LS), para 5.4; 32R (CSL-15LS), para 2.8; 21R (CSL-16LS), para 1; 19R (CSL-17LS), paras 37-39; 24R (CSL-17LS), paras 23-27; 26R (CSL-17LS), paras 22-28; 27R (CSL-17LS), paras 37-40 and 28R (CSL-17LS), para 2.4,

745. The only Central Act which prescribes such a condition is the Sea Customs Act, 1878. Section 204 thereof lays down that all rules made under the Act and "for the time being in force, shall be collected, arranged and published at intervals not exceeding two years and shall be sold to the public at a

those orders which undergo extensive amendments, the Committee suggested to the Ministries concerned that such rules should be reprinted from time to time for the convenience of the public[746].

Procedure of Working

As soon as an 'order' is published in the Gazette[747] or laid on the Table, it is examined by the Secretariat to determine whether any of its provisions require to be brought to the notice of the Committee on any of the grounds specified in the Rule[748], or in accordance with any practice or direction of the Committee[749].

The Committee also takes cognizance of the representations/complaints received from individuals or organisations in regard to practical working of any rule/regulation and makes appropriate recommendations for modifications/amendments in the rules through its reports[750].

If in the course of examination of an 'order' it is considered necessary to seek a clarification regarding any point arising out of it, the matter is referred to the concerned Ministry for comments[751]. When the comments are received, the matter is re-examined and if it is considered necessary to bring any point or points to the notice of the Committee, a self-contained memorandum on each point is prepared for approval of the Chairperson of the Committee[752]. After the Chairperson's approval, the memoranda, together with copies or extracts of relevant 'orders', are circulated to the members of the Committee in advance of the date of the sitting[753].

At the sitting of the Committee, memoranda are taken up one by one and at the end of the discussion, the Chairperson, taking into account the trend of the discussion,

reasonable price".

746. For general recommendation of the Committee regarding reprinting of orders, etc., *see* 4R (CSL-1LS), paras 28-29. 3R (CSL-2LS), paras 46-52, 7R (CSL-10LS), Paras 28-29 regarding Committee's suggestions for printing and publication of statutory rules and orders.

747. All rules and regulations framed by the Central Government are normally required by the respective parent Acts to be published in the Gazette. They become operative only on such publication unless otherwise expressly laid down in the Act or the rules.

748. Rule 320.

749. In accordance with the recommendation of the Committee, an 'order' is examined to see whether it bears a short title and whether an explanatory note explaining the general purport of the 'order' is necessary and is attached to the 'order' for the convenience of the public concerned.—*See* 3R (CSL-1LS), paras 44 and 46, and 2R (CSL-2LS), p. 16, item 9; 22R (CSL-15LS), para 1.4; 36R (CSL-15LS), para 3.4 and 10R (CSL-16LS), para 4.6.

In the case of an amending 'order', it is also checked whether it contains adequate references to the principal 'orders'.—*See* 3R (CSL-1LS), para 45 and 7R (CSL-2LS), paras 33-35; 33R (CSL-15LS), para 2.5 and 38R (CSL-15LS), para 2.4.

750. For instance, *see* 16R (CSL-5LS), paras 104-128, 7R (CSL-8LS), para 7 and 19R (CSL-8LS), paras 1-8.

751. Dir. 105(2). In practice, on most points arising out of an 'order', the views of the Ministry concerned are obtained in the first instance so that both the opinion of the Secretariat and the point of view of the Ministry may be placed before the Committee at the same time.

At the instance of the Committee, the opinion of the Attorney-General has also been invited in some cases, *e.g.* on the Delhi (Control of Building Operations) Regulations, 1955; the Punjab Sugarcane (Prohibition of Use or Manufacture of Gur) Order, 1959; and the Exports (Control) Order, 1977. Opinion of Additional Solicitor General, India was also sought in case, *e.g.* on the National Highway Fee (Determination of Rates and Collection) Second Amendment Rules, 2014 [33R (CSL-16LS), para 3].

752. Dir. 105(3).

753. Dir. 106.

announces the decision of the Committee which is invariably unanimous and is recorded accordingly.

Sometimes when important legal issues arise out of an 'order' under examination of the Committee and if the Committee feels that an authoritative opinion of the Attorney-General is necessary, such opinion is invited and placed before the Committee in the form of a memorandum[754]. The Committee then takes a decision after taking into consideration the opinion of the Attorney-General.

Evidence of Officials

The Committee may call the Secretary of a Ministry or head of a Department to appear before them for giving evidence on any aspects of the 'orders' under examination of the Committee.

Study Tours

The Committee may also undertake study tour to any organisation for on-the-spot study and discussions with officials and representatives of the organisation about the impact of the 'orders' issued by the Government in pursuance of an act governing their functioning.

Presentation of Report

From time to time, the Committee reports to the House on various 'orders' examined by it or on any other matter connected therewith[755].

The introductory chapter begins with a paragraph indicating the number of the report and the fact that the Committee have permitted the presentation of the report to the House. The remaining paragraphs of this chapter *inter alia* show the number of the sittings held and also the date on which the Committee adopted the report.

Then follow the chapters dealing with the 'orders' in respect of which the Committee makes their observations and recommendations. Each chapter contains the point or points raised in respect of a particular rule or regulation, the substance of the reply, if any, given by the Ministry concerned and the views of the Committee. Normally the concluding chapter includes information about the action taken or proposed to be taken by the Government on various recommendations contained in the earlier reports of the Committee[756]. A summary of recommendations is appended at the end of the report.

The draft report, after being signed by the Chairperson, is circulated to the Members of the Committee in advance of the date on which it is to be considered/ adopted by the Committee. After adoption of the Report by the Committee, the Chairperson authenticates the Report and the same is presented to the House on the date fixed by the Chairperson.

After a report of the Committee is presented to the House, soft copy of the same is uploaded on members' e-portal. Reports of the Committee are not discussed in the House but on occasions the recommendations of the Committee have been referred

754. 1R (CSL-2LS), paras 70-71; and Min. (CSL-2LS), 16-4-1959, paras 13-16.

755. Rules 317 and 321.

756. 2R to 8R, 10R to 12R (CSL-2LS).

to by members during questions or debates in the House[757]. Sometimes, the 'orders' which are laid on the Table are discussed in the House[758]. When notices of motions for modification of 'orders' which have been laid on the Table are given by members, the Business Advisory Committee sometimes refers such motions to the Committee for consideration and report to the House before the motions are discussed. The Committee, after hearing the views of the members concerned, considers the suggested modifications and presents a report to the House. In such cases also, the report of the Committee is not discussed, but the members, in the course of the debate, may refer to the views expressed by the Committee in its report[759].

Implementation of Recommendations

The Committee keeps a constant watch on the implementation of their recommendations[760]. The Ministries concerned are asked to furnish from time to time a statement of action taken or proposed to be taken by them on the recommendations made by the Committee and on the assurances[761] given by them in the course of their correspondence with the Committee. The information so received is examined in the Secretariat and placed before the Committee in the form of a Action Taken Report with the approval of the Chairperson[762]. If a Ministry is not in a position to implement, or feel any difficulty in giving effect to, any recommendation, it represents to the Committee its case explaining the difficulty. The Committee, if satisfied with the views of the Ministry, either modifies or drops the recommendation[763]. If the reply of the Ministry is not satisfactory, the recommendation is pursued further[764]. The progress of implementation of the various recommendations is reported to the House by the Committee from time to time[765].

Committee on Government Assurances

Various assurances, promises and undertakings are given by Ministers from time to time on the floor of the House either to consider a matter, take action or to furnish information to the House later. In order to ensure that these assurances, etc. are implemented and in reasonable time, the Lok Sabha has constituted a Committee on Government Assurances. The Committee on Government Assurances is an innovation of Indian Parliament. Parliament made this innovation with a view to institutionalising the procedure to ensure the fulfilment of promises and undertakings given from time to

757. For details regarding discussion of statutory rules and regulations in the House, *see* Chapter 24, 'Subordinate Legislation'.

758. 5R (CSL-1LS).

759. *L.S. Deb.,* 7-9-1956, cc. 6185 and 6195.

760. The progress made in the implementation of the recommendations is shown in the form of statements appended to the reports of the Committee. *See* 2R-8R, 10R-13R (CSL-2LS), 16R (CSL – 5LS), Para 93; 21R (CSL – 15LS), Paras 7.3 & 8.3, 17R (CSL – 16LS), Para 2, 30R (CSL – 16LS), Para 4.

761. Sometimes when a point raised by the Committee is referred to the Ministry concerned, the Ministry accepts it forthwith and gives an assurance to remove the shortcoming. The Committee makes a note of such an assurance and report to the House. The implementation of such assurances is also watched by the Committee. *See* 13R (CSL-2LS), pp. 8-9, 6R (CSL-13LS) Para 6.5.

762. Dir. 108(1).

763. Dir. 108(2). *See* for instance, 2R (CSL-2LS), p. 24; 6R (CSL-2LS), p. 20.

764. 6R (CSL-2LS), p. 22. 40R (CSL - 16LS), Paras 18-24, 42R (CSL–16LS), Paras 15–22.

765. *L.S. Deb.,* (I), 24-2-1955, c. 176; and *L.S. Deb.,* 23-11-1954, cc. 798-800; 14-12-1954, cc. 2893-94; 28-2-1955, cc. 626-28; 28-7-1955, cc. 8753-54; 21-11-1955, cc. 121-28 and 8-12-1961, cc. 4038-39.

time by the Ministers on the floor of the House[766].

The Committee consists of not more than fifteen members who are nominated by the Speaker. The Chairperson of the Committee is appointed by the Speaker from amongst the members of the Committee. If, however, the Deputy Speaker is a member of the Committee, he/she is appointed as Chairperson. The Rules prohibit nomination of a Minister as a member of the Committee, and if a member, after that member's nomination to the Committee is appointed a Minister he/she ceases to be a member of the Committee from the date of such appointment[767]. The term of office of members of the Committee does not exceed one year[768].

The Committee was first nominated by the Speaker on 1 December 1953 with six members only. Nine members were subsequently nominated to the Committee by the Speaker on 13 May 1954[769]. In the life of the First Lok Sabha, the Committee was reconstituted twice thereafter, on 21 May 1955 and 13 June 1956. Since then the Committee has been reconstituted with fifteen members every year.

Functions

The Committee scrutinises the assurances, promises and undertakings given by the Ministers on the floor of the House from time to time in reply to questions or during the discussions on Bills, resolutions, motions, etc. and reports on the extent to which such assurances, etc. have been implemented and where implemented, whether such implementation has taken place within the minimum time necessary for the purpose[770].

The Committee has approved a standard list of expressions or forms which are treated as constituting assurances, undertakings, etc. given by the Minister[771]. These expressions, though not exhaustive, are meant for the guidance of the Committee. Any addition to, or deletion from these expressions is decided by the Committee.

On behalf of the various Ministers, the Ministry of Parliamentary Affairs is responsible for culling out assurances, etc. from the proceedings of the House. The Ministry of Parliamentary Affairs initially examines the Lok Sabha Debates and furnish to the Lok Sabha Secretariat, Statements of assurances within a week of the dates to which they relate. The Lok Sabha Secretariat also independently examines the Lok Sabha debates to mark the replies/statements of the Minister which constitute assurances[772]. Both of them are later reconciled and the concerned Ministries/ Departments of Government of India and the Ministry of Parliamentary Affairs are apprised of the assurances so culled out. Similarly the reply by a Minister treated by the Ministry of Parliamentary Affairs as an assurance, but which in the opinion of Lok Sabha Secretariat does not constitute an assurance is excluded from the list of pending assurances and a communication thereof is sent to the concerned Ministry as

766. In this respect, the Lok Sabha can claim to have to its credit pioneering work. *See* M.N. Kaul: *Parliamentary Procedure since Independence: First Parliament: A Souvenir, op. cit.,* pp. 31-32.

767. Proviso to Rule 324(I)—*see* for instance, Bn.(II), 20-2-1978 and 6-11-1980.

768. Rule 324(2).

769. H.P. Notfn. No. 404/C-54, 9-1-1954: *Gaz. Extra.* Pt. I. Sec. I, 13-1-1954.

770. Rule 323.

771. *Vide* 1R (CGA-1LS), para 11.

772. *Vide* 3R (CGA-1LS), p. 2; 1R (CGA-1LS), p. 2.

well as to the Ministry of Parliamentary Affairs for their exclusion.

If it is represented by a Ministry or Department that a particular statement of a Minister should not be treated as an assurance and if the Chairperson or the Committee feels unable to accept such representation, the Committee may hear a representative of the Ministry or Department concerned with the subject matter of the assurance before it decides whether the assurance should be dropped or pursued for its implementation.

Where necessary, the Chairperson or the Committee may refer the matter to the Speaker for guidance.

Implementation of Assurances

The Committee on Government Assurances has prescribed an outer limit of three months for the implementation of an assurance to be calculated from the date of its being given in the House[773]. However, if the Government foresees any genuine difficulty in implementing the assurance within the stipulated period, the Ministry concerned may submit to the Committee a request for extension of time as considered minimum for fulfilment of the assurance[774]. Normally, the Committee accedes to such requests unless it finds the request to be frivolous.

The assurances are, according to a decision taken by the Committee, categorised into three categories—A, B and C. Category 'A' consists of those assurances which pertain solely to the Union subject for the implementation of which action is to be taken or information is to be compiled by the Union Government only. In category 'B' come those assurances where the assurance pertains to a matter which is in the Concurrent List and information needed for implementation of the assurance pertains partly to the Union Government and partly to the State Government. Category 'C' consists of assurances which pertain to a matter which falls purely in the jurisdiction of the State Government and where action is to be taken or information supplied by the State Government(s) and the Union Government have to simply place it before the House. The Committee expects category 'A' assurances to be implemented within three months. In the case of category 'B' assurances one or more extensions may be given after three months if the information to be supplied by the State Government is still awaited. In the case of category 'C' assurances, the Committee grant extensions of time for implementation more liberally because the Union Government here are dependent solely on the State Government[775]. However, in practice this decision of the Committee has not been implemented keeping in view the practical difficulties of categorization of assurances. But in order to expedite implementation of pending assurances, the Committee on Government Assurances (2009-10) took a policy decision to call the representatives of the various Ministries/Departments of the Government of India in a phased manner, to review the pending assurances and also look at the reasons

773. Prior to April 1968, the period permissible for implementation of an assurance was two months. In April 1968, Government represented to the Committee to extend this period to six months. Not agreeing with the plea of the Government and stressing the need for the earliest implementation of assurances, the Committee agreed to increase the period to three months on an experimental basis. The matter was reviewed in November 1969 and the Committee confirmed the period of three months for implementation of assurances.

774. *Vide* 7R (CGA-4LS), para 6.

775. Min. (CGA), 11-1-1983 appended to 6R (CGA-7LS) and 4R (CGA-10LS), paras 1-9.

for pendency or the quality of assurances implemented by the Government. During the review, the Committee also ensures that the assurances are implemented fully or satisfactory by the Ministry/Department of Government of India concerned.

Similarly, if for any valid reasons the Government find that it is not feasible to implement an assurance given on the floor of the House, the Government have to approach the Committee and place the facts for its consideration. If the Committee agree that it is not possible to implement the assurance, it may recommend dropping of the assurance in its report to the House. On one occasion the Committee agreed with the Ministry concerned that it was not desirable to fulfil an assurance, given earlier, on the ground of secrecy or public interest[776]. The work of the Committee is of a continuous nature and it is generally the practice that the work of the Committee left unfinished at the end of the term is taken up by the succeeding Committee at the stage where it was left. Assurances do not lapse on the dissolution of the Lok Sabha. The first Committee appointed after constitution of the new Lok Sabha goes into the pending assurances and drops only those assurances which have lost their public importance and utility due to the efflux of time. The remaining assurances are pursued by the Committee for implementation[777].

Statements showing action taken by the Government in the implementation of the assurances, etc. given by Ministers in the House are laid periodically[778] on the Table by the Ministry of Parliamentary Affairs. The Committee, having noted a marked deterioration in the matters of disposal of pending assurances and observing that the delay in the implementation of unfulfilled assurances resulted in their importance being lost by the lapse of time, amended its rule to the extent that the statements showing action taken by the Government in the implementation of assurances may be laid on the Table by the Minister concerned. The idea in introducing this change in the procedure was to make the Ministries which delayed the action accountable to the House[779] and thus fasten responsibility on them for such lapses[780]. However, the amended Rule has not yet come into force, as the Minister of Parliamentary Affairs has undertaken to speed up the implementation of assurances by the various Ministers.

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776. 3R (CGA-1LS), para 7.

777. 1R (CGA-10LS), paras 6-10.

778. Rule 323. There is always a time-lag between the information supplied by the Minister concerned to the Minister of Parliamentary Affairs and its being laid on the Table by the Minister of Parliamentary Affairs. Min. (CGA), 5-11-1965.

    Questions may be asked in the House if a member is not satisfied with the reasons given or adequacy of the answer contained in the statement laid on the Table of the House.—*L.S. Deb.,* 26-8-1974, cc. 226-27; 27-8-1974, cc. 154-57.

779. Questions asked in the House during the August-September and November-December 1965 sessions further revealed that it is not always possible for the Minister of Parliamentary Affairs to explain the position of the pending assurances whenever specific enquiries are made by members in the House—*L.S. Deb.,* 23-9-1965, cc. 7175-76; 24-9-1965, cc. 7420-22; 10-11-1965, cc. 1103-06; 1-12-1965, cc. 4908-16; 9-12-1965, cc. 6599-603.

    Although the Minister of Parliamentary Affairs laid the statement, the Minister concerned with any particular assurance had to answer the criticism about the delay and on the merits of the matter. *Vide* 4R (CGA-3LS), paras 13-15.

780. Min. (CGA), 5-11-1965; 8-12-1965.

Further, as per the decision taken by the Committee on Government Assurances (2009-10), oral evidence of the representatives of the Ministry/Department concerned are undertaken with a view to expediting the disposal of pending assurances. After the conclusion of oral evidence of the representatives of a particular Ministry, the Committee on Government Assurances presents reports to the Lok Sabha. The Ministry of Parliamentary Affairs is also directed occasionally to impress upon various Ministries/Departments to scrupulously follow the instructions/guidelines issued by the former in this behalf. The Committee also direct that the Ministries/Departments concerned should review their system and ensure that the assurances are fulfilled within the prescribed time limit and the instructions issued in this regard are carefully complied with by all concerned[781].

The statements laid on the Table may be examined by the Secretariat. Such of the assurances as do not appear to have been fully or satisfactorily implemented, may be placed before the Committee for its consideration, as also the cases where, considering the nature of the assurances, inordinate delay has occurred in implementation thereof.

The Committee took up the task of reviewing long-pending assurances pertaining to 13th and 14th Lok Sabha. After examining the assurances, Committee took a considered view to dispose of all assurances pertaining to 13th and 14th Lok Sabha by either dropping or in some cases by causing laying of Implementation Report[782].

Study Tours

If during the course of examination of pending assurances or a statement laid about implementation of assurances, the Committee feels that it is necessary to undertake an on-the-spot study tour to have first-hand knowledge about reasons for delay in the implementation of an assurance or to find out whether the assurance has been adequately implemented within the minimum reasonable time, it may do so with the approval of the Speaker. Study tour notes of the Committee/ Study Group is prepared by the Secretariat and after approval by the Chairperson/ Convener, a copy thereof is kept with P.S. to Chairperson for reference of members of the Committee[783].

Evidence

If necessary, the Committee may call for officers of the concerned Ministries to give evidence before them in regard to action taken by the Government in the implementation of certain assurances[784]. The Chairperson of the Committee may also in an appropriate case call the Secretary of a Ministry or the Head of a Department or public undertaking to explain in person the reasons for delay in the implementation of the assurances which are pending for an unusually long time.

"The Committee on Government Assurances (2014-15) decided that the

781. Report No. 5 (15th Lok Sabha) of the Committee on Government Assurances presented to Lok Sabha on 05-05-2010.

782. Minutes of the Sittings of the Committee held on 22nd July 2020 and 11th August, 2020.

783. Committee Coordination Branch Circular No. 33002 dated 04.02.2022.

784. For instance, *see* 2R (CGA-1LS), para 20, 3R (CGA-1LS), para 5, 3R (CGA-8LS), para 7, 10R (CGA-8LS), para 5.

representatives of Ministry of Parliamentary Affairs, being the nodal ministry, shall also be called to appear before the Committee during oral evidences of Ministries/ Departments[785]."

Preparation and Presentation of the Report

After the examination of the action taken by the Government to implement the assurances, the extent to which they have actually been implemented and whether such implementation has taken place within the time necessary for the purpose, etc., the Committee forms its conclusions and recommendations for inclusion in the report. On the basis of these conclusions and recommendations, a draft report is prepared by the Secretariat. After the Chairperson's approval, the report is circulated to the members of the Committee and considered at a sitting held for the purpose.

After the Report has been adopted by the Committee, the Chairperson or in his absence another member of the Committee as authorised by the Chairperson presents the Report to the House. The Report of the Committee, as a convention, is not discussed in the House. The decisions of the Committee are unanimous and there is no minute of dissent to the Report[786].

In recent years there has been multi-fold increase in the activities of Committee on Government Assurances which has in turn resulted in an increase in presentation of Reports by the Committee. As compared to 2 reports presented during 2nd Lok Sabha, 10 Reports in 4th Lok Sabha, 39 Reports in 10th Lok Sabha and 40 Reports in 15th Lok Sabha, the Committee presented 101 Reports to the House during the 17th Lok Sabha.

Laying of Minutes

The Minutes of the sittings of the Committee usually form part of the Report which is presented to the House. Minutes of the sittings of the Committee are not laid on the Table of the House separately.

Committee on Absence of Members from the Sittings of the House

The Constitution provides that if for a period of sixty days a member is without permission of the House absent from all the sittings thereof, that member's seat may be declared vacant by the House[787]. Provision has accordingly been made in the Rules prescribing the method for seeking permission of the House by a member for remaining absent and, where it has become necessary, for the vacation of a seat. To deal with applications from members for leave of absence and other cognate matters, the House has constituted a Committee called the Committee on Absence of Members from the Sittings of the House.

The Committee consists of fifteen members nominated by the Speaker, and holds office for a term not exceeding one year[788].

785. Decision taken by the Committee on Government Assurances in their sitting held on 22nd September, 2014.

786. Dir. 68(3).

787. Art. 101(4).

788. Rule 325.

The Committee is constituted at the commencement of each Lok Sabha and reconstituted every year.

Prior to 12 March 1954, when this Committee was first constituted, applications received from members desiring leave of the House to remain absent from sittings thereof were considered by the House. On receipt, the application was read out to the House by the Speaker and the pleasure of the House was taken by him.

The procedure for granting leave was reviewed by the Rules Committee. Noting that in view of the increase in the number of cases of absence of members, it was difficult for the House to consider and decide such cases direct, the Rules Committee recommended that the House should appoint a Committee to examine the applications in the first instance and the House might consider the matter on a report made to it by the proposed Committee[789].

Functions

The functions of the Committee are[790].

to consider all applications from members for leave of absence from the sittings of the House; and

to examine every case where a member has been absent for a period of sixty days or more, without permission, from the sittings of the House and to report whether the absence should be condoned or circumstances of the case justify that the House should declare the seat of the member vacant[791].

Besides, the Committee performs such other functions in respect of attendance of members in the House as may be assigned to it by the Speaker from time to time[792].

Whenever a member is continuously absent from the sittings of the House for a period of forty days, without obtaining permission, a letter is addressed to that member by the Secretariat drawing his attention to the relevant provisions of the Constitution and the Rules of Procedure and advising that member to apply for leave of absence well in time. A further reminder is sent to the member when his continuous absence

789. Min. (RC), 17-12-1953, p. 2.

790. Rule 326. The Committee does not, however, consider those applications which request for leave of absence for a period of less than 15 days—7R (CAM-1LS).

791. The seat of a member who had been absent from the sittings of the House without permission for a long period was, on a motion moved and adopted by the House, declared vacant—18R (CAM- 1LS) and *L.S. Deb.,* 5-12-1956, cc. 1922-36.

792. The following points, raised by a member, were referred to the Committee by the Speaker for examination:

what the purpose is behind granting leave of absence for 59 days only in the first instance and not for the entire period applied for by a member; and

nature of transport difficulties experienced by a member who had advanced it as a reason for grant of leave—*L.S. Deb.,* 29-9-1955; and Min. (CAM-1LS), 13-12-1955.

On another occasion, the Speaker directed that the following point be referred to the Committee for consideration and report:

"Whether members who do not attend the sitting of the Lok Sabha in the first hour should be treated as absent for the whole day."

The matter was examined by the Committee on 29 May 1956, and a report thereon was presented to the Speaker.

amounts to fifty days[793]. On receipt of the reply or if no reply is received within a reasonable time, the case is considered by the Committee.

The previous practice was of addressing the member after the continued absence exceeded sixty days. It was later felt that unless applications for leave of absence were sent in time, there might be complications and the Committee might find it difficult to recommend condonation for the period of absence where applications were received after the expiry of sixty days of continuous absence[794].

Normally, the Committee recommends that the leave be granted or the absence condoned. It is only where disregard is shown to the House by a member of furnishing unsatisfactory explanation for continuous absence without permission from the sittings of the House for sixty days or more that the Committee recommends that the absence may not be condoned and the House should declare that seat vacant[795]. Such a report is presented to the House after the Speaker and the Leader of the House have agreed to the recommendations contained therein. Where leave of absence is applied for by members due to certain extraneous factors beyond their control, the Committee has brought such matters to the notice of Speaker and the Ministry concerned[796].

Proceedings in the Committee

After preliminary scrutiny by the Secretariat, all applications from members for leave of absence from the sittings of the House are placed before the Committee[797]— except those with requests for leave of absence for a period of less than fifteen days[798].

Generally, the memorandum containing particulars regarding all the leave applications to be considered by the Committee forms the main item of discussion by the Committee[799]. Each application is considered on its merits[800]. The Committee notes in particular that the period of leave of absence applied for by a member does not exceed sixty days and that the reasons stated by a member for the absence are not vague[801].

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793. Min. (CAM), 15-3-1956, paras 4 and 5, 13R (CAM-1LS); para 16; Min. (CAM-5LS) 24-3-1975, 11-4-1975, 25-7-1975.

794. 1R (CAM-1LS).

795. Rule 241; *see* also 18R (CAM-1LS), para 9(9). Where the reasons are considered satisfactory by the Committee, condonation of absence for over 60 days has been recommended. *See* 3R, 7R, 13R (CAM-1LS) and 20R (CAM-2LS).

796. While recommending grant of leave to a member who had applied for leave due to difficulties in getting a boat from Port Blair, the Committee suggested that in view of his standing complaint in this regard, the attention of the Ministry concerned should be drawn to this matter. Min. (CAM), 30-11-1954.

In another case where a member who was undergoing imprisonment and had applied for leave of absence on the ground that the appeals filed by him in the cases pending against him had not yet been heard, the Committee recommended grant of leave and suggested, that the matter be brought to the notice of the Speaker as the appeals had been pending for an unduly long time. Min. (CAM), 11-3-1955.

797. Rule 243. As already stated, before the Committee was constituted in 1954, every application for leave of absence was read out to the House by the Speaker.

798. Recommendation contained in 7R (CAM-1LS), adopted by the House, on 23-12-1954.

799. The particulars contained in the memorandum include the name of the member, date of application, period for which leave has been asked for, the total period of absence and reasons therefor.

800. lR(CAM-1LS).

801. 4R(CAM-1LS).

The Committee does not recommend leave of absence for more than fifty-nine days at a time to a member even if he/she has asked for a longer period[802]. In such cases, the member concerned is advised to apply again for the remaining period[803]. However, in the case of a member applying for leave of absence after the expiry of sixty days of continuous absence, the period of absence of the member upto the date of the application is recommended for condonation and grant of leave of absence is recommended for the period after the date of application[804].

Where an application for leave of absence from a member is on grounds of illness, the Committee does not insist on a medical certificate from the member concerned[805].

The recommendation of the Committee in respect of each application forms part of the report which is presented to the House within a day or two of the sitting of the Committee[806].

Minutes

The minutes contain decisions of the Committee on the applications for leave of absence considered by it. Any observation made by the Committee having a bearing on their procedure is also included in the minutes[807]. In cases where the Committee so desires, extracts from the minutes are also sent to the member whose application for leave of absence has been considered by it.

The minutes of sittings of the Committee held during a session are laid on the Table of the House towards end of the session.

Nature and Contents of the Report

The report of the Committee normally contains recommendations on applications for leave of absence after giving particulars regarding period of absence and the reasons therefor, and recommendations and decisions on other matters, if any, considered by the Committee.

After the report is presented to the House[808], generally two days elapse before the pleasure of the House is taken by the Speaker in respect of recommendations of the Committee in order to enable members to give notice of any point that they may like to raise on the report. An entry is made in the *List of Business*.

Where leave of absence is not recommended by the Committee in respect of any application, any member can move a motion that the House agrees or agrees with amendment or disagrees with the recommendation of the Committee in respect of that application[809].

802. This principle follows from Proviso to Rule 242 and the decision of the Committee that the leave applied for should not exceed a period of 60 days. *See* 1R (CAM-1LS).
803. 20R (CAM-1LS); 9R (CAM-2LS); *see* also Min. (CAM), 26-7-1965.
804. 7R (CAM-1LS); *see* also pp. 322-23, *supra.*
805. Min. (CAM), 26-7-1957; 17R (CAM-5LS), *L.S. Deb.,* 3-12-1974.
806. 1R (CAM-1LS).
807. Min. (CAM), 30-8-1958.
808. For detailed procedure after presentation of the Report to the House, *see* Chapter-16—'Leave of Absence of Members'.
809. Rule 328.

Where a report of the Committee contains recommendations regarding grant of leave of absence to members or condonation of their absence only, the report is not adopted by the House on a motion, but the Speaker takes pleasure of the House in respect of the recommendations of the Committee. Where, however, report contains recommendations in regard to certain other matters also, a motion for its adoption is moved in the House[810].

A report which exclusively dealt with grounds on which leave could be granted to members was adopted on a motion moved in the House[811].

Rules Committee

The Rules Committee is nominated by the Speaker and consists of fifteen members, including the Speaker who is the *ex-officio* Chairperson of the Committee[812]. While nominating members of the Rules Committee, efforts are made to give representation on the Committee to all the major Parties/Groups in the House. Upto the Third Lok Sabha, it was a normal practice to nominate the Deputy Speaker as a member of the Rules Committee. During the Fourth Lok Sabha (from 28 March 1967 to 1 November 1969), though the Deputy Speaker belonged to the Ruling Party, he was nominated to the Rules Committee. With the election of a member of the Opposition Party/Group in the Lok Sabha on 9 December 1969 as the Deputy Speaker, the practice of nomination of the Deputy Speaker to the Rules Committee has been discontinued. Since 1977, the Deputy Speaker is being invited to attend the sittings of the Rules Committee as a special invitee.

Apart from the members of the Committee, other members of the House may also be invited to attend particular sittings of the Committee either to provide representation to some sections of the House not already represented on the Committee[813], or to acquaint the Committee with their points of view on a matter before the Committee in regard to which they may have special knowledge or interest. The Committee have also, by invitation, heard the Attorney-General on matters involving complex and legal and constitutional issues[814]. While considering proposals made by a member and/or Minister for amendments or additions to the Rules, the member and/or Minister concerned may also be invited to explain to the Committee their viewpoint. As in the case of other Committees, the invitees, however, have no right of vote in the Committee.

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810. For instance, 4R (CAM-1LS) contained a special recommendation that leave should not be granted in future unless the reasons advanced in the applications were considered by the Committee to be proper. The report was adopted by the House—*L.S. Deb.,* 20-9-1954, cc. 2467-69. In 7R(CAM- 1LS). It was suggested that applications for leave of absence for a period of less than 15 days need not be brought before the Committee. The recommendation was accepted by the House—*L.S. Deb.,* 23-12-1954, cc. 3841-44.

811. 17R (CAM-5LS) adopted by Lok Sabha on 3 December 1974.

812. Rule 330.

813. *Ibid.,* 29-4-1958. Also *see* Minutes of sittings held during the subsequent Lok Sabha. As Cong. (O) was not represented on the Rules Committee (1971-72), S.N. Misra of that Group was made a special invitee to all sittings of the Committee. During the Sixth Lok Sabha, in addition to the Deputy Speaker, Leaders of Parties/Groups in the House and members who had given notices of amendments to rules were also invited to the sittings of the Committee.

814. *Ibid.,* 17-4-1956, para 4.

Functions

The functions of the Committee are to consider matters of procedure and conduct of business in the House and to recommend any amendments or additions to the rules that may be deemed necessary[815]. Suggestions for amendments or additions to the rules can be made by any member of the House[816], including a Minister, or by the Committee themselves[817].

All proposals for amendment and addition to the rules are first examined by the Secretariat and, after the Chairperson's approval, placed before the Committee in the form of memoranda stating the implications of each proposal. The memoranda are circulated to the members of the Committee well in advance of the sitting at which the proposals are to be considered by the Committee.

Proposals for amendment or addition to the rules based on suggestions made by members in the House or otherwise, or for removing difficulties in the working of the rules, or for giving a basis in the rules to the practice and conventions in the House are also made by the Secretariat for consideration of the Committee.

The draft report and minutes of the Committee are prepared by the Secretariat for the approval of the Chairperson.

Procedure for Amendment of Rules

The recommendations of the Committee are laid on the Table in the form of a report[818]. Any member may, within a period of seven days beginning with the day on which the recommendations are so laid, give notice of an amendment to such recommendations[819]. Any such notice given by a member stands referred to the Committee and after the expiry of the said period of seven days' a sitting of the Committee is held at which all such notices of amendments are considered[820].

If notice of an amendment to the recommendations is received from a member after the expiry of the prescribed period, that amendment is not placed before the Committee.

Members who give notices of amendments to the recommendations of the Committee are invited to attend the sitting of the Committee at which their amendments are considered so that they may acquaint the Committee with their point of view in regard to the amendments suggested by them[821]. Such members, however, withdraw after presenting their views to the Committee and the Committee then deliberate and

815. Rule 329.

816. Min. (RC) 31-8-1957, para 5; During the Sixth Lok Sabha, a D.O. letter was issued by the Speaker, Lok Sabha, to all the Leaders of the Parties and Groups inviting their suggestions/comments on the working of various rules. A para was also issued in *Bulletin Part-II* inviting comments/suggestions from members of the House on the working of the various rules. Several suggestions were made by members and the same were considered by the Rules Committee. The Rules Committee, after considering the matter, suggested certain changes in the practice regarding Question Hour, Calling Attention, etc. However, no formal amendment to any of the rules was recommended by them.

817. *Ibid.,* 9-5-1956, para 2-6.

818. Rule 331(1).

819. *Ibid*.

820. Rule 331(2).

821. Min. (RC), 10-9-1957, para 3.

formulate a decision[822].

The final report of the Committee, after taking into consideration the amendments suggested by the members is laid on the Table. Thereafter, on the House agreeing with the report on a motion made by a member of the Committee, the amendments to the Rules as approved by the House are published in the *Bulletin* under the orders of the Speaker[823].

While a motion for agreement of the House with the report of the Committee is before the House, the Speaker gives an opportunity to members who had given notices of amendments and whose amendments had not been accepted by the Committee to move their amendments and present their points of view[824].

If no notice of amendment to the recommendation of the Committee is received within seven days, the recommendations are deemed to have been approved by the House, and on the expiry of the said period the amendments to the rules as recommended by the Committee are published in the *Bulletin* under the orders of the Speaker[825].

The amendments to the rules, unless otherwise specified, come into force on their publication in the *Bulletin.*[826]

General Purposes Committee

The General Purposes Committee is constituted to consider and advise on such matters concerning the affairs of the House as may be referred to it by the Speaker from time to time[827]. The Committee consists of the Speaker, the Deputy Speaker, members of the Panel of Chairpersons, Chairpersons of all standing Parliamentary Committees, leaders of recognised Parties and Groups in the Lok Sabha and such other members as may be nominated by the Speaker[828]. The Speaker is the *ex-officio* Chairperson of the Committee[829]. If the Speaker, for any reason, is not present at any sitting of the Committee, the Deputy Speaker, and if he is not present, a senior member of the Panel of Chairpersons, takes the Chair.

The Committee may also invite a Minister or any other member to its sittings as special invitee[830].

The Committee was for the first time appointed by the Speaker on 26 November 1954, with the object that the Speaker might take into confidence, and have informal

822. *Ibid.,* 24-4-1956, para 5.

823. The amendments are also published in the Gazette of India, Extraordinary, Part 1, Section I, for general information.

824. *L.S. Deb.,* 26-4-1956.

825. Rule 331(3). The amendments are also published in the Gazette of India, Extraordinary, Part 1, Section I, for general information.

826. Rule 331(4).

827. 1R (GPC), Rule 2.

828. *Ibid.,* rule 1. In 1967, in addition to leaders of the CPI and the CPI(M) Groups, the Speaker nominated one more member each from these Groups to the General Purposes Committee. Bn. (II) dated 3-7-1967, para 248.

829. *Ibid.,* Rule 2.

830. Min., (GPC) 13-11-1967, 15-11-1968, 12-3-1969, 23-7-1971, 16-5-1972, 30-8-1973, 20-12-1973, 7-5-1974, 20-8-1974, 19-3-1975, 22-12-1980, 19-7-1982, 4-11-1982, 22-8-1983, 9-3-1984, 1-8-1984, 6-8-1985, 20-8-1985, 30-10-1985, 10-12-1985, 19-2-1986, 25-2-1986, 12-8-1986, 23-8-1990, 26-11-1991, 10-8-1992, 19-8-1992, 27-8-1993, 13-2-1995, 3-6-1995 and 12-3-1996.

consultations with, the representatives of the various Parties and Groups in the House in regard to the various directions in which the work of the House could be improved and organised on better lines so that in all such matters he might be able to proceed with their full support which meant practically the co-operation of the whole House[831].

The Committee considers and advises the Speaker on matters concerning the affairs of the House, which do not appropriately fall within the purview of any other Parliamentary Committees[832]. The Committee has so far considered a variety of subjects such as additional building requirements for the increasing parliamentary activities; adjournment of the House on the death of a sitting member; summoning of officers of State Governments to appear as witnesses for giving evidence before Committees of the House; provision of an automatic vote recorder; admission of visitors to the Central Hall during sessions of Parliament; maintenance of order within Parliament House Estate[833]; naming of new Parliament Building; observance of holidays by the Lok Sabha; functioning of Railway Catering Unit in Parliament House; requests for display of portraits, statues and busts, etc. of national leaders in Parliament House Complex; farewell to retiring Presidents; Twenty-fifth Anniversary of Independence of India; payment of subsidy to Northern Railway Catering Units; procedure regarding punishment to officers of Government in cases of breach of privilege; notice to the Speaker, Lok Sabha received from the Supreme Court of India in the matter of Special Reference No. 1 of 1974 under article 143 of the Constitution of India regarding Presidential election; treatment of proceedings of meetings of the Speaker with the leaders of Parties and Groups in the Lok Sabha at par with the proceedings of Parliamentary Committees for purposes of publication in newspaper[834]; a documentary film on 'Indian Parliament'; setting up of a Hall of National Achievements in Parliament House Annexe; setting up of a Parliamentary Museum and Archives; security arrangements in Parliament House; The Members of Lok Sabha (Disqualification on Ground of Defection) Rules, 1985; group photograph of members; accommodation for participants in the training Courses/Programmes organised by the Bureau of Parliamentary Studies and Training, etc.; Twenty-fifth Anniversary of the Constitution and Parliament; procedure for making obituary reference in the Lok Sabha; construction of new Parliament Library Building; tape-recording of proceedings of the Lok Sabha; use of pictorial representation of Parliament House; use of word 'Parliamentary' in their names by certain organisations; suggestion to increase the duration of the ringing of the division bells; preparation of Hindi version of Debates; simultaneous presentation of reports of Parliamentary Committees both in English and Hindi; simultaneous interpretation facility in all languages in the Lok Sabha; renovation of seats, etc.; tours by parliamentary Committees; supply of Diaries to members; telecasting of Proceedings of Parliament; computerisation and Modernisation (provision of better facilities to MPs and Officers); constitution

831. Min., (GPC-1LS), 26-11-1954.

832. 1R (GPC), rule 2.

833. In pursuance of the decision of the GPC on the matter, a new Direction 124A was issued by the Speaker.

834. The Speaker also issued an amendment to Dir. 55 to incorporate the above decision of the GPC.

of Departmentally Related Standing Committees; recital of National Anthem and National Song at the commencement and conclusion of every session; video films on parliamentary subjects; underground passage connecting Parliament House; Library Building and Parliament House Annexe; Members of Parliament Local Area Development Scheme; replacement of sound, simultaneous interpretation and automatic vote recording systems in the Lok Sabha Chamber; organizing of Mega Health Camps for Members, Ex-MPs etc. in PHA; construction of New Parliament Building; management of Catering Units in Parliament House Estate by ITDC; promotion of digital payment for catering services; remodeling of the existing Medical Centre, PHA; setting up of Parliamentary Research and Information Support for Members of Parliament (PRISM), etc.

Every year after the reconstitution of all standing Parliamentary Committees the question of reconstituting this Committee is reviewed by the Speaker. The Committee was not formally reconstituted during the Third Lok Sabha. However, the Speaker held several meetings with the leaders of Parties and the Groups on various matters.

The Committee may appoint one or more Sub-Committees for the detailed examination of particular matters. Members of the House other than those who are members of the Committee may also be appointed as *ad hoc* members of, or associated with, a Sub-Committee by invitation.

The Committee may make an on-the-spot study of any of the matters under its consideration[835].

Sittings of the Committee are held in private. The Committee may take evidence, where it finds necessary[836]. It may also send for persons, papers or records if it considers it necessary for the execution of its work[837]. A *verbatim* record of the proceedings of the Committee may be kept where it is deemed necessary to do so.

835. The Sub-Committee on Printing of Lok Sabha Papers visited the Government of India Press on 10 May 1955 for an on-the-spot study of the position regarding the printing of papers in the Press. The General Purposes Committee (1983-84) visited Plot No. 115 in connection with the construction of the Parliament Library Building.

836. Dr. Radha Kumud Mookerjee, a member of the Rajya Sabha, who had proposed that the Government should be moved to recast the State Emblem in the light of suggestion contained in his articles "New Light on Ashoka Chakra" and "Further Light on Ashoka Chakra", was invited to the sitting of the Committee on 28 July 1956, when the proposal was considered. *See* Min. (GPC-1LS), 25-7-1956. While considering Memo regarding construction of Parliament Library Building, GPC(1983-84) invited Director-General (Works), Ministry of Works and Housing, Chief Engineers(NDZ) and (Electrical), Chief Architect (CPWD), Vice-Chairman, D.D.A. and others. *See* Min. (GPC), 9-3-1984, 20-8-1985, 30-10-1985. The Committee, while considering draft Anti-Defection Rules, invited the Secretary (Ministry of Law and Justice) to its sittings. *See* Min. (GPC), 20-8-1985, 10-12-1985.

837. The Sub-Committee on new building for the Constitution Club called for the antecedents of the Chelmsford Club from the Ministry of Works, Housing and Supply, which were furnished by the Ministry.

The same sub-Committee also called for a comparative statement of the estimated expenditure on construction of a new building for the Club for mention and for acquiring the Chelmsford Club and providing additional facilities therein, from the Additional Chief Engineer, C.P.W.D. Report of Sub-Committee, para 7. The Sub-Committee on Printing of Parliamentary Papers (1980-81) examined the Secretary, Ministry of Works and Housing, Secretary, Department of Expenditure, Director of Printing and General Manager, Government of India Press, Minto Road. New Delhi. [Report of Sub-Committee of GPC (1980-81) on Printing of Parliamentary Papers].

The Committee may hold joint meeting with the General Purposes Committee of the Rajya Sabha and also hold meetings with leaders of Parties and Groups in the Rajya Sabha to consider matters concerning both the Houses[838].

The Committee does not present any report to the House. Where, however, any matter is referred to a Sub-Committee thereof, the Sub-Committee presents a report to the Speaker. If the Sub-Committee is appointed by the Speaker[839], the Speaker may pass final orders on the report or direct that it be placed before the whole Committee. If the Sub-Committee is appointed by the Committee[840], the report of the Sub-Committee is, with the approval of the Speaker, placed before the whole Committee[841].

Implementation of Recommendations

When recommendations of the Committee are required to be implemented by the Government, copies of the relevant minutes/Report of the Sub-Committee are sent to the Ministries concerned for necessary action.

The general rules applicable to Parliamentary Committees apply to the Committee with such adoptions, whether by way of modification, addition or omission, as the Speaker may consider necessary or convenient[842].

House Committee

The House Committee consists of not more than twelve members, including the Chairperson, and is nominated by the Speaker every year. A member can be renominated for another term to the Committee. The quorum to constitute a sitting of the Committee is five.

There was dissatisfaction among members of the Central Legislative Assembly in regard to arrangements for the allotment of residential accommodation and other administrative matters connected therewith.

A Committee was appointed in pursuance of a motion adopted in the Assembly on 14 September 1927, to consider the question of residence and accommodation for members of the Indian Legislature[843]. The Committee submitted its report

838. The General Purposes Committee held meetings with Leaders of Parties and Groups in the Rajya Sabha to consider Memo regarding celebration of the Twenty-fifth Anniversary of Independence of India in Parliament House and Sansadiya Soudh—*see* Min. (GPC), 24-5-1972; 2-8-1972; and 8-8-1972. A joint sitting of the General Purposes Committees of both the Houses was held on 26-11-1991 to consider telecasting of the proceedings of the Parliament.

839. Sub-Committees were appointed by the Speaker on adjournment of the House on the death of a member, former member or an outstanding personality (April 1955)**;** on Printing; and Accommodation and Maintenance of Parliamentary Buildings (May 1956 and July 1957). In pursuance of the decision of the GPC, the Speaker, in consultation with the Chairman, Rajya Sabha, appointed a Committee on Catering Establishments in Parliament House.—Min. (GPC), 30-8-1973.

840. Sub-Committees were appointed by the Committee on duration of sittings of Lok Sabha (November 1954), Printing of Parliamentary Papers (November 1954) and a new building for the Constitution Club (July 1956).

Sub-Committee on Portraits (1978, 1980 and 1986); on Printing of Parliamentary Papers (1980-81); to scrutinise the script of Film 'Indian Parliament' appointed as per a decision of GPC on 20-12-1983. Members of the Rajya Sabha were also nominated to the Sub-Committee by the Chairman, Rajya Sabha.

841. 1R (GPC) rule 10, *see* Min. (GPC), 8-5-1981.

842. *Ibid.,* rule 3—So far, no such adaption of the rules has been made.

843. The motion was moved on 5 September and was adopted, as amended, on 14 September 1927.

but in the meantime the Legislative Assembly Department was created and the work of allotment of accommodation to members was taken over by it. In November 1931, however, a representation signed by fifty-five members was made to the Speaker inviting his attention to the unsuitability and insufficiency of the accommodation provided to members. In pursuance of the representation, the Speaker, in consultation with party leaders, nominated a House Committee on 22 February 1932, consisting of ten members, including the Chairman[844]. Thereafter, the Committee has been constituted by the Speaker, from time to time.

The Committee works in an advisory capacity and its functions are:—

to deal with all questions relating to residential accommodation for members of the Lok Sabha; and

to exercise supervision over facilities for accommodation, food, medical aid and other amenities accorded to members in members' residences and hostels in Delhi.

All proposals, suggestions, etc. relating to members' residences and amenities are examined by the Secretariat in consultation with the executive authorities, where necessary. When a sufficient number of items for the consideration of the Committee is available, a date and time for a sitting of the Committee is fixed in consultation with the Chairperson. Representatives of the executive authorities concerned are also invited to apprise the Committee of the implications of the proposals under consideration and furnish such information as the Committee might ask for. A member other than members of the Committee may, on request, be permitted by the Chairperson to attend a sitting of the Committee but without the right to vote.

The Committee do not present any report as such. The minutes of the sittings of the Committee are circulated to all the members of the Committee and relevant extracts therefrom are forwarded to appropriate authorities for necessary action. The Committee is informed from time to time about the progress made in regard to implementation of its recommendations. The recommendations made by the Committee are generally implemented by the Government. In case the Government are unable to implement any recommendation, their objections are considered by the Committee and its earlier recommendation modified, if necessary.

The Committee can appoint one or more Sub-Committees, each having the powers of the undivided Committee, to examine any specific points relating to the residential accommodation, food, medical aid and other amenities in members' residences.

There is an Accommodation Sub-Committee which is a standing Sub-Committee to advise on the allotment of residential accommodation to the members. The Sub-Committee consists of not more than four members, including the Chairperson of the Committee who is its *ex-officio* Chairperson. The quorum to constitute a sitting of the Sub-Committee is two. An appeal against the decision of the Committee or the

L.A. Deb., 5-9-1927, pp. 3968-72; 14-9-1927, pp. 4332-35. The Council of State was also requested to associate with the Committee—*C.S. Deb.,* 19-9-1927, pp. 1276-78.

844. *L.A. Deb.,* 22-2-1932, pp. 1017-18.

Accommodation Sub-Committee lies to the Speaker whose decision is final.

Proposals, suggestions, etc. which are of common interest to members of both the Houses are considered and decided by the Chairpersons of the House Committees of both the Houses, at joint sittings, if so authorised by their respective House Committees. The secretarial functions for such sittings are performed by the Lok Sabha Secretariat, but the minutes are approved by both the Chairpersons.

After the dissolution of the Lok Sabha, allotment of residential accommodation to members of the new Lok Sabha is made by the Secretariat under the directions of the Speaker till a new House Committee is constituted.

Library Committee

Founded in 1921, the Parliament Library caters to the information needs of members of both the Houses. With a view to advising him on matters concerning the Library, the Speaker has constituted an Advisory Committee called the Library Committee. The Committee was first constituted by an announcement made by the Speaker in the Provisional Parliament on 21 November 1950.

The Library Committee is constituted every year as per provisions laid down in the Appendix II of the "Rules of Procedure and Conduct of Business in the Lok Sabha."

The Committee, consists of six members from the Lok Sabha nominated by the Speaker, and three members from the Rajya Sabha nominated by the Chairman of Rajya Sabha. The Chairperson of the Committee is appointed by the Speaker from amongst members of the Committee; provided that the Deputy Speaker, in case is a member of the Committee, shall be appointed as Chairperson of the Committee. Casual vacancies in the Committee are filled by nomination by the Speaker in respect of the members from Lok Sabha, and by the Chairman of Rajya Sabha in respect of the members from Rajya Sabha. The Committee holds office for a term not exceeding one year.[845]

The functions of the Committee are:—

to consider and advise on such matters concerning the Library as may be referred to it by the Speaker from time to time;

to consider suggestions for the improvement of the Library; and to assist members of Parliament in fully utilising the services provided by the Library. The main function of the Committee is thus to help members in the use of the material available in the Library and make use of the services of the staff provided therein. The Committee in a way acts as a liaison between the members of Parliament and the Library. It also encourages members to make helpful and constructive suggestions for the development of the Library and its Reference Service. It advises the Speaker on matters pertaining to the Library, *e.g.,* selection of books, framing of rules, future planning, etc.

The Library Committee keeps a watch on the quality and quantum of all acquisitions of the Library and gives comments and suggestions to further improve the functioning of the Parliament Library and its ancillary services.

845. Rule 1(2) of Library Committee Rules.

The sittings of the Library Committee are held as and when necessary. Minutes of the sittings are kept but the Committee does not as such present any report to the Houses or the Speaker.

Joint Committee on Salaries and Allowances of Members of Parliament

The Joint Committee on Salaries and Allowances of Members of Parliament was constituted for the first time on 6 September 1954, to frame rules under the Salaries and Allowances of Members of Parliament Act, 1954[846]. It consists of ten members from the Lok Sabha nominated by the Speaker, and five members from the Rajya Sabha nominated by the Chairman of Rajya Sabha. The Joint Committee is reconstituted from time to time but the members hold office for one year from the date of their nomination[847].

The functions of the Committee are to make, after consultation with the Government of India, rules to provide for matters like medical, housing, telephone facilities, constituency allowance, advance for the purchase of conveyance, etc., and generally for regulating the payment of daily and travelling allowances under the Act[848].

The Committee is empowered to regulate its own procedure[849]. All questions at any sitting of the Committee are determined by a majority of the members present and voting. The quorum to constitute a sitting of the Committee is five, and the secretarial functions for the Committee are performed by the Lok Sabha Secretariat.

The Committee can appoint one or more Sub-Committees, each having the powers of the undivided Committee to examine any matter that might be referred to them.

Copies of the minutes as approved by the Chairperson are circulated to the members of the Committee, the Rajya Sabha Secretariat and the Ministry of Parliamentary Affairs. The Committee does not present any report to either of the two Houses.

Rules[850] made by the Committee do not take effect until they are approved and confirmed by the Presiding Officers of the Houses and are published in the Gazette and such publication of the rules is conclusive proof that they have been duly made[851].

Joint Committee on Offices of Profit

A person is disqualified for being chosen as, and for being, a member of either House of Parliament if he/she holds any office of profit under the Government of India or the Government of any State other than an office declared by Parliament by law not

846. The Salary, Allowances and Pension of Members of Parliament Act, 1954, s. 9(1).

847. *Ibid.,* s. 9(2A).

848. *Ibid.,* s. 9(3). The Joint Committee has framed Housing and Telephone Facilities (Members of Parliament) Rules, 1956; Members of Parliament (Travelling and Daily Allowances) Rules, 1957, as amended on 11.05.2022(Add By MSA); Medical Facilities (Members of Parliament) Rules, 1959; Members of Parliament (Allowances for Journeys Abroad); Rules, 1960; Members of Parliament (Constituency Allowance) Rules, 1986; and Members of Parliament (Advance for the purchase of Conveyance) Rules, 1986.

849. *Ibid.,* s. 9(2); *see* also Rules of Procedure of the Joint Committee on Salaries and Allowances of Members of Parliament, The Payment of Family Pension(Submission of Documents) Rules, 2021.

850. *Ibid.,* s. 9(3).

851. *Ibid.,* s. 9(4).

to disqualify its holder[852]. Parliament has passed legislation on the subject[853]. But as new Committees, Commissions, etc. are set up by the Government (hereinafter referred to as Government Committees) to which members are also appointed, it was felt that a continuous scrutiny of the matter was necessary. This work is performed by the Joint Committee on Offices of Profit.

The Committee is constituted on the adoption of a motion to that effect by the House and concurred in by the Rajya Sabha[854]. The Committee consists of fifteen members, ten from the Lok Sabha and five from the Rajya Sabha elected from amongst the members of each House respectively according to the principle of proportional representation by means of the single transferable vote. A casual vacancy occurring in the Committee from amongst members of the Lok Sabha is filled on a motion[855] adopted by the Lok Sabha in that behalf, while in the case of the Rajya Sabha the vacancy is filled on a motion adopted by the Lok Sabha recommending to the Rajya Sabha to fill that vacancy[856].

The Committee is constituted for the duration of each Lok Sabha[857]. The Chairperson of the Committee is appointed by the Speaker from amongst the members of the Committee.

Although certain enactments had been passed by Parliament keeping in view the provisions of article 102(l)(a), it was felt that none of them met comprehensively the needs of the situation. Upon representation from members of Parliament, Speaker Mavalankar, in consultation with the Chairman of the Rajya Sabha, appointed on 24 August 1954, a Committee on Offices of Profit (known as the Bhargava Committee after its Chairman, Pt. Thakur Das Bhargava) to make recommendations, *inter alia,* in order to enable the Government to consider the lines along which a comprehensive legislation should be brought before the House. In pursuance of the recommendations of the Committee, the Government introduced in the Lok Sabha on 5 December 1957, the Parliament (Prevention of Disqualification) Bill, 1957. It was referred to a Joint Committee of the Houses and its report was presented to the Lok Sabha on 10 September 1958[858].

As recommended by the Joint Committee and in implementation of the assurance given by the Minister of Law in this behalf [859], a Parliamentary Joint Committee on Offices of Profit for the duration of the Second Lok Sabha was constituted[860] in August 1959, with a membership of fifteen, 10 from the

852. Art. 102(l)(a). *See* also Chapter 6—Office of Profit.

853. The Parliament (Prevention of Disqualification) Act, 1959.

854. *L.S. Deb.,* 3-8-1959, c. 146 and *R.S. Deb.,* 31-8-1959, c. 2309; *L.S. Deb.,* 8-6-1962, c. 9742, and *R.S. Deb.,* 16-6-1962, c. 760; *L.S. Deb.,* 5-6-1967, cc. 2959-63 and *R.S. Deb.,* 23-6-1967; *L.S. Deb.,* 15-6-1971, cc. 195-198 and *R.S. Deb.,* 25-6-1971; *L.S. Deb.,* 25-11-1980, cc. 254-57 and *R.S. Deb.,* 23-12-1980; *L.S. Deb.,* 2-4-1985, cc. 264-67 and *R.S. Deb.,* 13-5-1985.

855. *L.S. Deb.,* 13-3-1961, cc. 4661-62.

856. *Ibid.,* 4-4-1960, cc. 9576-77 and *R.S. Deb.,* 14-4-1960, cc. 843-44; *L.S. Deb.,* 28-11-1985, cc. 265-66 and 14-3-1986, cc. 288-89 and *R.S. Deb.,* 10-3-1986.

857. *L.S. Deb.,* 3-8-1959, c. 146; 8-6-1962, c. 9742.

858. For details, *see* Chapter 6—'Office of Profit.'

859. *L.S. Deb.,* 2-12-1958, cc. 2647-62.

860. Motion adopted by the Lok Sabha on 3 August 1959, and concurred in by the Rajya Sabha on 31 August 1959.

Lok Sabha and 5 from the Rajya Sabha. Its terms of reference were:

> to examine the composition and character of all existing 'Committees' [other than those already examined by the Joint Committee to which the Parliament (Prevention of Disqualification) Bill, 1957, had been referred] and all 'Committees' that may thereafter be constituted, membership of which may disqualify a person for being chosen as and for being a member of either House of Parliament under article 102 of the Constitution;
>
> to recommend in relation to the 'Committees' examined by it as to what offices should disqualify and what offices should not disqualify; and
>
> to scrutinise from time to time the schedule to the Parliament (Prevention of Disqualification) Act, 1959, and to recommend any amendments in the said schedule, whether by way of addition, omission or otherwise.

A Committee with almost similar terms of reference was constituted for each new Lok Sabha excepting the Sixth Lok Sabha.

Procedure of work

All Ministries of the Government of India, Chief Secretaries of the State Governments and Administrators of Union territories furnish from time to time for the consideration of the Committee relevant information in respect of Government Committees (which include commissions, boards, etc.) constituted by them. A detailed memorandum is then prepared by the Secretariat for the consideration of the Committee in respect of each Government Committee, giving, *inter alia,* the following information:

> (i) whether it is a purely advisory Committee/Body, or whether it also wields influence or power by way of patronage; whether it is a non-advisory Committee which carries executive, legislative or judicial powers, or confers powers of disbursement of funds, allotment of lands, issue of licences, etc., or gives powers of appointment, grant of scholarship, etc., and whether it is an office of an occasional or contractual nature; and
>
> (ii) whether the holder draws any remuneration other than the 'compensatory allowances' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959.

The Committee, after examination of the relevant information in respect of each Government 'Committee', records its recommendation whether it should be placed in Part I or Part II of the schedule[861] to the Parliament (Prevention of Disqualification) Act, 1959, or whether it should be exempted from disqualification.

The Committee recommends from time to time in its reports to the Lok Sabha, in relation to the Government 'Committees' examined by it as to what offices should disqualify and what offices should not disqualify to or on any other connected matter.

Simultaneously with the presentation of the report to the Lok Sabha, a copy thereof is laid on the Table of the Rajya Sabha by a member of that House on the Committee

861. Part I of the Schedule to the Parliament (Prevention of Disqualification) Act, 1959, enumerates the 'Committees' whose Chairman, and Part II enumerates the 'Committees' whose Chairman and Secretaries are not exempted from disqualification for being chosen as or for being a member of Parliament.

who is specifically authorized by the Committee in that behalf.

Committee on Welfare of Other Backward Classes

Introduction

On 21 December 2011, a motion[862] for constitution of the Committee on Welfare of Other Backward Classes was adopted by Lok Sabha and concurred in by the Rajya Sabha on 22 December 2011. Accordingly, the Committee was constituted[863] first time on 29th June 2012 during the 15th Lok Sabha. The Committee consists of thirty members, twenty from Lok Sabha and ten from Rajya Sabha. Members are elected to the Committee by the respective Houses of Parliament from amongst their Members in accordance with the system of proportional representation by means of the single transferrable vote. A casual vacancy occurring in the Committee is filled on a motion adopted by the Lok Sabha in that behalf, while in the case of the Rajya Sabha the vacancy is filled on a motion adopted by the Lok Sabha recommending to the Rajya Sabha to fill that vacancy. A Minister is not elected as a member of the Committee. If a member, after his election to the Committee is appointed as a Minister, he ceases to be a Member of the Committee from the date of such appointment. The term of the Committee is one year from the date of its first sitting. The Chairperson of the Committee is appointed by the Speaker from amongst members of the Committee. The quorum to constitute a sitting of the Committee is ten.

Functions of the Committee

The functions of the Committee are–

(a) to consider the reports submitted by the National Commission for Backward Classes set up under Article 338B of the Constitution and to report to both the Houses as to the measures that should be taken by the Union Government in respect of matters within the purview of the Union Government including the Administration of the Union Territories;

(b) to report to both the Houses on the action taken by the Union Government and the Administration of the Union Territories on the measures proposed by the Committee;

(c) to examine the measures taken by the Union Government to secure the representation of the Other Backward Classes, particularly the Most Backward Classes, in services and posts under its control (including appointments in the public sector undertakings, statutory and semi Government Bodies and in the Union Territories) having regard to the provisions of the Constitution;

(d) to report to both the Houses on the working of the welfare programmes for the

862. The motion was moved by Shri Pawan Kumar Bansal, the then Union Minister of Water Resources and Parliamentary Affairs.

863. The Committee was constituted at the commencement of the 16th Lok Sabha and thereafter reconstituted every year. The last term of the Committee (2018-19) was ending on 24.1.2019. However, in the preceding Winter Session of 2018, the term of the Committee was extended by adoption of a motion by Lok Sabha on 20 December, 2018 and concurred in by Rajya Sabha on 4.1.2019 till dissolution of 16th Lok Sabha (25th May, 2019).

During the 17th Lok Sabha, the Committee was constituted for the term 2019-20 consequent upon adoption of a motion by Lok Sabha on 24 June, 2019 and concurred in by Rajya Sabha on 3 July, 2019. There was no Committee during the term 2020-21. The Committee was constituted for the terms 2021-22, 2022-23 and 2023-24 on 24 June, 2021, 11 October, 2022 and 16 October, 2023, respectively.

Other Backward Classes in the Union Government including the Administration of Union Territories;

(e) to consider generally and to report to both the Houses on all matters concerning the welfare of the Other Backward Classes which fall within the purview of Union Government including the Administration of Union Territories; and

(f) to examine such matters as may deem fit to the Committee or are specifically referred to it by the House or the Speaker.

The Committee shall, from time to time, report to both Houses of Parliament in respect of all or any of the aforesaid matters.

Major Recommendations

The Committee recommended *vide* their First, Second, Third and Fifth Reports (15th Lok Sabha) for granting Constitutional status to the National Commission for Backward Classes (NCBC) for making it more effective. Consequently, the Constitution (102nd Amendment) Act, 2018 was passed with a view to accord Constitutional status to the National Commission for Backward Classes (NCBC).

The Committee (2019-20) *vide* their 2nd Report (17th Lok Sabha) recommended for reservation in favour of OBC students in admission to Kendriya Vidyalaya/Navodaya Vidyalaya and Sainik Schools/Rashtriya Military Schools which was accepted and implemented from the academic session 2020-21 and 2021-22.

Committee on the Welfare of Scheduled Castes and Scheduled Tribes

The Constitution provides several safeguards for the Scheduled Castes and Scheduled Tribes, as also the machinery to watch the implementation of the safeguards[864]. In pursuance of constitutional provision[865] a special officer designated as the Commissioner for Scheduled Castes and Scheduled Tribes was appointed in 1950 and since then had been presenting reports to the President, which *inter alia* brought to the notice of the authorities concerned any waste and insufficiency noticed by him in the implementation of the welfare schemes for the Scheduled Castes and Scheduled Tribes. Parliament could hardly spare the time for necessary scrutiny in detail of the points raised in these reports. It was accordingly felt necessary that this work should be entrusted to a standing Parliamentary Committee and suggestions to that effect were made by several members when the Fourteenth and Fifteenth Reports of the Commissioner were being discussed in the Lok Sabha[866].

A Committee of both the Houses of Parliament, called the Committee on the Welfare of Scheduled Castes and Scheduled Tribes, was, therefore, constituted on a motion adopted by the Lok Sabha on 30 August 1968[867]. The motion was concurred in by the Rajya Sabha on 25 November 1968[868].

By the Constitution (Sixty-fifth) Amendment Act, 1990 which came into force from

864. Relevant articles are 15(4), 16-17, 330, 332, 334-335, 338 and 341-342.

865. Art. 338.

866. *L.S. Deb.,* 2-8-1967, 3-8-1967, 7-8-1967 and 8-8-1967.

867. *Ibid.,* 30-8-1968, c. 3542.

868. *R.S. Deb.,* 25-11-1968, cc. 1271-79.

12 March 1992, the Office of the Commissioner for Scheduled Castes and Scheduled Tribes was abolished and replaced by the National Commission for Scheduled Castes and Scheduled Tribes. Consequent upon the implementation of the Constitution (Eighty-ninth) Amendment Act, 2003 in February 2004, the National Commission for Scheduled Castes and Scheduled Tribes was bifurcated into two separate Commissions *viz.,* the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes.

Composition

The Committee consists of thirty members—twenty from the Lok Sabha and ten from the Rajya Sabha—elected in accordance with the system of proportional representation by means of the single transferable vote. The Chairperson of the Committee is appointed by the Speaker from amongst the members of the Committee.

The term of the Committee was initially for two years from the date of the first meeting of the Committee[869]. It is now one year as in the case of other Parliamentary Committees[870].

Functions

The functions of the Committee are[871]:

(a) to consider the reports submitted by the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes under Articles 338(5)(d) and 338A(5)(d) respectively of the Constitution and to report as to the measures that should be taken by the Union Government in respect of matters within the purview of the Union Government, including the Administrations of the Union Territories;

(b**)** to report on the action taken by the Union Government and the Administrations of the Union territories on the measures proposed by the Committee;

(c**)** to examine the measures taken by the Union Government to secure due representation of the Scheduled Castes and the Scheduled Tribes in services and posts under its control (including appointments in the public sector undertakings, statutory and semi-Government bodies and in the Union territories) having regard to the provisions of article 335;

(d**)** to report on the working of the welfare programmes for the Scheduled Castes and the Scheduled Tribes in the Union territories;

(e**)** to examine such matters as may seem fit to the Committee or are specifically referred to it by the House or the Speaker.

There are instances where the Speaker referred to the committee the notices tabled by members about specific cases of atrocities on Harijans for enquiry (i) through the erstwhile Commissioner for Scheduled Castes and Scheduled Tribes[872] or (ii) by the

869. The first meeting of the Committee was held on 18-12-1968.

870. Rule 331B(2).

Two motions for extension of the term of office of the members of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes from Lok Sabha and Rajya Sabha were adopted after the House suspended sub-rule (2) of Rule 331B—*L.S. Deb.,* 28-7-1975, cc. 11-13; *R.S. Deb.,* 30-7-1975, cc. 4-6 and *L.S. Deb.,* 5-2-1976, cc. 13-15, *R.S. Deb.,* 6-2-1976, c. 10.

871. Rule 331A.

872. Notices tabled by three members for raising matters under Rule 377 regarding (i) Murder of two

Committee itself[873]. In one case, the House after considering the situation arising out of large-scale disturbances and some killings in Marathwada adopted a motion asking the Committee to investigate and identify those who are responsible for such incidents and to suggest remedies to meet the present situation and prevent recurrence thereof in any part of India in future[874].

A Study Group of the Committee visited the affected areas and the Committee presented a report excluding incidents in the Nagpur Municipal Area about which a judicial enquiry had been ordered by the State Government[875].

In another atrocity-related instance, the Committee visited the affected Mirchpur village in Hissar District of Haryana and presented a report about which a Judicial enquiry had been ordered by the State Government. The report was laid in both Houses of Parliament on 30 August 2010.

The Committee also visited some of the villages of Jind and Kaithal districts in Haryana where atrocities against the Scheduled Caste women were reported. The Committee met the affected women and their family members and held discussion with the State Government officials and directed them to take stringent action against the accused and release compensation to the victims as per the SC/ST Prevention of Atrocity Act, 1989 and to provide security to the SC/ST women in Haryana. The Committee laid their report in both the Houses of Parliament on 19 December 2012.

Procedure in the Committee

The Committee has made rules of procedure for its internal working. These rules are broadly based on the Rules relating to the financial Committees, namely, the Committees on Public Accounts, Estimates and Public Undertakings. The Committee, *inter alia,* can examine witnesses, both official and non-official, and may send for papers, persons and records in connection with the examination of subjects, and can call for statements showing action taken by the Government on the recommendations made by it in its reports.

Selection of Subjects

The Committee selects, from time to time, such subjects as it deems fit and as fall within the scope of its terms of reference. The Ministry/Department/Undertaking/ Nationalised Bank are asked in writing to furnish a detailed note and material on the subject selected by the Committee. The same, when received, is circulated for the use of the members of the Committee. On the basis of the material received and suggestions made by the members of the Committee, questionnaires for elucidating further information from the Ministry/Department, etc., are prepared. In preparing the questionnaire, the recommendations made by the National Commission for the

Harijans of Village Amli Kaur (Distt. Banda) and (ii) Murder of a Harijan agricultural labour in Village Budhachak (Distt. Patna) were referred by the Speaker to the Committee for enquiry through the Commissioner for Scheduled Castes and Scheduled Tribes. The Committee after getting information from the Commissioner, took evidence of the representatives of Ministry of Home Affairs and presented the 51 Report (5LS) on 31 March 1976.

873. On 6 December 1976, the Speaker informed the Lok Sabha that he had referred a number of complaints about atrocities on Harijans to the Committee for enquiry and report. These instances were covered by the Committee in its report.

874. *L.S. Deb.,* 14-8-1978, c. 466.

875. 39 Report (5LS) presented on 30 April 1979.

Scheduled Castes and the National Commission for the Scheduled Tribes in their reports are also taken note of.

Sub-Committees/Study Group

The Committee is authorised to constitute sub-Committees.

The functions of one such sub-Committee, if constituted, is to study in detail the Reports of the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes. The Committee may appoint from time to time a number of Study Groups for intensive study of different subjects concerning the welfare of the Scheduled Castes and Scheduled Tribes, including one Study Group on Procedure and Action Taken Reports.

Representations

Ever since the constitution of this Committee, complaints/representations from the Scheduled Castes and Scheduled Tribes ventilating their grievances on matters pertaining to their welfare have been coming to the Committee. The complaints/ representations received in the Secretariat are examined and in all apparently genuine cases, they are referred to the Ministries concerned for factual comments.

In the light of facts received, if the Ministry/Department/Undertaking satisfactorily explains the position or redresses the grievance, the representationist concerned is apprised of the position. Where, however, a question of policy or principle is involved the matter is, with the approval of the Chairperson**,** is placed before the Committee/ Study Group on Procedure for consideration and further directions. Complaints/ representations falling within the purview of States Governments are forwarded to the Chief Secretary of the State Governments concerned for due consideration and disposal.

On-the-spot Study Visits

The Committee undertakes on-the-spot visits in connection with subjects selected for examination and to examine representation of Scheduled Castes and Scheduled Tribes in services along with socio-economic conditions of Scheduled Castes/Scheduled Tribes in various States/Union Territories. The Committee may divide itself into two or three Study Groups for purposes of study visit. On return from the tours, Tour Reports are prepared and laid on the Tables of the Lok Sabha/Rajya Sabha. After laying of reports on the table of Lok Sabha and Rajya Sabha, copies of tour Reports are also placed in the Parliamentary Library for the use of Members of Parliament.

In recent years, the Committee have started undertaking on-the-spot study visits to villages to take stock of socio-economic conditions of Scheduled Castes/Scheduled Tribes people residing therein. Subsequently, their issues/grievances are forwarded to authorities concerned for redressal. During study visits, the Committee also hold informal discussions with Chief Secretaries and other senior officials of states on socio-economic conditions of SCs/STs and other welfare measures undertaken by Departments of Social Welfare and Tribal Affairs.

The Committee during their on-the-spot study visit to Dharamshala on 8th June, 2016 held informal discussions with Bhakra Beas Management Board (BBMB),

a CPSE under the Ministry of Power and observed that BBMB was not adhering to provisions of reservation policy of the Government of India for ST category. Accordingly, the Committee examined the issue at length and presented the 8th Report in 16th Lok Sabha. In action taken replies, BBMB intimated the Committee that the provision of reservation for STs in various categories of posts was suitably incorporated as per the guidelines issued by the Government of India from time to time. Accordingly, the Ministry of Power amended Bhakra Beas Management Board class-III and class-IV Employees (Recruitment & Conditions of service) Amendment Regulation 2016 and Bhakra Beas Management Board Class-I and Class-II Officers (Recruitment & Conditions of service) Amendment Regulations, 2016 to introduce mandatory reservation for Scheduled Tribes. Further, the gazette notifications to this effect were published in weekly edition of the Gazette of India dated 20th -26th May, 2017.

Evidence

The Committee takes evidence of official and non-official witnesses. When evidence is being taken no strangers are permitted. The proceedings are taken down verbatim, and are treated as confidential.

Preparation and Presentation of Reports

After the evidence has been taken, a report on the subject/subjects of inquiry is prepared and presented to the House by the Chairperson or any other member of the Committee duly authorised to do so.

Minutes of Sittings

After the approval of the Chairperson, the Minutes of sittings of the Committee are circulated to Members of the Committee and are laid on the Table of each House of Parliament alongwith reports which they relate to.

Impact of the Committee Work

Over the years, the Committee on the Welfare of Scheduled Castes and Scheduled Tribes has developed into an effective instrument for safeguarding the interests of Scheduled Castes and Scheduled Tribes. The Committee has made tremendous impact on the Government and the Public Sector Undertakings in reservation, employment and the social-economic development of Scheduled Castes and Scheduled Tribes. An awareness has been created that there is a watch-dog Committee of Parliament to keep surveillance on the implementation of the constitutional safeguards for Scheduled Castes and Scheduled Tribes. By virtue of its terms of reference, the Committee has taken special care to elicit information or clarification from the Government as to the action taken on the recommendations made by the National Commission for Scheduled Castes and National Commission for Scheduled Tribes with particular reference to the subjects selected by the Committee for examination.

Committee on Empowerment of Women

Two identical resolutions for constituting a Standing Committee of both the Houses for improving the status of women were moved in the Rajya Sabha and the

Lok Sabha on the occasion of the International Women's Day on 8 March 1996.

In pursuance of the aforesaid resolution, the matter was considered by the Rules Committee (11th Lok Sabha). The Rules Committee, in their Second Report, laid on the Table of the House on 6 March 1997, recommended that a Committee for the purpose may be constituted. Accordingly, the Committee on Empowerment of Women was constituted on 29 April 1997.

Composition

The Committee consists of 30 members, 20 nominated by the Speaker from amongst the members of the Lok Sabha and 10 nominated by the Chairman, Rajya Sabha from amongst the members of the Rajya Sabha.

The Chairperson of the Committee is appointed by the Speaker from amongst its members. A Minister cannot be a member of the Committee and if a member after nomination to the Committee is appointed a Minister, he/she ceases to be a member of the Committee from the date of such appointment. As in the case of the other Parliamentary Committees, the term of the Committee does not exceed one year.

Functions

The functions of the Committee on Empowerment of Women are:

to consider the reports submitted by the National Commission for Women and to report on the measures that should be taken by the Union Government for improving the status/conditions of women in respect of matters within the purview of the Union Government, including the Administrations of the Union territories;

to examine the measures taken by the Union Government to secure for women equality, status and dignity in all matters;

to examine the measures taken by the Union Government for comprehensive education and adequate representation of women in legislative bodies/services and other fields;

to report on the working of the welfare programmes for the women;

to report on the action taken by the Union Government and Administrations of the Union territories on the measures proposed by the Committee; and

to examine such other matters as may seem fit to the Committee or are specifically referred to it by the House or the Speaker and the Rajya Sabha or the Chairman, Rajya Sabha.

Procedure in Committee

The Committee selects subjects relating to women's issues for detailed examination. The Committee calls for preliminary material from the concerned Ministries/ Departments and other Government bodies as well as some Non-Governmental Organisations/Experts in regard to these subjects. The Committee also calls for written replies including supplementary and post-evidence replies through List of Points. Further, the Committee takes oral evidence of the official and non-official witnesses.

The Committee also undertakes on-the-spot study visits in connection with the subjects selected and interacts with women representatives/Ministries/Departments/ other stakeholders concerned. On the basis of the preliminary material, written replies, Memoranda from non-officials, suggestions from experts, evidence of the Ministry, inputs received during the study visits, press clippings and relevant books and journals, the Committee examines the subject and prepares reports and presents them to the Parliament.

After presentation of the Report to the house, a copy of the Report is forwarded to the Ministry/Department/Organisation concerned which are required to furnish to the Lok Sabha Secretariat Action Taken Replies showing the action taken by them on the recommendations contained in the Report within six months from the date of presentation of the Report or within the time stipulated in the Report itself. These Replies received from the Ministries are examined by the Committee and Action Taken Reports thereon are prepared and presented to the House.

Further, the Ministries/Departments are directed to furnish Final Action Taken Notes to the recommendations/comments contained in Chapter I and replies included in Chapter V, if any, of the Action Taken Report. These are examined by the Committee and laid in the House in the form of a statement as final action taken by the Government on the Action Taken Reports.

Railway Convention Committee

The Railway Convention Committee is an *ad hoc* Committee constituted from time to time to review the rate of dividend which is payable by the railway undertaking to the general revenues as well as other ancillary matters in connection with railway finance *vis-a-vis* general finance and make recommendations thereon. Apart from recommending the rate of dividend payable by the Railways to the General Revenues, it also suggests the level of appropriation to various Railway funds like the Depreciation Reserve Fund, Pension Fund, Capital Fund, Development Fund, Land Safety Fund and Committed Liability Fund.

The growth and development of Indian Railways owes much to Lord Dalhousie, Governor-General of India (1848-1856), who suggested a system of trunk lines connecting the hinterland of Bombay, Bengal and Madras Presidencies with their principal ports and also with each other. As the Government had neither the funds nor the technical personnel to undertake the work, the same was entrusted to private companies who were guaranteed a return of five per cent on their Capital for a period of twenty five years. In return, the companies were expected to share their surplus profit with the Government and to sell the Railways to the Government after twenty-five years. As the expected profit failed to materialise and the guaranteed return continued to be a drain on the exchequer, the Government purchased the Railways on the expiry of the period of contract, though the management of the Railways continued to be with the companies. Subsequently, following the recommendations of the Acworth Committee (1920-21), the Government took over the management of the bulk of the Railways. The Committee also recommended the separation of Railway Finances from the General Finances primarily to secure stability for civil estimates by providing for an

assured contribution from Railway Revenues and also to introduce flexibility in the administration of the Railway Finances.

While submitting to the Legislative Assembly the resolution for separation of Railway Finances from General Finances on 17 September 1924, the then Commerce Member, Sir Charles Innes stated very briefly in the following words the objects which they had in view:

> "In the first place, as far as State Railways are concerned, we want to abolish altogether this system of programme revenue voted for a year. We want to establish a proper depreciation fund, a depreciation fund arranged in a scientific and intelligible manner. Secondly, we want to build up Railway reserves. We want to build them up in order that our finances may be more elastic, in order that we may have provision to equalize dividends. And generally, we want to introduce a system of finance which, while maintaining unimpaired the control of this House and while ensuring to general revenues a fair return from their Railway property, will be more suited to the needs of a vast commercial undertaking. Finally, and most important of all, we want to establish a principle. It is right and proper that the taxpayers, the State, should get a fair and stable return from the money it has spent on its Railways: but if you go further, if you take from the Railways more than that fair return, then you are indulging in a concealed way, in one of the most vicious forms of taxation, namely a tax on transportation. One of the objects we have most at heart in putting these proposals before this House is to establish that principle.
>
> These then are the reasons why we are asking the House to accept this reform which was insistently pressed by the Acworth Committee, namely, the reform of separating your Railway from your General Finance. We considered the possibility of legislating in the matter, but we decided that it would be preferable to proceed in the manner suggested in the Resolution; that is, we decided that it would be preferable to ask this House to agree to a convention; there are some advantages in a convention which can be adjusted from time to time to varying needs and difficulties. It can even be adjusted to the ordered progress of the Constitution. It was always our intention whatever the arrangements we might come to with the House that these arrangements should be subject to periodical revision; and the House will see that on the recommendation of the Committee we have definitely provided for this in the last clause of the amended Resolution."

The Convention, commonly known as the 'Separation Convention', was adopted through a resolution of the House on 20 September 1924, and was approved by the Secretary of State. Under the 'Separation Convention', the Railways were required to pay dividend at a fixed rate on their Capital, the whole of which was advanced by the Government of India. The Resolution provided that General Revenues should receive a definite annual contribution from the Railways which was to be the first charge on the receipts of the Railways. The contribution was to be calculated at 1 per cent of the Capital-at-Charge at the end of the penultimate financial year, plus l/5th of any surplus profits remaining after payment of this fixed return, subject to the condition that, if in any year, Railway revenues were insufficient to provide 1 per cent on the Capital-

at-Charge, surplus profits for the next or subsequent years would not be deemed to have accrued for purposes of division, until such deficiency had been made good. The interest on the Capital-at-Charge of, and the loss in working strategic lines, was to be borne by General Revenues and was to be deducted from the contribution payable by Railways. Any surplus remaining after this payment to the General Revenue was to be transferred to Railway Reserve, provided that if the amount available for transfer to the Railway Reserve exceeded in any year three crores of rupees, only two-thirds of the excess over three crores would be transferred to the Railway Reserve and the remaining one-third would accrue to General Revenues.

The most notable features of the 'Separation Convention' were, firstly, the fixation of a definite annual contribution from Railways to General Revenues calculated with reference to the Capital-at-Charge of the Railway system and the profits earned by it and secondly, the establishment of a Reserve Fund and a Depreciation Fund for Railways. These arrangements were supported in the main by the following reasons:

- as the Government has raised the money for the construction of Railways in India on its credit, it is reasonable that the return given by the Railways should be chiefly based on the moneys thus raised;
- such a return is best calculated on the moneys expended on lines expected eventually to yield a return, and not on lines built for quite different reasons; and
- while it is only fair that in prosperous years the taxpayer should share in the prosperity of the Railways which he has financed, it is to his advantage to be certain of a gradually increasing income in the long run, as the invested capital increases. With this end in view, it is desirable that only a comparatively small proportion of the contribution should depend on Railway surpluses, and that the major part should represent a definite and secured profit on the moneys supplied by the Government for the construction of commercial lines.

The Convention itself contained provision for its own review within three years. A Committee of the House looked into the matter in 1928 but came to no conclusions. The general economic depression in the early thirties hit the Railways' Finances hard and depleted all their reserves in the endeavour to maintain the contribution to the General Revenues and also resulted in the postponement of renewals and replacements on the Railways. Ultimately, the situation deteriorated to such an extent that a moratorium had to be declared and General Finances received no contribution from the Railways until the early forties when the Second World War brought heavy traffic to the Railways in India and they showed huge earnings.

There had been numerous Cut Motions, Resolutions and Questions all of which pointed to failure of the Convention to give satisfaction under varying conditions. During the debate on the Cut Motion moved on 20 March 1942, several members who participated emphasised this fact.

On 2 March 1943, therefore, Sir Edward Benthall, the then Member for Railways and War Transport, moved the following Resolution in the House:

> "That whereas it has been found that the Convention, which was adopted under

the Assembly Resolution, dated 20 September 1924 and which was intended to relieve the General Budget from violent fluctuations caused by the incorporation therein of the Railway estimates and to enable Railways to carry on a continuous Railway policy based on the necessity of making a definite return to General Revenues on the money expended by the State, has not achieved these objects, this Assembly recommends to the Governor General in Council that:

(i) For the year 1942-43, a sum of Rs. 2,35,32 thousand shall be paid to General Revenues over and above the current and arrear contribution due under the Convention;

(ii) From the 1 April 1943, so much of the Convention as provides for the contribution and allocation of surpluses to General Revenues shall cease to be in force;

(iii) For the year 1943-44, the surplus on commercial lines shall be utilised to repay any outstanding loan from the depreciation fund and thereafter be divided twenty five per cent to the Railway reserve and seventy five per cent to General Revenues, the loss, if any, on strategic lines being recovered from General Revenues; and

(iv) For subsequent years and until a new Convention is adopted by the Assembly, the allocation on the surplus on commercial lines between the Railway Reserve and General Revenues shall be decided each year on consideration of the needs of the Railways and General Revenues, the loss, if any, on strategic lines being recovered from General Revenues."

While explaining the reasons for bringing forward the above Resolution, Sir Edward Benthall stated:

"There are two reasons for bringing forward the present Resolution now in its present form. The first is the necessity of relieving General Revenues this year and next. The General Budget introduced by the Honourable Finance Member on Saturday in itself illustrates the justification for this. The second is the necessity of relieving the Railway Budget in the future years, if we are to meet the first necessity to the extent proposed in the present emergency. We should, in my opinion, definitely not be justified in giving such a large share of the surplus profits to General Revenues, unless Railways are relieved of the one percent contribution in the future. From the Railway point of view, I consider paragraph (ii) of the Resolution to be an essential element of the proposals for distributing the anticipated surplus of 1943-44. If Railways are not relieved of the one per cent contribution for future years, we should allocate more to the Railway Reserve now in order to provide for payment of this contribution in times of depression. Any other course would be unsound finance on the long term view."

Some members then urged an immediate wholesale revision of the Convention. But Sir Edward Benthall cautioned that they were at that time budgeting on boom conditions (as the War was in full swing) and for final revision it would be necessary to forecast the probable gross receipt and expenditure in normal times before an appropriate basis of allocation between Railways and General Revenues could be settled. During the debate

that took place on the above Resolution, three proposals were made. One was that there should be an *ad hoc* Committee to examine the whole question. The second was that an expert commission should be appointed. The third proposal was that a Committee of the House should be set up to examine this question. The suggestion made by Sir Edward Benthall was that this matter should be referred to the Standing Finance Committee for Railways and, if appropriate, to the Central Advisory Council for Railways. While winding up the debate, Sir Edward Benthall offered to appoint a special Committee of the House to consider this question and the Resolution was adopted.

The essence of the Resolution adopted in 1943 was that so far as the contribution to General Revenues was concerned, the provisions of the 1924 Resolution should cease to operate. The Resolution directed an *ad hoc* basis according to the circumstances attending both the administration of General Finances and the administration of Railway Finance.

In pursuance of this Resolution passed by the Legislative Assembly on 23 March 1943, to consider matters arising out of clause (iv) of the Assembly's Resolution of 2 March 1943, amending the Separation Convention adopted by the Assembly on 20 September 1924, a Railway Convention Committee was constituted but it was wound up soon after it issued an interim report. The Committee *inter alia* recommended that until the Convention was revised, the present rate of contribution to the Depreciation Fund should not be reduced. In 1947, during the Budget Session, a Committee of the Central Legislative Assembly was set up for the purpose of investigating into this matter; but owing to the impending constitutional changes on account of transfer of power, the Central Legislative Assembly and its Committee ceased to exist on the dissolution of the Assembly after the Budget Session of 1947.

The matter of revision of the Convention was also considered by the Indian Railway Enquiry Committee (1946-47) of which Pandit H.N. Kunzru was the Chairman. That Committee was against the immediate revision and suggested that it should wait till the Railways had fully recovered from the impact of accumulated arrears of replacements, etc. as a result of the war.

This Committee stated:

> "As in the present unstable conditions, no fixed principle can be laid down for making allocation to the Fund, we content ourselves to recommending that an annual contribution to the Fund for the next five years be made at about Rs. 22 crore per annum."

The Government, however, did not accept this recommendation.

The arrangements laid down in the Convention Resolution of 1943, which, though continued till 1948-49, did not work in a very satisfactory manner. While introducing the Railway Budget for 1948-49, the Railway Minister announced the appointment of a Committee consisting of three members of the Standing Finance Committee and three members of the Railway Standing Finance Committee under the Chairmanship of G.V. Mavalankar, Speaker of the Constituent Assembly (Leg.) to decide the question of allocation of the Railway Surplus. This Committee fixed the share payable to General

Revenues as 50 per cent (*viz.* Rs. 4-1/2 crore) of the anticipated budget surplus of Rs. 9 crore for 1948-49 and any excess over Rs. 9 crore was to be credited to the Betterment Fund. However, this amount was raised to Rs. 7.34 crore on the basis of the Revised Estimates of Railways for 1948-49. The same principle was followed while framing the Budget Estimates of the Railways for 1949-50.

Convention of 1949—The first after Independence

In the course of his Budget Speech for 1949-50, the Railway Minister made an announcement about the setting up a Railway Convention Committee consisting of members of the House to go into this matter, including also the problems relating to the Depreciation Fund and make its recommendations before the end of the calendar year 1949.

The Committee decided finally to discard the 1924 formula and adopt in its place a simpler, more just and more easily workable arrangement. They came to the conclusion that a fixed dividend would assure to General Revenues, over the term agreed on, a dependable return on the Capital-at-Charge and that this would facilitate forward planning while, at the same time, it would assist the Railway Undertaking in planning and implementing a comprehensive programme of rehabilitation for overtaking the heavy arrears of renewals, replacements and neglected maintenance as well as of improvement and expansion of Railway service.

The Committee *inter alia* made the following recommendations:

General Finances should be guaranteed a fixed dividend on the loan capital invested in the undertaking as computed annually. The rate of dividend should be 4 per cent on such capital for a period of five years commencing from 1950-51.

A Committee of the House should review the rate towards the end of this period and suggest for the years following it any adjustment considered necessary, having regard to the revenue returns of the Railway undertaking, the average borrowing rate of Government and any other relevant factor; the contribution to the Depreciation Fund should be a minimum of Rs. 15 crore a year for the five years commencing from 1950-51. The full cost of replacement should be charged to this Fund.

The Committee also made recommendations about the modification of the existing rules of allocation of expenditure between capital and revenue, the constitution of a Development Fund and the separation of the loan account from the block account, etc.

Gopalaswami Ayyangar, the then Railway Minister, on 21 December 1949, while moving the Resolution for adoption of the 1949 Convention said:

To divert any portion of such a surplus as an extra contribution to general revenues either on the formula of the 1924 Resolution or in an *ad hoc* manner for each year as in the 1943 Resolution could not be related to any acceptable principle of sound financing applicable either to Railway or to General Finance. To do so would introduce a certain amount of uncertainty into both General and Railway Finances. It will be unhealthy from the point of view of both. General Finance has to count upon something definite which it can get from the working of the Railway each year; otherwise any planning that it may undertake is prejudiced

by the uncertainty that will prevail. Railway Finance has also to be assured that if the administration of the Railways does bring into existence a surplus, it can have full control over that surplus for the purpose of overtaking heavy arrears of maintenance and improvements. Also, it will be enabled to find money for expansion in various directions.

The Constituent Assembly (Legislative) adopted the Resolution on the same day.

One of the basic principles enunciated by this Committee was the fixation of definite rate of dividend which included an element of contribution to the General Revenues over and above the bare interest paid by the Government on the Capital provided for Railways. This principle was enunciated on the consideration that, in essence, the general tax payer is the owner and sole shareholder of the undertaking. The working of this Convention ensured a steady return to the General Revenues and also enabled the Railways to strengthen their reserves for discharging their obligation towards rehabilitation, increasing operating efficiency and provision of adequate amenities. It also arrested the growth of over capitalization in the Railway undertaking.

Composition

The working of the Separation Convention has been reviewed from time to time by Committee appointed in 1954, 1960, 1965, 1973, 1977, 1980, 1985, 1989, 1991, 1996, 1998, 1999, 2004 and 2009.

The Railway Convention Committee is constituted by a resolution moved in the Lok Sabha by Government and concurred in by the Rajya Sabha. It consists of twelve members from the Lok Sabha and six members from the Rajya Sabha who are nominated by the Speaker, Lok Sabha and the Chairman, Rajya Sabha, as the case may be. The Chairperson of the Committee is appointed by the Speaker from amongst the members of the Lok Sabha. The Ministers of Finance and Railways are among the members nominated to the Committee[876].

Term of Office

The Committee, once constituted, functions till the dissolution of the Lok Sabha unless it presents its final report earlier and thus becomes *functus officio.*

876. However, for the first time, the Minister of Finance was not nominated as a member of the Convention Committee (1989). After the change of Government at the Centre on 10 November 1990, the new Railway Minister was also not nominated to the Committee and the former Railway Minister continued to be a member of the Committee. In the Convention Committee (1991), both the Railway Minister and the Finance Minister were not nominated as members of the Committee. However, both the Ministers were nominated to the Committee against subsequent vacancies. In the Railway Convention Committee (1996), only the Railway Minister was nominated as a member of the Committee. In 2004 neither of the two Ministers was nominated as a member.

K.C. Venugopal, was nominated as a Member of RCC *vide* Bulletin Part II, Para No. 1256 *dt.* 15-3-2010. He became Minister of State for Power on 19-1-2011 *vide* Notification No. 1/34/1/2011-Cab. However, he continued as a Member of RCC and attended sitting of the Committee on 04-02-2011. Venugopal resigned from the Membership of Railway Convention Committee *w.e.f.* 21-12-2011 *vide* Bulletin No. 3572 dt. 27-2-2011.

P. Balram Naik and Girija Vyas were nominated as members of RCC *vide* Bulletin Part II, Para No. 1256 dt. 15-03-2010 and they became Minister on 28-10-2012 and 17-06-2013. However, they continued to be the members of RCC as on 28-6-2013.

Functions

Although the Railway Convention Committee has not drawn up any separate rules to regulate its internal working, it functions more or less on the same lines as those of the Financial Committees of the Parliament, *viz.,* the Public Accounts Committee[877], the Committee on Estimates[878] and the Committee on Public Undertakings[879].

The functioning of the Committee is also governed by the general rules relating to Parliamentary Committttees[880]. These rules are further supplemented by Directions issued by the Speaker in exercise of the powers conferred on the Speaker under Rule 389 and other Rules.

Examination of other Subjects

While the Convention Committees of 1949, 1954, 1960 and 1965 confined themselves only to the question of determining the rate of dividend payable by the Railway undertaking during the succeeding quinquennium, the Railway Convention Committee of 1971 for the first time selected some subjects having a bearing on the Railway Finances for detailed examination. The subsequent Committees appointed in 1973, 1977, 1980, 1985, 1989, 1991, 1996, 1998, 1999, 2004 and 2009 also examined various aspects of the working of the Railways and Railway Finances. The Committee has been selecting subjects for examination shortly after its constitution and inviting memoranda from the Ministry of Railways and other concerned Ministries as also from individuals/organizations. Sometimes it also invites memoranda from State Governments.

Rate of Dividend

As regards the rate of dividend that may be payable by the Railways to the General Revenues, the Committee invites a memorandum from the Financial Commissioner of Railways. The memorandum contains the views of both the Ministry of Railways and the Ministry of Finance on various proposals made therein.

After considering Interim Memorandum furnished by the Ministry of Railways, the Railway Convention Committee (2009) in their First Report had purely as an interim measure, recommended Rate of Dividend at the rate of 6% for the year 2009-10 and 2010-11 on the entire capital invested on Railways from the General Revenues irrespective of the year of investment, inclusive of the amount that was payable to the Railways to the General Revenues for payment to States as grant *in lieu of* passenger fare tax and contribution for assisting the States for financing safety works during the financial year 2008-09. This was 1% less than the rate of dividend of 7% fixed for the year 2007-08. All other concessions were allowed to continue on the existing basis for the year 2009-10 and 2010-11.

The Convention Committee (2009) in their Third Report had recommended Rate of Dividend at 4% for the year 2012-13[881]. The Committee (2009) in their Sixth Report

877. Rules 308 and 309.

878. *Ibid.,* 310-12.

879. *Ibid.,* 312A and B.

880. *Ibid.,* 253-86.

881. The Railways Convention Committee (2009) in their 3rd Report recommended 4% rate of dividend payable by the Railways to the General Revenues for the year 2012-13. The Notification *vide* their

had, however, recommended Rate of Dividend for the year 2013-14 to the General Revenue at 5% on the entire capital (excluding dividend free capital) invested on Railways from the General Revenue, irrespective of the year of investment, inclusive of the amount that was payable by the Railways to the General Revenue for payment to States as grant *in lieu* of passenger fare tax and contribution for assisting the States for financing safety works during the financial year 2012-13.

The Railway Budget has been merged with the General Budget with effect from the financial year 2017-18 and resultantly the payment of the Dividend by the Railways to the General Exchequer has been dispensed with. Thus the primary function of the Railway Convention Committee *i.e.;* to decide the percentage of the Dividend payable to General Exchequer by the Railways ceases to exist.

Consideration of Report

The report of the Committee on the rate of dividend is considered by the House on a resolution moved by the Minister of Railways in the House. However, other reports of the Committee are normally not discussed in the House.

"The Railway Convention Committee (RCC) were not constituted after the Commencement of 17th Lok Sabha".

Committee on Members of Parliament Local Area Development Scheme (Lok Sabha)

During the Fourth Session of Twelfth Lok Sabha, a new Committee on MPLADS (Lok Sabha) was constituted. This Committee consisted of 20 Members and the tenure of the Committee was not to exceed one year. Subsequently, the membership of the Committee was increased to 24. The main functions of the Committee are to (i) monitor and review periodically the performance and problems in implementation of MPLAD Scheme (Lok Sabha); (ii) consider complaints of MPs of Lok Sabha in regard to the Scheme and (iii) perform such other functions as may be assigned to by the Speaker from time to time. This *ad hoc* Committee was continuously reconstituted every year since its first constitution in Twelfth Lok Sabha but the Committee has not been constituted since 2019-2020 after constitution of Seventeenth Lok Sabha. The Hon'ble Deputy Speaker was appointed as Chairperson of the Committee during Sixteenth Lok Sabha .

C. DEPARTMENTALLY RELATED STANDING COMMITTEES

Evolution and Constitution of Standing Committees

With the unprecedented growth of governmental activities over the years, Parliament had been finding itself somewhat handicapped in exercising fully its pivotal role of ensuring administrative and financial accountability. Enormous budgetary allocations of various Ministries were also being passed by Parliament without sufficient debate for want of time. For instance, in 1989, the Demands of Grants of only 3 Ministries/Departments were discussed and Demands in respect of as many as

OM No. F7(2)-B (AC) 2011 dated 16-08-2012 requested the Railways Convention Committee to reconsider the recommendation relating to rate of dividend for the year 2012-13 and retain it at least at 5%. The Committee considered the request of Minister of Finance but did not accede to the same.

34 Ministries/Departments were guillotined.

In 1978, the Conference of Presiding Officers of Legislative Bodies in India had deliberated on this issue. The matter was also brought into sharp focus during the Third Regional Commonwealth Parliamentary Association Seminar held in New Delhi in January 1984. The matter was further debated in the Presiding Officers Conference held in Calcutta in 1984. Thereafter, the Rules Committee of the Lok Sabha considered a proposal for having 9 *ad hoc* Committees for prevoting scrutiny of the Demands for Grants. However, no final decision could be reached.

Even while the proposal to set up the Budget Committees awaited finalisation, another proposal of a far-reaching nature designed to strengthen the Committee System and to secure administrative accountability in a far more effective way was placed before the Rules Committee in the closing months of life of the Eighth Lok Sabha. The Rules Committee, at their sittings held on 30 March and 9 May 1989, considered and approved the proposals to set up three Subject Committees—one each on Agriculture, Science and Technology and Environment and Forests. Necessary recommendations to this effect were made by the Rules Committee in their Second and Fourth Reports laid on the Table of the House on 2 May and 25 July 1989, respectively. The Rules relating to these Committees were finally approved by the House and the Committees were constituted for the first time with effect from 18 August 1989.

These Subject Committees were, *inter alia,* to examine the activities of the concerned Ministries/Departments and to report as to what economies, improvements in organisation, efficiency or administrative reforms consistent with the policy approved by Parliament might be effected. Apart from other functions, these Committees were to examine the Annual Reports and Plan Projects/activities of the concerned Ministries.

After observing the functioning of the three Subject Committees for some time, in 1992, during the Tenth Lok Sabha, the matter relating to Departmentally related Parliamentary Standing Committees was again considered by the General Purposes Committee and the Rules Committee and they felt that a full fledged system of Departmentally related Standing Committees be created covering under their jurisdiction all the Ministries/Departments of the Government of India.

Subsequently, the whole matter was considered afresh during February and March 1993 by the General Purposes Committee and the Rules Committees of both the Houses of Parliament together. As a result of these discussions, a broad consensus was arrived at that Standing Committees be set up to consider the Demands for Grants, Bills and rational basic long-term policy documents presented to the Houses and referred to them by the Speaker/Chairman of the Rajya Sabha and the annual reports of the related Ministries/Departments.

The Reports of the Rules Committees of the Lok Sabha and the Rajya Sabha adopted by the two Houses on 29 March 1993, paved the way for the setting up of the Departmentally related Standing Committees covering under their jurisdiction all the Ministries/Departments of the Union Government. With the setting up of these

Committees, the three Subject Committees, constituted in August 1989, ceased to exist. The new Committee System covering all Government Ministries/Departments, was inaugurated on 31 March 1993 and 17 Standing Committees were constituted on 8 April 1993. Out of these 17 DRSCs, 11 were under Lok Sabha and 6 under Rajya Sabha.

After experiencing the working of the DRSC system for over a decade, the system was re-structured in July 2004 wherein the number of DRSCs was increased from 17 to 24. These Committees cover under their jurisdiction the following Ministries/ Departments:

Sl. No.	Name of Committee		Ministries/Departments
Part I			
1.	Committee on Commerce		Commerce and Industry
2.	Committee on Home Affairs	(1)	Home Affairs
		(2)	Development of North–Eastern Region
3.	Committee on Education, Women, Children, Youth and Sports	(1)	Education
		(2)	Youth Affairs and Sports
		(3)	Women and Child Development
4.	Committee on Industry	(1)	Heavy Industries
		(2)	Micro, Small and Medium Enterprises
5.	Committee on Science & Technology, Environment, Forests and Climate Change	(1)	Science & Technology
		(2)	Space
		(3)	Earth Sciences
		(4)	Atomic Energy
		(5)	Environment, and Climate Change
6.	Committee on Transport, Tourism and Culture	(1)	Civil Aviation
		(2)	Road Transport and Highways
		(3)	Ports, Shipping and Waterways
		(4)	Culture
		(5)	Tourism
7.	Committee on Health and Family Welfare	(1)	Health and Family Welfare
		(2)	Ayush
8.	Committee on Personnel, Public Grievances, Law and Justice	(1)	Law and Justice
		(2)	Personnel, Public Grievances and Pensions
Part II			
9.	Committee on Agriculture, Animal Husbandry and Food Processing[882]	(1)	Agriculture and Farmers Welfare
		(2)	Fisheries, Animal Husbandry and Dairying
		(3)	Food Processing Industries
		(4)	Cooperation
10.	Committee on Communications and Information Technology[883]	(1)	Communications
		(2)	Electronics and Information Technology
		(3)	Information and Broadcasting

882. The nomenclature of the Committee has been changed as 'Standing Committee on Agriculture, Animal Husbandry and Food Processing' and Ministry of Cooperation was brought under the jurisdiction of the Committee *vide* Bulletin Part-II No. 3293 dated 23.11.2021.

883. The nomenclature of the Committee has been changed as 'Standing Committee on Communications

Sl. No.	Name of Committee		Ministries/Departments
11.	Committee on Defence		Defence
		(1)	Department of Defence (DoD)
		(2)	Department of Military Affairs (DMA)
		(3)	Department of Defence Production (DDP)
		(4)	Department of Defence Research and Development (DDR&D)
		(5)	Department of Ex-Servicemen Welfare (DESW)
12.	Committee on Energy[884]	(1)	New and Renewable Energy
		(2)	Power
13.	Committee on External Affairs	(1)	External Affairs
14.	Committee on Finance	(1)	Finance
			(a) Department of Economic Affairs (b) Department of Expenditure (c) Department of Financial Services (d) Department of Public Enterprises (e) Department of Investment and Public Asset Management (f) Department of Revenue
		(2)	Corporate Affairs
		(3)	Planning
		(4)	Statistics and Programme Implementation
15.	Committee on Consumer Affairs, Food and Public Distribution[885]		Consumer Affairs, Food and Public Distribution
16.	Committee on Labour, Textiles and Skill Development[886]	(1)	Labour and Employment
		(2)	Textiles
		(3)	Skill Development and Entrepreneurship
17.	Committee on Petroleum and Natural Gas		Petroleum and Natural Gas
18.	Committee on Railways		Railways
19.	Committee on Housing and Urban Affairs		Housing and Urban Affairs

and Information Technology' *vide* Bulletin Part-II No. 3293 dated 23.11.2021.

884. The Hon'ble Speaker, Lok Sabha attended a sitting of the Standing Committee on Energy on 3rd November, 2022 in Parliament Library Building, New Delhi. During the Sitting, he addressed the Members of the Committee and representatives of the Ministry of Power, Ministry of New and Renewable Energy, Central Electricity Authority, NTPC Limited, NHPC Limited, Power Grid Corporation of India Limited, Power Finance Corporation Limited, REC Limited, Indian Renewable Energy Development Agency and Solar Energy Corporation of India Limited. Secretary-General, Lok Sabha was also present during the said sitting of the Committee. The Sitting lasted for 1 hour and 15 Minutes (Rule 283 of Rules of Procedure and Conduct of Business in Lok Sabha).

885. The nomenclature of the Committee has been changed to Standing Committee on Consumer Affairs, Food and Public Distribution *vide* Lok Sabha Bulletin Part II, No. 6297, dated 07.03.2023.

886. The nomenclature of the Committee has been changed as 'Standing Committee on Labour, Textiles and Skill Development' *vide* Bulletin Part II No. 3293 dated 23.11.2021 and *vide* Office Order Part-I No. 2344 dated 07.12.2021.

Sl. No.	Name of Committee		Ministries/Departments
20.	Committee on Water Resources		Jal Shakti
			(a) Department of Water Resources, River Development and Ganga Rejuvenation (b) Department of Drinking Water and Sanitation
21.	Committee on Chemicals and Fertilizers		Chemicals and Fertilizers
			(a) Department of Fertilizers (b) Department of Chemicals and Petrochemicals (c) Department of Pharmaceuticals
22.	Committee on Rural Development and Panchayati Raj	(1)	Rural Development
			(a) Department of Rural Development (b) Department of Land Resources
		(2)	Panchayati Raj
23.	Committee on Coal, Mines and Steel[887]	(1)	Coal
		(2)	Mines
		(3)	Steel
24.	Committee on Social Justice and Empowerment	(1)	Social Justice and Empowerment
			(a) Department of Social Justice and Empowerment
			(b) Department of Empowerment of Persons with Disabilities (PwDs)
		(2)	Tribal Affairs
		(3)	Minority Affairs

The Committee specified under Parts I & II above work under the directions of the Chairman, Rajya Sabha and the Speaker, Lok Sabha, respectively.

Rules Governing Standing Committees

Like any other business of the House, business of the Standing Committees is also governed by certain Rules relating to Departmentally Related Standing Committee incorporated in Chapter XXVI (Rule 331C to 331N along with General Rules relating to Parliamentary Committees (Rule 253 to 286 of Chapter XXVI) of the Rules of Procedure and Conduct of Business in Lok Sabha (Sixteenth Edition).

A common Practice and Procedure is followed in Departmentally Related Standing Committees (DRSCs) in order to ensure uniformity in their working. Internal working Rules of Departmentally Related Standing Committees (DRSCs) and Practice and Procedure is prepared which is available under the link *https://sansad.in/ls/about/procedures.*

Summary of Work in regard to Departmentally Related Standing Committees (DRSCs) and Parliamentary Committees other than Financial Committees have been uploaded in the Lok Sabha website portal under the link *https://sansad.in/ls/committee/departmentally-related-standing-committees* and *https://sansad.in/ls/committee/other-parliamentary-standing-committees* respectively. Moreover, the information regarding summary of work of Departmentally Related Standing Committees have been uploaded

887. The nomenclature of the Committee has been changed as Standing Committee on Coal, Mines and Steel *vide* Bulletin Part-II No. 3293 dated 23.11.2021.

from the 10th Lok Sabha onwards.

Composition

At the time of introduction of DRSC system in 1993, composition of the 17 DRSCs was 45 members—30 nominated by the Speaker, Lok Sabha from amongst the members of Lok Sabha and 15 members nominated by the Chairman, Rajya Sabha from amongst the members of Rajya Sabha. However, with restructuring of DRSCs in July 2004[888] when number of DRSCs was raised from 17 to 24, the membership was reduced from 45 to 31 members—21 from Lok Sabha and 10 from Rajya Sabha. Seats on each Committee are allocated to different Parties and Groups in the House as far as practicable in proportion to their respective strength in the House. Suitable number of seats on these Committees are also allocated to independent and unattached members. In principle, all members of Lok Sabha and Rajya Sabha, other than the Ministers are nominated to one or the other Standing Committee.

Appointment of Chairperson

The Chairperson of each of the Standing Committee specified in Part I is appointed by the Chairman, Rajya Sabha and in respect of Committees specified in Part II by the Speaker, from amongst the members of the Committee.

Minister not to be Member of the Committee

A Minister is not eligible to be nominated as a member of any of the Standing Committee and if a member, after nomination to any of the Standing Committees, is appointed a Minister, he/she ceases to be a member of the Committee from the date of such appointment.

Term of Office

The term of office of the members of each Standing Committee is one year from the date of its constitution.

Functions

The functions of each of the Standing Committees are:

(a) to consider the Demands for Grants of the concerned Ministries/Departments and make a report on the same to the Houses. The Report shall not suggest anything of the nature of Cut Motions;

(b) to examine such Bills pertaining to the concerned Ministries/Departments as are referred to the Committee by the Chairman, Rajya Sabha or the Speaker, Lok Sabha as the case may be, and make report thereon;

(c) to consider annual reports of Ministries/Departments and make reports thereon; and

(d) to consider national basic long term policy documents presented to the Houses, if referred to the Committee by the Chairman, Rajya Sabha or the Speaker, Lok Sabha as the case may be, and make reports thereon[889].

888. Bn. (11), 20-07-2004.

889. Rule 331E.

The Standing Committees do not consider the matters of day-to-day administration of the concerned Ministries/Departments.

The Standing Committees also do not generally consider the matters which are under consideration by the other Parliamentary Committees.

Procedure relating to Consideration of Demands for Grants

After the general discussion on the Budget in the House is over, the Houses are adjourned for a fixed period. The Committees consider the Demands for Grants of the concerned Ministries during the aforesaid period and submit their report within the period without seeking any extension of time for the same. There is a separate report on the Demands for Grants of each Ministry. The Demands for Grants are considered by the House in the light of the reports of the Committees.

Procedure relating to Consideration of Bills

The Committees consider only such Bills introduced in either of the Houses as are referred to them by the Chairman, Rajya Sabha or the Speaker, Lok Sabha as the case may be. The Committees consider the general principles and clauses of the Bills referred to them and make report[890] thereon within the given time.

Examination of Annual Reports

Besides consideration of the Demands for Grants and the Bills referred to them, the Committee may select other subjects for examination on the basis of Annual Reports of the Ministries/Departments within the jurisdiction of the respective Committee.

Appointment of Sub-Committees/Study Groups

The Chairperson of a Committee may appoint Study Groups/Sub-Committees from amongst the members of the respective Committees with a view to making detailed study/examination of the subject selected by them, scrutinising the action taken by the Government on the recommendations contained in their previous reports and for considering procedural and general matters.

890. 'The Multi-State Cooperative Societies (Amendment) Bill, 2010' was referred to the Committee on Agriculture on 20.12.2010 for examination and Report. During the Fourth Sitting held on 4- 1-2011, the Committee on observing several commonalities and contradictions between some of the proposed clauses of the Bill under examination and;— 'The Constitution (One Hundred and Eleventh Amendment) Bill, 2009' on which the Committee had presented their Twelfth Report to Parliament on 30-8-2010, decided to defer the examination of Bill, till the enactment of 'The Constitution (One Hundred and Eleventh Amendment) Bill, 2009'. Speaker, Lok Sabha acceded to the decision of the Committee on 9-2-2011. The decision was conveyed to the Ministry of Agriculture (Department of Agriculture and Cooperation).

On 4-3-2011, the Minister of Agriculture and Food Processing Industries addressed a letter to Speaker, Lok Sabha for re-considering and advising the Committee on Agriculture to take up examination of 'The Multi-State Co-operative Societies (Amendment) Bill, 2010' and make their recommendations at the earliest so that the Bill may be taken up during Budget Session, 2011 or Monsoon Session, 2011. The said request was considered by the Committee and after an in depth discussion they felt that since some of the provisions of 'The Constitution (One Hundred and Eleventh Amendment) Bill, 2009', which was yet to be enacted, had a bearing on 'The Multi-State Cooperative Societies (Amendment) Bill, 2010', they would not be in a position to arrive at a well-considered conclusion on the latter. Speaker, Lok Sabha concurred with the decision of the Committee. The examination of the Multi-State Cooperative Societies (Amendment) Bill, 2010' was resumed only after the Government notified the Constitution (97th Amendment Act) 2011 and informed the Committee Secretariat about the fact of notification on 23-1-2012.

Generally DRSCs undertake two Study Visits during a year not exceeding a total of 10 days with the prior approval of Hon'ble Speaker. In one case, the Study-Visit was postponed[891] due to suspension of several Members of the Committee including the Chairperson.

Procedure for Examination of Subjects

The rules applicable to other Parliamentary Committees are applicable to the Standing Committees also. The examination of a subject is done in various stages, *viz.* calling of preliminary material, calling for written replies, including supplementary and post-evidence replies, calling of memoranda from non-officials and evidence of the non-officials and officials, and inputs received during the study visits and from press clippings, relevant books and journals etc.

Association of Specialists/Technical Experts/Consultants, etc.

The Standing Committees may associate specialists/technical experts/consultants, etc. and even may seek public opinion at various stages of examination of a subject, if necessary, to make the Report.

Reports and Minutes

The conclusions of each of the Standing Committees on a subject examined are contained in its report, which, after its adoption by the respective Committee and factual verification by the Ministry concerned, is presented by the concerned Chairperson to the respective Houses. Minutes of the sittings of the Committees are laid on the Table of the House along with the relevant reports.

The reports are adopted by the broad consensus among the members. However, a member of a Standing Committee may give a note of dissent on the report of the Committee and it is presented to the House along with the report.

Action Taken Reports

The Reports of the Standing Committees have persuasive value and are treated as influential advice given by the Committee. The Bills which are reported upon by the Committee are considered by the Houses in the light of the reports of the Committees. In respect of reports on Demands for Grants and other subjects, the Ministry or the Department concerned is required to take action on the recommendations and conclusions contained in the report and furnish action taken replies thereon.

Action taken notes received from the Ministries/Departments are examined by the Committee and Action Taken Reports thereon are presented to the House.

Further Action Taken Notes on Action Taken Reports received from the Ministries/ Departments are examined by the Committee and laid in the House in the form of a statement on Further Action Taken by the Government on the Action Taken Reports.

891. The standing Committee on Housing and Urban Affairs (2023-24) was to undertake an on-the-spot Study Visit to Puducherry,Chennai and Visakhaptnam from 26 December, 2023 to 01 January, 2024. Meanwhile, nine Members of the Committee including Chairperson got suspended for remainder period of the 14th Session of 17th Lok Sabha/262nd Session of Rajya Sabha. Hence, these Members were unable to join the Study Tour. Excluding these 09 Members, only 04 members were available for the Study Tour. Hence, the Competent Authority decided to postpone the Study Tour.

Statement by Minister on Committee Reports

The Minister concerned makes, once in six months a statement in the House regarding the status of implementation of recommendations contained in the Reports of Departmentally Related Standing Committees of Lok Sabha with regard to his Ministry/Department[892].

D. COMMITTEES OTHER THAN PARLIAMENTARY COMMITTEES ON WHICH MEMBERS WERE/ARE REPRESENTED

Standing Committees of Legislative Bodies

Till the constitution of the First Lok Sabha, there were Standing Committees for the various Departments of the Government of India to which members of the Central Legislature were elected.

The institution of Standing Committees owed its origin to the recommendation contained in the Montague-Chelmsford Report and the main purpose of these Committees was stated to be to "familiarise elected members with the process of administration" and "assist the political education of India"[893]. These Committees functioned in an advisory capacity and would record their opinions for consideration of the Government on matters of policy, new schemes involving expenditure above a fixed limit and annual reports of the Departments which they were attached to.

Standing Finance Committee

On a motion adopted by the Legislative Assembly in 1921, a Standing Finance Committee was set up[894]. The Committee consisted of ten members elected by the Assembly, besides the Finance Member who was nominated by the Governor-General as its Chairman. Next year, the number of elected members of the Committee was increased from ten to fourteen, besides the Chairman. This composition of the Committee remained unchanged till 1949 when, on a motion adopted by the Constituent Assembly (Legislative) on 23 November, 1949, the Government Chief Whip was nominated as an *ex officio* member of the Committee[895]. On a motion adopted by the Provisional Parliament on 5 April 1950, the strength of the elected members of the Committee was increased to sixteen. In March 1951, the Minister of State for Finance was also made an *ex officio* member of the Committee[896]. This composition of the Committee continued till 1952 when the Standing Finance Committee, alongwith the other Standing Advisory Committees, ceased to exist.

The functions of the Standing Finance Committee, like its composition, changed from time-to-time. In 1921, when the Committee was first appointed, its functions were stated by the Finance Member as[897]:

> shortly before the introduction of the budget, the Committee would be given an opportunity of examining the civil voted estimates; proposals for supplementary

892. Direction 73A *vide* Bn., 01-09-2004.
893. Indian Statutory Commission Report popularly known as the Simon Reports, Vol. I, paras 425 and 426.
894. *L.A. Deb.,* 22-2-1921, pp. 335-37.
895. *C.A. (Leg.) Deb.,* 23-11-1949, p. 1767.
896. *P. Deb.* (II), 20-3-1951, cc. 4818-19.
897. *L.A. Deb.,* 22-2-1921, pp. 335-37.

grants should be examined by the Committee and the Committee should in the course of the year deal with any scheme for fresh votable expenditure put forward by Departments, but those schemes should be limited to major schemes which would be sufficiently large to have an influence on the budget.

In 1922, at the instance of the Assembly, the functions assigned to the Standing Finance Committee were[898]:

> to scrutinise all proposals for new votable expenditure in all Departments of the Government of India; to sanction allotments out of lump sum grants; to suggest entrenchment and economy in expenditure; and generally to assist the Finance Department of the Government of India by advising on such cases as may be referred to it by the Department[899].

From 1946, the scope of the Committee's functions was enlarged to include consideration of new items of expenditure covering non-voted heads.

Other Standing Committees

In January 1922, the Legislative Assembly adopted by a resolution recommending to the Governor-General that the Standing Committees be also associated with the different Departments of the Government of India, 'other than the Army and the Foreign and Political Departments'[900]. The Government decided to give effect to the resolution in a restricted manner and Standing Committees for four Departments[901] were constituted. An essential feature of these Committees was that three members of the Assembly and two members of the Council were to be nominated to each Committee by the Governor-General from separate panels of members elected by the two Chambers.

An important change in the constitution of the Committees was effected in 1931 when the practice of nomination by the Governor-General from panels was replaced by the system of direct election of members of the two Houses.

The position continued till 1944 with occasional amendments making additions to, and omissions of, Departments for which Standing Committees were elected. The new notification issued in that year ensured the election of Standing Committees for almost all the Departments of the Government of India.

The Standing Committees attached to the Departments then existing came to an end when the Legislature ceased to exist with the attainment of Independence on 15 August 1947. These were, however, revived by the Cabinet although the Ministry of Law were of the view that in the new set up, when the Government became fully responsible to the Legislature, the institution of Standing Committee was of doubtful utility.

It was also decided that the Rules for the Committees would henceforth be adopted by the Legislature instead of being made by the Government[902]. However, no significant

898. *Ibid.,* 11-3-1922, p. 2973.

899. Regarding the Standing Finance Committee, the Indian Statutory Commission observed that the Executive rarely, if ever, "ignored its advice, nor the Assembly ever dissented from its views". *Simon Report,* Vol. I, para 426.

900. *L.A. Deb.,* 19-1-1922, pp. 1755-89.

901. These are the Home Department; the Department of Revenue and Agriculture; the Department of Commerce and Industries; and the Department of Education and Health.

902. The Rules were adopted by the Constituent Assembly (Legislative) on 19 November 1947.

change was effected in other respects; the advisory character of the Committees remained intact; they continued to function under the Chairmanship of the Minister or Minister of State in-charge of the respective Ministry or Department and the secretarial work of these Committees also remained with the concerned Ministry or Department.

The following subjects were normally laid before the Standing Committees:

All non-official Bills introduced or proposed to be introduced in the Assembly and legislative proposals which the Ministry concerned intended to undertake;

Reports of Committees and Commissions, excluding unpublished reports of Departmental Committees on which the Legislature was not adequately represented;

Major questions of general policy and financial proposals; Annual Reports; and

With the approval of the Minister in-charge, any topic of public importance within the field of the Committee which a member of the Committee might propose for discussion.

Subsequently, it was felt that such Standing Committees were out of date and did not fit in with the constitutional changes that had taken place in the country and the democratic pattern under which the formulation of policies and their execution had become the responsibility of the Council of Ministers responsible to Parliament. When the first Lok Sabha met and the Government did not move for the constitution of these Committees, some members raised the matter during the debate on the Appropriation (No. 2) Bill, 1952. Announcing the decision of the Government to discontinue these Standing Committees, the Prime Minister *inter alia* observed:

> These Standing Committees were formed under very special circumstances which obviously no longer exist. The Committees met roughly—except for Standing Finance Committee which met more frequently—two or three times a year and they met to consider certain projects which they recommended or passed to the Finance Committee or whatever it was. There was hardly any real insight into the administration, any opportunity for that. It was a formality and a certain check, if you like, on the previous Government that we used to have. Now as we function today, that particular type of Standing Committee has no meaning.
>
> I am not talking of cooperation in this House but actual consultations, etc., in regard to important matters. I am perfectly prepared to consider any proposal. But I do think that this old system of Standing Committees as they were is completely out of place. It was a relic of the old British days which has no place today. Therefore, we decided to do away with it, but not to do away with the possibility of consultation or co-operation[903].

Consultative Committees

After the abolition of the Standing Committees, the question of acquainting members of Parliament with the working of the various Ministries/Departments and providing them with the opportunities for discussion of broad policies of Government in an informal manner continued to engage the attention of the Government. In pursuance of a decision of the Cabinet, Informal Consultative Committees were constituted for the purpose in 1954 for the various Ministries/Departments.

On the reconstitution of these Informal Consultative Committees in 1957,

903. *H.P. Deb.* (II), 4-7-1952, cc. 3261-62.

a desire was expressed by leaders of the various Parties/Groups in Parliament to make the functioning of these Committees more purposeful. As a result of discussions at various levels, a general agreement between the Government and the Opposition parties was arrived at in April 1969. As a part of this agreement, these Committees came to be named as "Consultative Committees" and mutually agreed guidelines were formulated for the constitution and functioning of these Committees. The suggestion of the Opposition for the formation of Parliamentary Committees in place of Consultative Committees, was however, not agreed to.

Members from both Houses of Parliament are nominated on the Consultative Committees by the Minister of Parliamentary Affairs on the basis of the preferences indicated by the members themselves or by the party leaders. Members belonging to the ruling party and unattached members are nominated on the basis of the preferences indicated by them and sent individually to the Minister of Parliamentary Affairs and members of the Opposition Parties/Groups are nominated on the basis of the preferences indicated by their Party Leaders/Chief Whips.

Membership of these Committees is voluntary. A member of Parliament is nominated on one Consultative Committee only. The maximum membership of a Consultative Committee is 40.

There are also Consultative Committees for the Railway Zones. These Committees continue to be known as "Informal Consultative Committees". A member of Parliament is nominated on the Informal Consultative Committee of the Railway Zone in which the member's constituency falls. If the member's constituency happens to fall more than one Railway Zone, then that member may be nominated on the Informal Consultative Committees of all such Railway Zones, if he so desires.

According to the Guidelines, the Consultative Committees are to be reconstituted each year during the Budget Session. But it has become a practice to reconstitute the Committees every alternate year.

The Minister concerned is the Chairperson of the Consultative Committee and he/she presides over its meetings. In the Chairperson's absence, the Minister of State in the Ministry may preside over the meeting.

The Consultative Committees provide a forum for informal discussion among the members, Ministers and senior officers of the Government on the problems and policies of the Government and the working of administrative Ministries/Departments in a manner which is not practicable on the floor of the House. Ministers are free to decide how they would like to share with members the information on questions and problems concerning their Ministries. The deliberations of these Committees are informal and no reference to the discussions held in the meetings thereof is made on the floor of the House; this is binding on both the Government and the members.

The agenda for a meeting of a Consultative Committee may consist of subjects suggested by members or by the Ministry. Notes on the agenda items are prepared and circulated to the members in advance. Minutes of the meetings and Action Taken Reports on the minutes are also circulated to the members, except in the case of the

Ministries of Defence, External Affairs and Department of Atomic Energy and other Scientific Departments. The Committees have no right to summon any witness or to examine any official records. The Chairperson of the Committee may furnish any additional information required by the members.

A Consultative Committee is required to hold its meeting once during each session period and once during each inter-session period, the only exception being the Committee of the Ministry of Railways which is to hold meetings only during inter-session periods. The reason is that the Ministry of Railways holds meetings of the Informal Consultative Committees of the Railway Zones during session periods.

Keeping in view the need for economy in expenditure, there was a ban (since July 1981) on holding the meetings of the Consultative Committees outside Delhi. In October 1995, it was decided, with the approval of the Ministry of Finance, that Ministries/Departments may hold one meeting of the Consultative Committee in a year, during inter-session period, anywhere in India if the Chairperson of the Committee so desires and that the number of officers attending such meeting outside Delhi would be kept to the minimum. Study visits of members of the Consultative Committees to project sites of major Public Sector Undertakings can, however, be made outside Delhi. Members of the Consultative Committee who attend the inter-session meetings and the Study visits are entitled to TA/DA.

Where there is unanimity of view in the Committees, the Government normally accepts the view subject to certain exceptions, *viz.* any view having financial implications; any view concerning security, defence, external affairs and atomic energy; and any matter falling within the purview of an autonomous corporation. In case there is any difficulty in accepting the views, the reasons for non-acceptance of that view are explained to members of that Committee.

While opinion is often expressed in some quarters that the Consultative Committees should be replaced by Parliamentary Committees, the experience of the working of the Consultative Committees over the past 28 years has proved that these Committees have come to stay as useful fora for informal discussions between Ministers and Officers on the one hand and the members of Parliament on the other matters relating to Government's policies and programmes and the manner of their implementation. It is also noteworthy that while there is no obligation on the part of a member of Parliament to be a member of a Consultative Committee, almost all the members of Parliament have opted to be members of the Committees and they actively participate in the deliberations.

Government Committees

There are a number of Committees, Councils, Boards, etc., (hereinafter referred to as Government Committees) constituted by the Government on which members of either House are represented partially[904]. The Government Committees are set up in pursuance of a provision in an Act of Parliament or a Government resolution. Broadly, the function of these Committees is to advise the Government on certain issues or to

904. Members of the Lok Sabha are, for instance, represented on bodies such as the Advisory Council of the Delhi Development Authority; All India Council for Technical Education; All India Institute of Medical Sciences; Central Silk Board; Court of the Aligarh Muslim University; Haj Committee, etc.

inquire into certain matters. In some cases, these Committees are also called upon to frame rules, regulations or bye-laws for the governance of educational institutions, promotion of industrial development, trade, etc.

The process of Association of Lok Sabha Members to the Government Committees/ Boards by way of nomination and election is briefly summarized as below:—

(a) Nomination of Members to the Statutory/Government Bodies on which Lok Sabha is represented

As done in the case of Parliamentary Committees, the nomination of Lok Sabha Members to the various Statutory/Govt. Bodies is often made in proportion to the respective strength of the party/group in the House. The allocation of seats on Government Bodies, as approved by the Speaker, is for the duration of one Lok Sabha.

Members of the Lok Sabha are nominated thereon by the Speaker on a request from the Minister concerned. When such a request is received, the leaders of Parties and Groups in the House are asked by the Secretariat to suggest, for consideration of the Speaker, a panel of names in the order of priority. While inviting names from Party or Group leaders, it is insisted that only names of those members be suggested who are not already serving on other Parliamentary or Government Committees. After the members selected for nomination have furnished their written consent to serve on the Committee, their names are published in the *Bulletin* and also communicated to the Ministry concerned. These Committees neither work under the direction of the Speaker nor present their reports to the House or the Speaker.

(b) Elections of Members to the Statutory/Government Bodies on which Lok Sabha is represented

(i) The process of election of Members of Lok Sabha to a Government Body is set in motion with the receipt of a Notice from the Hon'ble Minister concerned of his/ her intention to move a motion in the House for the said purpose. The said Notice is examined and if the same is found to be in order, the requisite motion for election is listed in the List of Business in consultation with the office of Minister concerned and usually the same is listed on the question day of the Minister. The office of Minister of Parliamentary Affairs is also informed about the listing of motion well in advance to ensure that the motion is moved on the scheduled day.

(ii) After the motion is moved in and adopted by the House, next course of action regarding election of Member(s) to the Government body is taken which is similar to the process of election of the Members to the Parliamentary Committees. Once the election process is completed, the result of election is published in Lok Sabha Bulletin-Part II and a copy of the para so published is supplied to the Ministry concerned and the members so elected.

These Government Committees/Bodies neither work under the direction of the Speaker nor present their Reports to the House or to the Speaker.

Even where a Government Committee is set up directly by the Government and members from the House are proposed to be included therein, the Speaker is to be

consulted in the matter by the Minister concerned[905]. When the question of consultation with the Speaker by the Government on the matters which involve nomination of members of Lok Sabha on the Committees/Bodies set up by the Government was raised in the House on 4 November 1965, the Speaker observed that such consultation was necessary as it would avoid complications. In reply the Prime Minister had stated that he had more or less no objection to such consultation but would finalise it after having a talk with the Speaker. However, the same has not been finalized in the form of a formal decision or convention to provide for consultation with the Speaker by the Government in such matters. Similarly, when the Government send delegations abroad and members of the Lok Sabha are to be included in such a delegation, the Minister concerned submits the names of members for the approval of the Speaker. The following are the broad guidelines which are kept in view by the Government in nominating members on Government Committees or delegations[906].

(i) Appointments on Government Committees, Commissions, etc. are made on the basis of the aptitude, interest, past experience, etc. of members as ascertained from the bio-data furnished by the members to the Lok Sabha/ Rajya Sabha Secretariat, their participation in and association with the various Parliamentary activities and the options given by the members for nomination on Consultative Committees;

(ii) In order to give as wide a chance as possible to members, names of those members who have not already been elected or nominated on other parliamentary or Government Committees are preferred; and

(iii) Members serving on Financial Committees are not ordinarily nominated on other Committees.

Before finalising nominations, the consent of the members to the assignments is obtained by the Government.

Nominations on Parliamentary Delegations are, however, made by the Presiding Officers of Parliament[907].

905. *L.S. Deb.,* 4-11-1963, c. 291; 29-11-1955, cc. 4278-79.
906. *Ibid.,* 14-8-1970, *U.S.Q.* No. 2811.
907. *Ibid.,* 29-11-1965, cc. 4278-79.

CHAPTER 31

Parliamentary Forums[1]

Parliament is the highest platform for deliberation in a democracy which discusses various matters of public importance. Some of these are of critical importance to the betterment and survival of the humanity and as such require constant focus. Therefore, it is indispensable for members of Parliament to have a proper appreciation of the relevant issues concerning these vital subjects so that they can deal with these concerns in an effective manner inside and outside the Parliament. In order to achieve this objective, Speaker Somnath Chatterjee conceived the idea of constituting specific Parliamentary Forum on each of the important subjects wherein the members of Parliament could participate in informed discussions to gain deeper insights into various aspects of the subject matter. Accordingly, Parliamentary Forum on Water Conservation and Management was constituted on 12 August 2005. Prior to the constitution of the Forum, the Speaker also made an observation in the Lok Sabha on 12 May 2005 about his decision to constitute the Parliamentary Forum on Water Conservation & Management so that the members of Parliament can discuss the critical issue of water in a structured manner and also raise the related issues more effectively on the floor of the House. Subsequently, Parliamentary Forums on Children; Youth; Population & Public Health; and Global Warming and Climate Change were constituted. These Forums were reconstituted during the Fifteenth Lok Sabha also. Subsequently, three more Parliamentary Forums have been constituted. Thus, at present, there are eight Parliamentary Forums, one each on:

1. Water Conservation & Management
2. Children
3. Youth
4. Population & Public Health
5. Global Warming & Climate Change
6. Disaster Management
7. Artisans & Craftspeople
8. Millennium Development Goals

The broad aim and objectives of these Forums are to equip the members of Parliament with information and knowledge regarding issues and developments in the areas falling under the jurisdiction of the respective Forum, so as to make the members of Parliament aware of the seriousness of the situation and to enable them to adopt a result-oriented approach towards these issues. The guidelines of the Forums provide

1. The Parliamentary Forums have not been constituted since Sixteenth Lok Sabha.

that the Parliamentary Forum will not interfere with or encroach upon the jurisdiction of the Departmentally Related Standing Committees of the Ministry/Department concerned.

Objectives

The objectives behind the constitution of the above eight Parliamentary Forums are to:

a. provide a platform to the members of the Forums to have interaction with Ministers concerned, Experts and key officials from the nodal Ministries with a view to have a focused and meaningful discussion on critical issues with a result-oriented approach for speeding up the implementation process;

b. sensitize the members about the key areas of concern and also about the ground-level situation and equip them with latest information, knowledge, technical know-how and valuable inputs from experts both from the country and abroad for enabling them to raise these issues effectively on the Floor of the House and in the meetings of the DRSCs; and

c. prepare a data-base through collection of data on critical issues from Ministries concerned, Internet, reliable NGOs, newspapers; and United Nations, etc. and circulation thereof to the members of the Forums, so that they can meaningfully participate in the discussions and seek clarifications from the experts or officials from the Ministry present in the meetings.

Composition

The Guidelines of the respective Forum provide that the Speaker, Lok Sabha shall be the *ex-officio* President of the Parliamentary Forum on (i) Water Conservation & Management; (ii) Youth; (iii) Children; (iv) Global Warming & Climate Change; (v) Disaster Management; and (vi) Artisans & Craftspeople. In case of Parliamentary Forum on Population and Public Health, the Chairman, Rajya Sabha shall be the *ex-officio* President and the Speaker, Lok Sabha shall be the *ex-officio* Co-President of the Forum. Apart from President, the Deputy Chairman, Rajya Sabha, Deputy Speaker, Lok Sabha, concerned Ministers and Chairpersons of the respective Departmentally Related Standing Committee shall be *ex-officio* Vice-Presidents of the Forums.

It is also provided in the guidelines that the President of the Forum may appoint a Member-Convener for conducting regular, approved Programmes/Meetings. In case of the Parliamentary Forum on Population & Public Health where the Chairman, Rajya Sabha is the *ex-officio* President and the Speaker, Lok Sabha is the *ex-officio* Co-president, such Member-Convener may be appointed by the President and Co-president.

The guidelines of the Forums state that each Forum shall consist of not more than 31 members (excluding the President, Co-President and Vice-Presidents), out of whom, not more than 21 shall be from the Lok Sabha and not more than 10 shall be from the Rajya Sabha. The members of the Forums shall be nominated by the Speaker, Lok Sabha and the Chairman, Rajya Sabha, as the case may be, from amongst the Leaders of Parties and Groups, or their nominees who have special knowledge/keen interest in the subject.

The guidelines of the Forums also provide that upto five additional Vice-Presidents/ members, out of whom, not more than 3 members from the Lok Sabha and 2 members from the Rajya Sabha, may be nominated to the respective Forum by the Speaker, Lok Sabha and the Chairman, Rajya Sabha, as the case may be.

Association of Experts

Subject experts in the field of Water, Youth, Children, Population & Public Health, Global Warming & Climate Change, Disaster Management, Artisans & Craftspeople, and Millennium Development Goals may be associated as Special Invitees who may share their views/present papers during the meetings/seminars of the Forum.

Term of Office

The term of the office of members of the Forum shall be *co-terminus* with their membership in the respective Houses. A member may also resign from the Forum by writing under his hand, addressed to the Chairman, Rajya Sabha or the Speaker, Lok Sabha, as the case may be.

Filling up of Casual Vacancies

A casual vacancy in the Forum shall be filled as soon as possible after it occurs in the manner prescribed for membership.

Meetings of the Parliamentary Forums

The meetings of the individual Forums are held regularly as per the programme approved by the President/Member-Convener. These are held during Session period only. The identified Experts from the country and abroad as approved by President/ Member-Convener make presentation at the meetings of the Forums. During the Fourteenth and Fifteenth Lok Sabha, a total of 64 and 76 meetings were held in various Parliament Forums, respectively.

Parliamentary Forum on Water Conservation & Management

Parliamentary Forum on Water Conservation & Management was constituted during the Fourteenth Lok Sabha by the Speaker on 12 August 2005 in consultation with the Chairman, Rajya Sabha. Dr. Vallabhbhai Kathiria, Member, Lok Sabha was appointed as Member-Convener of the Forum on 15 May 2006 for conducting regular, approved programmes/meetings of the Forum. During the Fifteenth Lok Sabha also, the Speaker reconstituted the Parliamentary Forum on Water Conservation & Management on 21 January 2010. Prabodh Panda, Member, Lok Sabha was appointed as Member-Convener of the Forum.

Functions

The functions of the Parliamentary Forum on Water Conservation and Management are:

(a) To identify problems relating to water and make suggestions/recommendations for consideration and appropriate action by the Government/organisations concerned;

(b) To identify the ways of involving Members of Parliament in conservation and augmentation of water resources in their respective States/Constituencies;

(c) To organise seminars/workshops to create awareness for conservation and efficient management of water; and

(d) To undertake such other related tasks as it may deem fit.

Meetings

During the Fourteenth Lok Sabha, a total of 16 meetings took place under this Forum with discussion on subjects like 'Water Conservation'[2]; Effective Water Conservation Techniques[3]; Issues relating to Water Conservation and Management[4]; and Water Sanitation in the Context of International Year of Sanitation[5]. Apart from these, various experts made 10 presentations and a documentary film on 'Water' was screened for the members during the meetings of the Forum. During the Fifteenth Lok Sabha, this Forum held a total of 13 meetings on subjects like Agenda for Water Management for an increasingly water stressed world – Solution for the future[6]; Water Use Efficiencies[7]; Drinking Water[8]; Integrated Water Management: Policy and Actions[9]; Water Bodies in Rural Areas[10]; Inadequate harvesting of rain water resources[11]; Environment and Pollution Control in River Ganga[12]; Ecosystem of River Ganga – Current Policies and Developments[13]; National Water Mission: Goals and Strategies towards water conservation[14]; Improving Water Use Efficiency in Irrigation, Water Supply and Industries[15]; Technological Options in Rural Sanitation – Indian Context[16]; and Water Conservation – Rain Water Harvesting[17].

Parliamentary Forum on Youth

During the Fourteenth Lok Sabha, the Parliamentary Forum on Youth was constituted by the Speaker, Lok Sabha in consultation with the Chairman, Rajya Sabha

2. Expert from Centre for Science and Environment addressed the meeting on 17-8-2005.
3. Expert from Tarun Bharat Sangh, Rajasthan, addressed the meeting on 1-12-2005.
4. Dr. K. Kasturirangan, Member, Rajya Sabha, spoke on the subject in the meeting on 7-12-2006.
5. Members at the meeting were jointly addressed by an Expert from Child Environment Programme and a Senior Sanitation Specialist on 23-4-2008.
6. Expert from Centre for Science and Environment addressed the meeting on 3-8-2010.
7. Expert from Water Technology Centre addressed the meeting held on 17-8-2010.
8. Water and Environment Sanitation Specialist from UNICEF, India, addressed the meeting on 30-11-2010.
9. Chairperson of the Expert Group for Low Carbon Strategy for Inclusive Growth addressed the meeting held on 3-3-2011.
10. Expert from Central Water Commission addressed the meeting on 17-8-2011.
11. Expert from Global Hydrogeological Solutions addressed the meeting on 29-11-2011.
12. Mission Director of National Mission on Clean Ganga, Ministry of Environment and Forests, addressed the meeting on 21-3-2012.
13. Expert from *Ganga Ahvaan* addressed the meeting on 3-5-2012.
14. Mission Director of National Water Mission, Ministry of Water Resources, addressed the meeting on 22-8-2012.
15. Expert from Central Water Commission addressed the meeting on 11-12-2012.
16. Founder of Sulabh International Social Organisation addressed the meeting on 13-3-2013.
17. Expert from Development Alternatives, an NGO, addressed the meeting on 30-8-2013.

on 20 February 2006 and Naveen Jindal, member, Lok Sabha was appointed as Member-Convener of the Forum on 15 May 2006 for conducting regular, approved programmes/ meetings of the Forum.

The Speaker also constituted four Sub-Forums of the Parliamentary Forum on Youth on 22 March 2007 *viz*. (i) Sub-Forum on Sports and Youth Development; (ii) Sub-Forum on Health; (iii) Sub-Forum on Education; and (iv) Sub-Forum on Employment. Each Sub-Forum had its own Convener to convene the meeting.

During the Fifteenth Lok Sabha, the Speaker reconstituted the Parliamentary Forum on Youth on 21 January 2010. Ashok Tanwar, member, Lok Sabha was appointed as Member-Convener of the Forum.

Functions

The functions of the Parliamentary Forum on Youth are:

(a) To have focussed deliberations on strategies to leverage human capital among the youth for accelerating development initiatives;

(b) To build greater awareness amongst public leaders and at the grass-roots' level on the potential of youth power for effecting socio-economic change;

(c) To interact on a regular basis with youth representatives and leaders, in order to better appreciate their hopes, aspirations, concerns and problems;

(d) To consider ways for improving Parliament's out-reach to different sections of youth, in order to reinforce their faith and commitment in democratic institutions and encourage their active participation therein; and

(e) To hold consultations with experts, National and International Academicians and concerned Government Agencies on redesigning of Public Policy in the matter of youth empowerment.

Meetings

During the Fourteenth Lok Sabha, this Forum held 25 meetings where subjects like Draft Comprehensive National Sports Policy, 2007[18] were discussed and 15 presentations were made by various experts on different concerns of the Youth. The Parliamentary Forum on Youth held a total of 14 meetings during the Fifteenth Lok Sabha on subjects like Youth Policies in Democratic Process[19]; University Education in India[20]; Problem of Unemployment and its Solution[21]; National Sports Policy[22]; Challenges and Reforms in Sports[23]; Youth and the need for vocational

18. Discussed in the meeting held on 22-8-2007.

19. Director, Rajiv Gandhi National Institute of Youth Development, addressed the meeting on 4-5-2010.

20. Chairperson, University Grants Commission, addressed the meeting on 11-8-2010.

21. The meeting was jointly addressed by specialist for Vocational Training & Skills Development with the International Labour Organisations's (ILO's) Decent Work Team for South Asia and Deputy Director General (Employment), Ministry of Labour and Employment on 16-11-2010.

22. Secretary, Sports Authority of India briefed the Forum on the issue on 9-3-2011.

23. Senior Official from the Ministry of Youth Affairs and Sports spoke at length on the issue concerned on 10-8-2011.

training and skill development[24]; Role of Youth in Nature Conservation[25]; Youth and Entrepreneurship[26]; Youth and Economic Development[27]; Professional Education and Employability[28]; Skill Development[29]; Student Financing and Demand Side Management of Higher Education[30]; and Youth and Social Media: Challenges and Opportunities[31].

Parliamentary Forum on Children

During the Fourteenth Lok Sabha, consequent upon a note received from Jairam Ramesh, member, Rajya Sabha, Speaker Lok Sabha desired on 28 September 2005 to constitute a Parliamentary Forum on Children. Accordingly, the Forum was constituted on 2 March 2006 by the Speaker in consultation with the Chairman, Rajya Sabha.

The Speaker appointed Prema Cariappa, member, Rajya Sabha as Member-Convener of the Forum on 15 May 2006 for conducting regular, approved programmes/ meetings of the Forum. After her retirement from Rajya Sabha on 9 April 2008, Jaya Bachchan, member, Rajya Sabha was appointed as Member-Convener of the Forum by the Speaker on 28 April 2008.

During the Fifteenth Lok Sabha, the Speaker constituted the Parliamentary Forum on Children on 21 January 2010. Naveen Jindal, member, Lok Sabha was appointed as Member-Convener of the Forum.

Functions

The functions of the Forum are:

(a) To further enhance awareness and attention of parliamentarians towards critical issues affecting children's well-being so that they may provide due leadership to ensure their rightful place in the development process.

(b) To provide a platform to parliamentarians to exchange ideas, views, experiences, expertise practices in relation to children, in a structured manner, through Workshops, Seminars, Orientation Programmes etc.

(c) To provide parliamentarians an interface with civil society for highlighting children's issues including *inter-alia,* the Voluntary sector, Media and corporate sector and thereby to foster effective strategic partnerships in this regard.

(d) To enable Parliamentarians to interact, in an institutionalized manner, with specialized UN Agencies like UNICEF and other comparable multilateral Agencies on Expert Reports, Studies, News and Trend-analyses, etc.,

24. MD & CEO of the National Skill Development addressed the meeting on 15-12-2011.
25. Senior Official from National Service Scheme spoke at length on the issue concerned on 28-3-2012.
26. Vice Chancellor of O.P. Jindal Global University addressed the meeting on 17-5-2012.
27. Expert from Centre for Policy Research addressed the meeting on 27-8-2012.
28. The meeting was jointly addressed by two senior counselling psychologists on 29-11-2012.
29. MD & CEO of the National Skill Development addressed the meeting on 21-3-2013.
30. Senior Official from the Ministry of Human Resource Development spoke at length on the issue concerned on 7-5-2013.
31. Public Affairs Analyst from Google India addressed the meeting on 5-9-2013.

world-wide, which are germane to developments in the sector.

(e) To undertake any other tasks, projects, assignments etc. as the forum may deem fit.

Meetings

During the Fourteenth Lok Sabha, a total of 17 meetings were held where subjects like Children's Development: Challenges facing India[32]; Rights of Children[33]; Rights of the Girl Child[34]; Impact on Legislation relating to Child Labour and Future Challenges; etc. were discussed and five presentations were made during the meetings. During the Fifteenth Lok Sabha, this Forum held a total of 15 meetings on subjects like Right to Education[35]; Malnutrition and Urgency of Improving Newborn Survival in India[36]; Children as Agents of Change: Voices from the field[37]; Child Rights[38]; Happier School Children[39]; Child Abuse and Neglect in Asia Pacific Countries: Challenges and Opportunities[40]; Child Marriage: A violation of rights[41]; Child Trafficking[42]; Status of revision/updating of NCERT Books[43]; Early Childhood Care and Development[44]; Nutrition, Food and Malnutrition[45]; Status of updating/ revision NCERT Text-Books[46]; Elimination of Child Labour[47]; Save the Children[48]; The Juvenile Justice (Care and Protection of Children) Act, 2000[49]; Engendering Development: The Twelfth Plan Perspective[50]; and Schemes for strengthening of Sports Infrastructure for Children[51].

32. Expert from United Nations Children's Fund (UNICEF) addressed the members in the meeting held on 9-12-2005.
33. Discussed during the meeting held on 14-3-2006.
34. Expert from India Alliance for Child Rights addressed the members on 23-5-2006.
35. Expert from Central Advisory Board of Education addressed the meeting.
36. Experts from Department of Paediatrics, AIIMS, Chief of Nutrition, UNICEF and Programme Officer, Nutrition, WFP jointly addressed the meeting.
37. Experts from UNICEF and Planning Commission addressed the meeting.
38. Expert from India Alliance for Child Rights addressed the meeting.
39. Chairperson, Central Board of Secondary Education addressed the meeting.
40. Expert from Indian Child Abuse, Neglect & Child Labour Group addressed the meeting.
41. Chief of Child Protection in UNICEF, India, discussed the problem in the meeting held on 8-12-2011.
42. Expert from STOP Trafficking and Oppression of Children and Women spoke at the meeting on 27-3-2012.
43. The issue was dealt in detail and discussed with the representatives of the Ministry of Human Resource Development/NCERT/CBSE on 27-3-2012.
44. Director, Centre for Early Childhood Education and Development spoke on the subject on 8-5-2012.
45. Director, Nutrition Foundation of India was the expert speaker at the meeting on 8-5-2012.
46. The members discussed the subject with the representatives of the Ministry of Human Resource Development/NCERT/CBSE at the meeting held on 8-5-2012.
47. Senior official from Ministry of Labour and Employment briefed the members on the issue on 23-8-2012.
48. Expert from Policy and Advocacy, Save the Children, and a Professor from Columbia University participated in the meeting held on 12-12-2012.
49. Expert from Prayas Institute of Juvenile Justice briefed the members on the subject on 11-3-2013.
50. A Professor on Economics from the Indian Institute of Public Administration spoke on the subject in the meeting held on 3-5-2013.
51. Senior official from Sports Authority of India briefed the members on the subject in the meeting held on 27-8-2013.

Parliamentary Forum on Population & Public Health

During the Fifteenth Lok Sabha, consequent upon a suggestion made by the Chairman, Rajya Sabha for setting up of a Parliamentary Forum on Population & Public Health, the Speaker, Lok Sabha in consultation with the Chairman, Rajya Sabha constituted Parliamentary Forum on Population & Public Health on 26 July 2006 for building up the required commitment and support of Parliamentarians to the subject of Population & Public Health which is of utmost national importance. The Chairman, Rajya Sabha is the President and the Speaker, Lok Sabha is the co-President of the Parliamentary Forum on Population & Public Health. The Chairman, Rajya Sabha and President of the Forum appointed Tarlochan Singh, member, Rajya Sabha as Member-Convener on 26 November 2007 for conducting regular approved programme/meetings of the Forum.

During the Fifteenth Lok Sabha also, the Speaker, Lok Sabha constituted the Parliamentary Forum on Population & Public Health on 21 January 2010. Tarlochan Singh, member, Rajya Sabha was again appointed as Member-Convener of the Forum. On his retirement from Rajya Sabha on 1 August 2010, Prof. Ram Gopal Yadav, Member, Rajya Sabha was appointed as Member-Convener of the Forum by the Speaker on 16 November 2010.

Functions

The functions of the Forum are:—

(a) To have focused deliberations on strategies relating to population stabilization and matters connected therewith.

(b) To discuss and prepare strategies on issues concerning Public Health.

(c) To build greater awareness in all sections of the society particularly at the grass-roots level regarding population control and Public Health.

(d) To hold comprehensive dialogue and discussion in the matter of Population and Public Health with experts at the National and International levels and to have interactions with the Multilateral Organisations like WHO, United Nations Population Fund, Academicians and concerned Government Agencies.

Meetings

During the Fourteenth Lok Sabha, four meetings of the Forum on Population and Public Health were held which included three presentations by senior government officials. During the Fifteenth Lok Sabha, a total of 10 meetings were held on subjects like Empowering Approach to Population Stabilization;[52] Public Health Issues[53]; Cleanliness and Waste Disposal in Rural Areas[54]; Dementia[55]; Population Policy:

52. Expert from Population Foundation of India spoke on the subject in the meeting held on 28-7-2010.

53. Director from National Centre for Diseases addressed the meeting on 14-3-2011.

54. Senior Official from Ministry of Drinking Water and Sanitation briefed the members in the meeting on 24-8-2011.

55. National Chairperson, Alzheimer's and Related Disorders Society of India spoke on the issue in the meeting on 13-12-2011.

Current Status and need for new Population Policy[56]; Sanitation Interventions for Public Health and Hygiene[57]; Towards Achieving Universal Health Coverage in India[58]; Combating Blindness in India[59]; and Management of Kumbh Mela[60].

Parliamentary Forum on Global Warming & Climate Change

During the Fourteenth Lok Sabha, consequent upon a letter received from Manvendra Singh, member, Lok Sabha regarding setting up a Parliamentary Forum on Global Warming & Climate Change, the Speaker, Lok Sabha in consultation with the Chairman, Rajya Sabha constituted Parliamentary Forum on Global Warming & Climate Change on 14 July 2008. The Speaker is the *ex-officio* President of the Forum. The Speaker appointed N.K. Singh, member, Rajya Sabha as Member-Convener of the Forum on 4 September 2008 for conducting regular, approved programmes/meetings of the Forum.

During the Fifteenth Lok Sabha also, the Speaker constituted the Parliamentary Forum on Global Warming & Climate Change on 21 January 2010. Rajiv Pratap Rudy, member, Rajya Sabha was appointed as Member-Convener of the Forum.

Functions

The functions of the Forum are:

(a) To identify problems relating to global warming and climate change and make suggestions/recommendations for consideration and appropriate action by the Government/Organizations concerned to reduce the extent of global warming;

(b) To identify the ways of involving members of Parliament to interact with specialists of National and International Bodies working on global warming and climate change with increased effort to develop new technologies to mitigate global warming;

(c) To organise seminars/workshops to create awareness about the causes and effects of global warming and climate change among the members of Parliament;

(d) To identify the ways of involving members of Parliament to spread awareness to prevent global warming and climate change; and

(e) To undertake such other related task as it may deem fit.

Meetings

The Parliamentary Forum on Global Warming & Climate Change held a total of 15 meetings during the Fifteenth Lok Sabha on subjects like the Road Map for Reduction

56. Senior Official from Family Planning Division, Ministry of Health and Family Welfare briefed the members in the meeting on 21-5-2012.

57. Senior Official from Family Planning Division, Ministry of Health and Family Welfare briefed the members in the meeting on 6-9-2012.

58. WHO Representative to India, expert from Andalusian School of Public Health, Spain, and Senior Official from Ministry of Health and Family Welfare jointly addressed the meeting on 18-12-2012.

59. Expert from *Sankara Netralaya* addressed the meeting on 25-4-2013.

60. Senior Official from Allahabad briefed the members in the meeting on 8-5-2013.

in Emission intensity of Indian GDP by 20-25% by 2022 as communicated by G.O.I. to the UNFCCC[61]; Impact of Climate Change on Agriculture[62]; Population, Resources and Biodiversity with respect to Climate Change[63]; Forests, Wildlife and Climate Change[64]; Technology and Climate Change[65]; Impact of Climate Change on Energy Security[66]; Impact of Climate Change on Human Life and Habitat[67]; National Solar Mission and related initiatives under the National Action Plan on Climate Change[68]; National Mission on Sustainable Habitat[69]; Renewable Energy—New Challenges and Priorities[70]; Climate Science–Recent Findings and Innovative Responses to Climate Change[71]; National Water Mission - Effect of Climate Change on Water Resources[72]; and Learnings from Climate Change Act in UK[73].

Parliamentary Forum on Disaster Management

During the Fifteenth Lok Sabha, a delegation met the Speaker, Lok Sabha on 3 December 2010 and submitted a memorandum regarding the plight of victims of Bhopal Gas leak disaster. Consequently, the Speaker, in consultation with the Chairman, Rajya Sabha constituted Parliamentary Forum on Disaster Management on 8 December 2011. The Speaker appointed Dr. Shashi Tharoor, member, Lok Sabha as member-Convener of the Forum for conducting regular, approved programmes/meetings of the Forum. Consequent upon his appointment as Minister, Dr. Tharoor resigned from the Forum on 1 November 2012. Dr. Kakoli Ghosh Dastidar, member, Lok Sabha was then appointed as Member-Convener of the Forum by the Speaker on 26 November 2012.

Functions

The functions of the Forum broadly are:

(a) To identify problems relating to Disaster Management and make suggestions/ recommendations for consideration and appropriate action by the Government/

61. Expert from PRAYAS, the Energy Group addressed the meeting on 3-5-2010.
62. Expert from Divecha Centre for Climate Change, Indian Institute of Science, Bangalore and a Senior Scientist from Environment Science Division, Indian Agriculture Research Institute briefed the members in the meeting on 10-3-2011.
63. Expert from Development Alternatives addressed the meeting on 18-8-2011.
64. Senior Officials from National Board for Wildlife, Government of India addressed the meeting on 25-8-2011.
65. Senior Official from Department of Biotechnology briefed the members in the meeting held on 30-11-2011.
66. Senior Official from Ministry of Power briefed the members in the meeting held on 26-3-2012.
67. Adviser from Ministry of Environment and Forests addressed the meeting on 2-5-2012.
68. Senior Official from Ministry of New and Renewable Energy briefed the members in the meeting held on 30-8-2012.
69. Senior Official from Ministry of Urban Development briefed the members in the meeting held on 17-12-2012.
70. Secretary General, Climate Parliament, addressed the members in the meeting held on 27-2-2013.
71. A Climate Change expert addressed the members in the meeting held on 30-4-2013.
72. Senior Official from Central Water Commission briefed the members in the meeting held on 29-8-2013.
73. Opposition Spokesperson on Energy/Climate in the House of Lords, British Parliament and Vice-President, GLOBE International addressed the members in the meeting held on 17-12-2013.

Organizations concerned to reduce the effects of disasters;

(b) To identify the ways of involving members of Parliament to interact with specialists of National and International Bodies working on Disaster Management with increased effort to develop new technologies to mitigate the effect of disasters;

(c) To organise seminars/workshops to create awareness about the causes and effects of disasters among the members of Parliament;

(d) To identify the ways of involving members of Parliament to spread awareness to prevent disasters; and

(e) To undertake such other related task as it may deem fit.

Meetings

The Parliamentary Forum on Disaster Management held a total of 7 meetings during the Fifteenth Lok Sabha on subjects like Disaster Management[74]; Safety of Dams[75]; Urban Flooding and Disaster Mitigation[76]; Flooding, Tsunami and their Management[77]; Community based Disaster Preparedness[78]; and Emerging Challenges of Disaster Management in India[79].

Parliamentary Forum on Artisans & Crafts People

The Speaker, Lok Sabha in consultation with the Chairman, Rajya Sabha constituted Parliamentary Forum on Artisans & Crafts People on 26 April 2013. The Speaker appointed Putul Kumari, Member, Lok Sabha as Member-Convener of the Forum on Artisans & Crafts People for conducting regular, approved programmes/ meetings of the Forum.

Functions

The functions of the Forum broadly are:

(a) To further enhance awareness and attention of Parliamentarians towards critical issues affecting artisans and craftspeople so as to preserve and promote traditional art and crafts through various mechanisms;

(b) To provide a platform to Parliamentarians to exchange ideas, views, experiences, expertise and best practices in relation to artisans and craftspeople, in a structured manner, through Workshops, Seminars, Orientation Programmes, etc.;

74. Senior Official from National Disaster Management Authority addressed the members in the meeting held on 22-3-2012.

75. Senior Ex-official from Central Water Commission addressed the members on 25-4-2012.

76. A Professor from Indian Institute of Technology, Delhi, addressed the members on the issue on 16-8-2012.

77. Regional Disaster Reduction Advisor from UNDP addressed the members on 19-12-2012.

78. Expert from Sustainable Environment & Ecological Development Society, India, addressed the members on 5-3-2013.

79. Two experts from Disaster Management Infrastructure and Control Society jointly addressed the members on 13-2-2014.

(c) To provide Parliamentarians an interface with civil society for highlighting issues related to craftspeople and artisans including *inter-alia*, the Voluntary Sector, Media and Corporate Sector and thereby to foster effective strategic partnerships in this regard;

(d) To enable Parliamentarians to interact, in an institutionalized manner with representatives of various Union Ministries, Government Organisations like Khadi & Village Industries Commission (KVIC), Coir Board, The Council for Advancement of People's Action and Rural Technology (CAPART) and other related Organisations/Bodies;

(e) To hold comprehensive dialogue and discussion on the matters relating to preservation of art and traditional craft and the promotion of artisans and crafts people with experts/Organisations at the National and International levels; and

(f) To undertake any other Tasks, Projects, Assignments, etc. as the Forum may deem fit.

Meetings

The Parliamentary Forum on Disaster Management held an inaugural meeting during the Fifteenth Lok Sabha on 13 August 2013. It also organised a Workshop-cum-Exhibition on the theme 'Handlooms and Handicrafts Challenges Ahead' in Parliament House Annexe from 18 December to 20 December 2013.

Parliamentary Forum on Millennium Development Goals

The Speaker, Lok Sabha in consultation with the Chairman, Rajya Sabha constituted Parliamentary Forum on Millennium Development Goals on 11 December 2013. The Speaker appointed Kamal Kishor Commando, member, Lok Sabha as Member-Convener of the Forum on Millennium Development Goals for conducting regular, approved programmes/meetings of the Forum.

Functions

The functions of the Forum broadly are:

(a) To review and enhance awareness and attention of Parliamentarians towards critical issues which have bearing on achievement of goals/targets set under Millennium Development Goals by 2015.

(b) To provide a platform to Parliamentarians to exchange ideas, views, experiences, expertise and best practices in relation to implementation of Millennium Development Goals in a structured manner, through Workshops, Seminars, Orientation Programmes, etc.

(c) To provide Parliamentarians an interface with civil society for highlighting issues related to Millennium Development Goals *viz.* eradication of poverty; hunger; achievement of universal primary education; promotion of gender equality and empowerment of women; reduction of child mortality; improving maternal health; combating HIV/AIDS, Malaria and other diseases; ensuring environmental sustainability; and developing a global partnership for development.

(d) To enable Parliamentarians to interact, in an institutionalized manner with specialized UN Agencies and other comparable Multilateral Agencies, Expert Report, Studies, News and Trend-analyses, etc. regarding achievement of Millennium Development Goals.

(e) To undertake any other Tasks, Projects, Assignments, etc. as the Forum may deem fit.

Meeting

Salman Khurshid, Minister of External Affairs, inaugurated the Parliamentary Forum on Millennium Development Goals at a meeting held on 17 February 2014.

Distinction between Parliamentary Committees and Parliamentary Forums

Parliamentary Committees are distinct from Parliamentary Forums. Parliamentary Committees have statutory sanction as they owe their origin, powers, functions and privileges to the Constitution, the rules made thereunder, Acts of Parliament or Motions/Resolutions adopted by the House. The composition of the Parliamentary Committees which scrutinize the functioning of the Government consists of members of Parliament only and Rules do not permit appointment of Ministers as members of such Committees. Parliamentary Committees examine subjects within their mandate and present reports to the Houses. They also follow up with the Government the implementation of the recommendations contained in their reports and thereafter present action taken reports to the House. The Parliamentary Committees have been vested with the powers to call for records and persons in connection with the examination of the subjects and to report to the House any breach of privilege for investigation and suitable action. On the other hand, Parliamentary Forums are an informal mechanism consisting of members of Parliament and Ministers for interaction on critical issues of current importance to enable the members to acquaint themselves with such issues so that they may participate effectively in deliberations and discussions on the floor of the House in evolving suitable strategies and policies to deal with the problems at hand. The constitution of Forums do not have any statutory sanction nor they have been vested with powers, privileges conferred on the Parliamentary Committees. The Forums do not present any report to the House(s). Therefore, while appreciating the role and importance of the Parliamentary Forums, care should be taken not to equate or confuse Parliamentary Forums with Parliamentary Committees in terms of their status, powers, privileges, etc.

CHAPTER 32

General Rules of Procedure

Notices

Every matter proposed to be raised in the House by a member, whether it is in the form of a question, resolution, motion, Bill, an amendment, or otherwise, requires a notice. The Speaker does not allow any matter to be raised on the floor of the House unless he has received the requisite notice thereof. Every notice required under the Rules has to be given in writing addressed to the Secretary-General, signed by the member giving notice and handed in at the Parliamentary Notice Office within the notified hours[1]. The Speaker has deprecated the practice of members addressing notices to him by his personal name or sending them to his residence[2]. Notices may be delivered by members personally or through their messengers and can also be sent by post.

As part of an e-Parliament initiative, an e-Portal has been made operational w.e.f. 17 July, 2016[3]. Members have been provided with the facility of submitting online notices from the 9th Session of 16th Lok Sabha. During 9th to 17th Sessions of 16th Lok Sabha, on an average, about 27 per cent notices (other than Questions) were received online which has gone up to about 78 per cent during the 17th Lok Sabha. Online notices received during the First and Second Sessions of Eighteenth Lok Sabha were 68 and 76 per cent, respectively.

Notices are required to be given on standard printed forms. The practice of giving notices on scraps of paper or written in pencil has been deprecated by the Speaker[4].

Since notices are in respect of business to be transacted in the House during a session, various notices are accepted from 1000 hours on the day following the day on which summons to members are issued.

As per the decision taken at a meeting of Speaker, Lok Sabha with the Leaders of Parties on 24 July 2005, the notices relating to matters of urgent public importance to be raised after the 'Question Hour' should be addressed to Secretary-General and given by the members by 0930 hours (thereafter submitted by members between 0830[5] hours and 0900 hours) on the day on which the member desires to raise the matter.

Presently[6] notices of Matters of Urgent Public Importance (Zero Hour) are given by members from 1000 hours of a given day to 0900 hours of the Session day on which the members desire to raise their matters. Such notices received upto 0900

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1. Rule 332. The hours fixed for the receipt of notices are from 10.00 hours to 15.15 hours on the working days. Notices received after 15.15 hours are deemed to be notices received on the following day, *i.e.* next working day.
2. *L.S. Deb.,* 20-11-1970, c. 218; 23-3-1964. c. 6898
3. *L.S. Bn.(II)*, No. 3739, 17.07.2016.
4. *L.A Deb*., 9-4-1934,p. 3423.
5. *Bn. (II),* 29-7-2005, Para 1425.
6. *Bn. (II)*, 01.12.2022, Para 5465.

hours are put to computerized ballot after 0900 hours. The Portal is not operational from immediately after 0900 hours to 1000 hours on Session days. Notices for Monday or first day of a week is given on Friday or last working day of the previous week between 1000 hours on Friday or last working day of the previous week and 0900 hours on Monday or first working day of the week. Zero Hour Portal remains open on Saturdays, Sundays and holidays for tabling notices online.

It is now an accepted practice that before the commencement of a session, notices of adjournment motions, calling attention, motions of no-confidence in the Council of Ministers or any other notices which are required to be given before the commencement of the sitting on the day on which the matter is proposed to be raised in the House, are entertained only from the day notified for the purpose in *Bulletin Part II* as it is not possible for the Speaker to consider these notices received too much in advance of the session[7].

Notices have to be given by the prescribed period laid down for the various items of business. Where a notice is required to be given "before the commencement of a sitting", the notice should be received by the Speaker and the Secretary-General by 1000 hours on that day[8]. If it is received after the prescribed hour, it is deemed to be a notice for the next sitting. Where no period of notice is prescribed as in the case of discussion on matters of urgent public importance or *no-day-yet-named* motions[9], the member is at liberty to give it at any time and the Speaker may take as much time as he requires to consider its admissibility.

However, notices for raising short duration discussion or motion regarding statements to be made in the House by Ministers or statements, reports and papers to be laid on the Table, are entertained from 1000 hours on the day the *List of Business* wherein the item has been included, is circulated to members. In case that day happens to be a Saturday, Sunday or a public holiday, the notices are entertained from 1000 hours on the next working day. In case a *Supplementary List of Business* is circulated in the House in regard to a statement, the notices in respect of that statement, received within 15 minutes of completion of circulation of the *List of Business,* are deemed to have been received at the same point of time and their *inter se* priority is determined by ballot. In a case where an announcement is made by the Chair about a statement to be made by a Minister in the House, the notices in respect of that statement are entertained from the time the announcement is made by the Chair and the notices received within 15 minutes of announcement by the Chair are deemed to have been received at the same point of time and their *inter se* priority is determined by ballot. When a statement is made without being listed in the *List of Business* or *Supplementary List of Business,* the notices in respect of that statement are entertained from the time the statement is actually made in the House and the notices received within 15 minutes

7. *Bn. (II),* 8-1-1973, para 991. The day notified for receiving these notices is usually the fourth working day before the commencement of the session.
8. Dir. 113B.
9. *See* Rules 193 and 185.

of completion of the statement are deemed to have been received at the same point of time and their *inter se* priority is determined by ballot.

The period of notice prescribed under the Rules is generally insisted upon, and motions or resolutions falling short of the stipulated notice period are not allowed to be moved. However, the Rules prescribing the period of notices also empower the Speaker to waive the period of notices in appropriate cases and to admit a particular motion with a shorter notice or even without notice[10], but such cases are rare.

In calculating the period of notice in regard to questions and resolutions, the day on which notice has been received and the day on which the question is to be answered or the resolution is to be moved, are excluded.

Notices of amendments to a Bill or a resolution may be given by members in advance, of the inclusion of the relevant item in the *List of Business.* Such amendments are, however, circulated to members on or after the day on which that item is included in the *List of Business* or in the statement made by the Minister of Parliamentary Affairs regarding Government Business for the ensuing week[11].

It is open to a member to give notices before making and subscribing the oath or affirmation but a member who has not made and subscribed the oath or affirmation cannot ask a question or move a resolution, a cut motion or an adjournment motion or introduce a Bill, although he may have given notices of the same.

Where two or more members give separate notices of an identical motion or on the same matter, the names of all such members are bracketed on the admitted notice, the names of the members *inter se* being arranged in the order in which notices are received in point of time or in the order determined by ballot, as the case may be. The right of moving the motion in such cases belongs, in the first instance, to the member whose name appears first on the list.

Identical or substantially similar questions, notice**s** of which are given by several members separately, are either consolidated or the one which is most appropriately worded is admitted and the names of all the other members are added thereto. However, if a member objects to his name being so added, his name is deleted. Similarly, where two or more notices of an adjournment motion on the same matter have been received, the Speaker may, in his discretion, admit a notice which is appropriately framed although it may not be the first received in point of time. The names of the other members are then appended to the notice in the order of receipt of the notices. In the case of Bills also, the names of all the members who give notice of an identical Bill are appended to the Bill in the order in which notices are received in point of time. The member whose notice is received first gets the right to move the motion for leave to introduce the Bill[12]. However, if a Bill is pending in the Lok Sabha, notice of

10. The cases under which the period of notice can be or has been waived by the Speaker are described at appropriate places under respective Chapters.

11. Dir. 113.

12. Dir. 28.

an identical Bill cannot be given by another member, unless the Speaker otherwise directs[13].

Where a motion, an amendment or a cut motion admitted in the names of several members is not actually moved but is treated as moved on an indication given by such members in writing to the Speaker[14], the motion, amendment or cut motion, as the case may be, is deemed to have been moved by the member whose name appears first in the *List of Business* and if he is not present in the House or has not indicated his intention to move, then by the second member or the third member, etc., who may be present. In the printed debates also the name of such member is shown as the mover of the motion, amendment or cut motion, as the case may be[15].

In the case of a private member's Bill which has been admitted in the names of more than one member, the member whose name appears first in the *List of Business* gets the right to move the motion for leave to introduce the Bill. In case the first member is absent, the next member present may make the motion for leave to introduce the Bill[16].

A member who has given notice of his intention to move for leave to introduce a Bill may authorize any other member to make the motion on his behalf [17]. However, the Speaker may refuse to allow a member to introduce a Bill on behalf of another member if he has not been informed sufficiently in advance of such authorization[18]. An amendment or a cut motion, however, cannot be moved by a member on behalf of another member[19]. The member giving notice of an amendment or cut motion must be present in the House when the amendment or cut motion is taken up[20]; otherwise he loses the opportunity to move it[21]. Authorization is, however, permissible in the case of resolutions and a member may, with the permission of the Speaker, authorize any other member in whose name the same resolution stands lower down in the *List of Business* to move it on his behalf[22].

Contingent Notices

A member may give notice of a motion or resolution or Bill which he desires to be taken up on the conclusion of another item of business on which that motion is

13. For a case where a Bill was not considered identical with the pending Bill, *see P. Deb.,* (II), 12-12-1950, cc. 1548 and 1552-53.

14. Where substitute motions, cut motions or amendments are received in large numbers, in order to save the time of the House the practice has been for the Speaker to ask members to hand in at the Table, slips indicating the numbers of the selected substitute motions, cut motions or amendments which they desire to be treated as moved.

15. Dir. 42.

16. Dir. 28.
However, in case of the Sadhus and Sanyasis (Registration and Licensing) Bill, 1956, introduced on 27 July, 1956, the notice of which had been given jointly by two members, was introduced by one of them. After introduction, the member, who actually introduced the Bill became member-in-charge of the Bill and the notice by the other member was treated as lapsed. *L.S. Deb.,* 27-7-1956, c. 121.

17. Dir. 29.

18. *L.S. Deb.,* 7-12-1956, cc. 2133-34.

19. *Ibid.,* 5-9-1957, cc. 12142-43; 6-9-1957, c. 12382; 26-4-1963, c. 12156; 29-4-1969, cc. 560-61, 577-78.

20. *Ibid.,* 24-11-1960, c. 2151.

21. *C.A. (Leg.) Deb.,* (II), 2-12-1949, p. 20, *L.S. Deb.,* 9-9-1957, c. 12889.

22. Rule 176(2) and (3).

contingent and, if such a notice is admitted by the Speaker, it is included in the *List of Business* under the heading—Contingent Notice of Motion or Resolution or Bill, as the case may be. Any such notice can be taken up in the House only after the item of business on which the notice is contingent is disposed of [23].

Contingent notices are generally given in respect of Appropriation Bills which the Government desire to be passed as early as possible after the relevant Demands for Grants are voted by the House. In special cases where such Bills are required to be passed expeditiously, the Minister concerned makes a special request to the Speaker that motions regarding introduction, consideration and passing of the Bill under 'Contingent Notice of Bill' may be included in the *List of Business* on the same day on which the relevant demands are to be voted by the House.

Where the debate on a Government Bill is adjourned *sine die* on a motion adopted by the House, further discussion of that Bill is included under the heading 'Contingent Notice of Bill' in the *List of Business* for the day on which the relevant motion for resumption of the adjourned debate on the Bill is to be adopted by the House.

In case the debate on a private member's resolution is adjourned *sine die* on a motion adopted by the House and the adjourned debate on such a resolution is sought to be resumed without determining its relative precedence again by ballot by suspending Rule 30(2) in its application to the resolution, the motion for resumption of adjourned debate on such a resolution is included under the heading 'Contingent Notice of Motion' in the *List of Business* for the day on which the motion for suspension of the relevant rule is to be adopted by the House.

Modification of Notices

If in the opinion of the Speaker any notice contains words, phrases or expressions which involve argument or are unparliamentary, ironical, irrelevant, verbose or otherwise inappropriate, he may, in his discretion, have such notice amended before it is circulated[24].

Notices of amendments which are not intelligible or which make a clause of the Bill to which they relate or the resolution or motion unintelligible or ungrammatical, are suitably edited before they are circulated to the members. If necessary, the members concerned are also consulted while editing the amendments.

Power of Speaker to rule out Motion

Apart from the power to amend or modify notices of motions, resolutions, etc., the Speaker is also empowered to decide whether a resolution or a motion or a part thereof is or is not admissible under the Rules and may disallow any resolution or motion, or a part thereof, when in his opinion it is an abuse of the right of moving the same or is calculated to obstruct or prejudicially affect the procedure of the House[25]. The Speaker has the inherent power to rule out a motion at any time before it is voted upon on the ground that it involves an abuse of the forms and procedure of the House[26]. All the

23. Rule 333. For instance, *see* L.O.B. dated 4-12-1992.

24. Rule 337.

25. Rules 174, 187 and 211.

26. *L.A. Deb.,* 11-4-1929, p. 2991.

items entered in the *List of Business* or in any *Parliamentary Paper* are provisional. Members can raise points of order on an item so entered and if the Speaker is satisfied, he may rule out the item[27].

Anticipating Discussion

A member seeking to raise discussion on any matter of which notice has already been given by another member or Minister is not permitted to do so on the ground of anticipation[28]. However, in determining whether a notice is out of order on the ground of anticipation, the probability of the matter being brought before the House within a reasonable time is taken into consideration by the Speaker before deciding about the admissibility of the discussion. Thus an amendment to a resolution anticipating a later resolution of which notice had been given prior to the amendments has been held to be not in order[29]. Similarly, notice of resolution relating to a matter already before the House in the form of a private member's Bill was held inadmissible on the ground of anticipation. Amendments to the Motion of Thanks on the President's Address relating to a matter on which a resolution has been put down for discussion after a few days are held to be inadmissible on the ground of anticipation[30].

Likewise, even questions by way of clarification or any sort of discussion on a statement made by a Minister may not be permitted on a subject that is likely to be discussed shortly on some other motion[31]. But an objection that a substitute motion approving the policy of Government cannot be put to vote when a motion of no-confidence in the Council of Ministers was to be discussed shortly, has been overruled on the ground that the rule prohibited the anticipation of discussion and not voting on a substitute motion to the motion on which discussion had concluded[32].

Lapse of Notices

On the prorogation of the House, all pending notices other than notices of intention to move for leave to introduce a Bill, lapse and if the members concerned desire to raise the matter in the next session, they must give fresh notice of the same[33]. However, fresh notice is required of intention to move for leave to introduce a Bill in respect of which sanction or recommendation of the President is necessary and if such sanction or recommendation, earlier granted, has ceased to be operative[34].

When a member gives a notice after the adjournment of the House *sine die* but before its prorogation with the intention of moving the matter in the next session, such notice is not treated as valid for the next session. Fresh notice is required for moving of supplementary Demands for Grants which were not voted before the prorogation of a session.

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27. *L.S. Deb.,* 8-3-1968, cc. 2670-84; 22-3-1968, cc. 2693-710.
28. Rule 343.
29. *LA. Deb.,* 7-9-1922, pp. 201-02.
30. *L.S. Deb.,* 22-2-1960, c. 2142.
31. *Ibid.,* 14-8-1963, c. 415.
32. *Ibid.,* 10-9-1964, cc. 1032-33; 23-2-1968, cc. 3071-72, 3089-90.
33. Rule 335.
34. *Ibid.,* Proviso.

Bills pending before the House do not lapse on the prorogation of the House[35]. Similarly, Bills before Select or Joint Committees are also protected[36].

A motion, a resolution or an amendment which has been moved and is pending in the House does not lapse by reason only of the prorogation of the session and fresh notice is not required for further consideration thereof [37]. Discussion on a matter of urgent public importance for a short duration raised but not concluded in a session does not also lapse on prorogation and may be resumed in a subsequent session[38]. Amendments moved or motions made in respect of a pending Bill and not disposed of are also saved from lapsing upon prorogation. Further proceedings on such amendments or motions can be continued from the stage reached in the following session[39].

If a member, subsequent to his giving notice in writing in respect of any matter under the rules, is appointed a Minister, the notice given by him is treated as having lapsed from the date of such appointment[40]. On the other hand, if a Minister in charge of a Government Bill resigns or is allocated a different portfolio before the Bill is actually introduced, the notice of the Bill does not lapse. However, the name of the new Minister in charge who introduces the Bill is substituted in the Statement of Objects and Reasons and docket page in the copy of the Bill meant for publication in the Gazette. Copies of the Bill, as introduced in the Lok Sabha, are also reprinted in the same way.

In the case of Government Bill, an amendment of which notice has been received from the member in-charge, does not lapse by reason of the fact that the member in-charge has ceased to be a Minister or a member and such amendment is printed in the name of the new member in-charge of the Bill[41]. However, when there is a change in the Ministry a new Cabinet takes oath in which some of the Ministers who had given notices of consideration of motions, etc., in regard to Government Bills are also in the new Cabinet, or when some of the Ministers who had given notices are not holding the same portfolios in the new Cabinet, the notices tabled earlier are not treated as valid and fresh notices for introduction, consideration and passing of Bills and consideration of motions, etc. are obtained from the new Ministers.

Recommendation of the President

Recommendation of the President is required for introduction of Bills in the following cases—

> Bills relating to formation of new States and alteration of areas, boundaries or names of the existing States[42]; Money Bills and Financial Bills [43]; and Bills affecting taxation in which the States are interested[44].

35. Art. 107(3).
36. *L.S. Deb.,* 26-7-1956, cc. 984-86
37. Rule 336.
38. *L.S. Deb.,* 27-9-1958, c. 9047; 18-11-1958, cc. 364-412; 10-12-1965, c. 6908.
39. *See* also Chapter 9—'Summoning, Prorogation and Dissolution of the Houses of Parliament'.
40. Dir. 113A.
41. Rule 79(1), Proviso.
42. Art. 3.
43. Art. 117(1).
44. Art. 274(1).

A Bill requiring the President's recommendation for introduction is withdrawn in case it is introduced without the recommendation being obtained. It may be reintroduced with the requisite recommendation.

The recommendation of the President is necessary for the consideration and passing of a Bill involving expenditure from the Consolidated Fund of India[45]. Recommendation for consideration would also be necessary,

If the Bill would, if enacted, involve expenditure indirectly;

In the case of a continuance Bill involving expenditure from the Consolidated Fund of India although the recommendation was not obtained when the original Bill was passed;

In the case of a Bill consolidating an existing Act or Acts which involve expenditure from the Consolidated Fund;

For an amending Bill seeking to convert an existing Act into a permanent one, if the recommendation was necessary for the consideration of the Principal Act.

The recommendation of the President for consideration of a Government Bill may, however, be obtained while discussion on the Bill continues[46].

Every recommendation of the President is communicated to the Secretary-General by the Minister concerned in writing[47].

Where a Bill having been considered and passed by the Rajya Sabha is transmitted to the Lok Sabha, the Minister concerned forwards to the Secretariat also the necessary recommendation for consideration of the Bill in the Lok Sabha even though a similar recommendation has been sent earlier to the Rajya Sabha when the Bill was pending before that House.

Printing of the Recommendation on Bills

Every recommendation of the President for introduction or consideration of a Bill is printed along with the Bill for the information of members. The letter from the Minister concerned to the Secretary-General conveying the recommendation is reproduced *verbatim* in the Bill after the Statement of Objects and Reasons. In cases where the recommendation is not received in time for being printed along with the Bill, it is published in the *Bulletin*[48]. Here also, the letter of recommendation is reproduced *in extenso.*

The recommendation of the President for consideration of a Bill which is introduced in the Rajya Sabha and is transmitted to the Lok Sabha after having been passed by that House, is published in the *Bulletin* for the information of members.

The recommendation of the President is also indicated as a footnote in the relevant proceedings of the House in the following form[49]:

"Introduced/moved with recommendation of the President."

45. Art. 117(3).
46. *L.S. Deb.,* 1-12-1960, cc. 3406 and 3418-21.
47. Rule 348; *L.S. Deb.,* 13-5-1969, cc. 260-76; 14-5-1969, cc. 173-75.
48. *L.S. Deb.,* 26-8-1969, cc. 306-07.
49. Rule 348.

How Members are called upon to speak

A member who desires to take part in a debate or discussion in the House may adopt any one of the following three methods[50]:

He may have his name communicated to the Speaker through the Parliamentary Party or Group to which he belongs.

In all important debates, each Party or Group forwards a list of the members who would be their spokesmen in such debates. The Speaker is not bound by the list or the order in which the names have been given but gives due consideration to such lists while calling upon members to speak.

He may prefer to write direct to the Speaker without having to go through the machinery of Parliamentary Party or Group.

A member may write direct to the Speaker or the Secretary-General that he wishes to take part in a debate. When such requests are received either direct from the members or through their Party or Group, the Secretariat prepares a list of such members party-wise and places it before the Speaker.

He may catch the Speaker's eye.

A member who wishes to catch the Speaker's eye has to stand in his seat whenever he wishes to take part in a debate. Catching the Speaker's eye is a well-established parliamentary convention. Every member has to catch the eye of the Speaker to get a chance to speak even if he has written to the Speaker in advance or forwarded his name through his Party or Group. Unless a member rises in his place, he may not be called upon to speak even though his Party or Group or he himself has made a request in writing to Speaker to permit him to speak.

Selection of Members called upon to speak

The Speaker determines the order in which he would call upon members to speak: a member cannot indicate the order in which he should be called[51].

List of spokesmen are supplied by Whips of the Parliamentary Party and Groups to enable the Speaker to select members so as to ensure a well-regulated and balanced debate. He is, however, not bound by such lists. The list prepared by the Secretariat for the guidance of the Speaker on the basis of the lists supplied by Whips and requests received direct from members can be changed or altered by the Speaker[52]. Requests from members received direct or through Parties are for the guidance of the Speaker and cannot be read out to the House[53].

The Speaker has the right to regulate the debate and select members to take part in a debate: a member cannot insist on being called[54].

50. Dir. 115A.

51. *L.S. Deb.,* 7-2-1958, c. 5071.

52. *P. Deb.,* 9-4-1951, cc. 6342-44; *L.S. Deb.,* 11-4-1956, cc. 5099-5100; 26-5-1962, cc. 6910-12; *see* also *P. Deb.,* 7-4-1950, c. 1318; 27-2-1951, c. 3580; 7-4-1951, cc. 6287-88; *H.P. Deb.* (*II*). 6-6-1952, cc. 1316-17; *L.S. Deb.,* 23-11-1955, c. 317; 15-3-1956, c. 2692; 9-4-1957, cc. 6343-44, 15-5-1957, c. 409; 28-5-1957, c. 2500; 30-8-1957, cc. 10943-44; 18-11-1957, c. 1098; 26-5-1962, cc. 6910-12; 31-3-1976, cc. 195-96; 29-3-1977, c. 26; 30-3-1977, c. 28.

53. *L.S. Deb.,* 7-12-1962, c. 4789.

54. *H.P. Deb.* (*II*), 20-12-1952, cc. 2959-60.

During the Fifth Lok Sabha, when the number of members who wished to speak on the Motion of Thanks on the President's Address was too large to be accommodated, the Speaker, in order to ensure that smaller Groups also got a chance to speak, decided to call two members from the major Parties/Groups, followed by one from a medium Group and one from a small Group, in that order[55]. The major Parties/Groups are those which have more than 15 members in the House. While the medium ones have 5-15 members, the small Groups comprise less than five members.

No member can claim to speak as a matter of right: he should try to catch the Speaker's eye and wait for his turn[56]. The one who is called upon to speak is deemed to have caught the Speaker's eye[57]. A member who tries to catch the Speaker's eye by shouting may not be called[58]; so also a member who does not stick to his seat[59]. A member who is absent or inattentive and does not respond when called upon to speak loses his chance[60]. The one who is not called upon to speak has no right to protest against the decision of the Speaker[61].

In the matter of selection of members, the person who is sitting in the Chair for the time being is not bound by any direction given by the person who occupied the Chair earlier[62].

Every Group in the House cannot insist on being given an opportunity to take part in every debate[63]. Further a member who moves an amendment or a cut motion cannot claim to speak as a matter of right[64].

A member proposed to serve on a Select or Joint Committee does not try to catch the Speaker's eye to participate in the debate on the motion for reference of a Bill to that Select or Joint Committee. Even if he has tabled an amendment to the motion for reference of the Bill to the Select or Joint Committee[65], except in special Circumstances, he is not called upon to speak in the particular debate[66].

A member who has had no opportunity to speak at the time of reference of a Bill to a Select or Joint Committee is, as far as possible, accommodated during the discussion on the Bill as reported by the Committee[67].

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55. *L.S. Deb.,* 31-3-1971, cc. 141-42.
56. *P. Deb.,* (*II*), 7-4-1951, cc. 6287-88; 9-4-1951, cc. 6343-44; *L.S. Deb.,* 11-7-1957, c. 4095.
57. *P. Deb.,* (*I*), 10-3-1951, cc. 2127-28.
58. *L.S. Deb.,* 7-5-1965, c. 13799
59. *P. Deb.,* 21-3-1950, cc. 955-56.
60. *Ibid.,* 18-3-1950, p. 1756; *L.S. Deb.,* 25-2-1963, c. 1095.
61. *H.P. Deb.,* (*II*), 18-6-1952, c. 2032.
62. *L.S. Deb.,* 23-11-1955, c. 317.
63. *Ibid.,* 27-3-1958, c. 9411.
64. *L.S. Deb.,* 15-5-1957, c. 440; 28-8-1962, c. 4590; 6-4-1955, c. 4479; 25-7-1957, cc. 5235-36.
65. *L.S. Deb.,* 9-5-1954, cc. 6570-71; 8-8-1962, cc. 771-74.
66. *P. Deb.,* (*II*), 4-6-1951, cc. 10121-24; *H.P. Deb.,* (*II*), 21-4-1953, c. 4716; 30-4-1954, c. 6140; *L.S. Deb.,* 16-11-1954, c. 335; *see* also *P. Deb.,* 21-11-1950, cc. 351-52; *H.P. Deb,* 6-11-1952, cc. 89-90; *L.S. Deb.,* 15-12-1964, c. 5100.
67. *L.S. Deb.,* 24-11-1958, c. 1238.

A member who is not on the Joint or Select Committee on a Bill is generally given preference to speak during the discussion on the Bill as reported by the Joint or Select Committee[68]. A member who is on the Committee may be given a chance if a reply is called for on the points raised by the other members.

A member cannot speak twice during the same debate even if he may have a new amendment to move or the time allotted to the debate has been extended[69]. As a special case, however, the Speaker may permit a member to speak again on the same motion or resolution if the debate on it is spread over in two sessions and during the interval some new developments have taken place[70].

As far as possible, time is divided between the party in power and the Opposition in proportion in their strength in the House[71]: time taken by Ministers is counted within the time allocated to the party in power[72].

A large number of members intend to participate in important debates such as the Motion of Thanks on President's Address, Union Budget, Demands for Grants or important Bills, etc. However, as the time allotted is limited, the Chair, at times, permits members to lay their speeches, relevant to the subject matter under discussion, on the Table. Members may also send softcopies of their speeches. Accordingly, all such speeches form part of the proceedings and are published in the debates[73].

Mode of addressing the House

A member who desires to make an observation on a matter before the House is required to speak from his place and rise while speaking[74]. He is always to address the Speaker. A member who is disabled by sickness or infirmity may, however, be permitted by the Speaker to speak sitting[75].

> The practice requiring members to stand up and speak from their places was observed even in the Central Legislative Assembly. In 1920, a proposal was mooted that in the interests of acoustic facilities it might be well to provide for delivery of speeches from a central rostrum in the Chamber, but the proposal was not accepted. The question was again raised at the Conference of Secretaries held at Jaipur in 1957, and it was agreed that the practice of members speaking from their seats had considerable merit in it and should continue.

68. *Ibid.,* 12-8-1959, cc. 2050-51.
69. *P. Deb.,* (*II*), 16-11-1950, c. 101; 17-11-1950, c. 183.
70. *L.S. Deb.,* 10-11-1965, c. 1240.
71. *Ibid.,* 12-9-1956, c. 6796.
72. *Ibid.,* 13-9-1957, c. 12129; 12-3-1958, c. 6270.
73. Before commencement of a Session, members are requested through a para published in Bulletin Part-II to keep the following points in view while laying their written speeches on the Table of the House:—
    1. The text of the speech, addressed to the Speaker, should be typed in double line space in English or Hindi and the speech should not be too lengthy but confining preferably to two or three pages.
    2. The speech should not contain ironical expressions, defamatory statements, etc.
    3. Enclosures, such as letter to Government, tabulated statistical statements, etc., may not be appended to the text of speeches.
    4. The text of the speech, duly signed along with division number of the member, may be handed over to the officer at the Table.
74. Rule 349 (vii).
75. Rule 351.

Rules to be observed while Speaking

While participating in debates or discussions in the House, members are required to observe certain rules regarding the manner of speech. These have been described in Chapter-XII dealing with 'Conduct of Members'.

Discussion on *Sub Judice* Matters

Members cannot refer to any matter of fact on which a judicial decision is pending[76].

Member appointed Minister in a State

Where a member of either House of Parliament is appointed a Minister in a State but does not resign his seat in Parliament, he incurs no disqualification and continues to be a member of that House as well as Minister in the State for a period of six months without being elected to State Legislature[77]. In such cases, though there are no constitutional provisions to debar him, it is desirable that the member, if he comes to the House, should not participate in the proceedings of the House[78]. As regards voting in the House, the Presiding Officers have left it to the good sense of the member concerned to decide for himself in the matter[79].

Making of Allegation against a Person

Members have freedom of speech in the House and, as a necessary corollary to this privilege, they are immune from proceedings in any court, civil or criminal, for anything said on the floor of the House[80]. It is not necessary that a member should make speeches or statements which would stand the test in a court of law. While speaking a member may criticize any authority or person or make any statement which might ordinarily amount to defamation under the law of the land, and unless the Speaker has prevented him from making such a statement or has expunged it, it remains on record.

The constitutional privilege of freedom of speech is, however, subject to the other provisions of the Constitution and to the Rules of the House.

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76. *See* Chapter 43—'Parliament and Judiciary'.

77. Art. 102(2) read with art. 164(4).

78. *L.S. Deb.,* 6-9-1963, cc. 4822-23; 12-12-1963, cc. 4439-40.

79. *R.S. Deb.,* 17-11-1964, cc. 174-75; 18-11-1964, cc. 330-31.

    On 17 April 1999 during the Fourth Session of the Twelfth Lok Sabha, before the Motion of Confidence in the Council of Ministers was put to vote of the House, the Minister of Parliamentary Affairs submitted that as per convention, a member (Giridhar Gamang) who had assumed the office of the Chief Minister of Odisha, should not be allowed to cast his vote. The Leader of Opposition (Sharad Pawar) and some other members of the Opposition submitted that since he continued to be a member of the House, he was entitled to cast his vote on the Motion of Confidence in the Council of Ministers. Thereupon, the Speaker observed:

    There are instances where members, on their appointment as Ministers in the States, have signed the Attendance Register of Lok Sabha to avoid loss of seats for non-attendance in the House. However, in a few instances, it had been observed from the Chair that while such Ministers continued to be members, it would not be desirable for them to participate in the deliberations of the House. Accordingly, such members withdrew from the House forthwith.

    Giridhar Gamang who is the Chief Minister of Odisha continues to be a member of Lok Sabha. He has come to cast his vote on the Confidence Motion. In view of the aforesaid, I leave it to the good sense of the member as regards the question of casting his vote on the Confidence Motion. The member voted against the Motion—*see L.S. Deb.,* 17-4-1999, cc. 30-31.

80. Art. 105(1) and (2).

Conduct of high dignitaries cannot be questioned incidentally in the course of a speech by a member on a Bill, motion, resolution or any other form of discussion. The Constitution provides for discussion on the conduct of some of the authorities in the manner indicated therein, *e.g.* President, Vice-President, Speaker, Deputy Speaker, Judges of the Supreme Court and High Courts, Comptroller and Auditor-General, Chief Election Commissioner, etc. Other high functionaries such as Governors, Ministers, Statutory authorities can be discussed on appropriate motions drawn in a form approved by the Speaker. In fact, the House has discussed many times the conduct of Governors in the discharge of their functions as Governors on specific resolutions confined to the subject[81]. Questions can be asked on the conduct of Chief Ministers and Ministers of State Governments if the matters have been referred to the Union Government or are under their consideration. Whenever the Union Government has taken up for consideration or investigation any matter concerning or involving a dignitary, a Question or Calling Attention is admissible as to what the Union Government is doing or proposes to do[82].

A question has arisen from time to time as to the scope of discussion in the House on the conduct of a person in high authority which is not connected with the discharge of the duties of the office he is holding, *e.g.* if before he assumed office, or while in office, he has done anything unconnected with the office, it would be in order to refer to it in a debate on any bill, motion, resolution or any other form of discussion, provided that the Union Government is primarily responsible for answering such criticism.

As a rule, no allegation of a defamatory or incriminatory nature can be made by a member against any person unless the member has given previous intimation to the Speaker and taken his permission[83] and has also informed the Minister concerned, so that the Minister could make an investigation into the matter for the purpose of a reply[84]. Nevertheless, the Speaker may at any time prohibit a member from making any allegation if he is of the opinion that such allegation is derogatory to the dignity of the House or that it does not serve any public interest[85].

While proposing this rule, the Rules Committee observed:

> It was against the rules of parliamentary debate and decorum to make defamatory statements or allegations of incriminatory nature against any person and the position was rather worse if such allegations were made against persons who were not in a position to defend themselves on the floor of the House. The House should not be made a forum where the conduct and character of persons should be brought into disrepute, as the person against whom allegations were made had no remedy against a speech made on the floor of the House which was privileged. In order to safeguard the honour of the people generally it was imperative that the members applied voluntary restraint and resorted to making allegations in cases of extreme necessity where there was an element of public interest. Even in such cases, it was necessary that reasonable

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81. For details and instances, *see* Chapter 42—'Parliament and the States', *infra.*

82. *Ibid.*

83. *L.S. Deb.,* 20-8-1976, c. 147, 31-7-1992, cc. 372-75.

84. Rule 353.

85. *Ibid.*, Proviso.

L.S. Deb., 21-3-1973. cc. 131-42; 14-3-1974, cc. 252-62, 296-303; 5-4-1974, c. 271; 29-4-1974, cc. 261-73, 3-12-1974, cc. 800-03; 19-1-1976, cc. 181-84.

> opportunity should be given to the Minister concerned to investigate into the matter and to produce, if necessary, defence on behalf of the person concerned.
>
> It would not be right to place an absolute ban on members making such allegations as that might stand in the way of their discharging their duties as responsible members. While a member should be given absolute right to bring to the notice of the House any matter which on proper investigation he feels should be ventilated even though it involves the character or reputation of any person, he should in the interest of public morality and high parliamentary decorum inform the Speaker beforehand of his intention to do so and also the Minister concerned. The Minister will then have an opportunity to look into the matter beforehand and to come prepared with a reply also. At the same time the Speaker will have also an opportunity of satisfying himself that the member has made reasonable inquiries and has in his possession *prima facie* evidence in support of his allegations.

The Committee thought that the proposed rule would have a salutary effect in regulating the debate and provide the necessary safeguards both for the member and the persons against whom allegations might be made as also the Government[86].

A member has to be careful while making an allegation. He has to satisfy himself that the source is reliable and allegation is based on facts. In effect, he is required to make *prima facie* investigation into the matter before he writes to the Speaker or the Minister, and more so before he speaks in the House. A notice relating to an allegation based on newspaper reports is not allowed unless the member tabling it gives the Speaker substantial proof that the allegation has some factual basis[87].

In the notice to the Speaker, a member is required to give brief details about the allegation which he proposes to make against a person or another member so that the Speaker could judge the matter beforehand[88].

As already stated, unless advance notice is given to the Speaker and the Minister concerned, a member is not permitted to make allegations in the House[89]. Where allegations are made without fulfilling this requirement, an objection to that effect can be taken by any member in the House and the Chair in such a case may uphold the objection and forbid the member from proceeding further in the matter[90]. The Chair may also *suo motu* object to the allegations being made where these are made without following the prescribed procedure. In appropriate cases, the member may be asked to withdraw them[91] or the Chair may even order the expunction of the allegations from the proceedings[92] though this is done in exceptional cases only.

When allegations are made by a member against another member or a Minister and the latter denies those allegations, the denial should normally be accepted by

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86. Min. (RC), 22-12-1953; *L.S. Deb.,* 17-12-1970, cc. 278-81.
87. *L.S. Deb.,* 9-4-1969, cc. 1-3; 7-3-1975, cc. 325-42.
88. *Ibid.,* 10-12-1970, c. 174.
89. *Ibid,* 24-2-1966, c. 1978; 8-5-1975, cc. 821-35.
90. *Ibid.,* 24-8-1966, cc. 6827-28.
91. *Ibid.,* 9-3-1966, cc. 4416-17.
92. *L.S. Deb.,* 7-11-1966, cc. 1579-81; 26-11-1973, cc. 360-62; 20-8-1976, c. 147; 8-5-1986, cc. 70, 72, 74, 76 and 78, 19-7-1980 cc. 68-69; 14-8-1987, cc. 46-47.

the member who made the allegations unless he is sure about the correctness of the charges made and is prepared to take full responsibility for the same[93]. Where both the member who made the allegations and the member or the Minister against whom those allegations have been made stick to their respective versions and are prepared for an inquiry being held by the Speaker, they may be asked to adduce such evidence as may be in their possession in support of their statements. After examining the evidence and going into the facts of the case, the Speaker may inform the House of the result of his findings. If the Speaker comes to the conclusion that the allegation had not been substantiated as there was doubt about the genuineness of the documents, the member may be informed accordingly[94]. In the event of the member who made the allegations expressing regret, the House may agree to treat the matter as closed[95].

Normally when a member makes an allegation in the House against a Minister or a member without giving advance notice thereof, provisions of the rule on the subject are invoked and the member is called to order[96]. In many cases these allegations find a place in the proceedings and if they go unchallenged they might affect the honour and dignity of the member concerned. Therefore, where any such allegations have gone on record, the Minister or member against whom allegations have been made is allowed, if he so requests, to make a statement in the House clarifying the position either on the same day or later on and that brings the matter to an end[97].

When an allegation is made against a Minister or member, it is for that Minister or member to take any course of action to refute the allegation[98]. A Minister may be permitted to refute then and there allegations made against him in his capacity as a Minister without being required to furnish written text of the statement to be made by him[99]. Where a member of the Rajya Sabha feels aggrieved because of certain derogatory remarks alleged to have been made against him by a member of the Lok Sabha, he may approach the concerned Minister to make a statement in the Lok Sabha contradicting the allegatory remarks[100].

Where allegations are made in the House against a particular political party, the leader or the Chief Whip of that Party or Group in the House is permitted to make a statement in regard thereto. The member desiring to make the personal explanation is, however, required first to submit to the Speaker the text of the statement to be made by him. He can make the statement if the Speaker after going through the statement accords him the permission[101].

However, a member who makes an allegation in the House cannot be compelled to disclose the source of his information or the documents or evidence on which his

93. *Ibid.,* 20-11-1973, cc. 291, 305-06**,** 31-7-1992, 29-4-1993.

94. *Ibid.,* 21-11-1973, cc. 257-58; 22-11-1973, cc. 224-26; 13-12-1974, c. 214.

95. *Ibid.,* 2-9-1965, cc. 3425-27; 3-9-1965, cc. 3729-36; 17-11-1965, cc. 2397-2402; 2-12-1965, cc. 6987-7005, 7011-16; 5-12-1965, cc. 1412-31.

96. *L.S. Deb.,* 24-8-1973, cc. 270-82.

97. For procedure prescribed for making personal explanation, *see* Chapter 18, *supra.*

98. *L.S. Deb.,* 2-12-1974, cc. 290, 294-97; 5-12-1974, cc. 207-19, 31-7-1992, cc. 372-75.

99. *Ibid.,* 28-4-1974, cc. 216-17; 29-8-1974, cc. 153-64.

100. *Ibid.,* 21-11-1976, cc. 230-58.

101. *L.S. Deb.,* 11-12-1967, c. 6019; 13-12-1967, cc. 6606-08.

allegation is based, even though a document may have been obtained through leakage or stealth or in an irregular manner[102].

It is a parliamentary convention that no allegation or criticism is usually made by a member against heads of foreign Diplomatic Missions[103].

The Speaker has not permitted and has deprecated making of casual allegations against persons who are not present in the House to defend themselves[104]. Where a citizen feels aggrieved that his name has been brought in debate with a view to slander, defame or criticize him, he may write to the member concerned giving him true facts with a request to make necessary corrections in the House. He may also write to the appropriate Minister giving him all the facts and the Minister may, after such investigations as he deems fit, make a statement in the House clarifying the position. The Minister can refute the allegation made in the House by a member against an outsider, but he cannot read the statement furnished to him by the individual concerned[105]. The aggrieved citizen cannot also ask the Speaker to intervene in the matter or to read his statement or submission to the House. As a remedy, however, the aggrieved person may make a representation to the Committee on Petitions of the House placing all the facts before it, and the Committee after examining the case in all its aspects may make a report to the House[106]. It is open to the House to take such further action as it deems fit.

A citizen who has been criticized in the House may make a factual statement in the Press or circulate it to members of Parliament for their information. He should, however, refrain from making any aspersions or casting reflections on the member or the House or the Presiding Officer while clarifying his position, as by doing so he may be held guilty of the contempt of the House[107].

References to officers present in the Official Gallery of the House are not permissible[108]. Where a public servant feels aggrieved by anything said in the House, he may, through proper channel, bring to the notice of the Minister concerned whatever he has to say in this regard. Thereafter, the Minister if he considers it necessary may, with the previous permission of the Speaker, make a statement in the House[109].

It is not enough for a member merely to give notice to the Speaker in general terms before making allegations in the House. For this purpose, it is necessary that:

(i) the member gives adequate advance notice to the Speaker and the Minister concerned;

(ii) the details of the charges sought to be levelled are spelt out in precise terms and are duly supported by the requisite documents which are to be authenticated by the member;

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102. *Ibid.,* 26-2-1965, c. 1721.

103. *See* art. 29 of the Vienna Convention on Diplomatic Relations with States.

104. *L.S. Deb.,* 11-3-1968, cc. 2938-39.

105. *Ibid.,* 4-12-1970, cc. 242-45.

106. *Cf.* Second Report of the Committee on Petitions (3LS) presented on 5 May 1964.

107. 13R (CP-RS), presented on 11 June 1971.

108. *L.S. Deb.,* 14-4-1960, cc. 11862-64.

109. *Ibid.,* 3-12-1969, cc. 224-26.

(iii) the member before making the allegations in the House satisfies himself after making enquiries that there is a basis for the allegations;

(iv) the member is prepared to accept responsibility for the allegations; and

(v) the member is prepared to substantiate the allegations.

The Speaker has laid down the following procedure to be followed in dealing with allegations made against outsiders[110]:—

(1) No member shall be allowed to make an allegation against an outsider unless he has obtained the prior permission of the Speaker after giving advance notice thereof to the Speaker and the Minister concerned. Such notice shall give the name of the person concerned, the nature of allegation against him and some evidence to show that there is a *prima facie* case.

(2) Where a member makes an allegation in the House against an outsider without obtaining the prior permission of the Speaker, the same may not form part of the record of the House.

(3) In the case of allegations made against Government officers, it will be for the Minister concerned to make a statement in the House, if he so wishes.

(4) When a representation from an outsider is substantiated by documentary evidence, the Speaker may, in his discretion, refer the matter to the Government or the Committee on Petitions for inquiry and report.

If a member makes an allegation against any outsider on the floor of the House and the subject-matter thereof becomes later a case for investigation by police or any other investigating authority, the police or the investigating authority cannot approach the member and call upon him to divulge the source of his information or give up evidence in his possession which may assist the police or investigating authority in their investigations. It will be a breach of privilege on the part of such authorities to approach the member direct in such cases. The proper course for the authorities concerned is to submit their case to the Minister and the Minister, if he is satisfied that the evidence in the possession of the member is relevant or necessary for the completion of the investigation, may write to the member and ask him to co-operate in the matter but it is entirely in the discretion of the member whether he should give the information that is in his possession. If he declines to give the information, the matter cannot be pursued further[111].

The Chair has on occasions impressed upon the members that a member who makes an allegation against any person should ensure about the correctness of the facts beforehand and should realise his responsibility as a member of Parliament. Where a member is alleged to have acted in a manner which is inconsistent with the dignity of the House or the standard expected of him as a member of Parliament, a motion on his

110. *Ibid.,* 17-12-1970, cc. 278-81.

111. 12R (CP-RS), presented on 6 December 1968. The report was adopted by the Rajya Sabha.

conduct may be allowed to be discussed in the House. However, certain preliminary procedure has to be followed before such a motion is admitted by the Speaker[112].

Order of Speeches and the Right of Reply

After the member who moves a motion has spoken, other members may speak on the motion in such order as the Speaker may call upon them. If any member who is so called upon does not speak, he is not entitled, except with the permission of the Speaker, to speak on the motion at any later stage of the debate[113].

Except in the exercise of the right of reply, no member can speak more than once to any motion, save with the permission of the Speaker[114]. A member who has moved a motion may speak again by way of reply, and if the motion is moved by a private member the Minister concerned may, with the permission of the Speaker, speak (whether he has spoken previously in the debate or not) after the mover has replied. It is not permissible for a member to reply to the debate on a motion or resolution on behalf of another member[115]. The right of reply, however, does not extend to the mover of an amendment to a Bill or a resolution, save with the permission of the Speaker[116].

Where a motion or an amendment standing in the names of several members is moved by one of them, others can only speak in support thereof and cannot move the motion or amendment again[117]. In such cases, the motion or the amendment, as the case be, is moved by the member whose name appears first on the *List of Business* and if he is not present in the House, then by the second member or third member, etc., who may be present and the name of only such member is shown in the proceedings as the mover of that motion[118].

No member can speak more than once on any motion even if he may have a new amendment to move or the time allotted for the debate has been extended[119], unless specifically provided for in the Rules[120] or permitted by the Chair[121].

A second speech by a member, allowed through oversight, was expunged from the debates[122].

112. For the procedure antecedent to the discussion of such a motion in the House, *see* Chapter 12, *supra.*
113. Rule 358(1).
114. Rule 358(2)—Such permission is given rarely.
115. *L.S. Deb.,* 5-12-1974, cc. 265-67.
116. Rule 358(3). Such permission is given rarely.
117. *L.S. Deb.,* 28-5-1956, c. 9770.
118. Dir. 42.
119. *L.S. Deb.,* 16-11-1950, c. 101: 17-11-1950, c. 183.
120. For instance, Rules 234 and 315.
121. For instance, *L.S. Deb.,* 12-9-1956, cc. 6796-97.
122. *L.S. Deb.,* 25-7-1955, c. 8310.

If the speech of the mover of a motion or resolution remains unfinished, it is treated as concluded if the mover is absent on the next occasion when the discussion is resumed[123]. It is not permissible for the mover to authorize another member to continue the unfinished speech. This applies to any speech which remains unfinished and the member in question is absent at the time when discussion on that item is resumed[124].

The Speaker does not undertake the responsibility of ascertaining in every case before putting the question whether the mover of a motion or resolution would like to speak in reply. It is for the mover himself to protect his own right of reply by rising in his place and asking for permission to reply[125].

The reply of the mover of the original motion concludes the debate[126] and the Speaker declines to permit further speeches thereafter[127]. Reply on amendments does not, however, conclude the debate[128].

After a combined discussion on a statutory resolution seeking disapproval of an Ordinance and a motion for consideration of the Government Bill seeking to replace that Ordinance, the Minister is called first to speak so that the mover of the resolution gets a chance to reply to the arguments put forward by the Minister; if the member raises any new points in his reply, the Minister may be given a second opportunity to speak[129].

Address by Speaker

The Speaker may by himself, or on a point being raised or on a request made by a member, address the House at any time on a matter under consideration in the

123. *Ibid.,* 19-8-1966, c. 5838; 5-12-1974, cc. 265-67.

A member who had to resume his unfinished speech on a private member's resolution spoke during the course of the discussion after many members had spoken and not when further discussion was taken up—*L.S. Deb.,* 25-4-1975, cc. 326-44.

During the Tenth Session of the Eighth Lok Sabha, a member, who could not finish his speech while moving resolution on Centre-State relations on 18 March, 1988 when the House adjourned for the day, was allowed to resume, with the consent of the House, his unfinished speech on 29 April, 1988, although he was not present on 30 March, 1988 when further discussion on the resolution was resumed—*L.S. Deb.,* 18-3-1988, cc. 450-52; 29-4-1988, cc. 468-69.

124. *L.S. Deb.,* 29-7-1966, c. 1415; 22-7-1968, c. 482; 7-3-1969, cc. 237-38; 31-3-1969, cc. 207.

125. When the mover of a resolution was under detention at the time of exercising his right of reply, he was treated as absent from the House and the House proceeded to accept or reject the resolution— *L.S. Deb.,* 11-4-1975, c. 367; 16-1-1976, cc. 165-72.

126. Rule 359. In the case of Government motion, the mover may intervene and another Minister may reply to the debate if the mover was not available at the time of conclusion of the debate— *L.S. Deb.,* 22-12-1967, c. 9298.

127. *L.A. Deb.,* 16-3-1925, p. 2486; 4-4-1946, p. 3526.

128. *Ibid.,* 23-3-1927; p. 2656.

129. *L.S. Deb.,* 7-9-1965, cc. 4251-58; *see* also 4-12-1967, cc. 4554 and 4568.

House with a view to aiding members in their deliberations[130]. Such expression of views cannot be taken to be in the nature of a decision[131].

The Speaker generally makes valedictory references on adjournment *sine die* of the House.

Closure

At any time after a motion has been made, a member can move for closure and if he does so, the motion "That the question be now put" is put by the Speaker unless it appears to him that the closure motion is an abuse of the Rules or an infringement of the right of reasonable debate[132]. If the motion "That the question be now put" is carried, the question or questions consequent thereon are put forthwith without further debate, subject to the right of reply which may be allowed by the Speaker to a member[133].

A closure motion may be moved at any time, subject to the condition that if another member is speaking he should be allowed to conclude his speech, and also subject to the right of reply, if any, being exercised by the mover. It is in the discretion of the Speaker to accept the motion if he considers that there has been sufficient debate and the time is ripe for such a motion[134]. The discretion of the Speaker is limited to the acceptance of the closure motion but the final decision rests with the House to decide whether the debate should end or not[135]. Even if there appears to be a general feeling in the House in favour of the closure motion, the Speaker has the full discretion to refuse it if he is of the opinion that there has not been sufficient debate[136]. However, once the closure motion has been accepted by the Speaker, no discussion is permissible on the question whether there has been sufficient debate or not[137]. When a motion for closure is put, no debate, argument or appeal is permitted[138]. However, the practice of resorting to the device of the closure motion has practically gone out of use with the coming into being of the Business Advisory Committee in 1953, and is resorted to

130. For instance, the Speaker addressed the House with a view to regulating the debate on the Report of the States Reorganisation Commission—*L.S. Deb.,* 9-12-1955; 14-12-1955, cc. 1919-23 and 2575-78. On another occasion, he congratulated the House for passing the Hindu Succession Bill, which he regarded as an important piece of legislation—*L.S. Deb.,* 8-5-1956, cc. 7713-16. During the discussion on motion for consideration of the Salaries and Allowances of Members of Parliament (Amendment) Bill, 1975, the Speaker addressed the House in regard to the salaries and allowances of members of Parliament in India *vis-a-vis* their counterparts in other countries—*L.S. Deb.,* 6-8-1975, cc. 31-34. Before the motion under rule 184 *re*. incidents of killing of innocent persons in Jammu and Kashmir, the Speaker appealed to the members to refrain from speeches that may lower morale of Armed Forces and jeopardize delicate balance of communal harmony prevailing in the country—*L.S. Deb.*, 21-8-2000, c. 428. The Speaker announced in the House to introduce a new practice of making weekly observations in the House recapitulating the business transacted by the House during the preceding week, *L.S. Deb.*, 15-3-2005, c. 441. During the submission by members regarding the International Day of Mother Tongue, Speaker addressed the House in Bengali with a view to respect International Day of Mother Tongue celebrated on 21 February 2006—*L.S. Deb.*, 21-2-2006, cc. 275-76.

131. Rule 360.

132. Rule 362(1).

133. Rule 362(2).

134. *L.A. Deb.,* 17-2-1921, p. 195; *see* also *L.S. Deb.,* 28-2-1968, cc. 550-57.

135. *L.A. Deb.,* 27-9-1921, p. 1102.

136. *Ibid.,* 24-2-1923, pp. 2782-83.

137. *Ibid.,* 5-4-1940, p. 2250.

138. *Ibid.,* 18-3-1925, p. 2629.

rarely[139]. The time for discussion of various classes of business is now recommended by this Committee whose recommendations are presented to the House in the form of a report (in the case of private members' Bills and private members' Resolutions, the time for discussion is recommended by the Committee on Private Members' Bills and Resolutions). The allocation of time, as approved by the House, takes effect as if it were an order of the House. At the appointed hour, in accordance with the allocation of time order, every question necessary to dispose of all the outstanding matters in connection with the stage of a Bill or other business before House is put by the Speaker. Thus, the need to move a motion for closure of debate rarely arises.

Limitation of Debate

If the debate on any motion in connection with a Bill or any other motion becomes unduly protracted, the Speaker may, after taking the sense of the House, fix a time-limit for the conclusion of discussion on any stage or all stages of the Bill or the motion, as the case may be[140].

At the appointed hour, in accordance with the time-limit fixed for the completion of a particular stage of a Bill or a motion, unless the debate is concluded sooner, the Speaker puts every question necessary to dispose of all the outstanding matters in connection with that stage of the Bill or the motion[141].

Question for Decision

Every question requiring the decision of the House is decided by means of a question put by the Speaker on a motion made by a member[142]. After the motion has been moved, the Speaker formally proposes or places the motion for the consideration of the House. At the end of the debate on the motion, he puts the motion for the decision of the House in the following terms:

"The question is : '.....' (In proposing the question, the Speaker here repeats the motion as moved by the member)

Those in favour will say 'Aye'; those against will say 'No' ".

If a motion embodies two or more separate propositions, those may be proposed by the Speaker as separate questions[143].

The Speaker may put the question to the House in such manner as he deems necessary or proper to ascertain the decision of the House on the question[144]. In some cases, members may be requested by the Speaker to stand in their places at the time of adopting a resolution to mark the solemnity of the occasion[145].

No debate on a motion can take place until the question has been proposed by the Speaker and the House is in possession of the motion, and the question is proposed at the conclusion of the speech of the mover.

139. *L.S. Deb.,* 21-8-1970, cc. 326-27; 4-8-1971, cc. 408, 415-16, 6-8-1987, cc. 509-10.

140. Rule 363(1).

141. Rule 363(2).

142. Rule 364.

143. Rule 365.

144. *L.S. Deb.,* 1-8-1967, cc. 16171-267.

145. *Ibid.,* 14-11-1962, c. 1678; 24-12-1969, cc. 1-2; 26-3-1977, cc. 15-25.

No question can be put for the decision of the House without debate unless there is agreement in the House or where it is specifically provided in the rules[146]. In all other cases, it has to be put to vote after the debate[147]. But a motion may not be proposed by the Speaker if the mover in the course of his speech expresses his intention not to move the motion[148] or where the Speaker regards that the motion involves an abuse of the forms and procedure of the House[149].

No member is allowed to speak on a question after the Speaker has collected the voices both of the 'Ayes' and of the 'Noes' on that question[150]. The Rule, however, does not come into operation if the Chair collects voices of 'Ayes' only and then says that the question will be put after debate[151].

Division

When the debate on a motion concludes, the Speaker puts the question and invites those who are in favour of the motion to say "Aye" and those against the motion to say "No". The Speaker then says: "I think the Ayes (or the Noes as the case may be) have it,". If the opinion of the Speaker as to the decision on a question is not challenged, he says twice, "The Ayes (or the Noes, as the case may be) have it" and the question before the House is determined accordingly. But if the opinion of the Speaker as to the decision on a question is challenged, the Speaker orders that the Lobbies be cleared. After the lapse of about three and a half minutes[152], the Speaker puts the question a second time and declares whether in his opinion the "Ayes" or the "Noes" have it. If the opinion so declared is again challenged, the Speaker directs that the votes be recorded either by operating the automatic vote recorder or by using 'Aye' or 'No' or 'Abstention' slips in the House or by the members going into the Lobbies[153]. However, the practice of going into the Lobbies for the purpose of vote recording is not in vogue at present.

Questions are generally decided by voice vote unless the opinion of the Speaker is challenged by members and they demand a division, in which case the Speaker orders a division. When a question is decided by voice vote, the Speaker does not announce the numbers of 'Ayes' and 'Noes'[154].

If a member wants to challenge the opinion of the Speaker as to the decision on a question, he must do so immediately after the Speaker expresses the view, "I think

146. *See* for example, Rule 374, Rule 201(2).

147. *L.S. Deb.,* 1-8-1967, cc. 16171-267.

148. *Ibid.,* 7-3-1958, cc. 3700-01.

149. *L.A. Deb.,* 11-4-1929, p. 2991.

150. Rule 366.

151. *L.S. Deb.,* 1-8-1967, cc. 16178-79.

152. The Officers at the Table activate the Division Bell which continues to ring for three and half minutes. This is done to enable members who may be anywhere in the precincts of the House to make it to the Chamber to participate in the Division. Once the Division Bell stops ringing, the doors of the Inner Lobby of the Chamber are closed and no member is allowed to either enter or leave the House till the Division is completed.

153. Rule 367(3)(c).

154. *L.A. Deb.,* 17-8-1943, p. 770.

the Ayes/Noes have it and before he declares the result[155]. After the declaration of the result, Chair has no power to reopen the matter[156]. When a division is about to be taken, only members of the House have the right to be present in the Inner Lobby and all other persons, including those to whom a courtesy right of access is allowed, must vacate it[157]. A member of the other House who is a Minister can be present in the House during a division though he has no right to vote. He should preferably not be present in the House to avoid objections at a later stage[158]. Objection can be taken if such a member taking advantage of his presence goes into the Lobby[159].

A convention was followed during 1954-1962, under which no question between 1300 hours and 1430 hours used to be decided finally which required a vote of the House[160]. A voice vote was taken during the period, but if it was challenged the matter was postponed and division was held only after 1430 hours[161]. If, however, a division having commenced earlier continued after 1300 hours, it was not regarded as a breach of this convention[162].

If a division was claimed on an amendment to the motion for consideration of a Bill during these hours, the Bill could not be proceeded with till the amendment was disposed of. In such cases, the House was either adjourned[163] till 1430 hours or discussion on the Bill was held over and the next item on the *List of Business* taken up[164].

With the unanimous consent of all Parties and members, exceptions were occasionally made to this convention and divisions held between 1300 hours and 1430 hours[165]. However, since the commencement of Third Lok Sabha in 1962, this convention has not been followed.

Where there are several divisions on the clauses of a Bill or amendments to clauses or cut motions to Demands for Grants or substitute motions to the original motions, these are to be held one after the other and Lobbies need not be cleared again and again[166].

Two or more amendments or cut motions may, with the unanimous consent of the House, be put to vote together and disposed of by voice vote. But where division

155. *Ibid.,* 24-2-1921, p. 370.

156. *L.S. Deb.,* 28-1-1976, cc. 239-42.

157. *L.A. Deb.,* 10-1-1922, pp. 1460-61; 14-2-1947, pp. 628-29.

158. *L.S. Deb.,* 2-9-1970, c. 294; 3-9-1976, cc. 15-16.

159. *Ibid.,* 15-2-1966, cc. 399-402; 8-8-1967, c. 18013.

160. *Ibid.,* 29-8-1962, cc. 4833-34; 2-9-1963, c. 3896.

161. *Ibid.,* 8-9-1954, cc. 1248-52; 11-4-1955, cc. 4828-30; 9-4-1956, c. 4727; 26-8-1960, cc. 5159-60; 21-11-1962, c. 2752.

162. *Ibid.,* 20-2-1961, c. 858.

163. *L.S. Deb.,* 29-8-1962, cc. 4883-84.

164. *Ibid.,* 2-9-1963, c. 3896.

165. *Ibid.,* 1-12-1959, c. 2708; 16-12-1960, c. 6012; 2-5-1962, cc. 2087-89; 31-5-1962, cc. 8114-18.

166. *Ibid.,* 6-8-1957, cc. 7373-74; 14-2-1964, c. 562; 30-3-1964, c. 8198; 28-10-1976, cc. 185-250; 29-10-1976, cc. 197-307; 1-11-1976, cc. 199-383.

is asked for, division is held on each amendment or cut motion separately[167]. On occasions, division was held by first asking members who were for 'Ayes' and then those for 'Noes' to rise in their places without the Lobbies being cleared beforehand[168].

If division is ordered immediately before the normal hour for the House to rise for the day, objection cannot be taken that division be postponed to the next day[169]. When the sitting of the House is extended beyond this normal hour, a division may be held during the extended period of the sitting[170]. However, if any objection is raised that intimation had not been given well in advance to members regarding the extension of the sitting, the Speaker normally upholds the objection and postpones the division[171].

Ringing of Division Bells

When a division is ordered by the Speaker, division bells ring normally for three-and-a-half minutes. Immediately after the bells stop ringing, all the outer doors of the Inner Lobby of the Chamber are closed to prevent any entry until division is concluded.

Division bells are only for the convenience of members. Members should take sufficient precaution to ensure that they are present at the time of division to record their votes. Non-ringing of division bells in a sector of the Parliament House is no ground for the reopening of division list[172]. However, if division bells in general are out of order, doors may be opened again for two minutes before recording votes[173]. On one occasion when the division bells could not function due to failure of electricity, the Speaker directed the members to rise in their places and, on a count being taken, declared the result[174]. Normally, voting is not invalidated if division bells do not ring due to some mechanical or other defect. It is the duty of Party Whips to keep the members informed about the probable time of division[175].

Where the bells are rung to clear the Lobbies for holding a division and after the doors are closed it is found that there is no quorum in the House, the Speaker may order the bells to be rung again. The division is held after the doors are closed when the bells stop ringing for the second time[176]. However, if it is found again that even then there is no quorum in the House, the House is adjourned for want of quorum and the division is held over[177].

After the Lobby doors have been closed, members cannot enter the Chamber through the antedoor behind the Speaker's Chair or through any other door[178]. If any

167. *L.S. Deb.,* 12-4-1965, c. 9037.

168. *Ibid.,* 26-4-1960, c. 13869; 17-8-1962, cc. 2371-72.

169. *Ibid.,* 14-2-1964, cc. 949-52.

170. *Ibid.,* 28-8-1963, c. 3273.

171. *Ibid.,* 3-9-1962, cc. 5698-99.

172. *L.A. Deb.,* 16-9-1938, pp. 2579, 2613-15; 17-9-1938, pp. 2619-20; 27-3-1946, p. 3049; *L.S. Deb.,* 28-4-1964, cc. 13217-24.

173. *L.A. Deb.,* 27-3-1946, p. 3049.

174. *L.S. Deb.,* 20-2-1961, c. 857.

175. *Ibid.,* 2-5-1963, c. 13484.

176. *Ibid.,* 8-3-1963, c. 3108.

177. *Ibid.,* 19-11-1965, c. 2974; 15-11-1974, cc. 493-95; 4-12-1992, cc. 683-84.

178. *L.A. Deb.,* 24-9-1928, p. 1383.

part of a member's body is inside the Lobby when the door is in the process of being closed, he is allowed to enter before the door is actually closed. Any complaint or point regarding non-admission of a member to the Chamber before closing of the doors is to be brought to the notice of the Speaker immediately after recording of votes but before the result is announced[179].

No Speeches during Division

When a division has been called and the Lobbies are being cleared, the debate is closed and no member can rise to speak[180]. A point of order may be allowed by the Speaker after the Lobbies have been cleared but it should be strictly related to the issue before the House which is whether a division should be taken or not. During a division if any irregularity occurs, it is the duty of the members to invite the attention of the Speaker thereto in writing, but addressing the House in any other form is irregular[181].

When the Lobbies are being cleared, no speech, point of order or submission is recorded in the proceedings[182].

Discretion of Speaker not to allow Division

The Speaker has to see that a division is not claimed unnecessarily. Frivolous requests for division have been disallowed by the Speaker[183]. When members insist on a count being taken, the Speaker may ask members for and against to rise in their places and on a count being taken, declare the determination of the House[184]; in such cases, names of voters are not ordinarily recorded in the debate[185]. In some cases, however, the Speaker may direct the members in support of, or against a motion to send their names to the Table for inclusion in the proceedings[186]. The Speaker has also on occasions allowed the names of the members who were in minority to be recorded in the proceedings[187].

> Without challenging a decision declared by the Speaker on a voice vote, a member may request the Speaker that names be recorded; it is the inherent right of a member to demand that it be noted in the proceedings as to how he voted on a particular question[188]. The Speaker may accede to the request if the matter is important and the general consensus in the House is in its favour. Normally, no division or recording of names is considered necessary when majority of members are against the question and the matter itself is relatively unimportant[189]. It has

179. *L.S. Deb.,* 1-12-1955, cc. 415-20.

180. *L.A. Deb.,* 16-11-1943, p. 450.

181. *Ibid.,* 21-3-1921, p. 1459.

182. *L.S. Deb.,* 21-11-1966, cc. 4378-82.

183. *Ibid.,* 28-7-1955, c. 8756; 18-4-1956, cc. 5649-50.

184. *L.A. Deb.,* 5-6-1914, pp. 1669-70; *L.S. Deb.,* 24-3-1970, c. 646.

185. *Ibid.,* 8-11-1943, pp. 26-27; *L.S. Deb.*, 25-7-1955, c. 8390.

186. *L.S. Deb.*, 17-8-1956, cc. 3670-71; 2-8-1956, cc. 4529-30.

187. *L.A. Deb.,* 5-9-1932, pp. 92-93; 1-4-1937, pp. 25-28; 30-3-1938, pp. 2418-22; *L.S. Deb.*, 28-5-1956, cc. 9776-78; 20-2-1961, cc. 856-58; 27-11-1962, c. 3529.

188. *L.S. Deb*., 14-2-1968, cc. 796-98.

189. *Ibid.,* 28-7-1955, c. 8756.

been held that division cannot be ordered merely to enable members to record their names[190].

If the amendment on which division has been claimed is ruled out of order, a division is not permitted even though the Lobbies might have been cleared[191].

Division by the Automatic Vote Recorder

Under the Automatic Vote Recorder (AVR) system, each member casts his vote from the seat allotted to him by pressing the requisite button provided for the purpose. However, there are instances when some members were unable to cast votes by the AVR from their seats as they were seriously ill; such members were permitted by the Speaker, after taking the sense of the House, to cast their votes by filling up of slips from the inner Lobby[192].

In the automatic vote recorder system, a push-button-set containing Light Emitting Diode (LED) and three push buttons — a green button for 'Ayes', a red button for 'Noes', and a yellow button for 'Abstain' together with a Vote Secure Button mounted on the Head phone plate has been provided on the seat of each member. After the result of the voting appears on the Total Result Display Boards, the result of the division is announced by the Speaker and it cannot be challenged by any member. A member who is not able to cast his vote by pressing the button due to any reason considered sufficient by the Speaker may be permitted to have his vote recorded verbally by stating whether he is in favour of, or against the motion before the result of the division is announced. Similarly, if a member finds that he has voted by mistake by pressing the wrong button, he may be allowed to correct his mistake provided he brings it to the notice of the Speaker before the result of the division is announced[193].

When a division by AVR machine takes place and the result on the Total Result Display Boards shows that there is a big margin of votes recorded by the members for 'Ayes' and 'Noes', then the Chair announces the result of the division subject to corrections. If there is a close margin of votes recorded by the members for 'Ayes' and 'Noes', the votes recorded/corrected by the members by means of correction slips have to be taken into account and the officer at the Table scrutinises the 'Ayes'/'Noes' and 'Abstentions' slips, counts the votes thereon and compiles the final result. The final result so arrived at is announced by the Chair.

However, as per the present practice the result of division as indicated on the Total Result Display Boards is not altered on the representation of members that they could not vote rightly, unless the machine has gone wrong or the result of the division is materially affected by the correction pointed out by the member[194]. Where due to some mechanical defect in the AVR equipment a wrong result appears on the Total Result Display Boards,

190. *L.A. Deb.,* 17-8-1943, p. 770.

191. *L.S. Deb.,* 21-6-1962, cc. 12347-60.

192. *Ibid.,* 26-2-1999, cc. 604-05, 17-4-1999, c. 32; 22-7-2008, p. 92.

193. Rule 367A; *L.S. Deb.,* 5-9-1957, cc. 12101-02; 6-9-1957, cc. 12413-14; 10-12-1957, cc. 4515-16, 5476; 21-11-1963, cc. 916-21.

194. *L.S. Deb.,* 13-2-1964, c. 562; 30-3-1964, cc. 8199-200; 13-4-1964, cc. 10725-26; 21-4-1964, c. 12100

On 28 August 1987, division was held on the motion for consideration of the Constitution (Fifty-eighth Amendment) Bill, 1987, by AVR machine and the indicator board showed wrong results twice. The Deputy Speaker who was in the Chair, directed that the division might be held by distributing 'Ayes' and 'Noes' slips under rule 367AA as the AVR machine had gone wrong.

the Speaker may, with the concurrence of the members, announce the result after correcting it, if the mistake is evident[195].

Where names of all the members who have voted in a division are not shown in the print-out showing the result of that division, such names only as are shown in the print-out are recorded in the debates. As regards the missing names, an asterisk is given on the figures for 'Ayes' or 'Noes' as the case may be, and the position explained through a footnote[196].

On 17 April 1999, a member represented that in the Division held on that day on the motion of confidence in the Council of Ministers, he had pressed Red 'N' button (for Noes) but in the computer print-out, his vote was not recorded. He requested that since the computer had printed only 'No Vote' against his name, the mistake might be corrected.

The matter was enquired into and got examined through the CPWD authorities and their report said that—

> The only possible reason appears to be that the member on seat No. 101 might have left the buttons a few milliseconds before the display of '00' in Timing Board and before the second gong. While the computer could sense this change immediately and interpreted as "No Vote", before it could send appropriate signal to the Display Board, the countdown ended, thus retaining the 'N'(Noes) light on the Display Board. Such incidents are, however, extremely rare.

From the above, it is evident that the member from seat No. 101 did operate 'Noes' button.

The Speaker, G.M.C. Balayogi permitted the member to raise the matter in the House through a personal explanation on 22 April 1999.

The member was informed accordingly through a letter. The member requested for further clarification. However, the matter was treated as closed and no further clarification was given. No correction in the result was made.

When the result of the division was washed off due to the sudden blowing off of a fuse of the machine before the photograph could be taken, the names of members who participated in the division could not be given in the debates. The position was explained by a footnote in the debates as follows—

> Names of members who had recorded votes have not been included as the photograph of the division result could not be taken on account of defect developed in the automatic vote recording machine[197].

The Speaker may, on a representation by members that the automatic vote recorder did not record the votes correctly, direct the members to record their votes by distribution of 'Ayes' and 'Noes' slips or going into the Lobbies. In such case, the Speaker orders that the Lobbies be cleared again[198].

195. *Ibid.,* 21-11-1963, cc. 916-21.

196. *Ibid.,* 28-8-1962, c. 4610; 30-8-1962, c. 5147; 31-8-1962, c. 5315.

197. *Ibid.,* 4-9-1974, c. 251.

198. *L.S. Deb.,* 30-11-1959, cc. 2553-54.

Where, before announcement of the result of a division, a large number of members desire to have their votes corrected, the Speaker may, after taking the sense of the House, direct that the votes be recorded again by operating the AVR equipment without clearing the Lobbies again[199]. There is an instance during the Fifteenth Lok Sabha (Ninth Session) when during the division on the Constitution (One Hundred and Eleventh Amendment) Bill, 2011, Speaker allowed the members to re-cast their votes on the request of the Minister of Parliamentary Affairs, after taking votes on the request of the Minister of Parliamentary Affairs and after taking the sense of the House. The lobbies were allowed to be cleared again. Speaker while giving her decision in the case made the following observation:

"Hon. Minister made a request. So, as a very special case, which is not to be quoted in future as a precedent, I am allowing division[200]."

If the AVR equipment is fused after the members have recorded their votes but before the result has appeared on the indicator board, the Speaker may direct the members to record their votes again either by operating the equipment if it has been put in order in the meantime, or by distributing 'Ayes' and 'Noes' slips or by rising in their places[201].

Division by Distribution of 'Ayes', 'Noes' and 'Abstention' Slips

The method of division by distribution of slips in the House is used only when the AVR machine goes wrong or when seats/division numbers are not allotted to the newly elected members at the commencement of a new Lok Sabha.

Whenever it becomes necessary to hold division by the above method, members are supplied at their seats with 'Ayes'/'Noes' printed slips for recording their votes. An 'Ayes' slip is printed in green colour both in English and Hindi on one side and the 'Noes' in red colour on its reverse. On these slips members are required to record votes of their choice by signing and writing their names, division numbers and dates legibly at the appropriate places. Members who desire to record 'Abstention' may fill in the Abstention slip printed separately in yellow colour both in English and Hindi. These slips may be obtained by the member from the division clerks on demand. In case a member has not been allotted a seat/division number, is provided with a separate slip wherein he may write his name, constituency, State and date legibly below his signature.

After the votes have been recorded, the division clerks collect the slips from all members and handover the same to the officer at the Table. Then the officer at the Table scrutinises the 'Ayes'/'Noes' and 'Abstention' slips and counts the votes recorded thereon and compiles the result. The result so arrived at is announced by the Chair. The particulars of voting of each member together with the final result of each division is incorporated in the printed debates.

Division by going into the Lobbies

When the Speaker decides that the votes should be recorded by members going into the Lobbies he directs the members for 'Ayes' to go to the right Lobby and those

199. *Ibid.,* 28-8-1962, c. 4628.

200. *Ibid.,* 22-12-2011, pp. 87-90.

201. *Ibid.,* 27-11-1962, c. 3539.

for 'Noes' to the left Lobby. For the purpose of recording votes, four booths are provided in the 'Ayes' Lobby and four in the 'Noes' Lobby with consecutive division numbers. In the 'Ayes' or 'Noes' Lobby, as the case may be, each member states his division number and the division clerk, while marking off his number on the division list, calls out the name of the member. A division may be held *de novo* if it is found that due to a mistake in the direction given by the Chair as to the Lobbies, members had voted in the wrong Lobbies[202].

After the recording of votes is completed in the Lobbies, the division lists are brought to the Table where the votes are counted by the officers at the Table and the totals of 'Ayes' and 'Noes' presented to the Speaker. Division lists once brought to the Table cannot be taken back to the Lobbies without the Speaker's permission[203]. The result of the division is then announced by the Speaker and it cannot be challenged by any member.

A member who is unable to go to the division Lobby owing to sickness[204] or infirmity may, with the permission of the Speaker, have his vote recorded either at his seat or later in the Lobby, but before the result of the division is announced. If a member finds that he has voted by mistake in wrong Lobby, he is allowed to correct his mistake provided he brings it to the notice of the Speaker before the result of the division is announced. When the division lists are brought to the Table, a member who has not, up to that time, recorded his vote but subsequently wishes to have his vote recorded can do so with the permission of the Speaker before the result of the division is announced[205].

It is a contempt of the House to force a member into a particular Lobby. The right of free decision in the division Lobby is a very important element in the right of freedom of speech[206].

A member who goes into the wrong Lobby and gives his name to the teller but realizes his mistake before the teller actually records his vote can go to the correct Lobby and vote[207].

On one occasion when a member wishing to remain neutral as he declared, afterwards recorded his vote in both the Lobbies, his name was excluded from the division lists under orders of the Speaker[208].

Divisions in Lok Sabha are held normally with the help of the AVR machine. In case of failure of the machine, divisions are held by distributing 'Ayes', 'Noes' and 'Abstention' slips to the members in the House.

Irregularities in a Division

If irregularities in a division are brought to the notice of the Speaker before the announcement of the result of the division, he may order a division *de novo* either

202. *L.A. Deb.,* 10-1-1922, pp. 1460-61.

203. *Ibid.,* 26-3-1935, p. 2792.

204. *Ibid.,* 7-2-1935, p. 568; *L.S. Deb.,* 22-2-1955. c. 1255.

205. Rule 367B.

206. *L.A. Deb.,* 26-1-1922, p. 1981.

207. *Ibid.,* 14-1-1936, pp. 3899-900.

208. *H.P. Deb.,* 23-12-1953, cc. 2963-64.

immediately or, if that is the hour for the House to adjourn, on the following sitting of the House[209].

Division when Division Numbers have not been allotted

At the commencement of a new House, before seats and division numbers have been allotted to members, the division is held by distributing 'Ayes' and 'Noes' slips to members on which they are required to put their signature[210] along with their names, constituency, State and date.

Division Lists

Division lists or computerised list of vote recorded showing the division numbers of members for 'Ayes', 'Noes' and 'Abstentions' are not supplied to any Party or Group and Leaders/Whips of parties might ascertain whether their members have abided by the directions issued by them in respect of voting. The duly corrected List is displayed on the Notice Board in the Lobby for information of members and the same is also included in the debates of that day.

Voting by Deputy Speaker and Members on the Panel of Chairpersons

Under the Constitution, the Speaker or the person acting as such cannot vote in a division: he has only a casting vote which he must exercise in the case of an equality of votes[211]. If the Deputy Speaker or a member of the Panel of Chairpersons who is in the Chair at the time of actual voting leaves the Chair and the Speaker occupies it before the announcement of the result, the former cannot get his vote recorded because it was he who was in the Chair at the commencement of the voting[212].

While the voting is going on, that is, the period from the commencement of the voting up to the moment it has ceased, the Deputy Speaker, who was in the Chair at the commencement of the voting is debarred from putting a member of the Panel of Chairpersons in the Chair in order to record his vote, for he would still be in the Chamber. It is only when he is going out of the Chamber that he can request a member of the Panel to take the Chair. The latter, when in the Chair, is also debarred from voting on a division, but he is given casting vote—not a second vote—which he is bound to exercise in the case of an equality of votes.

Hence the Deputy Speaker or a member of Panel of Chairpersons, as the case may be, who has already recorded his vote, is precluded by clear implication from presiding at the time of division—say, at the least, when the voting has concluded and the result of the division is to be announced—as he would not be in a position to determine the question at issue by his casting vote, if there happened to be an equality of votes[213].

Casting Vote

Casting vote is the deciding vote in a deliberative or parliamentary assembly cast by the Presiding Officer in the event of a tie. It sometimes signifies only such a vote, and sometimes the double vote of one who first votes as a member, and afterwards votes to cast off the tie, if one results.

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209. *L.S. Deb.,* 30-11-1959, cc. 2553-55; 1-12-1959, cc. 2675-2707.

210. *Ibid.,* 23-4-1962, c. 487; 17-3-1967, cc. 47-48.

211. Art. 100(1).

212. *L.S. Deb.,* 18-9-1964, c. 2562.

213. *L.A. Deb.,* 1-9-1938, pp. 1444-48, 1455-63; 5-9-1938, pp. 1583-86.

The Constitution, as stated above, debars the Speaker or the person acting as such from voting in the first instance, *i.e.* he cannot vote in a division as an ordinary member; he has only a casting vote which he must exercise in the case of an equality of votes[214]. It is customary for the Presiding Officer to exercise the casting vote in such a manner as to maintain the *status quo.*

In the Central Legislative Assembly, during discussion on the clauses of the Motor Vehicles Bill, a division on a motion to omit a clause resulted in a tie and the Speaker gave his casting vote in favour of the motion. When a member pointed out that according to the practice[215] the casting vote was usually given in favour of the *status quo* and wanted to know the principle behind the exercise of the vote in the manner done by the Chair, the Speaker observed:

> I have taken that principle into consideration. I took into consideration not only the clause and the amendment proposed but the existing law as embodied in the Criminal Procedure Code which was sought to be modified. I must say that the *status quo ante* is a good rule in ordinary cases, but it is not an invariable rule[216].

It has been held that the casting vote exercised by the Speaker or the person acting as such should not be discussed[217].

In the case of Parliamentary Committees, the Chairman of a Committee or the person acting as such has a second or casting vote in the event of an equality of votes on any matter[218]. Hence as distinct from the Speaker or the person acting as such, the Chairman of a Committee or the person acting as such votes in the first instance as an ordinary member and later, if there is a tie, he must exercise a second or casting vote. The distinction is based on the ground that whereas the Speaker does not take part in the debate in the House as a member, the Chairman of a Committee not only guides the deliberations of the Committee but also plays a leading role in formulating conclusions arrived at by the Committee. Accordingly, he has been given the right to vote initially on any issue just as any other member of the Committee.

Maintenance of Order

It is the responsibility of the Speaker to maintain order in the House and for this purpose he exercises all powers necessary for enforcing his decision[219]. If grave disorder arises in the House, the Speaker has the power to adjourn the House or suspend the sitting for such time as he may deem fit[220].

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214. Art. 100(1).

215. *L.A. Deb.,* 21-3-1927, pp. 2658-59; 24-9-1928, pp. 1383-84; 30-1-1929, p. 291; 20-2-1930, p. 843.

216. *Ibid.,* 16-9-1938, pp. 2567-68.

217. *Ibid.,* 12-3-1936, pp. 2403-09.

218. Rule 262.

219. Rule 378; *L.A. Deb.,* 13-3-1924, pp. 1625-26. Chapter 8—'Parliamentary Functionaries', *supra.*

220. Rule 375; *L.A. Deb.,* 20-3-1929 p. 2264; 8-4-1929, p. 2985; *L.S. Deb.,* 30-3-1966, c. 8860; 23-6-1967, c. 7410; 28-2-1968, c. 564; 11-4-1969, c. 342; 16-12-1970, cc. 375, 379-82; 7-5-1975, cc. 237-370; *L.S. Deb.,* 25-7-1966, c. 186; 5-9-1966, c. 9220; 7-11-1966, cc. 1543-44; 10-11-1966, c. 2507; 16-11-1966, c. 3395; 12-7-1967, cc. 11049-50; 1-8-1967, cc. 16196-200; 31-7-1968, c. 3118; 21-11-1969, c. 402; 22-12-1969, cc. 249-53; 27-11-2000, cc. 357-61; 7-9-2007, c. 292; 10-9-2007, cc. 317, 339, 340; 20.11.2007, cc. 485, 505, 506.

Point of Order

Any member can and should invite the Speaker's immediate attention to any instance of what he considers a breach of order or transgression of any law of the House, written or unwritten, which the Chair has failed to perceive and he may also seek the guidance and assistance of the Chair in respect of any obscurities in procedure. A point of order should, therefore, relate to the interpretation or enforcement of the Rules of Procedure and Conduct of Business in the House or conventions or such articles of the Constitution as regulate the business of the House and must raise a question which is within the cognizance of the Speaker[221]. The test whether a point raised is a point of order or not is not whether the Chair can give any relief but whether it involves such interpretation or enforcement of the Rules, etc. and whether it raises a point which the Speaker alone can decide[222].

The point of order as a procedural device governed by Rule 376 of the Rules of Procedure and Conduct of Business in Lok Sabha, when raised, has the effect of suspending the proceedings before the House. It can be raised only in relation to the business before the House at the moment[223]: the term 'business before the House' means business included in the *List of Business* for the day[224]. But a point of order cannot be raised in respect of an item of business after it has been disposed of[225]. A point of order cannot also be raised in vacuum in between two items. However, the Speaker may permit it to be raised during the interval between the termination of one item of business and the commencement of another if it relates to maintenance of order in, or arrangement of business before the House[226]. Thus, a point of order may be raised during this interval if it relates to the enforcement of Rules in regard to the suspension of members[227].

When a member desires to raise a point of order about a matter which is not on the *List of Business,* he must give advance notice to the Speaker specifying clearly the actual point to be raised[228]. He cannot raise the matter in the House unless permitted by the Speaker to do so.

The right to raise and formulate a point of order is a valuable right of a member and can be exercised by her/him at any time on a matter or any business then under discussion, subject to certain conditions described below.

A point of order is not a point of privilege[229], and it is not permissible for a member to raise a point of order to ask for information or to explain his position or that division bells did not ring or were not heard or when a question on any motion is being put to

221. Rule 376(1); *see* also *State of Punjab v. Satya Pal Dang* A.I.R. 1969 S.C. 903.

222. *L.A. Deb.,* 31-3-1930, Vol. (III) (1930), p. 2674; *L.S. Deb.,* 11-6-1962, c. 9899.

223. Rule 376(2); *L.S. Deb.,* 5-12-1960, c. 3848; 25-4-1962, c. 881; 9-9-1963, c. 5006; 1-4-1966, c. 8971; 31-7-1968, c. 3163; 19-2-1975, cc. 222-29**;** 29-7-1980, cc. 280-81.

224. *L.S. Deb.,* 30-11-1965, cc. 4667-69.

225. *H.P. Deb.,* (II), 10-8-1953, cc. 447-48; *L.S. Deb.,* 27-4-1976, cc. 145-46.

226. Rule 376(2), Proviso.

227. *L.S. Deb.,* 10-2-1960, cc. 303-05, 310-22.

228. *Ibid.,* 15-3-1965, cc. 4253-55.

229. Rule 376(5).

the House[230]. A point of order regarding a clause of a Bill should, therefore, be raised before the clause is disposed of by the House[231]. Further, a member shall not raise a point of order which may be hypothetical or merely academic[232].

No point of order can be raised on contradictory statements alleged to have been made by Ministers or members[233] or regarding disqualification of a member. There cannot be point of order during Question Hour[234]. Also no point of order can be raised during the period when matters of urgent public importance are raised after the Question Hour.

A point of order must refer to procedure and not to substantive arguments on a motion, resolution, question, etc.[235] On a point of order, a member is not entitled to go into explanation of the subject under discussion[236]. There cannot be a point of order on a point of order[237]. Points of order relating to the same matter cannot be raised by a member more than once[238].

A point of order on a Bill or a resolution cannot be raised unless the motion in respect of the Bill or the resolution entered in the *List of Business* has been moved and placed before the House[239]. Similarly, a point of order regarding the admissibility of a resolution [240] or motion or urging that a resolution or motion should not be allowed to be moved, can be raised only after the resolution or motion has been moved and placed before the House. Where such point of order is sought to be raised, the member concerned is asked to move the resolution or motion without making a speech. Thereafter, the Speaker places the resolution or motion before the House and then decides on the point of order. In such cases, the mover may make his speech after the point of order has been disposed of by the Speaker[241].

A point of order on the motion for leave to introduce a Bill cannot be raised before the motion has been moved by the member in charge of the Bill and placed before the House by the Chair[242].

A point of order cannot be raised while a division is being taken in the House[243] or while the Speaker is placing a motion before the House[244] or delivering his ruling or making observations or otherwise speaking.

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230. Rule 376(6) and *L.S. Deb.,* 21-11-1963, c. 913.
231. *P. Deb.,* (II), 17-9-1951, c. 2677.
232. Rule 376(6); *L.S. Deb.,* 9-12-1954, cc. 2391-97.
233. Dir. 115; *L.S. Deb.,* 11-6-1962, cc. 9898-99; 11-3-1965, cc. 3815-16.
234. *L.S. Deb.,* 23-7-1984, cc. 9-10.
235. *H.P. Deb.,* (II), 18-6-1952, c. 2038.
236. *L.A. Deb.,* 20-1-1922, p. 1807.
237. *L.S. Deb.,* 6-8-1962, c. 115.
238. *Ibid.,* 5-8-1968, c. 253.
239. *Ibid.,* 10-3-1954, cc. 1720-21; 25-2-1966, cc. 2615-16; 13-4-1963, c. 9440.
240. In the Central Legislative Assembly, it was ruled that on a point of order a member was not entitled to raise the question of admissibility of the resolution—*L.A. Deb.,* 13-11-1944, pp. 222-23.
241. *L.S. Deb.,* 7-9-1962, cc. 6886-900.
242. *L.S. Deb*., 13-4-1963, c. 9440.
243. *Ibid.,* 15-2-1966, cc. 399-402.
244. *Ibid.,* 21-11-1963, c. 913.

It is an accepted practice of the House that the Speaker does not give any ruling on a point of order which raises the question whether a Bill is constitutionally within the legislative competence of the House or about the constitutionality of any Declaration/ Agreement/Treaty under discussion on a motion/resolution: it is the responsibility of the House to decide such matters[245]. The Speaker also does not give his decision on the question whether an amending Bill goes against an article of the Constitution[246].

There are instances when certain matters have been raised in the House in the garb of points of order[247]. Ministers are expected to answer questions asked by members in the garb of points of order: it is the Speaker, and not Ministers, who has to give decision on points of order[248].

It has now become a practice that before a member is permitted to raise a point of order, he is required to quote the particular article of the Constitution, Rule, Direction or ruling or practice which was being infringed or violated. Members who fail to quote the Rule, etc., are not allowed to raise the point of order[249].

On 8 March 1965, the Speaker announced in the House the following procedure for raising points of order and asked members to keep it in mind so that there could be a better conduct of business[250].

A member who has a point of order should stand up and say "point of order". He should not proceed to formulate it until the member is identified by the Chair. Only after he has been identified, he should proceed to speak on his point of order;

While formulating his point of order a member should quote the specific Rule or the provision of the Constitution relating to the procedure of the House which might have been ignored or neglected or violated;

No member should rise or speak, either standing or sitting, when the Speaker is on his feet. A point of order cannot be raised when Speaker is addressing the House[251]. The Speaker should be heard in silence and any member wanting to speak should rise only after the Speaker sits down and also calls the member to speak;

Matters on which the Speaker cannot give any relief should not be the subject matter of a point of order. Should a member desire to have a clarification from a Minister or object to any statement which a Minister might have made, he should

245. *L.A. Deb.,* 17-2-1942, pp. 280-83; 25-3-1942, pp. 1533-54; *C.A. (Leg.). Deb.,* 9-12-1947, c. 1568; *P. Deb.,* (II), 8-2-1951, cc. 2607-08, 24-4-1951, c. 7366; *H.P. Deb.,* (II), 25-11-1952, 1148; 9-5-1963, cc. 6289-90; 28-8-1953, cc. 1789-90; *L.S. Deb.,* 15-4-1955, c. 5324; 1-9-1956, cc. 5254-55, 5290-94; 13-11-1957, cc. 387-91; 21-12-1957, c. 7134; 6-5-1958, cc. 13372-77; 29-9-1958, cc. 8370-73; 3-12-1958, cc. 2951-68; 9-12-1958, cc. 3996-97; 3-4-1959, cc. 9695-708; 19-12-1960, c. 6239; 4-5-1963, c. 13817; 16-2-1966, cc. 643-44; 19-8-1966, cc. 5804-14; 29-11-1966, cc. 6026-36; 23-6-1967, cc. 7328-41; 12-8-1967, cc. 19271-73; 1-9-1976, c. 13-14.

246. *L.S. Deb.,* 31-8-1976, cc. 164-245.

247. *Ibid.,* 8-12-1965, pp. 10326-27; 21-2-1986, cc. 303, 305, 306; 4-8-1986, c. 317;

248. *Ibid.,* 29-4-1968, cc. 311-12; 31-7-2003, cc. 317-18; 5-8-2003, cc. 497-500.

249. *Ibid.,* 9-12-1965, cc. 10549 and 10552; 17-4-1978, cc. 295-96.

250. *Ibid.,* 8-3-1965, cc. 2979-81.

251. *L.S. Deb.,* 13-5-1957, c. 66.

say so in the House with the permission of the Speaker and should not raise it in the garb of a point of order[252].

Points of order already decided cannot be reopened on the plea that when it was first raised the member could not locate and quote the rule under which he wanted to raise the point of order[253].

On a point of order being raised, the member who is speaking at that time must give way[254]. No debate is allowed on a point of order, but the Speaker may, if he thinks fit, hear members before giving his decision[255].

When two or more points of order are raised on a subject-matter, the Speaker may take them one by one and give his decision[256].

A member wishing to raise a point of order has the right to be heard before a decision can be given by the Speaker. On his formulating a point of order, the Speaker decides whether the point raised is a point of order and if so, gives his decision thereon which is final[257]. Members cannot protest against the Speaker's ruling: to do so is a contempt of the House and the Speaker[258] Rulings given by the Chair cannot be discussed in the House nor can any clarification or explanation sought[259].

A point of order cannot be raised against the decision of the Speaker in regard to the admissibility of notices[260].

It is perfectly in order if the Speaker does not take cognizance of a point of order raised by a member[261]. The Speaker may reserve his ruling on a point of order at the moment[262] and may deliver it on a later date[263]. Similarly, the Deputy Speaker or a member occupying the Chair may reserve a point of order for the decision of the Speaker.

When a point of order relating to a particular business before the House is raised the time taken in the disposal of the point of order is accounted towards the total time allotted for that business[264].

Raising of Matters Under Rule 377

Under Rule 377, a member may, with the prior consent of the Speaker, bring to the notice of the House any matter not being a point of order. For this purpose a notice

252. *Ibid.,* 8-3-1965, cc. 2975-81.

253. *Ibid.,* 25-8-1966, cc. 7083-85.

254. *L.A. Deb.,* 25-3-1931, p. 2653.

255. Rule 376(4).

256. *L.S. Deb.,* 5-8-1966, cc. 2944-45; 23-11-1966, cc. 4998-5000.

257. Rule 376(3).

258. *H.P. Deb.,* (II), 9-3-1953, cc. 1588-90; 24-8-1953, c. 1366; 7-9-1956, cc. 6096–97; *L.S. Deb.,* 28-4-1958, cc. 11944-45; 4-2-1971, c. 143.

259. *L.S. Deb.,* 3-12-1958, c. 2973; 7-8-1959, cc. 1227 and 1230.

260. *Ibid.,* 26-8-1976, cc. 160-61.

261. *P. Deb.,* (I), 10-3-1951, cc. 2127-28.

262. *L.S. Deb.,* 5-8-1966, cc. 2944-45; 23-11-1966, cc. 4998-5000.

263. *Ibid.,* 8-12-1955, cc. 1813-14.

264. *L.S. Deb.,* 20-7-1956, c. 437.

in writing has to be given to the Secretary-General stating briefly the point proposed to be raised. While earlier, matters allowed to be raised under Rule 377 were limited to questions of constitutional or legal importance which were within the jurisdiction of the House or which related to the business of the House or its procedure—something akin to points of order but which fell short of being points of order as such—a more liberal attitude was adopted since the Fourth Session of the Sixth Lok Sabha. As many as five notices under Rule 377 were allowed each day so that members could raise at the earliest, various matters of public importance, particularly those concerning their constituencies[265]. The practice of allowing eight matters per day which started during the Seventh Lok Sabha continued till November 1997. Thereafter, it was decided that the number of matters presently being raised under Rule 377 might be increased from 8 to 24 per day to be allocated on the basis of the strength of Parties/Groups. Members would read the brief subject of the text of their notices given by the Secretariat and the text of the matter shall be treated as laid on the Table[266].

However, the decision could not be put into practice till the dissolution of the Eleventh Lok Sabha, *i.e.* upto 4 December 1997, since matters under Rule 377 could not be taken up in the House due to continued interruptions.

It was actually put into practice with effect from 26 March 1998, *i.e.* the First Session of the Twelfth Lok Sabha. Subsequently, at the meeting of the Business Advisory Committee held on 29 May 1998, it was decided that 12 members, instead of 24, would be allowed to raise matters per day to be allocated on the basis of the strength of Parties/Groups in the Lok Sabha. At the meeting of the Speaker with the Leaders of Parties held on 19 November 2000, it was decided, on an experimental basis to increase the number of matters to be raised under Rule 377 from 12 to 15 per day and to reduce the text of the notice from 250 to about 150 words. This practice was made effective *w.e.f.* 27 November 2000[267]. At the meeting of Speaker with Leaders of Parties in Lok Sabha held on 20 April 2005, it was decided that the number of matters to be raised under Rule 377 be increased from 15 to 20 per day, the decision was made effective from 25 April 2005[268]. At the meeting of Speaker with Leaders of Parties in Lok Sabha held on 20 July 2015, it was decided that the number of matters to be raised under Rule 377 be increased from 20 to 30 per day to enable more members to raise their issues. The decision was made effective from 27 July, 2015[269]. This practice is still continuing. The members are permitted to read/lay the text of the matter[270] on the direction of the Chair.

The scope of the Rule has thus been extended to enable the members to register their point in the House. These should normally relate to matters which cannot be raised under the rules relating to Questions, Short Notice Questions, Calling Attention, Motions, etc. There is no obligation on the Government or the Minister concerned to

265. *Bn*. (II), 24-4-1978; 2-8-1978.

266. *Ibid.,* 19-11-1997, para 1591.

267. *Ibid.,* 24-11-2000, para 1405.

268. *Ibid.,* 21-04-2005, para 1143.

269. Bulletin Part - II No. 2099 dated July 22, 2015.

270. *Ibid.,* 29-05-1998, para 233.

reply immediately to the point raised. The Minister concerned may not even be present in the House at the time the point is raised.

> On 30 June 1977, a member wanting to raise a point under Rule 377 complained to the Speaker that the concerned Minister (Minister of Finance) was not present in the House. Drawing the attention of the member to the presence of another Minister (Minister of Parliamentary Affairs), the Speaker held that what Rule 377 said was that a member could raise an issue with the permission of the Speaker; it did not compel the Minister to be present in the House and answer the point immediately. The other Ministers present in the House could take note of the matter and the Minister concerned could take time to study and examine the point raised[271].

Notice for raising a matter under Rule 377 is required to be given in writing addressed to the Secretary-General. The text of the statement proposed to be made has to be brief, specific to the point proposed to be raised and should not ordinarily exceed one hundred and fifty words. No matter can be raised unless the Speaker has given her/his consent thereto and only the approved text is allowed to go on record.

When to Table the Notice?

Notices for raising matters under Rule 377 can be tabled from the date specified in *Bulletin Part II* circulated along with the summons for the Session. Normally the notices are entertained three working days before the commencement of the Session.

Notices received between 10.00 hrs. and 10.30 hrs. on the first day are considered to have been received at the same point of time and are balloted together to determine their *inter se* priority. Notices received subsequently are arranged in accordance with the date and time of their receipt. Notices are received online as well as in the offline mode.

On other days such notices are to be given by 10.00 hrs. Notices received after 10.00 hrs. on a day are deemed to have been given for the next sitting of the House. It is, however, not necessary that notices given for a particular day will be permitted to be raised on that very day.

Notices received at the same point of time on a day are balloted to determine their *inter se* priority.

Validity of Notices

All notices under Rule 377 are valid for the week in which these have been tabled. Notices received upto 10.00 hrs. on the last day of the week on which the House sits automatically lapse, if not selected. However, such notices can be revived for the following week. The notices for the following weeks can be given only after 10.00 hrs. on the last day of the week on which the House sits and are valid for the entire following week. All such notices received after 10.00 hrs. but upto 10.30 hrs. are considered to have been received at the same point of time and are balloted together to determine their *inter se* priority. Notices received after 10.30 hrs. are listed thereafter according to the time of receipt.

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271. *L.S. Deb.,* 30-6-1977, c. 152.

Where the Speaker wants to know facts of the matter raised in the notice, it may be referred to the concerned Ministry to ascertain the facts. A notice referred for facts remains alive till it is finally disposed of.

Conditions of Admissibility[272] : In order that a notice may be admissible, it shall satisfy the following conditions:–

(i) it shall not refer to a matter which is not primarily the concern of the Government of India;

(ii) it shall not relate to a matter which has been discussed in the same session or which is substantially identical to the matter already raised by a member under this Rule during the session;

(iii) it shall not exceed 150 words[273];

(iv) it shall not raise more than one issue;

(v) it shall not contain arguments, inferences, ironical expressions, imputations, epithets or defamatory statements; and

(vi) it shall not refer to proceedings of a parliamentary/consultative committee.

When raised?

A copy of the text as approved by the Speaker is provided to the member on the day on which he is allowed to raise the matter. Previously, the item was not included in the *List of Business* and was taken up at the stage prescribed in Direction 2, *i.e.* after laying of papers and introduction of Bills, etc. However, with effect from 7 August 1990, a general entry under the heading 'Matters under Rule 377' is included in the *List of Business.* Since November 1997 it was decided that the item would be taken up at 17.30 hours.

Subsequently, at the meeting of the Business Advisory Committee held on 29 May 1998, it was decided that the item relating to matters under Rule 377 would be taken up after Question Hour and after disposal of other formal items listed in the agenda paper as per Direction 2 of the Directions by the Speaker regarding relative precedence of different classes of business.

Limit on raising Matters

A member can raise only one matter during a week. At the meeting of Speaker with Leaders of Parties held on 30 January, 2020, it was decided that the practice of making Submissions on the Statement of Minister of Parliamentary Affairs on the last working day of the week, usually Fridays, regarding Government Business for the following week be dispensed with. It was also decided that on the last working day of the week, usually Fridays, instead of Submissions on the Statement of Minister of Parliamentary Affairs regarding Government Business for the following week, matters under Rule 377 shall be permitted to be raised by members[274].

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272. Rule 377A.

273. Text reduced to about 150 words *vide* decision taken at the meeting of Hon'ble speaker with Leaders of Parties held on 19 November 2000 (*See Bn*. (II), dt. 24.11.2000).

274. Bulletin Part - II No. 1117 dated February 5, 2020.

The relevant proceedings of matters raised under Rule 377 are sent to the Ministry concerned on the next working day for being placed before the Minister. The Speaker in an order dated 19 June 2020 directed that Lok Sabha Secretariat will monitor replies to matters raised/laid under Rule 377. The Ministers write to the members with regard to matters raised by them under Rule 377, informing them of Government's view and/or action taken in the matter. Further, as per the decision taken by the Rules Committee (Eighth Lok Sabha – Fourth Report) and agreed to by the Lok Sabha, the Ministers send their replies direct to members regarding matters raised by them in the House under Rule 377 within one month. Further clarifications, if any, may be obtained by members directly from the Minister/Ministry concerned.

Normally, Ministers do not make statements on matters raised under Rule 377.

However, if a Minister so desires, he may make a statement on the subject with the permission of the Speaker.

The position of the replies to matters raised under Rule 377 sent by Ministries is reviewed by the Speaker at the Leaders' meeting held before the commencement of each session.

When treated as Laid on the Table

As the members are permitted to read only the approved text of their matter, a convention developed where under, sometimes, in order to save the time of the House for consideration of other important items listed in the agenda, matters under Rule 377 were treated as laid on the Table of the House after an announcement was made by the Chair to that effect. All the twenty matters under Rule 377 approved for being raised on the day were treated as laid and used to form part of the proceedings.

However, when it came to notice that under this convention matters of even those members who might have been absent from the House on that day were also being incorporated in the proceedings of the House, the procedure was modified.

On 5 November 2009, the Speaker decided that, in case, matters under Rule 377 are to be treated as laid on the Table of the House, an announcement shall be made by the Chair that those members who have been permitted to raise matters under Rule 377 on that day may send text of the approved matters within 20 minutes. Thereafter, members who have been permitted and are desirous of laying their matters, may personally hand over text of the matters at the Table within 20 minutes for inclusion of the same in the proceedings of the House. Only those matters shall be treated as laid and shall form part of the proceedings which have been received at the Table within the stipulated time. Matters under Rule 377 which are not received at the Table within the stipulated time shall not form part of the proceedings and shall be treated as lapsed.

The decision was made effective from the third session of the fifteenth Lok Sabha.

Matters of Urgent Public Importance raised after 'Question Hour' *i.e.* during 'Zero Hour'

As representatives of the people, members of Parliament and State Legislatures are duty-bound to raise matters of public importance in the House; ventilate popular

grievances and seek their redressal; elicit information from the Government and enforce Executive accountability to the Legislature.

In a large country like India, issues of serious and emergent nature arise almost daily and need to be immediately brought to the notice of the Government. When such matters arise and agitate the minds of the members, they feel that they cannot wait for complying with normal rules of procedure and that they must raise those matters at the first available opportunity in the House before the House takes up regular business as per the Agenda.

It is in this background that the evolution of 'Zero Hour' in the Lok Sabha – which provides an opportunity to the members to raise matters which they consider to be of urgent public importance and which cannot brook any delay, even if there are no rules permitting them – has to be viewed.

'Zero Hour' thus, may be defined as the interregnum between the conclusion of the Question Hour and taking up of the listed items of the day's business. Parliament meets at 11.00 hours and after the Question Hour at 12.00 hours, the 'Zero Hour' begins. The 'Zero Hour' as the term seems to denote, may not necessarily last for an hour.

Emergence of the term 'Zero Hour'

The emergence of 'Zero Hour' in the Lok Sabha can be traced back to the 1960s when urgent issues of public importance began to be raised by members, immediately after the Question Hour, in the garb of Adjournment Motions, Points of Order, etc. Even though most of such notices were disallowed by the Speaker, the members sometimes got opportunities to mention those matters on the floor of the House. This served their purpose to some extent and gave them some satisfaction that they were at least able to bring those matters to the notice of the House and the Government and demand appropriate action.

Gradually, the interregnum after the Question Hour and before the taking up of the listed items of business in the House – popularly known as 'Zero Hour' – began to be used by many members for raising such issues and this practice became a regular but unacknowledged feature of the proceedings of the House. Veteran parliamentarians utilized the period with consummate skill to draw the attention of the House and thereby, of the Nation to some truly important issues. With the passage of time, the Zero Hour proceedings started stealing the limelight in the media, thereby encouraging more and more members to take resort to the quick and handy device.

Over the years, the practice has become popular in many State Legislatures also.

While, the 'Zero Hour' was gaining popularity and acceptability amongst members, it did not, many a time, find approbation from Presiding Officers in view of the unexpected encroachments upon the precious time of the House, sometimes leading to acrimonious and unruly scenes and disorderly conduct on the part of some members. At the same time, it was also realized that 'Zero Hour' had become lively and important. It was a device to raise important matters and ventilate public

grievances and as such it could not be dispensed with. While at one spectrum, a view was taken that it was a big hurdle for Presiding Officers to ensure transaction of the normal business; at another, it came to be regarded as something original by way of contribution to parliamentary practice.

Since considerable time of the Lok Sabha is consumed in raising such matters, it was decided in 1990 to regulate the 'Zero Hour' so as to ensure orderly transaction of business and also to enable the Presiding Officer to know, in advance, the issues which the members wish to raise.

Since then, efforts to regulate proceedings during the 'Zero Hour' have been a continuing process. Successive Speakers of Lok Sabha have discussed this matter in their meetings with Leaders of Parties and in the Business Advisory Committee. They have, on several occasions, advised the leaders to impress upon their party members to exercise self-restraint and not to raise matters which are not of emergent national importance.

Evolution of Procedural Regulations

The matter relating to regulation of 'Zero Hour' has been engaging the attention of Presiding Officers of Legislative Bodies in India for quite some time. It was also discussed by the Committee of Presiding Officers on 'Procedural Uniformity and Better Management of the Time of the House', headed by Prof. Narayan S. Pharande, Chairman, Maharashtra Legislative Council, which presented its report to the Conference of Presiding Officers in June 2001. The Committee recommended that the matters taken up after Question Hour and before the formal business of the House whether known as Zero Hour or Special Mention or by any other name need to be strictly regulated by laying down proper guidelines for the purpose. It also expressed the view that in any case not more than thirty minutes per day must be allowed by the Presiding Officer to be consumed by the Zero Hour.

At the Sixty-sixth Conference of the Presiding Officers of Legislative Bodies in India, held at Mumbai from 4 to 6 February 2003. Manohar Joshi, Speaker, Lok Sabha and Chairman of the Conference constituted, on 6 February 2003, a Committee of Presiding Officers on "Regulation of Zero Hour".

The Committee held four meetings *viz.,* at Bhopal on 29 March 2003, at Jaipur on 24 June 2003, at New Delhi on 23 September 2003 and in Jammu on 14 November 2003. The Committee *inter alia* recommended that:—

(*i*) Zero Hour may be given the nomenclature: Special Mentions;

(*ii*) Special Mentions may be taken up after the Question Hour;

(*iii*) A member may give notice for raising a matter during Special Mentions only when at the relevant time, no other device is available to him to draw the attention of the Government to the issue;

(*iv*) Only those matters which arise during the period after the conclusion of the previous day's sitting and before the commencement of the day's sitting, be permitted to be raised;

(*v*) The gravity, importance and urgency of a matter should be the prime criteria for raising it during Special Mentions;

(*vi*) The notices may be given by the members at least one hour before the commencement of the sitting;

(*vii*) The text of the notice may be restricted to a maximum of 150 words;

(*viii*) The duration of the Special Mentions should be 20 minutes. However, this duration may vary depending upon the strength of the Legislature and at the discretion of the Chair; and

(*ix*) The concerned Minister may respond immediately to the matter raised, if he has the information readily available with him, otherwise the reply may be given by the Minister at the earliest.

At the Sixty-Seventh Conference of the Presiding Officers of Legislative Bodies in India held at Kolkata on 9-10 October 2004, it was decided that it might be left at the discretion of the Presiding Officers of the Legislative Bodies to implement the recommendations contained in the Report presented by the Committee constituted at Sixty-sixth Conference held at Mumbai to look into various aspects for regulating Zero Hour.

In pursuance of decision taken at the Conference of Presiding Officers held at Kolkata, the Speaker held a meeting with Leaders of Parties in Lok Sabha on 24 July 2005, and it was decided that the matters of urgent public importance raised after Question Hour may be taken up in a phased manner. In the first phase, five matters of extremely urgent national and international importance may be taken up after the Question Hour. In the second phase, remaining admitted matters of public importance for the day may be taken up after 1800 hours or at the end of the regular business of the House. For this purpose, members are required to give notices, addressed to Secretary-General by 0930 hours on the day on which the matter is proposed to be raised.

This system of raising matters during 'Zero Hour' was made effective from 1st August 2005.

Present Scenario

At present, besides physical notices, notices of matters of Urgent Public Importance (Zero Hour) received [275] through the Members Portal in Parliamentary Notice Office between 1000 hours of a given day and 0900 hours of the Session day on which the Members desire to raise their matters in the House are put to computerized ballot after 0900 hours. Twenty matters as per their priority in the ballot are picked up for the day. A list of such notices is prepared indicating name of members, their party affiliation and brief subject of the notices. However, over and above these twenty matters, some matters of national/international importance tabled by the Members after 0900 hours may be allowed to be raised in the House at the discretion of Speaker, if so, requested by the Member.

275. *Vide* Bulletin Part-II Para No. 5465 dated 01.12.2022.

Though neither the term 'Zero Hour' nor the procedure thereof is mentioned in the Rules, the device is being used by members belonging to different political parties in the House. In some cases, Ministers have responded instantly to the matters so raised, though it is not obligatory on their part to do so. During the 17th Lok Sabha, an initiative has been taken to write to Ministries/Departments for response to the Matters of Urgent Public Importance raised during Zero Hour[276] within a period of one month. A software has been developed through which Zero Hour matters raised in the House are uploaded by the Secretariat for the use of Ministries/Departments and submitting their replies.

Submissions

The practice of allowing members to make 'submissions' on the statement of the Minister of Parliamentary Affairs regarding Government Business was dispensed with from 4 August 1989[277] and members were allowed to raise matters under Rule 377 on all days of the week[278]. However, the Rules Committee, at its sitting held on 28 August 1990, reconsidered its earlier recommendations for dispensing with the procedure for making submissions by members on statement by Minister of Parliamentary Affairs regarding Government Business for the following week with effect from 28 December 1990 and the practice of raising matters under Rule 377 on such days was dispensed with[279]. Furthermore, at the meeting of Speaker with Leaders of Parties in Lok Sabha held on 30 January, 2020, it was decided that the practice of making Submissions on the Statement of Minister of Parliamentary Affairs on the last working day of the week, usually Fridays, regarding Government Business for the following week be dispensed with. The decision was made effective from third Session of Seventeenth Lok Sabha[280].

Suspension of Rules

A member may, with the consent of the Speaker, move that any rule may be suspended in its application to a particular motion before the House and if the motion is carried the rule in question is suspended for the time being.[281]

The Speaker alone is vested with the power to give his consent to the moving of a motion for suspension of a rule: no reference to the Rules Committee is necessary in the matter[282], and it is for the House to decide whether a particular rule should be suspended or not[283]. Consent given by the Speaker for moving a motion for suspension of rules cannot be questioned[284].

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276. Till the 15th Session of 17th Lok Sabha, a total of 5568 Matters of Urgent Public Importance were raised during Zero Hour. During the 1st Session of 17th Lok Sabha, a total of 1066 Matters were raised, while on 18th July, 2019, a total of 161 Matters of urgent public importance were raised during Zero Hour, the highest for any single Session-day.
277. RC-4R, laid on Table on 25.7.1989.
278. Bn. (II), 2-8-1989, Para 3097.
279. Bn. (II), 19-12-1990, Para 948.
280. Bulletin Part - II No. 1117 dated February 5, 2020.
281. Rule 388.
282. *L.S. Deb.,* 23-4-1956, cc. 6052-76.
283. *Ibid.,* 28-8-1962, c. 4495.
284. *Ibid.,* 2-4-1969, cc. 153-54.

A rule or sub-rule may be suspended as a whole or only in part[285]. Where only a part of a rule or sub-rule is suspended, the rest of the rule continues to be operative. It is not in order to suspend a sentence or a few sentences in a rule or sub-rule.

A part of a clause of a rule may also be suspended, provided it is self-contained in its essence and meaning[286].

A rule or sub-rule cannot be suspended if it has the effect of creating a vaccum[287].

The Minister in-charge of a Bill even though he may be a member of the Rajya Sabha is entitled to move in the Lok Sabha a motion for suspension of a rule[288].

Although it is in the discretion of the Speaker to give his consent to the moving of a motion for suspension of a rule, the discretion is exercised with utmost care and caution after taking into consideration all the accompanying circumstances of an individual case[289]. There are no set rules to guide the Speaker in this matter and every request is considered on its merits before the Speaker gives his consent. However, factors like avoidance of delay in the passing of important legislation or getting over a technical objection generally influence the decision of the Speaker in giving consent to the moving of such motions. On occasions, the Speaker has refused permission for the moving of a motion on the ground that the circumstances of the case did not warrant such a step.

The Constitution (Tenth Amendment) Bill, 1961, and the Dadra and Nagar Haveli Bill, 1961, were introduced on 11 August 1961. The latter Bill was dependent on the former. On the grounds of urgency the Minister of Parliamentary Affairs sought the Speaker's permission to move a motion for suspension of Rule 66, if it became necessary. The Speaker did not agree to this proposal[290].

Motion for suspension of a rule in its application to a particular motion may be moved only when that motion is before the House, *i.e.,* if it is included in the List of Business.

There are three classes of business: business before the House at the moment; business before the House for the day *(i.e.,* included in the *List of Business* but not before the House at the moment); and business pending in the House but *not* before the House *(i.e.,* not included in the *List of Business).* It has been ruled that business pending in the House but not included in the *List of Business* is not "business before the House" for purposes of the rule relating to suspension of rules[291].

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285. *H.P. Deb.,* (II), 3-9-1953, c. 2161; *L.S. Deb.,* 23-4-1956, cc. 6073-78; 28-8-1962, cc. 4483-98.

286. *L.S. Deb.,* 2-4-1969, cc. 151-52.

287. *Ibid.,* 24-11-1966, cc. 5316-23.

288. *Ibid.,* 23-4-1956, cc. 6052-76.

289. Unless there is unanimity in the House, motion for suspension of Rule 26 *re.* private members' business cannot be moved.—*L.S. Deb.,* 9-5-1975, cc. 338-59.

290. *L.S. Deb.,* 17-5-1966, c. 17300.

291. *Ibid.,* 30-11-1965, cc. 4668-69.

Notice of a motion for suspension of a rule has to be given in advance and circulated to members before such a motion can be moved in the House[292].

On a motion moved by the Minister of Parliamentary Affairs that only Government business be transacted during the Fourteenth Session of the Fifth Lok Sabha and that all relevant rules do stand suspended to that extent, it was contended by some members that there could be no blanket suspension of rules and the motion must relate to a specific rule in regard to the business before the House. The Speaker ruled that the motion was moved by the Minister under article 118 of the Constitution and was in order[293].

The Speaker can refuse to give permission to move for suspension of a rule in its application to the rules relating to a motion for removal of the Speaker[294].

In certain circumstances, *e.g.,* when a motion to suspend a rule in relation to the suspension of a member from the service of the House is sought to be moved, the Speaker may require that the concurrence of the Leader of the House should be obtained before the motion is included in the *List of Business.*

In another case, a motion for suspension of a rule in its application to the motion to rescind the decisions given by the House in regard to a report of the Business Advisory Committee was included in the *List of Business* with the concurrence of the Leader of the House[295].

A Bill negatived by the House cannot be withdrawn by suspending the relevant rule in order to facilitate the Government to reintroduce it without any change in the same session[296].

An exception was made in the case of the Constitution (Twenty-second Amendment) Bill, clause 2 of which was not adopted by the House as on division it did not get the required special majority. On the recommendation of the Business Advisory Committee where leaders of the Opposition Parties/ Groups were also present and in view of the urgency of the Bill, the Speaker gave his consent to the motion for suspension of the relevant rule and the Bill was reintroduced, but he made it clear that it was not to be taken as a precedent for the future and the Prime Minister gave an assurance to that effect[297].

Presence of Ministers in the House

There is no rule which provides that Ministers must be present in the House during its proceedings. The Speaker also has no power to enforce the attendance of any particular Minister in the House[298]. But certain conventions regarding presence of Ministers in the House have developed as a result of observations made by the Speaker from time to time under his inherent powers.

292. *Ibid.,* 23-8-1970, cc. 242, 245-47.
293. *Ibid.,* 21-7-1975, cc. 26-38.
294. *Ibid.,* 24-11-1966, c. 5322.
295. *Ibid.,* 4-11-1966, cc. 1214-20.
296. *Ibid.,* 17-5-1966, c. 17300.
297. *L.S. Deb.,* 2-4-1969, cc. 152-53, 159.
298. *Ibid.,* 24-11-1955, c. 445.

It is now an established convention that on important occasions like Questions Hour, discussion on the Budget or the President's Address or the motion regarding international situation, concerned Ministers are required to be present in the House as far as possible[299]. On other occasions, the Minister or Ministers in-charge of the business before the House are required to be present[300]. In the case of unavoidable absence of the Minister in-charge from the House, it is expected that an arrangement is made for some other Minister to take notes of the debate in the House. Where the Minister goes out of the House for a short while, he is required to send an intimation to the Speaker and also to inform him of the name of the Minister deputed in his absence[301]. It has been ruled by the Speaker that in the absence of Ministers, the Government cannot be represented by private members[302]. The Speaker has observed that when the House is sitting the Law Minister or one of his deputies should be available to give opinion on legal matters which might arise during any discussion[303].

Whenever a Minister goes out of Delhi on official business or otherwise, he is required to inform the Speaker in advance and intimate to him the arrangements made by him to attend to his business in the House during his absence. A Minister need not be present in the House when a Minister of State or a Deputy Minister attached to his Ministry is present in the House to answer for him.

The Speaker has, however, made observations from time to time that Ministers in-charge should be present when business relating to their Ministries and Departments, directly or indirectly, is before the House.

Residuary and Inherent Powers of the Speaker

The Speaker has the power to deal with all matters which are not specifically or adequately provided for in the Rules. All questions relating to the detailed working of the Rules are also regulated by the Speaker[304]. In exercise of these powers the Speaker has issued directions from time to time, which have been collected and issued as *Directions from the Speaker.* Further, the Speaker gives rulings or private decisions (on departmental files) on specific matters or issues which arise from time to time and on which he is required to give decisions.

The Speaker has also certain inherent powers. As stated above, under his inherent powers the Speaker made observations, from time to time, regarding the presence of Ministers in the House and as a result thereof certain conventions have developed. Under his inherent powers, the Speaker may, in certain special cases, allow motions to be moved or withdrawn which are not covered by the Rules of Procedure[305], may order

299. *Ibid.,* 5-2-1970, cc. 203-4.

300. *P. Deb.,* 6-12-1950, c. 1275; 23-2-1951, cc. 3412-13; 3-3-1952, c. 1798; *H.P. Deb.,* (II), 1-8-1952, cc. 5083-84; *L.S. Deb.,* 27-3-1954, c. 3209; 17-9-1955, cc. 14260-62; 9-12-1955, cc. 1962-64, and c. 2034; 25-7-1957, cc. 5193-94; 13-3-1958, c. 4751; 31-3-1958, cc. 7559-63; 3-12-1959, cc. 3172-73; 26-3-1962, cc. 1903-04; 19-12-1973, cc. 311-14; 16-3-1972, c. 152.

301. *P. Deb.,* 6-12-1950, c. 1275; 23-2-1951, cc. 3412-13; *L.S. Deb.,* 16-5-1956, cc. 8602-03.

302. *H.P. Deb.,* (II), 1-8-1952, cc. 5083-84.

303. *L.S. Deb.,* 19-11-1965, c. 2893.

304. Rule 389; *see* Chapter 8—'Parliamentary Functionaries,' *supra.*

305. *L.S. Deb.,* 1-12-1960, c. 3340; 7-12-1960, cc. 4244-45; 8-12-1960, c. 4579; 7-8-1961, cc. 176 and 194-96; 5-9-1962, c. 6143.

expunction of words from the proceedings of the House on any ground not provided for in the rule relating to expunction[306], and may revise or correct a decision given by him earlier[307].

Normally, he works within the powers given to him by the House and the rules and takes care to see that there is no deviation from the established procedure[308]. If any change in procedure is desired, the matter is referred to the Rules Committee for examination and report and then the House takes decision thereon.

It is not customary for the Speaker to enter into public correspondence with regard to proceedings of the House or with a view to elucidating observations made by the Speaker in the House. The Speaker does not enter into correspondence with anyone regarding the scope and functions of parliamentary committees and other matters of procedure, or in regard to proceedings in Lok Sabha even though something might have been said in the House against an individual or a public body.

> In case a communication is received from a Minister of a State Government about anything said against him in the House, he may be advised to write to the Union Minister concerned to make a statement in the House clarifying the position, if the latter deems it necessary. The Speaker may also, in his discretion, forward that communication to the member concerned for his comments. If a communication in this regard is received from a former member, it is forwarded to the Minister concerned for such action as he considers necessary; where such a communication is received from a foreign diplomat regarding anything said in the House against his country, a copy of the communication may be sent to the Ministry of External Affairs with a view to explaining to the diplomat that it is not the practice of the Speaker to enter into correspondence regarding proceedings of the House.

Further, it is not the practice for the Speaker to enter into correspondence with the individual members of State Legislatures on procedural matters arising in their Legislatures and to express any opinion on rulings given by the Presiding Officers of those Legislatures. It is also not the practice for the Speaker to undertake an obligation not connected with his functions as such and which is susceptible of leaving his conduct open to question.

The Speaker is not bound to lay on the Table any communication or representation received by him[309].

The Speaker is not bound to give reasons for his decisions[310], and any observations made by him from the Chair cannot be interpreted in private correspondence. Members cannot enter into argument with the Speaker about a decision given by him[311]. An order

306. *Ibid.,* 18-4-1956; c. 5639; 30-4-1956, c. 67447
307. *Ibid.,* 26-5-1967, cc. 1195-1222.
308. *Ibid.,* 22-11-1965, cc. 3109-11.
309. *Ibid.,* 17-3-1960, c. 6433.
310. *L.S. Deb.,* 5-8-1959, c. 661; 7-8-1959, c. 1195; 17-8-1959, c. 2809; 1-12-1960, c. 3339.
311. *Ibid.,* 11-3-1964, c. 4832.

passed by the Speaker is final and there is no appeal against it[312]. A decision given by the Speaker privately (*i.e.,* on a departmental file) is as binding as a ruling given by him in the House[313].

The Speaker may not preside over the sittings of the House under certain conditions[314].

The Speaker possesses necessary powers of an administrative nature in connection with the functioning of the House and its members.

312. *Ibid.,* 4-12-1964, cc. 3378-79.

313. *Ibid.,* 21-4-1960, cc. 13091-92.

314. *Ibid.,* 19-11-1959, c. 733.

CHAPTER 33

Admission of Visitors to Lok Sabha

During the sittings of the Lok Sabha, admission of visitor to those portions of the House which are not reserved for the exclusive use of members is regulated in accordance with the orders made by the Speaker[1]. When the House is sitting, the Chamber is reserved for the exclusive use of members and no strangers are permitted therein. If any stranger comes and sits in the House knowing that he is not qualified or that he is disqualified for membership thereof, he shall be liable to a penalty of rupees 500 to be recovered as a debt due to the Union[2] apart from any other action which the House may take for its contempt. The other portions of the House where strangers may be permitted to go under specified conditions are the Galleries, which are treated as a part of the Lobby. The area covered by the Chamber, the Lobby and the Galleries, forms the 'inner precincts of the House'.

The procedure for admission of strangers was initiated on a minute recorded by the Governor-General on 17 May 1854. Under a Standing Order adopted late in that year, strangers could be admitted to the Chamber, but on a motion moved by any member and carried by the House, they were to withdraw from that sitting, unless a motion for their readmission was carried.

In 1921, a Standing Order[3] was adopted for regulating the admission of strangers to the Galleries of the Assembly in accordance with the orders made by the Speaker with the approval of the Governor-General. With India becoming independent, the control of the Governor-General in this regard was dispensed with, and admission came to be regulated in accordance with the orders of the Speaker.

Admission of strangers to the various Galleries[4] is regulated in accordance with the rules made in this behalf under directions of the Speaker, and any matter not provided for in these rules is regulated by the Speaker at his discretion. With the exception of the *Special Box* for which no admission cards are issued, admission to the Galleries is by cards which are issued through the Centralised Pass Issue Cell (CPIC) by an order of the Secretary-General. In the case of the Speaker's Gallery, cards are, however, issued by the CPIC at the discretion of Speaker.

The Speaker may cancel any admission card to any Gallery at any time and order the holder of the card to leave the Gallery, without assigning any reason therefor. No question can be raised in the House regarding such a cancellation[5].

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1. Rule 386. All persons other than members of the House are regarded as strangers with the exception of officers of the House and certain messengers on duty.
2. Art. 104.
3. S.O. 35.
4. These Galleries have been in existence since the inception of the Central Legislative Assembly in 1921, excepting the Diplomatic Gallery which was introduced in 1950.
5. *L.A. Deb.,* 20-9-1935, p. 1414.

The Speaker may, whenever he thinks fit, order the withdrawal of strangers from any part of the House[6]. Any stranger who, when so ordered to withdraw, does not do so or otherwise misconducts himself or wilfully infringes the regulations[7] made in regard to the admission of strangers, is removed from the precincts of the House or taken into custody[8].

Till 1929-30 the Government of India were the sole judge of the adequacy of the security measures in the precincts of the Central Legislative Assembly. In that year, Speaker Patel disagreed with this view and held that the precincts of the

6. Rule 387.

7. The following instructions may be referred to while applying for visitor's gallery pass:

   1. Admission is subject to accommodation being available.
   2. This pass is liable to be cancelled without notice and without assigning any reason therefor.
   3. The Person (in whose name this pass has been issued) shall be responsible for its safe custody and proper use. This pass must be returned or get revalidated to the CPIC Branch, after the period for which it is issued, is over.
   4. After witnessing the proceedings of the House, the visitors should come out of the Parliament House Complex immediately after the time is over or security staff advices to do so, whichever is earlier.
   5. In case of found roaming in non-permitted areas, the Visitors shall be liable to be sent out of the Parliament House Complex immediately.
   6. Visitors are required to maintain silence. Demonstration, Applause, Shouting and Distribution of leaflets are prohibited. Movement of any kind is to be avoided as much as possible.
   7. On demand by security staff on duty, this pass should be shown.
   8. Any visitor may be asked to withdraw at any time from the gallery without assigning any reason therefor, even though holding a visitor's card, which may otherwise be valid.
   9. Visitors are not permitted to take any objectionable items (like sticks, umbrellas, handbags, attaché cases, books, coins, etc.) and electronic items (like mobile phones, Cameras, CD, Pen Drive, Radio, I-Pod/I-Pad, Laptop, smart watch/car phone/Bluetooth etc.) inside the building. They must declare and deposit such articles at the Token Cabin outside the Gallery.
   10. No Fire-arms is permitted inside the Parliament House Complex. In case of possession, leave the same outside the Parliament House Complex.
   11. Visitors carrying cash or valuables in their handbags should invariably ask for lockers.
   12. Children below ten years of age are not allowed inside the Gallery.
   13. Any infringement will render the persons concerned liable to action being taken against them.
   14. Smoking is strictly prohibited in the Parliament House Complex.
   15. Interaction or Interview with Media is not allowed.
   16. Please co-operate with Security Staff on duty in maintaining the discipline and decorum of the Parliament House Complex.
   17. In case of any need, contact the nearest security personnel and extend co-operation to them.
   18. Photocopy/scanning/tampering of the pass for any purpose is strictly prohibited.
   19. This entry permit must be deposited with the Security Assistant on duty at the exit gate after completion of visit.
   20. The loss of this pass should be reported immediately to CPIC Lok Sabha and Communication Control Room.

8. Rule 387A. Any misconduct or infringement of regulations is treated as a grave offence and as contempt of the House punishable with imprisonment.—*L.S. Deb.,* 15-12-1967, cc. 7471-82; 15-11-1968, cc. 355-56; 9-4-1969, cc. 227, 332-38; 13-12-1969, cc. 211, 228-29.

Assembly were within the supreme control of the Speaker and no measure which did not have his previous approval could be enforced within those precincts. The Galleries of the Assembly began, therefore, to be guarded by the Assembly staff and only one policeman in plain clothes was allowed inside the Public Gallery on the analogy of the practice in the House of Commons, U.K. In 1930, the Chief Commissioner of Delhi, in contravention of the practice, posted four policemen in uniform in the Public Gallery. The Speaker apprised the House of this and directed that all Galleries except the Press Gallery be cleared forthwith and no further passes issued without his orders[9].

When the House sits in secret session, no strangers, except persons authorized by the Speaker**,** is permitted to be present in the Chamber, Lobby or Galleries[10].

A member may go inside the Galleries but it is not desirable that he should remain in the Visitors' Gallery for any length of time[11]. In case a member has been asked to withdraw from the House or has been suspended from the service of the House, he is not permitted to enter the Galleries before expiry of the period of his withdrawal or suspension. He may, however, visit the Lobbies and other outer premises of the House.

Lok Sabha Galleries

The Speaker's Gallery is generally intended for the use of close friends and relatives of the Speaker and the Presiding Officers of State Legislatures and their spouses. Ministers of State Governments and their spouses, and Presidents of All India political parties are also accommodated in the Speaker's Gallery.

Passes to the Speaker's Gallery are issued for full day. Former Secretaries-General of Lok Sabha and Rajya Sabha are entitled to enter on the approval of the Secretary-General, Lok Sabha.

"Public Gallery Passes are issued by the Centralized Pass Issue Cell (CPIC) to spouse of sitting Member of Lok Sabha on the request of the Member concerned. Ministers and Deputy Ministers, who are Members of the Rajya Sabha and have the right to sit and participate in the proceedings of the Lok Sabha, are also entitled to obtain Public Gallery/Special Gallery Pass for admission to these Galleries for their spouses.

The Diplomatic Gallery is meant for the exclusive use of foreign diplomats. Two types of cards are issued for admission to this Gallery, *viz.,* annual card for the heads of Foreign Missions, and Smart Visitor's Card on day-to-day basis for other members of the diplomatic corps.

The Special Box is reserved for the family and guests of the President, Governors of States, heads of foreign States and their Prime Ministers, Crown Princes of foreign States and other high personages, *e.g.* ex-Presidents and ex-Governor-General, Chief Justice of India, Chief Ministers of States, Foreign Parliamentary Delegations, etc.

9. *L.A. Deb.,* 20-1-1930, pp. 1-2.
10. Rule. 248(2).
11. *L.A. Deb.,* 22-2-1927, p. 1153.

The Public Gallery is generally for the use of the public. A member can apply for issue of Visitors' Cards only for those who are very well known to them personally. While applying for such cards, members are to give a certificate stating as under: "The above named visitor is my relative/personal friend/known to me personally and I take full responsibility for him/her." In view of the security reasons, visitors are required to carry their Photo Identity Card and show it whenever asked for by the security officials.

An online portal has been operationalized with effect from 10th Session of 17th Lok Sabha, through which Members may apply for issuance of same day/next day Public Gallery Passes for their relatives/guests/constituents. All such passes are issued, subject to verification of character and antecedents of visitor(s).

Admission to Visitors' Gallery.— (1) Visitors' Cards (Public Gallery) are issued for the guests of members for the Visitors' Gallery of Lok Sabha. Issue of Visitors' Cards is regulated as follows:—

(i) Members are requested to insist upon their guests/ visitors to provide their correct addresses, contact number, a copy of the Aadhaar card with the application form for issuing of public gallery passes.

(ii) Members of Parliament are requested to send the request of sponsored visitors/ guests at least before three (3) working days of their scheduled visit for police verification.

(iii) Passes are issued on first cum first served basis as the seating capacity in the visitor gallery is limited.

(iv) Group passes and same day passes for the Visitors' Galleries have been discontinued.

(v) Gallery Passes are issued subject to the completion of necessary verification of character and antecedents through local police/ state police. Passes are not issued if the verification is not received or received with adverse remarks. All visitors are subjected to thorough security checks as per norms.

(vi) Members may avail of the online mode of application only for issue of Gallery Passes by accessing https:/darshan.sansad.in for gallery pass application.

Steps involved in Online Application and Access of Visitors' Protocol in the Smart Visitor Management System

1. **QR Code Approval:** Upon approval of Lok Sabha/Rajya Sabha Visitors' Gallery visit, the visitor receives a QR code on his/her mobile phone through SMS.
2. **Visit Day Protocol:** On the day of scheduled visit, the visitor presents the QR code (a QR slip to be arranged by the approved visitor from concerned reception KIOSK) at the Lok Sabha/ Rajya Sabha counter at the South Utility Reception along with original Aadhaar card for spot verification.

3. **Verification and Smart Visitors' Gallery Card Issuance:** After verification of credentials by the Reception Officer, the Issuing Authority at the Reception Counter takes a biometric impression & photograph of the visitor and issues a Smart Visitors' Gallery Card to the visitor.
4. **Access to Visitors' Gallery with Smart Card:** To access the Lok Sabha/ Rajya Sabha Visitors' Gallery, the visitor is required to tap the Smart Visitors' Gallery Card at each Flap Barrier along the designated route.
5. **Smart Visitors' Gallery Card Deposit during Exit:** Upon completion of the visit, the visitor proceeds to the exit gate at the South Utility Block and deposits the Smart Visitors' Gallery Card at the exit point Flap Barrier to gain exit. The Smart Visitors' Gallery Card must be compulsorily handed over to the Security Officer deployed at the Exit Gate.
6. **Non-deposition of Smart Visitors' Gallery Card:** Failure to hand over the Smart Visitors' Gallery Card upon completion of the visit by the respective visitor will lead to automatic blacklisting of the visitor from the Smart Visitor Management System of Parliament House Estate.

On the occasion of the presentation of General Budget, a member may apply for a Visitor's Card for one person only. Preference is given to the spouse of the member. Further, the issue of Visitors' Cards is stopped as soon as the number of cards issued reaches the seating capacity[12].

A portion of the Gallery is set apart for the exclusive use of ladies who express a wish to be seated separately.

Parties of *bona fide* students from approved educational institutions or employees of Government Departments or other institutions are admitted, if a written request furnishing the necessary particulars about the members of the party is made to the Secretary-General by the head of the institution or Department one clear day before the date of the sitting for which cards are required.

> "In pursuance to the digitization of official work in the Secretariat, an online portal has been operationalized with effect from 10th Session of 17th Lok Sabha, through which Members may apply for issuance of same day/next day Public Gallery Passes for their relatives/guests/constituents. All such passes are issued, subject to verification of character and antecedents of visitor(s), for whom an application is made for admission to Public Gallery."

The *Rajya Sabha Gallery* is meant for the exclusive use of the members of Rajya Sabha who are admitted to this Gallery on production of their Identity Cards issued to them by the Rajya Sabha Secretariat.

The *Official Gallery* is intended only for officers of the Government of India and in certain cases for officials of the Governments of States, whose presence is required in connection with the business before the House. There are two types of passes which

12. *Bn. (II)*, 6-3-1976, para 2682.

entitle admission of officials to this Gallery, *viz.* Sessional Official Gallery Cards and day-to-day Pass.

During the Question Hour, preference is given to the officers of those Ministries whose Ministers are to answer questions on that day; normally not more than one officer from a Ministry is permitted to be present during that hour. No officer is, ordinarily, permitted to remain in the Gallery longer than his business requires.

The admission of Press correspondents to the *Press Gallery* is generally regulated on the basis of the advice given by the Press Gallery Committee which is reconstituted every year from among the representatives of the Press having Press Gallery Cards.

In 1929, the first Committee, then called the Press Advisory Committee was appointed by Speaker Patel and consisted of seven members, out of whom four were 'sitting members' of the Assembly and the Secretary of the Assembly functioned as the Secretary of the Committee. In 1933, the name of the Committee was changed from the Press Advisory Committee to the Press Gallery Committee; its membership was increased from seven to nine, all the members being selected from amongst the Press representatives; and a member of the Committee itself was selected as the Secretary of the Committee.

The membership of the Committee was raised to ten in 1970-71 and twelve in 1974-75 so as to make it a more representative body covering English, Hindi and regional language newspapers. In 1993, the name of the Committee was again changed from the Press Gallery Committee to the Press Advisory Committee and its membership was increased from twelve to twenty-one. In 2004, the membership was again raised to twenty-seven to give representation to regional language newspapers and the electronic media from across the country. The members nominated to the Committee are from amongst the Press representatives accredited to the Lok Sabha Press Gallery. Four members of the Committee are nominated as the office bearers of the Committee, *viz.* Chairman, Vice-Chairman, Secretary and Joint Secretary. The functions of the Committee are:

(i) To recommend the issuance of permanent passes to the representatives of the Newspapers/News Agencies/Media intending to report the proceedings of the House.

(ii) To recommend the issuance of temporary passes to the representatives of the Newspaper/News Agencies/Media intending to attend and cover the proceedings of the House from the Gallery and/or any other parliamentary event or activity.

(iii) To examine the complaints made against the representatives of the Newspapers/News Agencies/Media and to recommend appropriate action to the Speaker, Lok Sabha.

(iv) The complaints relating to media made to Hon'ble Speaker, Lok Sabha for appropriate action.

(v) The Hon'ble Speaker, Lok Sabha, may also act as per the provisions of law and rules and as per the advice of the General Purposes Committees.

(vi) To recommend to the Speaker, Lok Sabha, the kind of facilities that may be given to them to discharge their duties.

(vii) To perform such other tasks which are in line with the duties entrusted to them.

All applications for admission of the newspapers and their correspondents to the Press Gallery are ordinarily referred by the Secretariat to the Committee for opinion and advice. Similarly, its opinion is sought in all matters relating to allotment of seats in the Press Gallery. The factors that are generally taken into consideration by the Committee in allotting a seat to a newspaper are the space devoted by the paper to the proceedings of the House, and its daily circulation.

In recommending the admission of new correspondents to the Press Gallery, the Committee has set up a convention that the correspondent should have a minimum experience of five years in journalism.

Press Gallery Passes: Admission of Press correspondents to the Press Gallery is by cards issued through CPIC by the Secretary-General in accordance with the general orders of the Speaker. A 'Smart Identity Card' is issued to each correspondent for the period of a calendar year.

Temporary Press Gallery Cards without allotment of seats are also issued to *bona fide* journalists who are on a short visit to Delhi during the sessions of Lok Sabha.

Admission of Foreign Correspondents: Applications from foreign correspondents for the issue of Press Gallery Cards are considered only if they are accredited to the Government of India and if requests to that effect are received in the Secretariat through the External Publicity Division, Ministry of External Affairs of the Government of India.

Cancellation of a Press Gallery Card: The Speaker may, at his discretion, cancel a card issued for admission to the Press Gallery[13]. Any deliberate misreporting of the proceedings of the House[14], advance publication of questions and answers, or publication of any matter which is not intended for the public may be considered as a sufficient ground for withdrawal of a Press Gallery Card.

13. In 1928, in the report of the *Times of India* and also in the message of the Simla correspondent of the *Daily Telegraph,* London, there were certain criticisms against the Speaker. The Press Gallery Cards of both the correspondents were cancelled. The Press Gallery Card was later reissued to the concerned correspondent of the *Times of India* after unqualified apologies were tendered by him and the proprietor of the newspaper.

    On 5 September 1936, the Press Gallery Card issued to the correspondent of the *Amrit Bazar Patrika* of Calcutta was cancelled because of the publication of an article casting reflections on the Speaker.

    In pursuance of the decision of the House, the Speaker announced in the House on 21 August 1961, that he had "cancelled the Lok Sabha Press Gallery Card and the Central Hall Pass issued to A. Raghavan", correspondent of the *Blitz.—L.S. Deb.,* 20-4-1961, cc. 2659-70; 19-8-1961, cc. 3335-80; 21-8-1961, c. 3786.

14. *L.A. Deb.,* 7-3-1935, pp. 1781-82, 1813.

Apart from the Press Gallery facilities, certain other facilities are also provided to the Press correspondents to assist them in reporting the proceedings of the House. These have been described in *Chapter 45—Parliament and the Media.*

Lobby

A large lobby is available between Building Gate(s) and the Lok Sabha and Rajya Sabha Chambers. Access to Lok Sabha and Rajya Sabha Chambers is regulated through Flap Barriers along with Facial Recognition Systems installed at both ends of the Lok Sabha and Rajya Sabha Lobbies.

The Lobby is intended for the use of members of Parliament of the Lok Sabha to whom Lobby facilities are granted at the discretion of the Speaker.

Sessional passes for admission to the Lobby are issued to the Secretary of the Ministry of Law and the Secretary to the Prime Minister. These officers are admitted to the Lobby whenever they are required to go there on official business pertaining to the drafting of Bills or on behalf of the Prime Minister.

Only those journalists are admitted to the Lobby whose Press Gallery Cards are endorsed for Lobby under the directions of the Speaker. The number of such passes has been frozen at 12. However, if any vacancy out of the 12 correspondents who already hold passes occurs on account of death or correspondents leaving the profession, it could be filled up by another suitable journalist fulfilling the criteria.

The *Samvidhan Sadan*, Central Hall and its Galleries

The *Samvidhan Sadan*, Central Hall is an extension of the Lobby and is primarily meant for the use of members of Parliament. Former members of Parliament, Press correspondents holding Press Gallery Cards endorsed for the Central Hall and Lobby are admitted to the Central Hall on production of passes. Certain categories of journalists holding temporary Press Gallery passes may also be permitted to the Central Hall for very brief periods during the Session. On the specific request of members, Governors and Ministers of States and the Presiding Officers and members of State Legislatures are admitted to the Central Hall for having discussions on matters of public importance. Admission is regulated through passes which are issued by the Secretariat of the House to which members making the request belong.

Addresses to members of Parliament by the heads of foreign States or their Prime Ministers or by other distinguished foreign visitors are arranged in the Central Hall. On such occasions the seating arrangement in the Central Hall remains almost the same as in the case of President's Address except that special guests accompanying the distinguished visitors addressing members of Parliament are seated in a block of seats kept reserved for them in the Central Hall itself.

Admission of Visitors when Lok Sabha is not in Session

During the inter-session period, arrangements are made to take visitors round to see the Parliament House during specified hours on working days only. Such visitors

are taken by a Security Assistant in convenient batches of 40-50 persons at a time after every half-an-hour. A Casual Entry Permit is issued to them on the direction of Competent Authority of Parliament Security Service from the Reception Office. These visitors are taken to the Lok Sabha/Rajya Sabha Chambers, and the *Samvidhaan Sadan*, Central Hall between 1100 hrs. and 1700 hrs.

During the COVID period, the entry of Visitors in the galleries of Lok Sabha Chambers was restricted in consonance with the guidelines issued by the Government of India.

Introduction of Security Arrangements in New Building of Parliament

Strict access control regulations have been introduced and security set-up strengthened in the new building of Parliament[15]. Some of the measures taken are as follows:

1. Introduction of secured smart card.
2. Introduction of Facial Recognition technology and Smart Visitor Management System for seamless access of Members of Parliament in the new building of Parliament. Induction of advanced technology in security infrastructure has resulted in reduction in dependence on manpower resources.
3. Online Application-based mechanism for booking slots for witnessing Parliament proceedings/visiting Parliament House Complex.
4. Gentle ramps and wide-lane Flap Barriers are provided at various access locations for visitors with special needs.
5. Arrangements for early detection/warning and mitigation mechanisms for Chemical, Biological, Radiological and Nuclear (CBRN) emergencies have been put in place.
6. Unity of Command in security set-up for both Houses.

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15 . On 13th December 2023 at 13:01 hrs, two visitors seated in the Visitors' Gallery jumped in the Lok Sabha Chamber, when the House was in session. The House was immediately adjourned by the Chairperson. The intruders started spraying color smoke from smoke canisters carried on their person and raised slogans. They were immediately overpowered by Members, the Marshal and personnel of the Parliament Security Service.

The Members and other staff were safely evacuated from the Lok Sabha Chamber by the Parliament Security Service personnel. The Lok Sabha Chamber was secured after thorough search conducted by the technical team of Parliament Security and a team of DRDO officials. The House resumed its sitting at 14:02 hrs.

The suspects were handed over to the Station House Officer of Parliament Street Police Station (New Delhi District) along with their personal belongings and seized material for further necessary investigation and action as per law of the land. A First Information Report No. 142/2023 under sections 186/353/452/153/34/120-B IPC and Sections 16 and 18 Unlawful Activities (Prevention) Act was registered at Parliament Street P.S. and the case was handed over to Special Cell of Delhi Police.

Following the incident, later in the afternoon of 13th December, 2023, the Hon'ble Speaker convened a meeting with the Leaders of all Parties in the Lok Sabha to review the situation arising out of breach of security. He assured that all actionable recommendations of Leaders shall be implemented to strengthen security arrangements in the Parliament House Estate.

Reception Office

The New Building of Parliament has two Reception Offices, situated within the South (Raisina Road) and the North Utility Block (Red Cross Road). Arrangements for security check of visitors and material, locker room for material/prohibited articles, information kiosk and issue of Smart Access Cards to authorized visitors exist in both Reception Offices. Sufficient seating space in the waiting area has been provided. Wide-lane Flap Barriers have been provided at all access control points to provide seamless access wheelchair users.

CHAPTER 34

Petitions and Representations

Petitions

It is an inherent right of the people in a democracy to present petitions to the Legislature of the land with a view to ventilating grievances and offering constructive suggestions on matters of public importance. This right has been well recognized in India and has been in vogue since time immemorial. The concept of petitioning for redress of grievances now finds an indirect recognition in the Constitution also[1].

The Lok Sabha has framed rules of procedure for the presentation of petitions by the people and their consideration by the House[2].

Scope of Petitions

Petitions may be presented or submitted to the Lok Sabha with the consent of the Speaker on a Bill which has been published or which has been introduced in the House[3], or on any matter connected with the business pending before the House[4], on

1. Art. 350.
2. Rules 160-69.
3. Certain important Bills and Acts on which petitions have been received are: the Prevention of Food Adulteration Act, 1954; The Proceedings of Legislatures (Protection of Publication) Bill 1956; The States Reorganization Bill, 1956; The Scheduled Castes and Scheduled Tribes Order (Amendment) Bill, 1956; The Andhra Pradesh and Madras (Alteration of Boundaries) Bill, 1959; The Constitution (Ninth Amendment) Bill, 1960; The Advocates Act, 1961; The Banking Laws (Application of Co-operative Societies) Act, 1965; The Repeal of Essential Services Maintenance Act, 1968; The Banking Companies (Acquisition and Transfer of Undertakings) Bill, 1969; The Hindustan Tractors Ltd. (Acquisition and Transfer of Undertakings) Act, 1978; The Sales Promotion Employees (Conditions of Service) Amendment Bill, 1980; The Delhi Municipal Corporation (Amendment and Validation) Bill, 1980; The Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994.
4. Petitions presented on certain important matters other than Bills include those on the Report of the States Reorganisation Commission, the Report of Committee of Parliament on Official Language, withdrawal of exemption from levy of excise duty on vegetable non-essential oil proposed in the Budget Speech of the Minister of Finance in 1958, educational policy of Government and funds earmarked for education since independence, unemployment and other grievances of youth, complaints regarding overtoiling and working of STD system in Delhi Telephones, accommodation problem of retiring Government servants, unemployment of agricultural graduates and post-graduates and agricultural engineers, rising prices, unemployment and other problems, exemption from payment of road tax and supply of petrol to physically handicapped persons, grievances and demands of pensioners, hardships of Bombay suburban commuters.

any matter of general public interest[5], provided that it is not one which falls within the cognizance of a court of law having jurisdiction in any part of India or a court of inquiry or a statutory tribunal or authority or a *quasi-judicial* body, or a commission, or which should ordinarily be raised in the State Legislature, or which can be raised on a substantive motion or resolution, or for which remedy is available under the law, including subordinate legislation.

If a petition deals with financial matters or involves expenditure from the Consolidated Fund of India, it cannot be presented to the House unless recommended by the President[6].

Petitions serve two principal objects: one is to state the merits of a public matter to which the petitioner wishes to invite the attention of the Lok Sabha, and the second is to show and stress the degree of importance which the public outside are giving to the matter. The object of the petitions relating to the second category is to intensify and focus opinion so that the Government may be moved to take quick action in cases of genuine grievance[7].

Requirements of a Petition

A petition has to be submitted in a prescribed form and should contain: a formal superscription to the House, *i.e.,* it must be addressed to the Lok Sabha[8]; a concise statement of grievance; a prayer regarding the definite object in regard to the matter

5. Petitions and representations, *inter alia,* on the following subjects have been received and admitted: Preparation and Publication of Railway Time Tables and Guides; grant of rail concessions at single fares for double journeys to students who wish to appear in competitive examination; for award of merit scholarships in public schools, etc.; amendment of Post Office Savings Bank Rules for extension of nomination facilities to a single depositor; welfare of Scheduled Castes and Scheduled Tribes in India; amendment of Factories Act, 1948; protection to coir industry in Kerala; amendment of Conduct of Elections Rules, 1961; Defence of India (Amendment) Rules, 1963 relating to Gold Control; facility to public to send petitions to Lok Sabha or to a member to forward petitions for presentation by post at book-packet rates; introduction of Miscellaneous Money Order Forms for the use of treasury-going public for remitting their dues to Government; the Representation of the People Act, 1951; Indian Post Office Rules, 1933; increase in pension of Central Government pensioners; development of Kutch area; welfare of the blind in India; introduction of the system of Postal Zone Numbers in India; admission to medical colleges in Delhi; nationalization of the coal mines in Bihar; exemption from payment of road tax and supply of petrol at concessional rates to physically handicapped persons using vehicles; taking over by Government of Shri Ram Institute for Industrial Research, Delhi; sugarcane price; service grievances of Income-Tax Officers Class II; nationalization of plantation industry and trade; alleged violations of the provisions of the Delhi School Education Act, 1973, and the rules framed thereunder; grievances of Railway employees; augmentation of Railway service in Indore; ban on entry of foreign tourists in certain parts of Sikkim; introduction of old age pension scheme; redressal of demands of workers of unorganized sectors; relief to 1989 riot victims of Bhagalpur; non-implementation of Rehabilitation Policy-1989 of Government of Orissa by Mahanadi Coal Fields Ltd. (MCL) and other related issues; recognition of the BDS degree awarded to students of different dental colleges of Darbhanga, Bihar, L.N. Mithila University by the Dental Council of India; role of authorities in permitting the entry of S.S. Blue Lady Ship carrying hazardous waste in Indian territorial waters; serious revenue loss to Government of India due to misdeclared imports as worn clothing; regularization of contract workers of Bhojudih Coal Washery, a unit of BCCL; and appointment of hearing impaired handicapped persons as Inspector of Central Excise.
6. Rule 160 A—The financial matters referred to in this rule are those which are specified in sub-clauses (a) to (f) of clause (1) of article 110 of the Constitution.
7. 9R (CP-1LS), Annexure A.
8. Rule 165.

to which the petition relates[9]; name and designation of the petitioner with address, authenticated by his signature or, if illiterate, by his thumb impression[10]. Moreover, the petition must be free from interlineations or erasures.

Where there is more than one signatory to a petition, at least one person must sign or if illiterate, affix his thumb impression on the sheet on which the petition is inscribed. If signatures or thumb impressions are affixed to more than one sheet, the prayer of the petition has to be repeated at the head of each sheet[11]. Where the petition is made online through Members' Portal, it may reflect the signature or thumb impression of the petitioner, as the case may be[12].

A petition, received direct from a petitioner, which is defective in parts or infringes one or more provisions of the rules relating to petitions, is returned to the petitioner pointing out the defects therein and suggesting its transmission to the Secretariat, if so desired by the petitioner, after carrying out necessary amendments.

When a petition received through a member infringes any of the rules, it is suitably edited by the Secretariat and consent of the member is obtained pertaining to the changes. Whenever it is not possible to edit a petition without carrying out substantial amendments to it, it is returned to the petitioner with the member's consent pointing out the modifications to be made in it.

Every petition to the Lok Sabha has to be either in Hindi or in English. If a petition in any other Indian language is made, it has to be accompanied by a translation either in Hindi or in English, and signed by the petitioner[13].

Letters, affidavits or other documents should not be attached to a petition[14]. A petition thus has to be self-explanatory and self-contained. In practice, however, no petition has been rejected so far only on the ground that letters, documents, etc., were annexed thereto.

An admissible petition which refers to and encloses newspaper clippings or other statements or statistics, without which the petition would not be intelligible, is edited so as to incorporate at an appropriate place the news item or the statement or statistics in the main body of the petition itself. If a member has countersigned such a petition, he is apprised of the changes made therein.

Petitions identically worded and received from different persons are treated as a single petition, and the first petitioner is treated as the first signatory to such a petition and only the number of other petitioners is indicated thereon. Where such petitions are received through a member for presentation by him to the House, the member is informed about this procedure before processing the petitions[15].

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9. *Ibid*.
10. Rule 162(1).
11. Rule 162(2).
12. Sub. by *L.S. Bn. (II)* dated 02.8.2017, para 5673.
13. Rule 161(3).
14. Rule 163.
15. The petitioner who is to be treated as the first signatory in such cases is generally indicated by the member presenting the petition.

However, in exceptional cases where identical petitions are received from persons eminent in public life, instead of mentioning merely the total number of other petitioners after the name and address of the first signatory, the names, but without the addresses, of all the other petitioners may also be mentioned.

In case the signatory to a petition dies before its presentation to the House, it is rejected, as petitioner has to be a living person or a corporate body in existence at the time of presentation of the petition.

Admissibility of Petitions

A petition must concern a matter which is within the competence or jurisdiction of the House and in which it can interfere and grant the relief prayed for[16]. Petitions pertaining to matters which should ordinarily be raised in a State Legislature are, therefore, not admitted. A member of Lok Sabha may, however, give a petition to be presented in the Rajya Sabha by a member of that House[17].

The object of the petition, that is, the matter to which it relates should be precisely stated. A petition which does not contain any definite suggestion or a grievance for removal is rejected. Moreover, it must be couched in respectful, decorous and temperate language. A petition which is not so couched or which imputes motives or which is in the nature of a political indictment, is not admitted.

Petitions making complaints against the members in regard to their conduct in private life which has no relation to their conduct as members of Parliament are not admissible[18].

A petition is not admissible for presentation to the House if it raises a question substantially identical with the one dealt with in a Bill or a resolution within one year of its discussion in the House[19]. The principle behind this practice is that after the House has taken a decision on a Bill or a resolution, it would be necessary to place a time-limit within which the same matter should not be discussed again, unless some new facts have been brought out in the petition.

A petition should not relate to personal or individual grievances. If it does, it is rejected as a petition[20]. If, however, the personal grievance relates to a matter connected with the business pending before the House and the petition is otherwise in order, it is admitted for presentation by the member countersigning it[21].

Petitions suggesting remission or abolition of existing taxes or imposition of fresh taxes or suggesting withdrawal of moneys from the Consolidated Fund of India

16. Rule 160—*See* this Chapter under 'Scope of Petitions', *supra.*

17. *List of Business,* Rajya Sabha, 5-12-1973.

18. The Speaker disposes of such complaints by having a discussion with the member concerned or by calling for facts from the member with regard to the allegations.

19. Rule 182. An exception may, however, be made by the Speaker in special cases. For instance, a petition was admitted during the Third Lok Sabha relating to high taxes. Compulsory Deposit Scheme, etc., (matters which had been discussed earlier by the House) in view of the large number of signatories to the petition and the publicity the matter had received in the Press—2R (CP-3LS), para 24.

20. Dir. 40(1) (i). However, such petition is placed before the Committee on Petitions as a representation. For details, *see* this Chapter *infra* under 'Representation' and Chapter 30— 'Parliamentary Committees', under *Committee on Petitions.*

21. Rule 160(ii), and 2R(CP-3LS), para 7.

towards expenditure by Government, etc., are not admissible, unless recommended by the President. The principle on which this is based is that under the Constitution, the Lok Sabha alone has the right to vote the Demands for Grants which are recommended by the President.

Letters and telegrams from foreign Parliaments or from residents of foreign countries relating to matters beyond the competence and jurisdiction of the Lok Sabha are not admitted as petitions, since a petition to the House should set forth a grievance which is within its jurisdiction and powers and in which it can give relief [22].

A petition suggesting amendment of the Constitution is not admissible because an amendment to the Constitution can only be initiated by introduction of a Bill for the purpose in the House[23].

Where a petition contains official facts which are not known, a reference is sometimes made to the Ministry concerned to verify the accuracy of the facts and its admissibility is decided on receipt of such verification[24].

Presentation of Petitions to the House

Every petition which a member proposes to present to the House has to be countersigned by him[25]. The Petition submitted online through Members' Portal shall be deemed to be countersigned by the Member[26]. If the petition is submitted in any Indian language other than Hindi, its translation in Hindi or English has also to be countersigned by the member who proposes to present it as a token of its being a true and faithful rendering of the original petition.

If a petition is received direct from any person without the counter-signature of a member and on scrutiny by the Secretariat is considered admissible, it is returned to the petitioner who is asked to have it countersigned by a member for presentation to the House. This practice is based on the principle that petitions are normally to be presented by members in their capacity as elected representatives of the people and that they have to take responsibility for the statement made in the petitions and answer questions on them in the House, if any, are raised.

Requirements of Notice and Manner of Presentation

A member who intends to present a petition to the House gives an advance intimation thereof to the Secretary-General[27]. Before giving notice, the member is expected to satisfy himself that the petition does not infringe any of the rules relating to petitions. In case of doubt, he may in his notice of intention intimate that objectionable

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22. *Min.* (RC), 15-12-1953.

    Such requests or telegrams, where necessary, are placed in the Library for information of members.

23. *See* art. 368.

24. Dir. 40(2). Reference to a Ministry is made in exceptional cases and, as a general rule, petitions are examined in the Secretariat itself in the light of Rules, etc., on the admissibility of petitions.

25. Rule 164(1)—The principle behind this practice is that a member who desires to present a petition has to take responsibility for the subject-matter or other statements made therein.

26. Rule 164(1) [Sub. by *L.S. Bn. (II)* dated 02.8.2017, para 5673].

27. Rule 166.

portions therein, if any, might be deleted or modified to make it conform to the rules. While giving notice, the member has also to forward to the Secretary-General the original petition signed by the petitioner and duly countersigned by him[28].

No minimum period is specified for an advance notice: ordinarily two days notice is considered sufficient. In exceptional cases, the condition of advance notice is also waived.

Where a notice for presentation of a petition relating to a matter pending before the House which is likely to be taken up for discussion immediately is received too late for inclusion in the *List of Business* for the day, the petition may be presented by the member with the permission of the Chair without notice[29].

The member in his notice of intention generally specifies the date on which he would like to present the petition. In case he fails to specify the date, it is fixed by the Secretariat in consultation with him.

When a petition is to be presented to the House by a member on a specified date, an entry is included in the *List of Business* for that day.

No member can present a petition from himself[30], except as a member or officer of a public corporate body or society when he might present it on their behalf.

The Speaker does not present a petition either from himself or on behalf of another member.

A petition countersigned by two or more members is usually presented by the member who has countersigned it as the first signatory or, if he is absent, by the second or third or any other member who has countersigned it. The name of the member who presents a petition is placed first while printing the petition and is followed by the names of the other members who may have countersigned it.

A petition, which after presentation is found defective in some respects, may be ordered to be withdrawn by the Speaker and the petitioner informed accordingly[31].

Ordinarily, a petition is presented to the House after the Question Hour[32]. If a member who has given notice of his intention to present a petition is not in his seat when called upon by the Speaker, he is normally not permitted to present the petition later during that day. The member can, however, specify another date on which he would like to present the petition.

No debate is permitted on the presentation of a petition[33].

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28. Rules 164(1) and 167.

29. During the Eighth Session of the Second Lok Sabha, a member, on 25 August, 1959, forwarded a petition regarding the Andhra Pradesh and Madras (Alteration of Boundaries) Bill, 1959, with the request that he might be allowed to present it on the same day. As the Bill in question was likely to be taken up on 27 August, 1959, the member was permitted to present the petition on the same day.

30. Rule 164(2)—He can, however, entrust his petition to some other member to countersign and present it.

31. Dir. 39.

32. Item (xviii) under Dir. 2.

33. Rule 168.

Earlier, in exceptional cases where presentation of a petition by a member could not be arranged and the Speaker considered that the petition should be presented to the House, the Secretary-General was directed by the Speaker to report the petition to the House[34]. The practice of reporting of petitions to House by Secretary-General has been discontinued since beginning of the third Lok Sabha[35].

Petitions after Presentation stand referred to the Committee on Petitions

Every petition after it has been presented by a member stands referred to the Committee on Petitions[36]. Thereafter, a memorandum is prepared by the Secretariat for the consideration of the Committee indicating briefly the grievance and prayer of the petitioner, the background of the case and the suggested remedy, if any. In case any facts or comments on a petition have been received from the Ministry concerned[37], they are suitably incorporated in the memorandum.

The Committee usually meets as early as possible after the presentation of a petition to consider it[38]. This applies equally to petitions on Bills or other matters pending before the House[39], although in urgent cases, where the Bill dealt with in, or the subject-matter of, a petition is under discussion in the House, the Committee may meet to consider the petition *immediately* on its presentation[40].

In case a petition deals with a Bill or other matter which is under discussion or is to be discussed immediately in the House and the Committee is not able to meet for want of time or quorum, the petition is placed before the Speaker who directs that it be circulated *in extenso* or in summary form[41]. When, however, adequate time is available before the subject matter of the petition is to be taken up in the House, the Committee may examine the petition in detail and make suitable recommendations to the House.

Petitions on Bills Pending before a Select/Joint Committee

A petition received on a Bill pending before a Select/Joint Committee and otherwise admissible under the rules is not presented or reported to the House, but stands referred to the Select/Joint Committee and the petitioner is informed accordingly[42]. The principle behind it is that as a Select or Joint Committee examines the Bill in details and submits its report to the House, it would be desirable that the Committee is seized of all petitions, representations, etc., relating to that Bill so that it may, if deemed necessary, effect appropriate amendments in the Bill.

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34. The practice of reporting of petitions to House by Secretary-General has been discontinued.
35. *Vide* Entry at X under Cl(3) of Chapter-6—Petitions under Direction 38 of Manual on Directions by the Speaker**.**
36. Rule 169.
37. Under Dir. 40(2).
38. Dir. 94.
39. Rules 160(i) and (ii).
40. Dir. 94—For details, *see* Chapter 30—'Parliamentary Committees', under *Committee on Petitions.*
41. Rules 307(1) and (2).
42. Dir. 38(3), Second Proviso; Dir. 82.

Representations

Petitions ventilating personal or individual grievances are not admitted as petitions but are placed before the Committee on Petitions as representations[43]. Representations seeking employment, requesting monetary or financial assistance in some form, regarding grievances on matters under the control of State Governments and on *sub-judice* matters are excluded from the purview of the Committee, as also the representations which are mere endorsement copies of letters to other authorities and do not contain a specific request in the endorsement for relief. Anonymous representations or those in which signatures are illegible or which do not contain full names or addresses, are not admitted.

Representations ventilating the grievances of employees or ex-employees of the Government of India or State Governments or Statutory Corporations in which the Central Government has a controlling interest are filed in view of the fact that a number of remedies are available to the employees, right up to the highest dignitary in the land. However, such representations are placed before the Committee with the Chairman's approval, if they raise any of the following points:

> that rules, regulations, etc., on the subject are contrary to, or are not in consonance with the provisions of the Constitution or of equity; that decision has been taken arbitrarily, *i.e.* without applying the rules or that it has not the force of law or rules; that the petitioner has not been given a reasonable opportunity of being heard or to represent his case, or relevant and material information necessary for representing his case has been denied to him; that the reasons given for decision or executive action taken against the petitioner disclose a patent error of law or of application of rules; that there appears to be a *prima facie* case of miscarriage of justice; and that the grievance of the petitioner is such that rules or regulations need amendment, although his case has been correctly decided, *e.g.,* if some class or category of Government servants has been adversely affected by enforcement of the rules.

Sometimes, letters, telegrams, copies of resolutions, etc., which are not strictly admissible under the rules as petitions are received in the Secretariat. These are treated as representations and considered by the Committee.

Public bodies, associations or individuals can submit representations to the Committee on any matter within the jurisdiction of the Lok Sabha. A representation to be admissible and placed before the Committee should be written in respectful, decorous and temperate language.

Unlike petitions, no special form for submission of a representation has been prescribed. It can be in the form of a letter. A representation differs from a petition in other respects also. The scope of a representation is wider. Unlike petitions, a representation, even when it raises a question substantially identical with the one dealt with in a Bill or resolution within one year of its discussion in the Lok Sabha, is admissible[44]. Moreover, a representation may contain suggestions for amendment of the Constitution, for remission or abolition of taxes, or for imposition of fresh taxes.

43. However, a petition from an individual relating to administrative delays and inefficiency and corruption or vindictiveness of officers, if substantiated, can be admitted as such.

44. Min. (CP-2LS), 23-7-1957.

Further, a representation can suggest withdrawal of money from the Consolidated Fund of India, and a member can submit a representation from himself ventilating his individual grievances[45]. In such cases, the Committee may say that they are not in a position to give relief as the House itself cannot do so, or the Committee may suggest to the Ministry to look into the matter if it merits examination by the Government, and to take such action as it deems fit.

Representations complaining of alleged inaccurate statements by members during the debates in the House are not taken notice of unless documentary evidence in support of the allegation is furnished by the petitioner. Where, however, the Speaker so directs, copies of such representations may be forwarded to the members concerned for information.

Even if the petitioner's complaint is substantiated by relevant proceedings of the House, the complaint is filed by the Secretariat as the speeches of a member in the House are privileged and it is solely within the Speaker's discretion to regulate the debate. However, representations containing protests against utterances or actions of a member in the House which offend the religious sentiments of a section of the people or protests against alleged incorrect statements about an individual made by members in the House are admissible for being placed before the Committee on Petitions[46].

Letters, representations, etc., relating to the proceedings in the House or the conduct and behaviour of members in the House are not admitted in view of the convention that the House does not permit outside interference in its internal procedural matters. However, these may be placed before the Committee for their consideration under orders of the Speaker[47].

> Complaints against members of the House regarding their conduct in private life which has no relation to their conduct as members of Parliament are neither treated as petitions nor placed as representations before the Committee on Petitions. Such complaints are dealt with by the Speaker personally after obtaining, where necessary, facts from the members concerned[48].

Right of Citizen to directly petition the Parliament

In January 2023, a Writ Petition (Civil) No. 39/2023 was filed in the Supreme Court of India on the right of citizen to directly petition the Parliament. Since a procedure to this effect is already in place in the form of 'representations' which could be directly submitted by any citizen, the Supreme Court, in its hearing on 24 March, 2023, dismissed the petition.

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45. During the First Lok Sabha, three complaints from three members were referred to the Committee on Petitions by the Speaker and considered by it as representations. Min. (CP-1LS), 11-5-1956; 27-8-1956; 1-11-1956.

46. *Min.* (CP-2LS), 11-3-1960, 30-8-1961.

47. *Ibid.,* 11-3-1960.

    Also *see* Entry XIII under Rule 160 of Manual on Business and Procedure.

48. Since 1977, a practice has developed according to which no action is taken on complaints against Member of Lok Sabha and these are filed under orders of Speaker/Secretary-General. [Also *see* Entry XII (d) under Rule 160 of Manual on Business and Procedure.]

CHAPTER 35

Papers Laid on the Table and Custody of Papers

Papers Laid on the Table

Papers are laid on the Table in order to provide authoritative facts and information to the House with a view to preparing a ground for discussion pertaining to various matters. Papers are so laid either in compliance with specific provisions contained in the Constitution, various Central Statutes and the Rules of Procedure, or in pursuance of the directions issued by the Speaker from time to time or in pursuance of the recommendations of parliamentary committees and the settled practices and conventions in regard thereto.

The practice of laying papers on the Table is a long established one. The Central Legislative Assembly, from its very inception, claimed its right to have certain information laid before it[1]. In certain Central Acts, though very few in number, there used to be specific provision for the laying on the Table of certain documents, including the draft rules framed by the Government in exercise of delegated powers of legislation[2]. Sometimes Government on their own accord laid on the Table important reports[3], agreements[4] and other miscellaneous papers.

However, before Independence, the practice of laying papers was very much limited. The Executive had the unfettered power to frame various rules and regulations without any control of the Legislature and could refuse the production of any paper or the supply of information without assigning any reason therefor. In fact, till 1950, there was no specific rule providing for a document cited in the House to be laid on the Table though, in practice, the documents cited by the Government Members were so laid during the days of the Central Legislative Assembly[5].

Papers Laid under the Constitution

The Constitution stipulates the laying of the following papers:—

Budget and other documents connected therewith[6]; Ordinances promulgated and Proclamations issued by the President and orders incidental thereto[7]; and

1. *L.A. Deb.,* 15 February 1921, pp. 32-33, 35, 38, 47 and 51.

   Even before 1921, in the Imperial Legislative Council, statements containing information promised in answer to questions asked from time to time by the members of the Council used to be laid on the Table—*L.C. Proceedings* 1904, p. 110; 1911, p. 711; 1916, pp. 18 and 80-81; 1920, p. 14.

2. *L.A. Deb.,* 1923, pp. 3095-96.

3. *Ibid.,* 1934, pp. 2457-58; (1942), p. 211; (1934), pp. 530-33.

4. *Ibid.,* 1935, pp. 99-103; pp. 128-29.

5. *Ibid.,* 1936, pp. 1992-94.

6. Art. 112(1)—For details, *see* Chapter 29—Procedure in Financial Matters.

7. Arts. 123(2)(a), 352(4), 356(3), 359(3) and 360(2)(b)—For details, *see* Chapter 23—Ordinances and Proclamations by the President.

Reports of the various authorities constituted under the Constitution and other papers connected therewith.

In the last category are the reports of the Comptroller and Auditor-General regarding the accounts of the Government of India (commonly known as the Audit Reports)[8]; the recommendations of the Finance Commission together with an explanatory memorandum as to the action taken thereon[9]; the reports of the National Commission for Scheduled Castes[10]; National Commission for Scheduled Tribes[11] and the reports of the National Backward Classes Commission[12] together with a memorandum explaining the action taken thereon; the reports of the Commissioner for Linguistic Minorities[13]; and the reports of the Union Public Service Commission[14] together with memorandum about the cases, if any, where the advice of the Commission was not accepted by the Government and the reasons for such non-acceptance. In regard to the Union Public Service Commission, the regulations framed by the President defining the scope of the Commission's functions are also laid on the Table[15].

Except the reports of the Finance Commission and the National Backward Classes Commission, which are laid on the Table as and when submitted to the President, all the above reports are laid annually.

Papers Laid under the Statutes

Papers required to be laid on the Table under various statutes may be broadly classified under the following categories—

(i) Rules, sub-rules, regulations, bye-laws framed by Executive authorities in exercise of the delegated powers of legislation—every statute containing rule-making provisions provides for the laying of such rules as soon as these are framed for a certain period and such rules are subject to modification by the House[16].

(ii) Annual reports and audited accounts of public undertakings whether incorporated under the Companies Act, 1956 or created under specific Acts.

(iii) Reports, etc., of statutory bodies, other than public undertakings constituted under specific laws of Parliament. The provision regarding laying of papers of these bodies is, however, not uniformly laid down in the statutes. In many of them, the requirement is either confined merely to the laying of accounts or the annual reports or their *ad hoc* reports.

8. Art. 151(1).
9. Art. 281.
10. Art. 338.
11. Art. 338A.
12. Art. 340(3).
13. Art. 350 B(2).
14. Art. 323(1).
15. Art. 320(5), *L.S. Deb.,* 11-9-1958, c. 5957.
16. For details, *see* Chapter 24—Subordinate Legislation and Chapter 30—Parliamentary Committees, under 'Committee on Subordinate Legislation'.

In addition, various statutes also provide for the laying of Government Resolutions, Statutory or Executive Orders or any other paper issued or prepared thereunder.

No statutory report can be treated as a privileged document and must, therefore, be laid on the Table[17].

Where a State has come under President's rule, under article 356, the Appropriation Accounts and the Audit Report thereon have also to be laid on the Table. However, it is not necessary for the Government to relay these documents before Parliament to enable the Public Accounts Committee at the Union to examine them, if they were laid before the State Assembly before it ceased to exist.

Reports required to be laid under the Statutes should be laid as per requirement of the Statute. Similarly, reports under the Commissions of Inquiry Act should be laid together with the Memorandum of action taken thereon within a period of six months of submission of the report by the Commission to the Government. An interim report can also be laid on the Table[18].

Papers Laid under the Rules of Procedure

Papers required to be presented to the House or to be laid on the Table[19] under various provisions contained in the Rules include:

Reports of Select or Joint Committees on Bills[20]; Reports of the Standing Parliamentary Committees[21]; Petitions[22]; Statements regarding Ordinances[23]; Rules, regulations, etc., as modified in accordance with the amendment adopted by both the Houses[24]; Bills as passed by the Rajya Sabha[25], including Bills

17. It was ruled that the Report of the Commissioner for SC, ST regarding disturbances at Ramanathapuram was a statutory report under article 338 of the Constitution and must be laid on the Table of the House. Such a report was not covered by First Proviso to Rule 368 and could not be claimed as a privileged document—*L.S. Deb.,* 18-12-1957, c. 6249.

18. *L.S. Deb.,* 9-3-1978, cc. 258-80.

19. In the Constitution as well as in the Rules, both the expressions namely, 'presentation' and 'laying' have been used and connote the same meaning, though their use in respect of each particular document or paper has got special significance by virtue of usage. Whether a particular document is presented to the House or is laid on the Table, the net effect is the same, *i.e.* the House takes cognizance of such a paper, and the same consequences would follow.

    A paper or document is, however, not to be treated as a paper laid as such if it does not fulfil the primary condition of authentication by the member or Minister laying it on the Table. For instance, the replies given to starred questions not reached for oral answer in the House and to unstarred questions are not treated as papers laid, though these are *deemed to be laid on the Table* under the Rules. Similar is the case with regard to Bills received from the other House in their various stages and laid on the Table. *See* also *L.S. Deb.,* 23-11-1959, c. 1231.

20. For details, *see* Chapter 30—Parliamentary Committees.

21. *Ibid.* Except for the reports of the Rules Committee and Committee of Privileges, which are laid on the Table, reports of all the Standing Parliamentary Committees are presented to the House. However, in case of the Departmentally Related Standing Committees, the reports of the Committees serviced by the Lok Sabha are presented to the House and simultaneously, these are laid on the Table of the Rajya Sabha and *vice-versa.*

22. Rule 167; *see* also Chapter 34—Petitions and Representations.

23. Rule 71; *see* also Chapter 23—Ordinances and Proclamations.

24. Rule 239; *see* also Chapter 24—Subordinate Legislation.

25. Rule 114.

returned by Rajya Sabha with amendments[26]; Bills returned by the President for reconsideration[27]; and replies to unstarred questions or starred questions not reached for oral answer[28].

Papers Laid under the Directions of the Speaker

In pursuance of the directions issued by the Speaker, the following documents or papers are required to be laid on the Table:—

Statements by Ministers in reply to half-an-hour discussion: When a half-an-hour discussion is interrupted for want of quorum or when there is no time for the Minister to give a full reply to the debate, the Speaker directs the Minister to lay a statement on the Table[29].

Opinions on Bills: Opinions on a Government Bill are laid on the Table by the Minister concerned and on a private member's Bill by the member in-charge of the Bill soon after the opinions are received[30]. In the case of private member's Bill, if the member in-charge is absent, opinions thereon are laid by the Minister concerned with the Bill. Opinions received when the Lok Sabha is not in session are laid on the Table as soon as the House reassembles.

Bills assented to by the President: Every Bill passed by the Parliament and assented to by the President is required to be laid on the Table by the Secretary- General. In the case of a Bill on which assent is obtained by the Rajya Sabha Secretariat, the Bill, as assented to by the President, is authenticated by the Secretary-General of the Rajya Sabha before being laid on the Table[31].

Statements in response to calling attention notices: If two calling attention notices have been put down in the *List of Business* of the same sitting, the statement in respect of the first notice is made in the House and the statement in response to the second notice may be laid on the Table by the Minister concerned[32]. In practice, however, whenever a statement to be made by a Minister in response to a calling attention notice is long, a synopsis of the statement may be read out by the Minister and the full statement laid on the Table.

Minutes of Parliamentary Standing Committees: After the minutes of a sitting or sittings of a Committee are approved by the Chairman of the Committee, an authenticated copy thereof is laid on the Table[33].

26. Rules 98, 139 and 149.
27. Rules 129(2) and 144.
28. Rule 39; *see* also *L.S. Deb.,* 1-8-1977, cc. 289-90.
29. Dir. 19; *L.S. Deb.,* 1-3-1960, c. 3598; 16-3-1960, c. 6198.
30. Dir. 24(1).
31. Dir. 35.

    The Secretary-General reports to the House on the second day of the session and thereafter on the last day of every week on which the House sits, all Bills assented to by the President since such a report was last made to the House and also lays on the Table the assented copies of the relevant Bills. For this purpose, there is an informal arrangement between the two Secretariats for the mutual supply of authenticated copies of Bills assented to by the President.

32. Dir. 47A; *See* also *L.S. Deb.,* 13-9-1957, cc. 13753-58; 27-9-1958, cc. 8882-85.
33. Dir. 67(1)—*See* also Chapter 30—Parliamentary Committees.

Documents connected with the report of a Select or Joint Committee: Along with the report of a Select or Joint Committee on a Bill, the minutes of the various sittings, Government Amendments, if any, to the Bill and other important papers made available to the members of the Committee and approved by its Chairman for presentation to the House, are also presented to the House. Evidence given before a Select or Joint Committee is not presented to the House with the report. If the Committee decides to lay it before the House, it is laid on the Table separately, usually on the same day after the report has been presented[34].

Parliamentary Committees may make recommendations in their reports requiring certain reports or explanatory memoranda to be placed before the House. In response to such recommendations certain papers are laid on the Table of the House.

Statement by Ministers under Direction 73A: Direction 73A requires the Ministers to make statement once in six months in the House regarding status of implementation of recommendations contained in reports of Departmentally Related Standing Committees concerning their Ministry/Department. As the statement usually runs into many pages, the Minister concerned generally, with the permission of the Speaker, lays the same on the Table of the House.

Papers Quoted to be Laid on the Table

If a Minister quotes in the House a despatch or other State paper which has not been presented to the House, he is required on demand to lay the relevant paper on the Table[35]; even when a document is partly quoted by him, the entire document has to be laid on the Table[36]. The rule does not apply to a document which is stated by the Minister to be of such a nature that its disclosure would be inconsistent with public interest[37]. As to what constitutes public interest is a matter entirely for the Government to decide[38]. The privilege of refusal to lay on the Table a document on the ground of public interest should be claimed specifically by the Minister himself who quotes the document[39].

Refusal by a Minister to place a confidential document on the Table is not a breach of privilege[40]. The Speaker cannot compel a Minister to lay a document if its disclosure is claimed to be against public interest[41]. No breach of collective responsibility of the Council of Ministers is involved if a Minister declines to disclose contents of a document claiming privilege and a part of the contents

34. Dir. 92.

35. Rule 368.

36. *L.A. Deb.,* Vol. IV, 1938; pp. 484-89.

37. Rule 368, First Proviso; *see* also *L.S. Deb.,* 3-4-1963, cc. 7572-74; 26-2-1965, cc. 1697-1722.

38. *L.A. Deb.,* 3-4-1937, p. 2631; There have been instances where Speaker agreed to enquire from Ministers reasons why laying of documents on the Table was against public interest— *L.S. Deb.,* 26-2-1970, c. 246; 2-3-1970, c. 234.

39. *L.S. Deb.,* 3-4-1963, c. 7583.

40. *L.S. Deb.,* 7-8-1959, cc. 1196-1227; 26-2-1965, cc. 1698-1721.

41. Rule 368, *First Proviso, L.S. Deb.,* 19-11-1957, cc. 1313-15. On demand by members, the Speaker may, if he thinks fit, ask the Minister concerned to show him in his Chamber the document in question so that he might look into the public interest aspect of it. *See* for instance, *L.S. Deb.,* 26-2-1970, c. 246; 2-3-1970, c. 234.

thereof is later divulged by the Prime Minister[42]. If a Minister declines to lay a document on the Table on the ground that it is against public interest, it is the Government's responsibility to see that the contents thereof do not leak out.

Where a Minister gives in his own words a summary or gist of such despatch or State paper and does not actually quote from it, it is not necessary for him to lay the relevant paper on the Table[43]. Similarly, if a document is referred to casually, it need not be so laid. But if it is pressed that the document should come on the record of the House, the Minister is required to lay the document on the Table[44]. There has been a case where on the Minister's assertion that he had given a gist of the document being challenged, the Speaker asked the Minister to show him the document confidentially to enable him to decide whether the gist of the document had been given and later informed the House that the Minister has given the gist[45]. Sometimes documents, even though read in full, have been laid on the Table[46].

If a Minister, during his speech, is reading from a statement, the veracity of which is challenged and it is not possible for him to continue his speech due to continuous interruptions, the Speaker may ask him to lay the rest of the statement on the Table. The Speaker is not to judge as to what the Minister is saying is correct or not. By placing the statement before the House it is not proved that what is said therein is correct or that the statement is in reply to what has been said in the House. After the statement is laid, it is subject to examination in the normal course[47].

Correspondence between Ministers

It follows from the principle of collective responsibility of the Council of Ministers to the Lok Sabha[48] that all communications between the Ministers are regarded secret or confidential unless the Government itself decides to make any particular communication or part thereof public. The Government's right to decide what is secret or confidential and what should be laid on the Table of the House is absolute. Even if a Minister quotes in the House from a document, he may refuse to lay it on the Table of the House on the ground that its disclosure would not be in the public interest. What constitutes 'public interest' would again be entirely for the Government to determine.

Even if a private member quotes from or places on the Table of the House the copy of a document certified by him as a true copy of the original, still it may not be necessary for the Government either to place the original on the Table or to admit or deny the correctness of the alleged copy. While the Lok Sabha can force a Government to quit by passing a vote of no-confidence in the Council of Ministers, neither the Speaker nor

42. *L.S. Deb.,* 2-3-1964, cc. 3328-29.

43. Rule 368, Second Proviso; *see* also *L.S. Deb.,* 16-3-1965, cc. 4547-59; 8-4-1978, cc. 395-416; 24-4-1978, cc. 314-16; 4-4-1984, cc. 516-26.

44. *L.S. Deb.,* 19-12-1956, c. 2755; 17-4-1963, cc. 10228-89; 18-4-1963, cc. 10423-24; 20-4-1963, c. 10921.

45. *Ibid.,* 23-8-1973, c. 192; 5-9-1973, cc. 49-53.

46. *Ibid.,* 19-12-1956, c. 2756; 27-11-1958, c. 12232.

47. *Ibid.,* 15-2-1966, cc. 383-92.

48. *See* Chapter 8—"Parliamentary Functionaries", under the heading *Council of Ministers* and Chapter 28—'Motions of Confidence and No-Confidence in the Council of Ministers' under the heading *Cabinet Responsibility, supra.*

the House can compel a Minister to lay on the Table of the House any communication between Ministers which the Government regards as secret or confidential and the disclosure of which it considers against public interest[49].

The July-August 1978 Session of the Rajya Sabha was dominated by a demand raised in various ways for laying on the Table of the House some correspondence alleged to have taken place between the Prime Minister and the then Home Minister regarding an inquiry into allegations of corruption against the family of the Prime Minister and the family of the then Home Minister.

On 19 July 1978, speaking in the Rajya Sabha on a Calling Attention Notice on the subject, the Prime Minister *inter alia* observed that it was a well-recognized principle that communications between Ministers were privileged documents. It was necessary for a free and frank exchange of views between the Ministers and had been recognized in *May's Parliamentary Practice* also. The Prime Minister added that he proposed to adhere to this inviolable principle in the transaction of Government business[50].

Following continued demands for laying the correspondence on the Table and noisy exchanges leading to early adjournment of the House for few days, the Chairman after discussing the matter with the Prime Minister announced that he had advised the Government and the Government had accepted that it would be better if it placed the correspondence in the Chairman's Chamber for perusal by the Leader of the Opposition and Leaders of the other Parties and Groups in the House.

Later, in the Lok Sabha, the same correspondence between the Prime Minister and the Home Minister was made public by the former Home Minister in the statement on his resignation from the Government[51].

When private communications or despatches or memoranda are referred to, the rule for the laying of cited documents does not apply.

A member may lay a paper on the Table of the House when he is authorised to do so by the Speaker[52]. If a member quotes from a paper or document, whether public or private, he may be asked to lay it on the Table[53]. Before laying it on the Table, the member has to submit that paper or document to the Speaker for perusal and it is treated as Paper Laid on the Table only after the Speaker has accorded the necessary permission[54]. But the member is not allowed to lay on the Table private correspondence of another member.

Unless a member has quoted from a document in the House, he is ordinarily not permitted to lay it on the Table[55]. A member is not required to lay on the Table a document if the House is satisfied with the oral statement of the member[56]. Where a

49. *L.S. Deb.,* 19-7-1978, *c.* 262.
50. *R.S. Deb.,* 19-7-1978, *cc.* 240-41.
51. *L.S. Deb.,* 22-12-1978, cc. 269-304.
52. Dir. 117.
53. *Ibid.,* 26-3-1958, cc. 6882-84; 4-9-1958, cc. 4699-4703; 12-4-1959, cc. 9033 and 9265.
54. Dir. 118.
55. *L.S. Deb.,* 11-4-1963; cc. 13937-38.
56. *Ibid.,* 1-8-1956, cc. 1779-81.

member has only referred to a document and not actually quoted any portion therefrom, he is not required to lay it on the Table[57].

Members' Right to Quote from Secret Documents

A member can ordinarily quote from a document that is treated by the Government as secret or confidential, and which the Government has not disclosed in public interest. There is a possibility for such a document to be obtained through leakage or stealth or in an irregular manner, and there is no compulsion on the member to disclose the source from which a copy thereof has been obtained by him[58].

Normally, a member is not expected to spring a surprise on the Speaker, the House and the Government by quoting from a document which is not public. In fairness to all and in accordance with the parliamentary conventions, he is expected to inform the Speaker and the Government in advance so that they are in a position to deal with the matter on the floor of the House when it is raised. If this requirement is not complied with, the Speaker may stop the member from quoting from such a document and ask him to make available to the Chair a copy before he can be allowed to proceed with any quotation therefrom.

While the Government cannot be compelled to admit or deny the correctness[59] of copy of any alleged document which is classified as secret or confidential, it is necessary for the member who quotes from such a document to certify that he has verified from his personal knowledge that the document is a true copy of the original which is authentic and he will do so on his own responsibility. The member is also required to give a certificate on the document in the prescribed form[60]. The Speaker would accordingly permit him to proceed. In case the member is not prepared to give a certificate in these terms and insists on quoting from such a document, the Speaker may stop the member from quoting from such a document.

There is an over-riding authority with the Speaker to stop a member from quoting from a document in the national interest where the security of the country is involved. He can exercise this power without assigning any reason[61].

When a member reads a part of a confidential document, that portion and any other relevant portion to make it understood is laid on the Table; the entire document need not be laid[62]. However, if a confidential document has not been laid on the Table by the Government as its disclosure would be inconsistent with public interest and a private member seeks to lay it on the Table on the ground that the document has already leaked out, it is permitted to be laid on the Table only when the member verifies from his personal knowledge that the document sought to be laid by him is a true copy of the original which is authentic and also records a certificate thereon to that effect[63].

57. *Ibid.,* 14-9-1964, c. 479.

58. *L.S. Deb.,* 20-2-1958, cc. 1746-53. On 24 July 1974 the Chair observed that members were not bound to reveal the source of information—*L.S. Deb.,* 8-8-1974, c. 10.

59. *See* also *L.S. Deb.,* 26-2-1965, cc. 1698-1722.

60. Dir. 118 A.

61. *L.S. Deb.,* 26-2-1965, cc. 1713-21; 24-4-1968, c. 241.

62. *H.P. Deb.,* Vol. V, 1954, cc. 6621-23.

63. *L.S. Deb.,* 26-2-1965, cc. 1713-21; 3-4-1963, cc. 7518-24; 22-2-1965, cc. 808-42; 8-6-1967, cc. 3818-21; 12-6-1967, c. 4367.

When a member quotes from a secret document and seeks to lay it on the Table, he is required to submit the document or a copy of it to the Speaker after recording a certificate thereon[64]. The document is, thereafter, sent to the Government for verification of its authenticity. After considering the facts supplied by the Government, the Chair decides whether the document should be allowed to be laid on the Table or not and the Speaker's decision is final.

On 10 December 1987, while speaking[65] on the Motion of No-Confidence in the Council of Ministers, a member sought to lay on the Table a report of the Technical Evaluation and Negotiation Committee on the 155 MM Guns, headed by Gen. Mayadas. As the member had quoted certain portions from the report, there was a demand that the report be laid on the Table. The member, thereupon, stated that he would lay the report. The report was later handed over by the member after giving the following certificate thereon:

"I certify from my personal knowledge that this document is a true copy of the original which is authentic."

As per established procedure, a copy of the report handed over by the member was sent to the Ministry of Defence for comments, particularly about its authenticity to enable the Speaker to decide whether it could be treated as a Paper Laid on the Table. After considering all aspects of the matter, including the Ministry's reply as well as the fact that the matter was under examination by a parliamentary committee, the Speaker decided not to allow the document to be laid or deemed to have been laid on the Table.

On 27 February 1991, a member referred to and quoted from a report of the Central Bureau of Investigation (Special Investigation Group) on telephone tapping. The member sought to lay the report on the Table of the House for which prior intimation had been given by him on the same day to the Speaker. As the report was of a secret nature, it was referred to the Minister of State for Home Affairs for comments, particularly about its authenticity. The Government confirmed that the photostat copy of the report was a true copy of the CBI Report submitted to the Government as also to the Committee of Privileges.

The report was treated as a Paper Laid on the Table as it was referred to and quoted by the member and there was a demand for laying it on the Table.

A document with the Government does not *ipso facto* become public if a document purporting to be a copy thereof is laid on the Table by a member. The Speaker cannot compel the Government to lay the document in their possession on the Table, much less to disclose it or to communicate it to anyone else, if the Government still classifies it as confidential[66].

If in answer to a question or during debate, a Minister discloses the advice or opinion given to him by any officer of the Government or by any other person or authority, the relevant document or part or parts of the document containing that

64. Dir. 118A.

65. *L.S. Deb.,* 10-12-1987, cc. 523-24.

66. *L.S. Deb.,* 12-6-1967, cc. 4366-73.

opinion or advice or a summary thereof is ordinarily laid on the Table[67]. It is, however, always open to a Minister to claim privilege that it would not be in the public interest to lay the document containing that advice or opinion on the Table, even though its source has been disclosed[68].

Where a document containing such advice or opinion for which privilege was claimed in the House by the Minister leaked out subsequently, the Minister concerned had to lay a copy thereof on the Table as a copy of the document was produced by a member on the floor of the House and the Minister concerned on verification found that it was a true copy of the original[69].

Speaker's Permission for Laying Papers

The approval of the Speaker is necessary before any paper can be laid on the Table. Such permission is presumed in the case of State documents and papers if they are laid on the Table in pursuance of statutory obligations, rules, practice and conventions of the House. The Speaker's specific permission is, however, necessary when a Minister wants to lay a paper on the Table at a short notice[70].

Competence to Lay Papers on the Table

Normally, it is the Ministers who lay documents on the Table. Most of the documents are required to be laid under statutory or constitutional provisions or in pursuance of the Rules of Procedure and the Directions of the Speaker. In respect of other documents, the Ministers have to use their judgment whether to place a paper on the Table or not, and if so, when. Where it is decided by a Minister that a matter is such that the House should be taken into confidence, he should, as a matter of courtesy, first place the document before the House and then release it to the Press[71].

> It is for the Government to decide whether a report of a departmental committee or any particular report should be laid on the Table. The Speaker has declined to give any directions to the Government whenever request by members suggesting the laying of such a report has been made to him[72].

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67. Rule 370; *L.S. Deb.,* 31-5-1956, c. 4516; 21-12-1960, cc. 6659-65; 22-12-1960, c. 7066; 23-3-1966, cc. 7170-80; 8-4-1978, cc. 395-416; 24-4-1978, cc. 314-16.

    Rule 370 was incorporated in 1953. The Rules Committee were of the view that it was the Minister who was responsible to the House and not the Officers whose advice he might have taken. If on an issue a Minister relies on any advice, he must first make it his own and then express it in the House as his own view or if he discloses the source of advice, he should be prepared to place the document before the House.

    The idea behind it was that the House would come to an independent decision whether the advice which had been given to the Minister was sound and in the best public interest, and if the House thought that the advice was not correct, it might give a directive to the Minister. In the other case in which the Minister expressed an opinion of his own, whether arrived at by himself or after seeking the advice of any of his advisers, officers, etc. the House could censure him if it severely disagreed with that opinion of the Minister. Min. (RC), 22-12-1953.

68. *H.P. Deb.,* (I), 13-8-1953, cc. 575-76; *L.S. Deb.,* 21-2-1960, cc. 6661-62.

69. *L.S. Deb.,* 4-5-1963, cc. 13908-44; 6-5-1963, cc. 13993-94.

70. *See* also this Chapter, under sub-heading 'Procedure for Laying Papers on the Table', *infra.*

71. *L.S. Deb.,* 8-4-1960, cc. 10378-80.

72. *Ibid.,* 18-4-1959, cc. 7060-63; 20-3-1959, cc. 7535-47; 16-8-1963, c. 634; 21-8-1961, cc. 3482-85; 8-12-1961, c. 4182.

The responsibility for laying on the Table correspondence between the Union and State Governments or circulating it to members rests with the Government, and the Speaker does not undertake to determine for the Government the course of action they ought to take. Normally, such correspondence is not laid on the Table[73].

Reports of inquiries conducted by State Governments are not laid on the Table of the House[74].

When a team of members of Parliament visits a place on the invitation of the Government and submits a report, it is not an official document to be laid on the Table because Ministers are required to lay only official documents[75].

There is nothing in the Constitution or the Rules of Procedure and Conduct of Business in the House or in the Evidence Act which prohibits the Government from laying a paper or document on the Table, including a plaint, written statement, affidavit or petition submitted before a court of law[76]. However, if a Minister declines to lay it on the ground that its production would be inconsistent with public interest, the Speaker cannot compel the Minister to lay it on the Table[77].

A member can also lay a paper or document on the Table but only when he is authorized to do so by the Speaker[78].

Some papers, *viz.* reports of parliamentary committees which could not be presented to the House because of its dissolution, assented copies of Bills, etc. are laid on the Table by the Secretary-General in pursuance of the directions of the Speaker. By practice, the Secretary-General also lays on the Table annually, two brochures, namely, *Parliamentary Committees—A Summary of Work* and *Financial Committees—A Review.* Apart from these, the Secretary-General has been laying on the Table of the House reports of IPU, CPC, Parliamentary Delegations, goodwill missions, etc. since 2005[79].

When a new Lok Sabha meets after a General Election, the Secretary-General lays on the Table a book containing names of members returned to the House, which is presented to the Speaker by the Chief Election Commissioner.

The Secretary-General lays on the Table copies of Bills passed by Rajya Sabha and transmitted to Lok Sabha and the Bills returned by Rajya Sabha to Lok Sabha.

The Secretary-General also lays on the Table a copy of the Address by the President to both Houses of Parliament assembled together, in the Central Hall, under article 87 of the Constitution.

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73. *Ibid.,* 21-2-1966, c. 1217; *see* also *L.S. Deb.,* 5-8-1970, cc. 33-37.
74. *Ibid.,* 16-8-1961, cc. 2403-04.
75. *L.S. Deb.,* 23-3-1965, cc. 5267-77.
76. *Ibid.,* 6-5-1968, cc. 2198-2202, 2246-50; 7-5-1968, cc. 264-65; 9-5-1968, cc. 3149-54; 21-2-1980, cc. 252-61.
77. *Ibid.,* 9-5-1968, cc. 3149-56.
78. Dir. 117; *see* also Dir. 118 and *L.S. Deb.,* 15-5-1957, cc. 455-56; 8-3-1958, c. 3891.
79. Also *see* Chapter 8 on *Parliamentary Functionaries, supra.*

It has been held that in case a paper relating to administrative matters, not within the cognizance of the Speaker, is laid on the Table by a private member and is then referred to the Government for comments, the paper along with the comments should be laid on the Table by the Minister concerned, and not by the Secretary-General[80].

Authentication of Papers to be Laid

A paper or a document which is laid on the Table is duly authenticated by the Minister or member concerned[81]. When a paper is laid on the Table by the Secretary-General, it is authenticated by him[82]. Thus, a person who authenticates a document is presumed to take the full responsibility for its genuineness, correctness and authenticity. This is necessary because once a document is laid on the Table, it becomes a part of the permanent record of the House and hence a public document open to inspection and use by members[83].

There is a prescribed form for authentication of documents[84] and this form is followed by Ministers in accordance with the standing instructions issued to them by the Speaker.

In the case of a paper or document laid by a Minister, an entry is made in the List of Business. If before such an entry is made, a change in the office of the Minister takes place, another copy is required to be authenticated by the new Minister and the entry in the *List of Business* is made accordingly. Similarly, in the case of papers to be laid on the Table afresh after the dissolution of the Lok Sabha or in the case of papers to be re-laid and if there is a change in the office of Minister, fresh authentication becomes necessary.

A private member has no right to lay a paper on the Table unless he is permitted to do so by the Chair. Authentication is required only when he has been allowed to lay a paper.

Authenticated copies of all papers or documents to be laid on a particular day are kept ready in the Table Office before the commencement of the sitting and soon after these are laid on the Table, the same are sent to the Parliament Library.

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80. On 4 September 1958, a member laid certain papers on the Table in support of his adjournment motion on the situation in Kerala—*L.S. Deb.,* 4-9-1958, cc. 4675-99.

    Subsequently, the Speaker directed that the papers be forwarded to the State Government and their comments, if any, might also be Laid on the Table with their concurrence. On an intimation being received from the Home Ministry that the State Government had no objection to their comments being laid on the Table, it was decided that it would be more appropriate for the Minister of Home Affairs to lay them on the Table because if the Secretary-General did so, the responsibility would lie with the Speaker and that in administrative matters, which were not within the cognizance of the Speaker, it was necessary that he should keep clear of governmental responsibility.

81. Rule 369(1).

82. There are, however, certain documents which though laid by the Secretary-General are not authenticated by him. For example, the Address delivered by the President to both the Houses of Parliament is authenticated by the President. Similarly, Bills passed by the Rajya Sabha and laid on the Table of the Lok Sabha by the Secretary-General are authenticated by the Secretary-General, Rajya Sabha.

83. *Min.* (RC), 17-4-1953.

84. Each document is authenticated at a suitable place, preferably on the front page. The system of Digital laying of Official Papers on the Table of the house was put in place from 21 May, 2024 under new Directions 116A.

Procedure for Laying Papers on the Table

Papers Laid by Government

Papers are required to be laid on the Table by Ministers both in English and Hindi versions. Where a paper is permitted to be laid, by the Speaker, in one version only, the Minister has also to lay on the Table a statement giving reasons for not laying simultaneously the other version of the document.

Earlier when a Minister wished to lay on the Table any paper or document, the concerned Ministry was required to forward to the Secretariat 46 copies of each Notification and 26 copies of any other paper in Hindi and English versions complete in all respects, including one copy each of the Hindi and English version duly authenticated by the Minister concerned, two days in advance before the date on which the Minister propose to lay it on the Table[85]. With effect from the last week of Third Session of Seventeenth Lok Sabha, the supply of spare copies of the documents which Ministries desire to lay have been done away with. However, in case of demand by members, the Ministry concerned may be asked to supply required number of copies to Table Office immediately. In special circumstances, however, the Speaker may, on request, permit a Minister to lay a paper at a short notice[86]. If the Minister in whose name an item stands on the agenda is not present, the papers can be laid on the Table by another Minister but with prior intimation to the Speaker[87].

If the paper is being laid under any particular statute, the Ministry indicates the relevant laying provision and period for which it is to be laid in their communication to the Secretariat. In case the paper to be laid is an 'order'[88], the period for which it is to be laid is also indicated as also the fact whether or not the 'order' is subject to modification.

Papers received from the Ministry are examined in the Secretariat to see whether they conform to the statutory requirements, if any, in regard to them[89]. If it is found that there has been a delay in laying a paper, the Minister concerned is also required to lay on the Table a statement explaining reasons for the delay, along with such paper or document[90].

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85. *L.S. Deb.*, 27-8-1954, c. 427; Dir. 116(2). After laying of the papers, the Ministries/Departments are now required to provide web link of their papers describing the name of the Ministry, date of laying and title of the same to *computercentrelss@sansad.nic.in* in order to link the same to the Lok Sabha Homepage.

86. Dir. 116(3).

87. *L.S. Deb.,* 25-7-1975, cc. 1-2.

88. 'Order' here implies any regulation, rule, sub-rule, bye-law, etc., framed in pursuance of the provisions of the Constitution or the legislative functions delegated by Parliament to a subordinate authority, and required to be laid before the Lok Sabha. Rule 319.

89. For example, in the case of annual reports of public undertakings, the statutory requirement as laid down in the Companies Act, 1956, is that they must be accompanied by a copy of the audit report and any comments upon, or supplement to the audit report made by the Comptroller and Auditor-General; hence, if any particular annual report is received from a Ministry without the audited accounts and the comments of the Comptroller and Auditor-General thereon, the fact is immediately brought to the notice of the concerned Ministry for compliance before the item is included in the *List of Business.* Similarly, if a paper is lacking in respect of some other requisite information, the Ministry is asked to make the paper complete in all respects for inclusion of the item in the *List of Business.*

90. *L.S. Deb.,* 22-8-1962, cc. 3442-43.

    In the case of 'orders', such a statement is not insisted upon and the delay as also the reasons therefore given by the Ministry, if any, are brought to the notice of the Committee on Subordinate Legislation who take cognizance of the matter.

If the Minister has indicated a particular date on which he wishes to lay a paper on the Table, an entry is made in the *List of Business* for that date. In case no date is mentioned, the entry is normally made in the *List of Business* for the next day allotted to the Minister for answering questions in the House. The entry is made in the name of the Minister who has authenticated the paper and he is to lay the papers unless he has authorised another Minister to do so on his behalf. However, if he is present in the House, another Minister, even if authorised, cannot lay the papers. Only the brief subject and not the purport of the paper is mentioned in the entry[91]. Contents of a paper to be laid on the Table are kept confidential till the paper has been so laid. It is open to a Minister to correct or alter the text of any paper before it is laid. All such corrections made in the paper are, however, authenticated by the Minister, or alternatively, an authenticated copy of the paper as to be finally laid on the Table is supplied to the Secretariat before or as soon as the paper is so laid.

'Laying a paper on the Table' does not imply that the Minister is required to hand over the paper physically at the Table. What transpires is that the authenticated copy of the paper to be laid is kept in the Table Office. It may be made available for reference, if necessary, by the members on request after the Minister, when called upon by the Speaker, formally states that he lays it on the Table. Where the document to be laid is of far-reaching importance, its contents may, with the permission of the Speaker, be read out to the House[92].

No point of order about the legality or the constitutionality of a paper can be raised when it is being laid on the Table[93].

It is for the Committee on Papers Laid on the Table to examine and report to the House: (i) whether there has been compliance with the provisions of the Constitution, Act, rule or regulation under which the paper has been laid; (ii) whether there has been any unreasonable delay in laying the paper; (iii) if there has been such delay, whether a statement explaining the reasons for delay has been laid on the Table of the House and whether those reasons are satisfactory; (iv) whether both the Hindi and English versions of the paper have been laid on the Table; and (v) whether a statement explaining the reasons for not laying the Hindi version has been given and whether such reasons are satisfactory.

Papers Laid by Members

A member can also lay a document or paper on the Table, but only with the prior permission of the Speaker[94]. The member is, therefore, required to supply a copy thereof to the Speaker in advance so as to enable him to decide whether permission should be granted or not.

The occasion for a member to lay a paper normally arises when he quotes from a document and wishes to lay it on the Table either of his own accord or in pursuance of a

91. *L.S. Deb.,* 24-5-1957, cc. 1881-82.

92. *Ibid.,* 13-3-1958, cc. 4736-39.

93. *Ibid.,* 24-3-1975, cc. 228-32.

94. Dir. 117

The Speaker has observed that he could not allow an official document to be laid on the Table by a private member on behalf of the Government—*L.S. Deb.,* 8-8-1974, c. 10.

demand made in the House or when a question of privilege is involved and the member is required to substantiate the allegations made by him with documentary evidence. In such cases, the member is required to hand over a copy of the paper, if he has not supplied it already, to the officer at the Table. The paper is, however, deemed to have been laid when the Speaker, after examination, accords the necessary permission[95].

While according permission to treat a paper furnished by the member as laid on the Table, the Speaker takes *inter alia* the following factors into consideration: that the member has referred to the document in the House or read extracts therefrom and there is a demand for laying it[96]; or that it was being laid under directions of the Chair[97]; that the document is important enough to be brought on record of the House[98]; contains nothing which is against the wider interest of the nation; or is not propagandist in nature and the House is not being made thereby a forum for expressing any views likely to lower the prestige or authority of the House; that the matter contained therein is in some way connected with the business of the House[99]; the document has been published by a State Government or other competent authority[100]; and that it is original and authentic[101].

When a member seeks permission to lay a paper or document on the Table of the House, he is required to record thereon a certificate[102] in one of the following forms, as the case may be—

(a) 'I certify from my personal knowledge that this is the original document which is authentic'.

(b) 'I certify from my personal knowledge that this document is a true copy of the original which is authentic'.

(c) 'I certify that the contents of this document are correct and based on authentic information'.

If the paper or document consists of more than one page, the member is required to put his signature with date on every page thereof[103].

A paper sought to be laid by a member may be referred under directions of the Speaker to a parliamentary committee/sub-committee, if the matter referred to therein is under examination of that committee/sub-committee[104].

Permission is not granted when the document is in the nature of private correspondence or when a member has cited it merely to reinforce his arguments to

95. Dir. 118(3)(ii). When the Speaker accords permission to the paper being laid on the Table, the information is published in the *Bulletin—L.S. Deb.,* 7-7-1967, c. 10341. If the Speaker does not accord his permission, the paper is returned to the member and the fact is indicated in the printed debates in the form of a foot-note.

96. *L.S. Deb.,* 11-6-1952, cc. 1547-49; 12-6-1952, c. 1606; 22-2-1956, cc. 581-82; 25-3-1956, c. 3203; 23-4-1956, c. 6104; 21-5-1956, cc. 8985-86; 15-11-1957, cc. 876-77; 13-11-1962, cc. 1241-43; 9-7-1980, c. 246; 2-12-1981, c. 344.

97. *Ibid.,* 27-11-1958, cc. 1679, 1683-84.

98. *Ibid.,* 19-12-1956, c. 3530; 20-2-1958, cc. 1750-53; 4-9-1988, cc. 4699-4713.

99. *L.S. Deb.,* 4-12-1985, cc. 255-56.

100. *Ibid.,* 3-4-1959, c. 9639.

101. *Ibid.,* 1-4-1959, c. 9033; 2-4-1959, c. 9265; 3-4-1959, c. 9639; 6-4-1959, c. 10153.

102. Dir. 118 A(1).

103. Dir. 118 A(2).

104. *L.S. Deb.,* 1-12-1967, cc. 4259-60 and Bn. (II), 14-12-1967.

which the Minister has already given a reply[105], or there is no demand by the House for the document being placed on the Table[106] or when the document does not corroborate the statement made by a member[107]. Likewise, permission is withheld where a document is a statement of figures prepared by a member the use of which he could have made in his own speech[108] or contains a member's views and the member cannot vouch for the authenticity of its contents[109] or where a document is not in original but is merely a copy, the authenticity of which cannot be verified[110] or where a document contains extracts from some documents which are not accessible and whose existence could not be verified, or conversely where a document is easily available for reference[111] or where a member seeks to lay a document independent of any relevant business before the House, or where a member has neither quoted from the document sought to be laid nor has he been called upon to lay it nor is there any question of privilege involved so as to require him to substantiate the allegations made by him with the documentary evidence[112].

Circulation of Papers Laid

It is upto the Ministry concerned to decide as to which papers laid on the Table of the House are to be circulated to the Members. However, important papers *viz.* Economic Survey which is laid one day before the presentation of the General Budget in the House is invariably circulated to the Members. Since Budget Session, 2021, e-circulation of Economic Survey to Members is made through Members' Portal.

Normally, papers required to be laid on the Table under a statutory obligation are not circulated in advance to members nor released to the Press, unless the Speaker permits the advance circulation[113] or the Statute under which the papers which are to be laid so provides[114]. In the case of *ad hoc* reports and other papers which are not required to be laid on the Table under any particular statutory or other provision but are

105. *Ibid.,* 19-11-1958, c. 559; 6-4-1959, cc. 10151-53; 20-8-1963, c. 1554.

106. *Ibid.,* 30-11-1967, c. 3919.

107. *Ibid.,* 17-8-1956, c. 3624.

108. *Ibid.,* 18-11-1963, c. 185.

109. *Ibid.,* 13-3-1959, cc. 6269-70; 27-11-1967, c. 3058.

110. *Ibid.,* 6-4-1959, cc. 10151-53.

111. *Ibid.,* 14-5-1957, c. 214.

112. *Ibid.,* 19-8-1959, cc. 3115-16; 21-8-1959, c. 3607; 1-9-1961, c. 6538; 11-4-1963, cc. 9281-83.

113. On 11 March 1959, the Speaker informed the House that he had agreed that Government companies would despatch copies of their annual reports to the members direct soon after their annual general meetings were held. He further observed that 10 copies of the reports would be sent to the Library and the reports would formally be laid on the Table as soon as possible, as required under the Companies Act, 1956—*L.S. Deb.,* 11-3-1959, c. 5581.

    On 14 August 1961, the Prime Minister laid on the Table a statement issued by the meeting of the Chief Ministers of States and Union Ministers held on 10, 11, and 12 August 1961. The statement had, however, been issued to the press earlier and published by newspapers on 13 August 1961.

    Explaining reasons for this advance release of the statement to the Press, the Prime Minister stated in a letter dated 12 August 1961 to Speaker that it was difficult for him to delay the publication of that statement till 14 August 1961, the date on which it was to be laid on the Table as considerable interest had been taken in the meeting of Chief Ministers of States and Union Ministers and there was possibility of a distorted version of what the meeting decided coming out in the Press.

114. For example, the 'orders', unless required to be laid in draft form, are always laid on the Table after they are notified in the Gazette.

so laid by the Government *suo motu* the practice is that these are as a matter of courtesy first placed before the House if it is in session and then released to the Press[115].

If the House is not in session, the paper is circulated in advance with the permission of the Speaker and laid on the Table in the next session[116].

Copies of papers laid on the Table are circulated to members if the Minister so desires or if the Speaker so directs in response to a general demand in the House[117]. In certain cases, standing instructions in this regard have been issued to all Ministries in pursuance of the Speaker's observations in the House[118]. Papers on which discussion takes place in the House like Budget documents, UPSC Reports, Reports of the Commission for Scheduled Castes and Scheduled Tribes, etc. are invariably circulated to members.

Earlier Ministries/Departments were required to furnish 330 and 150 copies in English and in Hindi versions, respectively, of the Ordinance as and when the same was promulgated by the President, to the Table Office for circulation to members one day before the commencement of the session.

From 4th Session of 17th Lok Sabha, Ministries/Departments are required to e-mail softcopies of the Ordinance in Hindi and English versions for uploading on the

115. *L.S. Deb.,* 8-4-1960, cc. 10378-80; 9-5-1962, cc. 3431-32.

There have been instances when papers were circulated to members before being laid on the Table. For example:

(i) On the opening day (16 August 1965) of the 12th Session (3LS), the Prime Minister was to lay on the Table a statement on the Indo-Pakistan Agreement of June 1965, relating to the Gujarat-West Pakistan border and on the same day, to move a motion for taking into consideration the said statement. Entries to that effect were made in the revised *List of Business* for 16 August 1965, issued on 12 August 1965. As the statement was to be discussed the same day on which it was to be laid, copies thereof, along with the text of the Agreement, were circulated to members in advance on 15 August 1965.

(ii) On the opening day (31 July 1972) of the 5th Session (5LS), the Minister of External Affairs was to make a statement regarding the Agreement on Bilateral Relations between India and Pakistan signed at Simla on 2 July 1972 and also to lay a copy of the Agreement. On the same day, a Government motion for taking into consideration that statement was to be taken up. Entries to that effect were made in the *Revised List of Business* for 31 July 1972. Copies of the Agreement were circulated to members in advance on 28 July 1972.

(iii) On 16 December 1996 (3rd Session—11LS), the Minister of Commerce was to make a statement on 'India's stand on Singapore Declaration of World Trade Organisation'. On the same day, a short duration discussion on the subject was also to be held. An entry to that effect was made in the *List of Business* for 16 December 1996 issued on 13 December 1996. Copies of the statement were circulated to members in advance in the House after the sitting commenced. The Minister of Parliamentary Affairs, on behalf of the Minister of Commerce, laid on the Table a copy of the statement before the short duration discussion was taken up at 16.00 hours on that day.

Also *see, L.S. Deb.,* 19-3-1979, cc. 261-65; 20-3-1989, c. 273.

116. The Speaker agreed to the circulation of reports of the U.P.S.C. and the Vivian Bose Board of Enquiry (regarding conduct of certain officials concerned with investments of L.I.C. and Government's decisions thereon) to members during the inter-Session period and to their being laid on the Table in the next Session (August-September, 1959). Similarly, the report of the Tek Chand Committee on Prohibition, though released in May 1964, was laid on the Table on 2 June 1964.

117. For example, the Mahalanobis Committee Report and the Report of inquiry into events and circumstances leading to the arrangements entered into with the Fairfax Group Inc. (Thakkar-Natrajan Commission) were circulated to members under the direction of the Speaker. *L.S. Deb.,* 29-4-1964, c. 13388; 9-12-1987, c. 333.

118. *L.S. Deb.,* 21-8-1962, cc. 3204-07; 25-8-1962, c. 3978.

Members' Portal. Besides, Ministries/Departments also furnish 50 physical copies of the Ordinance in Hindi and English versions to Publications Counter one day before the date of laying for use of Members, on demand.

Normally, papers laid on the Table by a member are merely placed in the Library for reference. In special cases, however, copies are made out by the Secretariat and supplied to members on request[119].

Re-laying of Papers

Where the Constitution or a Statute provides that 'orders' issued thereunder should be laid on the Table for 'not less than so many days' or for 'at least so many days' or for 'so many clear days' such period is required to be completed in one session and if it is not so completed, the 'order' is required to be re-laid in the succeeding session or sessions until the said period is completed in one session[120]. In the computation of 'clear days', 'at least so many days' or 'not less than so many days', both the terminal days are excluded. In other cases, the rule is to exclude the first and to include the last day. Where the 'orders' are laid on the Table in the two Houses on different dates, the period for which they are required to be laid commences from the later date.

Where the prescribed period for laying of certain 'orders' is neither completed in the session in which they are originally laid nor in the succeeding session when they are re-laid, the 'orders' are required to be re-laid again in the next session so as to complete the prescribed period in that session[121]. Where the 'orders' are not re-laid on the Table in the succeeding session either because the concerned Ministry fails to send necessary intimation to the Secretariat for their inclusion in the *List of Business* or that the period prescribed in that behalf is not likely to be completed in that session, they are required to be so laid in the session immediately following.

Where a statute provides that the 'orders' framed thereunder should be laid on the Table for a certain period which may be comprised in one session or in two or more sessions the 'orders' after having been laid once in a session are deemed to have been laid in the succeeding sessions till the specified period is completed and thus it is not necessary for the 'orders' to be formally re-laid on the Table in the next session in order to complete the prescribed period[122]. But if an 'order' is required to be laid for a 'total period' of thirty days to comprise in one session or in two successive sessions, the period so stipulated has to be completed in the session in which it is so laid and the session immediately following. If the period is not so completed, such 'order' is required to be re-laid during the next session[123].

119. *Ibid.,* 4-9-1958, cc. 4699-713.

120. Rule 234.

121. *P. Deb.,* 16-11-1950, cc. 98-99; *L.S. Deb.,* 19-3-1962, cc. 925-26; 24-3-1962, cc. 1545-46.

122. For example, *see* the Central Excise and Salt Act, 1954, s. 38, and the Defence of India Act, 1962, s. 41.

123. *See* the Coffee Act, 1948, s. 43(3), the Delhi Municipal Corporation Act, 1957, s. 479(2), the Khadi and Village Industries Commission Act, 1956, s. 26(3), the Manipur Land Revenue and Land Reforms Act, 1960, s. 169, etc. Rules framed under these Acts laid for an incomplete period in the Second Lok Sabha, were laid afresh in the First Session of the Third Lok Sabha—*L.S. Deb.,* 3-4-1962, cc. 2358, 2611-12; 7-5-1962, c. 2877; 8-5-1962, c. 3157; 9-5-1962, c. 3434; 10-5-1962, c. 3657.

Where the 'orders' are required to be re-laid on the Table, these are not so re-laid in the last session of the Lok Sabha preceding its dissolution if it is known that the prescribed period will not be completed during the session. It is sufficient if the 'orders' are laid afresh in the first session of the new Lok Sabha[124].

Where the 'orders' are laid on the Table for an incomplete period during a session of the Lok Sabha and thereafter the House is dissolved, they are required to be laid afresh (not re-laid) for the complete period during the first session of the new Lok Sabha[125].

Notifications relating to a State under the President's Rule which should have been re-laid on the Table are not re-laid if the President in the meantime has revoked the Proclamation assuming to himself the functions of the State[126].

After the prorogation of a session of Lok Sabha, the Secretariat examines the papers laid on the Table during the session to find out if the period specified, if any, in respect thereof under the respective parent Acts, has been completed. In cases where the specified period has not been so completed in accordance with the statutory provision, the concerned Ministries are asked to arrange for their re-laying in the next session. In the *Bulletin,* a footnote is given in regard to the paper or papers so re-laid.

The question of propriety on the part of Government issuing taxation notifications on the eve of the Budget Session has been, time and again, raised in Parliament. On 4 March 1986, the Chairman, Rajya Sabha referred the question of Government issuing notifications exempting various items from payment of customs duty just before the Budget Session, to the Committee on Public Accounts. The Committee *inter-alia* stated that while there should be strict compliance with the principle that no proposal involving taxation should be given effect to by Government unless and until Parliament had discussed and approved it, a certain degree of flexibility must exist to enable the Government to deal with an emergent situation in the light of public interest. It further stated that some notifications could have been held back until Parliament had an opportunity to consider them. The Committee recorded that post-notification approval by Parliament was no substitute for a prior debate and discussion of taxation proposals especially when they departed from the approved budget.

While referring to these observations of the PAC on 11 November 1986, the Chairman, Rajya Sabha observed that Government should take due note of this and endeavour to ensure that resort to issuing notifications having revenue implications should be minimal[127].

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124. Rules issued under the Territorial Councils Act, 1956, were laid on 29 November 1961 for an incomplete period and were required to be re-laid in the next session—the last session of that Lok Sabha. Since the prescribed period of not less than 30 days was not likely to be completed in that session, the rules were laid afresh in the First Session of the Third Lok Sabha on 14 May 1962—*L.S. Deb.,* 14-5-1962, c. 4427.

125. *L.S. Deb.,* 23-4-1962, cc. 479-81, for rules, etc. under the Mines and Minerals (Regulation and Development) Act, 1957, and the Rice-Milling Industry (Regulation) Act, 1958; *L.S. Deb.,* 26-4-1962, cc. 1103-04, for rules, etc., framed under the Representation of the People Act, 1950.

126. *Ibid.,* 11-12-1956, c. 2491.

127. *R.S. Deb.,* 11-11-1986, cc. 186-87.

Laying of Sensitive Notifications

Sensitive notifications are those notifications which make changes in export duties, major changes in procedures and changes in import and Central Excise Duties involving revenue of more than rupees fifty lakh per annum, except cases where an existing concession is being continued.

The following procedure is adopted in regard to laying of sensitive notifications on the Table:—

(i) All sensitive notifications are required to be published in the Gazette Extraordinary.

(ii) If the notification has been sent to the Press for issue before 1800 hours, it is to be laid on the Table on the same day just before the House adjourns for the day.

(iii) If the notification is issued after 1800 hours, copies thereof are required to be sent by the Ministry to the Lok Sabha Secretariat by midnight the same day so that copies could be circulated to members. Such a notification is required to be laid on the Table of the House at the next sitting. However, in exceptional circumstances when the issue of notification cannot be anticipated, the Minister concerned is required to address a letter to the Speaker the same day enclosing a copy of the notification and informing him of his intention to lay the notification on the Table at the next sitting of the Lok Sabha.

Supplementary List of Business is issued for laying sensitive notifications so that the contents of the notifications are known to members in advance.

All notifications, including sensitive notifications issued during the inter-session period, are to be laid within seven days of the commencement of the next session[128].

Correction in the Paper Laid on the Table

A paper or a document to be laid on the Table should be correct as well as complete. If, however, a mistake or an error in the paper laid subsequently intimated by the Minister concerned is more than an obvious printing or typographical error, it is considered to be a mistake of substantial nature and a formal corrigendum is required to be laid on the Table by the Minister as early as possible.

An omission to add an appendix to the main report was held to be an error of substantial nature and was required to be laid[129]. Similarly, a corrigendum relating to substantial points in the paper laid was required to be formally laid on the Table[130].

When the mistake is considered to be of a minor or verbal nature, it is corrected in the authenticated copy of the paper and also in the copies thereof placed in the Library without requiring a formal corrigendum to be laid on the Table by the Minister.

It is open to a Minister to correct or alter the text of any paper before it is laid on the Table. All such corrections made in the paper should, however, be authenticated by

128. 12R (COSL-5 LS) and 21R (COSL-6 LS).

129. An appendix to the Report of the Khadi and Village Industries Commission (1960-61) laid on the Table on 11 December 1962.

130. *L.S. Deb.,* 27-2-1964, c. 2785.

the Minister or an authenticated copy of the paper as finally Laid on the Table should be supplied to the Secretariat before or as soon as the paper is laid.

All notifications issued under an Act which contain provisions for their being laid on the Table should be so laid. A notification which is proposed to be amended should not be withheld from the House merely on the ground that it is to be amended and will be laid on the Table in the amended form.

Withdrawal of Papers Laid on the Table

No formal procedure has so far been laid down for the withdrawal of a paper or document laid on the Table. When such a case arises, the Speaker will have to exercise his inherent powers and give his decision in the circumstances of each case.

Consequences of Laying Papers on the Table

When a paper is laid on the Table, it becomes public[131] and a part of the permanent record of the House. The paper is placed in the Library, and in the printed debates, the title of the paper and the Library index number is given to facilitate reference. It becomes privileged and accordingly no person is liable to any proceedings in any court in respect of the publication of such paper or document. Further, a paper or document laid is open to discussion in the House: a member can give notice of a motion seeking discussion thereon[132].

The Speaker may authorize printing, publication, distribution or sale of any paper, document or report laid on the Table[133]. Generally, the papers laid on the Table are placed in the Library with an appropriate indication in the debates[134]. A paper is printed in the body of the debates only when it contains brief and important material which is not otherwise available in published form.

Where in regard to a document or paper, the Government feels the necessity of protection, which is accorded to a publication published under the authority of the House[135], that document or paper is laid on the Table and a motion is moved in the House for having it published under the authority of the House. In the event of such a motion being moved, it is, however, open to the House to decide whether it should be published under its authority or not.

> The Rural Banking Enquiry Committee, while submitting their report to the Government, entertained apprehensions that the recommendations contained therein, if published, might have a far-reaching effect on the future of certain banks, creating difficulties for them apart from creating an embarrassing situation for the members of the Committee who did not enjoy any statutory immunity from the legal consequences that would follow from such a publication. Accordingly, the Government proposed to have the report published under the authority of the

131. Rule 369.

132. Rule 185.

133. Rule 382 (1).

134. The indication is as under:

"[Placed in the Library, *see* LT No.....]".

135. Art. 105(2).

House. The Minister of Finance, after laying a copy of the report, moved the necessary motion in the House which was adopted[136]. The report was, thereafter, published by the Government with the following superscription printed on the outer cover—

"Published under the authority of Parliament."

Similarly, the Deputy Minister of Finance laid on the Table a copy of the Report of the Industrial Finance Corporation Enquiry Committee and moved a motion in the House for its publication under the authority of the House under clause (2) of article 105 of the Constitution. The motion was adopted[137].

Custody of Papers

Parliamentary papers may be divided into those connected with the proceedings of the House and issued by the Secretariat and those presented from outside. The Lok Sabha is invested with the power of ordering all documents to be laid before it or presented to its Committees, which are necessary for its information. The custody of all records, documents and papers belonging to the House or any of its Committees or the Secretariat vests in the Secretary-General. No such record, document or paper can be taken out of the Parliament House without the permission of the Speaker[138].

When a document is presented to the House or furnished to any of its Committees or the Secretariat, it forms part of the records of the House.

When the Secretary, Ministry of Law, desired to have the report in original of the Select Committee on the Indian Finance Bill, 1948, together with the Bill as amended by the Committee, he was informed that a document presented to the House became part of the parliamentary papers and that such documents, under orders of the Speaker, remained in the custody of the Secretary and could be inspected in his room by appointment.

During the Fifth Session of the Second Lok Sabha, a member furnished to the Speaker certain documents in connection with his notice of a motion (under Rule 184) for raising discussion on the situation in Kerala. Subsequently, the member requested for return of these papers. Under orders of the Speaker, copies of certain papers, but not the originals, were given to the member as the original papers formed part of the records of the House.

In case any document connected with the proceedings of the House or a Committee thereof or otherwise in the custody of the Secretary-General is required to be produced in a court of law, it can be furnished only with the leave of the House[139]. When the House is not in session, the Speaker may, in an emergent case, permit the production of the relevant document in a court of law to prevent delay in the administration of justice, and inform the House accordingly of the fact when it reassembles or intimate to the members through the *Bulletin*[140].

136. *P. Deb.* (II), 11-8-1950, cc. 810-12.

137. *Ibid.,* 23-12-1953, cc. 2947-48.

138. Rule 383.

139. IR (CPR-2 LS); *L.S. Deb.,* 13-9-1957, cc. 13760-63. It is for the House to decide whenever the documents are to be sent and in what form they have to be sent; *L.S. Deb.*, 25-8-1958, cc. 11484-97.

140. *Bn*. Part (II), 28-10-1957, para 665.

If a request for the production of a document is received at the time when the House is in session, the matter is referred by the Speaker to the Committee of Privileges, irrespective of the fact whether the document is connected with the proceedings of the House or any of its Committees, or is one which is in the custody of the Secretary-General. On a report from the Committee, a motion is moved in the House by the Chairman or a member of the Committee to the effect that the House agrees with the report. Thereafter, the pleasure of the House is ascertained and further action is taken in accordance with the decision of the House[141], or the House may take a decision direct, without reference to the Committee of Privileges[142].

Under section 78(2) of the Indian Evidence Act, 1872, the proceedings of the House can be proved by the production of the authorized parliamentary publications. As such, the Lok Sabha is troubled only when unpublished documents of its proceedings are required in evidence in a court of law. In most of the other cases only the certified copies of the documents are generally called for at any rate in the first instance. It is only when the parties insist upon their strict proof that the original documents might be subsequently called for[143].

Where information concerning a member from the records in the custody of the Secretariat is called for by the Executive authorities, *e.g.,* the Police, the Income-tax Commissioner etc., the direct request is not complied with.

When such information is required by the Executive authorities in connection with investigation of a criminal case against a person where a member is the injured party, the papers containing that information may be furnished to them after the approval of the House is taken in accordance with the prescribed procedure.

Where, the document required to be produced in a court of law relates to an administrative matter and not connected with the proceedings of the House, *e.g.,* the service record of an officer of the Lok Sabha Secretariat or entry in the Casual Entry Permit Register of Parliament House, the Speaker had given permission for production of relevant document in a court of law or supplying of a certified copy thereof without bringing the matter before the House.

In December 2004, during the Fourteenth Lok Sabha, the Superintendent of Police, Central Bureau of Investigation requested that the original documents containing "admitted signatures" of a former member be made available to them for investigation of a criminal case. The Speaker, on 19 July, 2005, referred the matter to the Committee of Privileges. The Committee in their first report recommended that the originals of nomination form and declaration form containing 'admitted signatures' of the former member available with the Lok Sabha Secretariat, may, with the leave of the House, be made available to the Superintendent of Police, Central Bureau of Investigation. The

141. 2R (CPR-2 LS) and *L.S. Deb.,* 25-4-1958, cc. 11486-98; 10R(CPR-2 LS) and *L.S. Deb.,* 7-9-1959, cc. 6709-10; 2R (CPR-3 LS) and *L.S. Deb.,* 10-9-1965; 19R (CPR-4 LS) and *L.S. Deb.,* 26-11-1969, c. 211; 18R (CPR-5 LS) and *L.S. Deb.,* 20-8-1976, cc. 132-33.

142. *L.S. Deb.,* 7-5-1965, cc. 13924-26.

143. This procedure has been evolved in pursuance of the recommendations of the Committee of Privileges contained in their report [1R (CPR-2LS)] and the discussion in the House thereon—*L.S. Deb.,* 13-9-1957, cc. 13760-63. The Government of India requested the State Governments to discuss the matter with the Chief Justices of their respective High Courts for issue of suitable directions in regard to the production in a court of law of documents relating to the proceedings of the House, etc.

Committee also recommended that Deputy Superintendent of Police, Central Bureau of Investigation concerned with the investigation of the case may personally receive those documents from the Lok Sabha Secretariat and return the same to the Lok Sabha Secretariat immediately after the necessary comparison of signatures is carried out. The Report was laid on the Table on 25 August, 2005 and adopted by the House on 29 August, 2005.

In yet another case of the Fourteenth Lok Sabha, the Delhi Police requested for the originals of certain documents pertaining to five members of Lok Sabha in connection with the investigation of a criminal case. The Speaker, on 1 January, 2008 referred the matter to the Committee of Privileges. The Committee in their Tenth Report recommended that the concerned forensic and handwriting experts, as engaged by the Delhi Police, may be permitted to take photographs of the original documents (letters, application forms, permission, etc.) submitted by the concerned five members to the Lok Sabha Secretariat in respect of their foreign visits since 2000, for the purpose of investigation of FIR, filed against them under various sections of IPC and Indian Passport Act. The Committee also recommended that the photographs may be taken within the precincts of Lok Sabha Secretariat, in the presence of the Deputy Superintendent of Police, Crime and Railways, Delhi or any other designated police officers and concerned officers of Lok Sabha Secretariat. The Report was laid on the Table on 27 February 2008 and adopted by the House on 28 February, 2008.

During the Fourteenth Lok Sabha, the Committee of Privileges in their Twelfth Report[144] decided to give a fresh look at the procedure being followed for dealing with the request from courts of law and investigating agencies for documents relating to proceedings of the House, its Committees or which are in the custody of Secretary-General, Lok Sabha for production in courts of law and for investigation purposes and recommended accordingly. The Committee also recommended that (*i*) the question whether a document relates to the proceedings of the House or any Committee of the House shall be decided by the Speaker and the Speaker's decision shall be final, (*ii*) documents relating to the proceedings of the House or any Committee of the House which are public documents should be taken judicial notice of and request for certified copies thereof may not be ordinarily made unless there are sufficient reasons for making such requests; and (*iii*) procedure after the Report of the Committee of Privileges has been presented and laid on the Table of the House.

During Fifteenth Lok Sabha, Delhi Police sought permission of Speaker, Lok Sabha for obtaining original documents pertaining to the report of the 'Committee to Inquire into the Complaint made by Some Members regarding Alleged Offer of Money to them in connection with Voting on the Motion of Confidence' for the purpose of filing of charge-sheet in the Court. The Speaker, in terms of the recommendations made by the Committee of Privileges, Fourteenth Lok Sabha in their Tenth and Twelfth Reports, permitted Delhi Police to have the photographs of the requisite documents in connection with the filing of the charge-sheet, without parting with the original documents.

144. The Report was laid on the Table of the House on 30th April, 2008 and adopted by the House on 23 October, 2008.

Committee on Papers Laid on the Table

During a session, a large number of papers are laid on the Table of the House every day. In view of the volume and the variety of these papers, the House, by itself, is not in a position to give a closer scrutiny to all these papers and to become aware of their importance and significance. As there is no prior circulation of these papers, the members are also not in a position to raise objections, if any, as and when these are laid. Only in those cases where there was an inordinate delay in laying the papers some objections were raised now and then on the floor of the House and the Minister concerned was asked to explain the delay. Anticipating such objections, it became the practice on the part of the concerned Minister to annex an explanatory note or memorandum to those papers where there was a delay. Later on, it was found that even the explanatory memorandum given by the Minister for delay was inadequate and often unsatisfactory. Sometimes papers laid on the Table by a Minister were objected to on the ground of unconstitutionality or impropriety also. The House, in fact, as a whole, did not have the time to go into all these matters. These considerations necessitated the constitution of the Committee on Papers Laid on the Table which came into existence on 1 June, 1975. The functions of the Committee are to examine all papers laid on the Table of the House by the Minister and to report to the House:

(a) whether there has been compliance with the provisions of the Constitution, Act, rule or regulation under which the paper has been laid; (b) whether there has been any unreasonable delay in laying the paper; (c) whether in case of delay, a statement explaining reasons for delay has been laid on the Table of the House and whether those reasons are satisfactory; (d) whether both the Hindi and English versions have been laid on the Table; and (e) whether a statement explaining the reasons for not laying the Hindi version has been given and whether such reasons are satisfactory[145].

145. Rules 305A, 305B and 305C; *see* also Chapter 30 –"Parliamentary Committees".

CHAPTER 36

Languages used in the Lok Sabha

Languages used in the House

Business in the House is required to be transacted either in Hindi or in English. The Speaker may, however, permit any member who wishes to address the House in their mother-tongue[1].

In 1862, a specific provision was made in the Legislative Council to the effect that any member might speak at the request and on behalf of another member who was unable to express himself in English. In 1921, it was provided that the business of the Central Legislative Assembly was to be transacted in English, but the Speaker was authorized to permit any member unacquainted with English to address the Assembly in an Indian language.

When speeches were delivered in a language other than English, only translations of the speeches in English were printed in the debates; in some cases, where the Indian language used was other than *Hindustani,* only an indication was given in the debates that the member spoke in a particular language other than English and that the English version of his speech would be printed in a later issue of the debates in an appendix[2].

In the case of speeches in *Hindustani,* however, an exception was made. English translations of such speeches were printed in the debates, while the texts in *Hindustani* were printed in an appendix to the debates[3]. In some cases, only an indication was given in the debates that the member spoke in *Hindustani* and that the text of his speech in *Hindustani* followed by its English translation would be printed in a later issue of the debates in an appendix[4].

Although under the Directions of Speaker, a member who addresses the House in any of the scheduled languages[5] other than Hindi or English is required[6] to furnish in advance the Hindi or English translation of his speech, the general practice followed in this regard is that even if the member does not furnish the Hindi or English translation but speaks in a regional language after informing the Secretariat in advance, his speech is simultaneously interpreted in Hindi and English and the translation thereof in English and Hindi prepared by the Secretariat are printed in the debates, with a footnote indicating the language in which the speech was originally delivered in the House[7].

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1. Art. 120. A member was permitted to address the House in Nepali—*L.S. Deb.,* 29-6-1971.
2. *L.A. Deb.,* 17-1-1931, p. 42 and Appendix at pp. 2701-03.
3. *Ibid.,* 7-9-1922, pp. 203-05 and Appendix at pp. 1-4.
4. *Ibid.,* 1-2-1922, p. 2087; 25-3-1922, p. 3716.
5. Eighth Schedule to the Constitution.
6. Dir. 115B.
7. Prior to 30 March, 1967, any member who addressed the House in a language other than Hindi or English had to furnish to the Secretariat in advance a translation of his speech in Hindi or English and such translation only, duly authenticated by the member, was printed in the debates, with a footnote indicating the language in which the speech had been originally delivered—*H.P. Deb.* (II), 19-3-1953, cc. 2398-2402; *L.S. Deb.,* 20-12-1955, cc. 3401-07, 3408-09; *L.S. Deb.,* 14-8-1957, cc. 8545-52; 27-3-1958, cc. 7038-40.

In case there is no arrangement for the simultaneous interpretation from the language in which the member speaks and he also does not furnish the translation, the fact that the member spoke in a language other than Hindi or English is mentioned in the printed debates with the remark that the member did not furnish a translation of his speech in Hindi or English[8]. If the arrangement exists for simultaneous interpretation from the language in which the member speaks, then the translated version of the speech is incorporated in the proceedings.

The question of speeches in regional languages being made by members who could not adequately express themselves in English or Hindi was considered on 3 April, 1967 by the Speaker at a meeting with the leaders of various Groups in the House. It was decided that members could speak in any of the scheduled languages without furnishing in advance any translation of their speeches in Hindi or in English[9].

It was also decided that for the time being till arrangements were made for simultaneous interpretation in scheduled languages this facility was not to be availed of during the Question Hour because the time fixed for it was limited and quick answers to supplementary questions were required in order to elicit maximum information from the Government.

Speeches delivered in Urdu are normally printed in the *Devanagari* script except in the case of those members who specifically request that their speeches may be printed in the Persian script; in such cases, the speeches are printed in the *Devanagari* script followed by their reproduction in Persian script within brackets[10].

In certain parliamentary papers printed in English, the designations of Ministers and nomenclatures of Ministries/Departments are indicated in English followed by the Hindi version in *Devanagari* script.

Till April 1971, in parliamentary papers printed in English, designations of Ministers and nomenclatures of Ministries/Departments were indicated in English. In May 1971, this practice underwent a change when such designations and nomenclatures began to be indicated in Hindi in Roman alphabet. Thereafter, the style adopted in this regard was to indicate the designations and nomenclatures in English, followed by the Hindi version in Roman alphabets within brackets. Ultimately it was decided to indicate in the Lists of Questions the designations of Ministers and nomenclatures of Ministries/Departments in English followed by

8. Dir. 115B(2), Proviso.

9. As an experiment, the Speaker had allowed certain members to speak in one of the scheduled languages without furnishing in advance any translation either in Hindi or in English of their speeches—*L.S. Deb.,* 30-3-1967, cc. 1918-19.

10. *L.S. Deb.,* 16-2-1959. cc. 1239-61; 4-3-1959, cc. 4270-76; 26-3-1959. cc. 8005-25. Prior to October 1958**,** speeches delivered in *Hindustani* were transcribed in the *Devanagari* script in the case of those members who had intimated in writing that the transcripts of their speeches should be in the Persian script; in such cases, the speeches were printed in the debates in the Persian script, followed immediately by their English translations—*H.P. Deb.* (II), 22-9-1954, cc. 2794-2800; *L.S. Deb.* (II), 16-5-1957, cc. 615-29.

the Hindi version in *Devanagari* script. In other papers, however, designations and nomenclatures were to be indicated in English only[11].

Languages used in Parliamentary Committees

Just as in the House, the business of the Parliamentary Committees is also transacted either in Hindi or in English. If any member addresses a Parliamentary Committee in a language other than Hindi or English, a translation of his speech in Hindi or English is prepared to be kept as record and utilized, if necessary, in the preparation of the report. The minutes and reports of the Parliamentary Committees are invariably prepared and presented to the House both in Hindi and in English.

Simultaneous Interpretation of Proceedings

In Lok Sabha, members generally deliver their speeches either in Hindi or in English. But, as stated earlier, since the First Session of the Fourth Lok Sabha, members have also been allowed to address the House in any of the scheduled languages. Consequently, some arrangements were considered for the simultaneous interpretation of their speeches into Hindi and English[12].

Even in the Third Lok Sabha, difficulty was being experienced by those members who were not conversant with both Hindi and English in following the proceedings of the House. There was, therefore, a growing feeling among members that some suitable arrangements should be made for simultaneous interpretation of the proceedings of the House from English to Hindi and vice versa so as to enable them to follow the proceedings properly. To meet this demand, a system of simultaneous interpretation of the proceedings was introduced in the House on 7 September, 1964, with the commencement of the Ninth Session of the Third Lok Sabha[13]. Simultaneous

11. In May 1971, the following two documents received from the Cabinet Secretariat were circulated to members:–

    i. List of members of Council of Ministers as on 2 May, 1971, showing the designations of Ministers and nomenclatures of Ministries only in Hindi in Roman alphabet; and

    ii. Notification dated 3 May, 1971, containing Government of India (Allocation of Business) 88th Amendment Rules, 1971 [These rules *inter alia* gave nomenclatures of Ministries and Departments only in Hindi in Roman script].

    On objections being raised in the House, a discussion was held among the Speaker, the Minister of Parliamentary Affairs and members of the Business Advisory Committee. On 1 June, 1971, the Minister of Parliamentary Affairs made a statement in the House that designations of Ministers and nomenclatures of Ministries, etc. may be indicated in English, followed by the Hindi equivalent in *Devanagari* script. On being enquired by a member, the Speaker and the Minister of Parliamentary Affairs confirmed that this would be applicable to parliamentary business only. Designations of Ministers and nomenclatures of Ministries are being shown in the Lists of Questions accordingly with effect from 2 June, 1971. In other papers and correspondence, however, designations and nomenclatures in English only are mentioned.—*L.S. Deb.,* 1-6-1971, cc. 161-62.

12. At a meeting held with the leaders of the various Groups in the Lok Sabha on 3 April, 1967, the Speaker apprised them of the technical difficulties involved in simultaneous translation facilities in the scheduled languages. It was decided that an attempt would be made to translate the speeches delivered on the floor of the House in any of the scheduled languages into Hindi and English.

13. On 2 December, 1963, the Speaker, after discussing the matter with the Leader of the House and leaders of various Groups, announced in the House that a system of simultaneous interpretation of speeches would soon be introduced. Necessary equipments were installed during the recess following the Eighth Session of the Third Lok Sabha and the requisite interpretation staff were also trained simultaneously.

interpretation facility has since been extended to languages in the Eighth Schedule of the Constitution of India[14] namely, Assamese, Bengali, Bodo, Dogri, Gujarati, Hindi, Kannada, Kashmiri, Konkani, Maithili, Malayalam, Manipuri, Marathi, Nepali, Odia, Punjabi, Sanskrit, Santhali, Sindhi, Tamil, Telugu and Urdu. A member intending to make a speech in any of these languages, except Hindi, is required to give at least half-an-hour's notice to the Officer at the Table for the officers of Simultaneous Interpretation Service available with the Secretariat and 24 hours for the interpreters who have to be called from outside the Secretariat, so that the Interpreter can be in position when the member concerned makes their speech. Presently, interpreters for Assamese, Bengali, Bodo, Gujarati, Kannada, Maithili, Malayalam, Manipuri, Marathi, Nepali, Odia, Punjabi, Sanskrit, Tamil, Telugu and Urdu are available in the Secretariat. Interpreters for Dogri, Kashmiri, Konkani, Santhali and Sindhi are arranged if prior notice of 24 hours, as stipulated, is given. However, in the 14th Session of the 17th Lok Sabha in the new Parliament building, arrangement was made to provide *suo moto* simultaneous interpretation in ten languages in the Eighth Schedule of the constitution for one hour during Question Hour every day on a trial basis without the need for a prior request by the Member of Parliament. These languages were Malyalam, Tamil, Telugu, Kannada, Odia, Marathi, Gujarati, Bengali, Assamese and Punjabi.

During the fifteenth session of the 17th Lok Sabha, the two-way simultaneous interpretation in ten languages in the VIII Schedule to the Constitution of India, besides Hindi and English was further extended to cover the entire day's proceedings of the House without a specific request having to be made by the Member in advance. Interpretation in these ten languages in the VIII Schedule, by Officers of Simultaneous Interpretation Service, namely (i) Assamese, (ii) Bengali, (iii) Gujarati, (iv) Kannada, (v) Malayalam, (vi) Marathi, (vii) Odia, (viii) Punjabi, (ix) Tamil, and (x) Telugu[15] can be accessed by using headphones and by choosing the language options in the Multimedia device installed at every seat in the Chamber.

The Speaker announced in his valedictory speech on 10 February, 2024, about the effort made to provide simultaneous interpretation of the proceedings of the House in ten languages in addition to Hindi and English on trial basis. The speech made in any of the Eighth Schedule languages other than Hindi, the speech is later translated by the Officers of Simultaneous Interpretation Service concerned in English or Hindi for incorporation in the proceedings of the day or in the supplement on the following day. This facility is also available during the Question Hour and can be availed of not only by members in whose name the question appears in the list of Starred Questions but also by any other member. A member is required to give advance notice in this regard, at least half-an-hour before the commencement of the Question Hour for languages other than the ten referred to earlier for the interpreters to take up their positions. The Ministers

14. On 9 August 2018, the Speaker made an announcement in the 'House' that the facility of simultaneous interpretation is being extended to all the 22 languages enlisted in the Eighth Schedule of the Constitution.

15. A statement was made by the Hon'ble Speaker on 10 February 2024, the last day of 17th Lok Sabha that "an effort has also been made to provide interpretation services in ten other Indian languages in addition to Hindi and English in the new Parliament Building".

may also give reply in the language in which they intend to reply either with a notice submitted in advance or when allowed by the Chair[16].

Simultaneous Interpretation System: A new Simultaneous Interpretation System with Multimedia devices has been installed in every seat of the Lok Sabha Chamber of the new Parliament House. The system indicates language channels at the bottom left and volume control at the bottom right. Members may scroll up and down to select any of the available languages (including the floor language) mentioned in the preceding para to follow the proceedings of the House.

Three booths, primarily for interpretation in Hindi and English have been provided in the Parliament House overlooking the Lok Sabha Chamber. Sufficient numbers of sound proof interpretation booths equipped with modern devices have been set up in the Parliament House Annexe for providing simultaneous interpretation of entire day proceedings in 10 languages other than Hindi and English at present. Apart from the latest Simultaneous Interpretation System in the Lok Sabha Chamber and Committee rooms in the Parliament House, old interpretation system is functional in Central Hall, Room Nos. 53, 62 and 63 in *Samvidhan Sadan*, the Committee Rooms in Parliament House Annexe, in Parliament House Annexe Extension, Committee Room F (G074, K Block) and the Main Lecture Hall, PRIDE (erstwhile BPST) in the Parliament Library Building. If the floor language is Hindi, its interpretation in English can be heard simultaneously on the interpretation system and *vice versa*; if the floor language is any of the scheduled languages mentioned above, interpretation can be heard in Hindi as well as in English. Each seat is provided with a headphone and language-selector switch. Turning the language-selector knob, a member can listen to the proceedings in the language of his/her choice. The language-selector switch panel is also fitted with another knob to control the volume.

16. The Chair allowed a member to raise a supplementary question in Kannada, though the starred question was not in his name for which the Minister also replied in the same language— *L.S. Deb.*, 29-7-2005, c. 17-18.

CHAPTER 37

Preparation of Official Reports of Proceedings of the House, Parliamentary Committees and Parliamentary Events

The Secretary-General shall cause to be prepared a full report of the proceedings of the House at each of its sittings and shall, as soon as practicable, publish it in such form and manner as the Speaker may, from time to time, direct[1].

Apart from causing the debates to be printed *verbatim* and make available about a month or two after the day's sitting, the Secretariat brings out every morning a limited number of multigraphed copies of the complete proceedings of the House pertaining to the previous day for immediate reference requirements[2]. On a day on which the Lok Sabha sits beyond the usual hours of sitting, a supplement to the multigraphed debates covering the proceedings beyond the usual closing hour is issued the next day[3]. Besides, the data of proceedings of the entire day's sitting of the House is released on the official website at *https://sansad.in/ls* under the icon 'Business→Debates' for the purpose of immediate general information, in the public interest, with the superscription *"Uncorrected Debates".*

Reporting of Proceedings in the House

A *verbatim* record of everything said in the House is taken by the parliamentary reporters, except certain words, phrases and expressions, if any, ordered by the Speaker to be expunged from the proceedings of the House or ordered by the Speaker not to be recorded when members speak without his permission.

The mode of parliamentary reporting has undergone various changes before reaching its present *verbatim* form.

> The proceedings relating to the 'law business' of the Council of the Governor-General of India established under the Regulating Act of 1773 and as reconstituted under the Act of 1784 (Pitt's India Act) were recorded in the

1. Rule 379.
2. The procedure of stencilling and cyclostyling of the debates was introduced in 1949. With the installation of computers in the Reporters Branch in 1993, multigraphed copies of proceedings are now issued in place of cyclostyled ones. The multigraphed debates are brought out in two parts: Part I containing particulars about members sworn in, welcome to dignitaries or delegations from abroad, obituary references and Questions and Answers, and Part II containing the rest of the proceedings. Each page of the multigraphed copy of the debates bears the superscription *'Uncorrected/ Not for Publication',* along with the date. As such, the multigraphed debates are only for the purpose of immediate reference.
3. There were occasions when the House sat throughout the night and therefore, Second and Third Supplements were also issued—*L.S. Deb.,* 29-8-1997, 30-8-1997.

form of minutes only[4]. The minutes concerning legislative business are, however, traceable only from 1835[5].

In 1854, strangers were admitted to the meetings of the Council of Governor-General of India for the first time, thus throwing open the proceedings to outsiders. An official reporter was appointed and the proceedings were prepared by him fairly *in extenso,* although in 'indirect style', giving particulars of business transacted and also salient points of speeches made by members. These were published by the authority of the Council and made available to the public[6].

Under the Indian Councils Act of 1861, the printing and publishing of the proceedings *in extenso* was discontinued; instead, only an abstract of the proceedings was published and made available to the public. Gradually, portions of speeches began to appear in the 'direct style'[7] and the abstract also evolved into a fuller report of the proceedings.

In the rules of procedure framed and adopted in February 1897, a mention was made for the first time of a 'full report of the proceedings' and *verbatim* reports began to be issued thereafter. These were also published in the Gazette in accordance with a decision taken pursuant to a demand made by some non-official members of the Council and certain Press representatives, with the approval of the Governor-General[8].

With the coming into existence of the bicameral Legislature in 1921, the verbatim proceedings of the Council of States and the Legislative Assembly began to be issued separately in a book form.

Reporters record the proceedings in relays in turns of five minutes each. This cycle continues from the commencement of the House to the adjournment of the sitting for the day. Since the floor language is normally either English or Hindi, an English and a Hindi reporter each are always on duty in the House for taking down the proceedings. They work in close coordination to ensure complete and accurate reproduction of the proceedings.

Reporting of proceedings that immediately follow the Question Hour—when notices of adjournment motions, privilege issues and urgent matters of national and international importance are referred to by the members—involves utmost caution and, therefore, the reporters, under the guidance of the concerned Director carefully cross-check these portions with the digitally recorded version before transcribing the proceedings.

A complete set of written answers to the day's Starred Questions is supplied to the reporters before the commencement of the Question Hour. When the Minister

4. For instance, Law Proceedings—Jan.-Dec. 1781.
5. Leg. Deptt., Body Sheets, 1835 (Body sheets were the serially numbered day-to-day minutes of the proceedings of the meetings of the Council of the Governor-General of India which the Secretary used to draft).
6. Proceedings of the Legislative Council of India from 1854 to 1861—Vols. I to VII.
7. Abstract of Proceedings, 16-3-1864.
8. The publication of the proceedings in the Gazette was, however, discontinued in July 1920.

concerned rises and reads out the written answer, the reporter checks it with his copy in order to note down any last-minute change that might have been made by the Minister on the floor of the House.

Reporting of the proceedings of the Question Hour has many special features. Unlike the debates, which contain mostly speeches with a theme, the supplementary questions asked relate to a wide variety of subjects, often unconnected with one another. Supplementary questions are asked and answered in quick succession from different sides of the House. Reporters have not only to correctly identify the members asking questions but also record every word of what is said, including the often rapidly-quoted data, names, unfamiliar technical words, etc. While the supplementary questions are being asked, the Minister of State may answer a supplementary, or if the question is important, the Minister-in-charge of the Department, or even the Prime Minister, may intervene and answer that particular supplementary. Reporters have, therefore, to exercise special care to note down the identity of the Ministers giving answers to supplementary questions.

Members raise Matters of Urgent Public Importance (Zero Hour Matters) after Question Hour. Due to paucity of time, Members are permitted to associate themselves with previous speakers, if the matter is similar to the one that they wanted to raise.

A list of such members who have associated with the matters raised is inserted at the end of the 'Matters of Urgent Public Importance', in a tabular form.

Similarly, due to paucity of time, the Chair, at times, permits Members to lay their speeches on the Table of the House. An announcement to this effect is made by the Chair in the House. The Members are then permitted to lay copies of their speeches. The members are advised not to give speeches with attachments/enclosures/bullet points, etc. The laid speeches should be relevant to the subject matter under discussion, in running form and free from allegations or unparliamentary words/expressions. Members may also send softcopies of their speeches. All such speeches are included in the Official Proceedings immediately after the last speech made on the subject if that particular debate is continued on a following day. If the debate is concluded on the same day, such speeches are included in the proceedings before the Minister's reply.

Reporters check quotations, figures or other matters of technical detail with the member concerned. When in doubt, the Reporters check their copy with the digitally recorded proceedings. But they do not add or delete any part of the speech already made on the floor of the House.

While preparing the transcripts of the proceedings, the reporters have to be mindful of the grammar, sense and form of presentation. The Director (Reporting), with the assistance of Additional Directors, carefully scrutinizes the transcripts, ensures their continuity, verifies the texts as well as the disposal procedure of motions, clauses, amendments, etc., carries out necessary editing and corrections and makes sure that every segment of the proceedings is in conformity with the prescribed forms and procedures. This elaborate exercise is aimed at making the Official Report absolutely flawless.

After all the transcripts have been examined and finally approved, they are merged and page-numbered to form an unabridged, continuous and factual chronicle of the

proceedings of the day's sitting. A master copy of this compilation together with its 'content pages' is then dispatched to the Distribution Branch for multigraphing and distribution[9].

The entire proceedings of the House are also recorded digitally which helps the reporters to ensure complete accuracy in transcription. Sometimes it so happens that several members start speaking simultaneously making it difficult for reporters to take down all that is spoken. On such occasions, digital-recordings prove to be quite useful, as reporters can ascertain from these versions what was inaudible or unintelligible when actual proceedings took place[10].

The Reporters' copy is treated as the authentic record of the proceedings. If a dispute arises as to the correctness of the proceedings as recorded by the reporters, these may be cross-checked with the digitally-recorded version and correct position subsequently stated in the House for record.

Uploading of Hourly/Full-day Proceedings

The Verbatim Reporting Service uploads the proceedings of the House on an hourly basis. Fully-merged "full day proceedings" along with 'Table of Contents' are also uploaded on the website subsequently."

Sending of Uncorrected Speeches to Members

As stated above, uncorrected copy of every speech delivered by a member and supplementary question asked, on the floor of the House, is sent to the Member concerned through email, shortly after they are made.

Confirmation by Members

The uncorrected copy of every speech delivered by a Member and supplementary question asked, on the floor of the House, is sent to the Member concerned through e-mail, shortly after they are made. Moreover, Uncorrected Debates on 'an hourly and full-day basis' are also uploaded on the Lok Sabha Website.

The Members are required to access their speeches to make corrections, if any, and send the corrected versions within a period of seven days after the conclusion of that particular Session, to the Editorial Branch by email. If they are not returned within the specified time-period, the transcript prepared by the Reporters is considered as final and authentic[11].

Since the Official Report has to be a correct reproduction of the speeches actually delivered in the House, members are not permitted to improve the literary form of their speeches by additions or deletions. A paragraph is also issued, from time to time, in the *Bulletin* in this regard, informing the members that the speeches are sent to them only for confirmation and for the purpose of correcting inaccuracies, if any, and

9. In keeping with the decision to convert the Lok Sabha Secretariat as paperless office, few copies of Uncorrected Debates Part I and Part II are multigraphed for limited distribution (Added By Distribution Branch on May 2023).

10. *L.S. Deb.,* 30-7-1973, cc. 217, 242-52.

11. *See L.S. Bulletin* – II dt. 28.01.2022.

not for improving the literary form or altering the substance of the speeches. While grammatical corrections or correction of a word here and there or change of a clause from one place to another are permitted, any material correction which would mean a deviation from the substance of what the member actually spoke in the House is not permitted[12].

A multigraphed copy of the entire proceedings of the day is kept in the Library by the next morning for reference purposes. Copies of the proceedings are also supplied to the Ministries for reference.

Proceedings of Secret Sittings

When a sitting of the House is held *in camera, i.e.* a secret sitting, the Speaker may cause a report of the proceedings to be issued in such manner as he thinks fit, but no other person is permitted to keep a note or record of any proceedings or decision of a secret sitting, whether in part or in full, or issue any report of, or purport to describe, such proceedings[13].

When it is considered that the necessity for maintaining secrecy in regard to the proceedings of a secret sitting has ceased to exist, a motion with the consent of the Speaker can be moved by the Leader of the House or any member authorised by him that the proceedings of the House during such sitting be no longer treated as secret. On adoption of the motion by the House, the normal rule regarding publication of the proceedings applies[14].

Reporting of Proceedings of Parliamentary Committees

The proceedings of the Parliamentary Committees are recorded verbatim when witnesses are summoned to give evidence before it or when some important matters are to be noted or when individual views expressed by members have to be kept on record for reference[15].

Reporting of Proceedings of Parliamentary Committees during COVID-19 Pandemic

During the COVID-19 pandemic, as a matter of precaution, the Committees held sittings without the physical presence of reporters. For *verbatim* proceedings of the sittings of such Committees, arrangements were made to record the discussions held during such sittings using pen drives. Such audio recordings of Committee sittings in pen-drives were then sent to the Reporters Branch for transcription into verbatim proceedings.

Reporting of Proceedings of Parliamentary Committees during Session days

As a new initiative, Speaker directed that uncorrected speeches of Members shall be sent to them electronically, shortly after they are made on the floor of the House.

12. *H.P. Deb.* (Pt. II), 17-2-1950, p. 635; *L.S. Deb.,* 19-2-1959, c. 1937.
13. Rule 249. At the secret sitting of the Central Legislative Assembly on 27 February 1942, the official reporters had to leave the Chamber as soon as the Galleries were ordered to be cleared.

    For details, *see* Chapter 17—Sittings of the House.
14. Rule 251. Also *see.* Rule 379.
15. Rule 273(v).

As such, from the sixth Session of the 17th Lok Sabha, Committee-Branches record sittings of the Committee in pen-drives and send them to the Reporters Branch for transcription into *verbatim* proceedings.

Reporting of Proceedings of Conferences, Seminars, Workshops, Lectures, etc.

The proceedings of international as well as national Conferences, Conferences of Presiding Officers and Chairpersons of Parliamentary Committees, Seminars, Symposia, Workshops, Talks delivered under the Lecture Series or otherwise, to the members of Parliament by distinguished persons, foreign dignitaries, etc. arranged under the aegis of the Parliamentary Research and Training Institute for Democracies (PRIDE) and the Indian Parliamentary Group are recorded *verbatim.*

Wit & Humour, Poetry and Couplet

After the adjournment of each Session, the instances of wit & humour or poetry or couplet that took place or recited, are culled from the proceedings for their listing as 'Wit and Humour', under 'Debates' column in Lok Sabha Website.

CHAPTER 38

Expunction of Words from Proceedings of the House or its Committees

The Speaker is vested with the power to order expunction of words, which, in his opinion, are defamatory or indecent or unparliamentary or undignified, from the proceedings of the House[1]. Similarly, he may order expunction of words which are defamatory, incriminatory or accusatory in nature against a high dignitary or authority or organisation, without complying with the rules and rulings in this behalf[2].

In the Central Legislative Assembly, there was no specific rule relating to expunction. Normally, when unparliamentary or otherwise objectionable words or expressions were used, the Speaker intervened either on his own initiative or on objection raised by a member or a Minister, and called upon the offending member to make amends. This took one of the three forms: withdrawal of words or expressions[3], or tendering of apology and giving an assurance[4] not to use the words again; or in a relatively few cases, the substitution[5] of new words for the objectionable words or expressions. There were also some cases in which the Speaker merely deprecated[6] the use of the objectionable words or expressions. The objectionable words and their subsequent withdrawal or other mode of disposal were, however, allowed to remain on record.

In exceptional cases where the above remedies were considered to be inadequate, expunction of the objectionable words or expressions was ordered[7]. In such cases the general practice was to obtain the formal consent of the House on a motion emanating from the Speaker or a member or a Minister[8].

In practice, the scope of the rule governing expunction of words has been enlarged, and in some cases, the Speaker has ordered, in his discretion, the expunction of the words which he considered prejudicial[9] to the national interest or to the maintenance

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1. Rule 380.
2. Rules 352, 353 and 380. In one instance, words which were defamatory, incriminatory and accusatory in nature were ordered to be expunged by the Speaker and the matter was also referred to the Committee of Privileges. L.S. Deb., 21-9-2023.
3. For instances where words or expressions were withdrawn by members, *see L.A. Deb.,* 24-9-1924, p. 4071; 16-9-1937, p. 1825; 26-3-1946, p. 2929.
4. For cases of apology tendered and assurances given, *see L.A. Deb.,* 14-3-1932, pp. 1963-64; 15-2-1933, p. 699; 9-9-1937, p. 1439.
5. For cases of words substituted, *see L.A. Deb.,* 24-9-1924, p. 4071; 11-4-1934, p. 3613; 18-3-1936, p. 2798; 27-2-1937, pp. 1154-55 and 1169-70.
6. For instances where the Speaker deprecated the use of certain words, *see L.A. Deb.,* 18-9-1924, p. 3738; 30-9-1937, p. 2723; 19-11-1943, p. 553.
7. *L.A. Deb.,* 3-3-1936, pp. 1865-66; 10-9-1936, p. 757; 14-9-1936, p. 933; 1-10-1936, p. 2176; 6-10-1936, p. 2413; 6-2-1947, p. 224; 14-2-1947, p. 628.
8. *Ibid.,* 10-9-1936, p. 757.
9. *L.S. Deb*., 21.1.1985, c. 195; 10-8-2005, c. 833.

of friendly[10] relations with a foreign State; derogatory[11] to high dignitaries, including heads of friendly foreign States; likely to offend[12] national sentiments or affect the religious susceptibilities of a section of the community; likely to discredit[13] the Army; and not in good taste[14] or otherwise objectionable or likely to bring the House into ridicule or lower the dignity[15] of the Chair, the House or the members.

When a member, on being asked to withdraw objectionable remarks, held to be not relevant to the debate, refuses to do so, the Chair may order expunction thereof.[16] On being asked by the Chair not to quote from a document of which advance notice has not been given and which is not relevant to the debate, if the member still continues to quote therefrom, the Chair may order expunction of the quotations[17]. Where a member without being called upon to speak, continues speaking despite the Chair asking him to desist from it, the Chair may order expunction of the speech from the proceedings[18]. Likewise, if a member continues to interrupt the speech of another member or a Minister, the Speaker may direct that interruptions be not recorded[19].

In one instance, the speech of a member was expunged because he had already spoken on the same motion[20].

An expunction from the proceedings is ordered in any of the following circumstances:

The Speaker may himself hold certain words as defamatory or indecent or unparliamentary or undignified when such words are uttered in the House and order their expunction[21].

A member or a Minister may invite the Speaker's attention at the time when the defamatory or indecent or unparliamentary or undignified words are uttered, or subsequently, and the Speaker, if in agreement, may order their expunction.

On the attention of the Speaker being drawn to objectionable words, by an officer of the Secretariat or otherwise, the Speaker may order the expunction of such words.

A motion may be moved for expunction[22].

Certain words from a member's speech may be expunged where the member himself requests for such expunction. Otherwise, it has been held that when

10. *L.S. Deb.,* 31-7-2006, c. 341; 29-11-2007, c. 5098; L.S. Deb., 5-4- 2022.
11. Rule 352(v); *L.S. Deb.,* 26-2-1986, c. 373; 26-7-1986, c. 373; 1-12-2005, c. 331-32; L.S. Deb., 5-4-2022.
12. *L.S. Deb.,* 25-7-2006, c. 304, 25-8-2006, cc. 405-06; 14-12-2006, c. 259; L.S. Deb., 21-9- 2023.
13. *L.S. Deb.,* 2-5-2005, c. 449.
14. *L.S. Deb.,* 22-11-2007, c. 2146; 27-11-2007, c. 553; L.S. Deb., 18-7-2022.
15. *L.S. Deb.,* 4-4-1984, c. 431, 22-11-2007, c. 1822; 26-11-2007, c. 3287, 3-12-2007, c. 561; L.S. Deb., 18-7-2022.
16. *L.S. Deb.,* 8-5-1968, cc. 2941-42; 15-4-1987, cc. 581-607; L.S. Deb., 27-7-2022.
17. *Ibid.,* 8-8-1969, cc. 267-84.
18. *Ibid.,* 22-2-1968, c. 2705; 23-2-1968, c. 3022; 2-8-1972, c. 29; 24-2-1981, cc. 265-66; 19-3-1982, cc. 337-40; 15-4-1982, c. 599.
19. *Ibid.,* 25-3-1964, c. 7417; 2-12-1970, c. 198; 15-4-1987, cc. 584-607.
20. *Ibid.,* 25-7-1955, c. 8310.
21. Rule 380.
22. *L.S. Deb.,* 7-5-1965, cc. 13923-924; 22-2-1973; cc. 215, 217-18.

portions of a member's speech are ordered to be expunged, the member should be informed about the expunction[23].

A second speech made by a member during a debate when he had no right of reply has also been expunged[24].

In certain cases, suitable words may be substituted for the expunged words in order to make the meaning intended by the member clearer or to mitigate the effect of words taken exception to[25].

Words or expressions used during the course of a speech in the House, though not unparliamentary, may still be objected to sometimes by other member(s) on grounds of propriety. In such cases, if the member who has used such words or expressions in his speech agrees to their deletion, the deletion is effected under orders of the Speaker. This is deemed to be an ordinary correction made by the member himself and no explanatory footnote is required to be inserted in the proceedings in such cases.

Where an observation by a Minister is objected to by a member in the House or by any person affected by it, the Speaker may allow the Minister subsequently to withdraw his remarks or to explain the matter to the House. In such cases, no alterations or deletions are made in the proceedings for the day[26].

A member, while speaking, is forbidden under the rules to refer to any matter of fact on which a judicial decision is pending[27]. On a reference being made by a member to such a matter, the Speaker may observe that the member should not have referred to a matter which was *sub judice,* but the Speaker does not order expunction of such words. However, if the member persists in referring to such a matter, the Speaker may ask him to discontinue his speech forthwith[28].

Remarks casting aspersions on members are expunged[29].

An expression may be expunged even when the member who used it withdraws it[30].

There were occasions when even after derogatory remarks made by a member were expunged, he was asked to apologise and on his failure to do so, he was named by the Chair[31].

Normally, expunctions are not ordered if the matter is not brought to the Chair's notice on the same day on which the words taken objection to are spoken[32]. In rare cases, the Speaker has ordered expunction on a subsequent day either *suo motu* or on

23. *L.S. Deb.,* 21-12-1959, cc. 6265-66; L.S. Deb., 8-8-2023.
24. *L.S. Deb.,* 25-7-1955, c. 8310.
25. The words, 'personal knowledge' were substituted for 'personal experience' used with reference to a member—*H.P. Deb.* (II), 30-3-1953, c. 3253. For further instances, *see L.S. Deb.,* 30-11-1956, c. 880; 14-8-1957, c. 8377; 29-4-1959, c. 13935.
26. *L.S. Deb.,* 10-3-1960, cc. 5252-57; 14-3-1960, cc. 5698-703.
27. Rule 352(i); *L.S. Deb.,* 11-8-1971, cc. 281-85.
28. Ruling by the Speaker—*L.S. Deb.,* 27-6-1967, cc. 7829-45; 28-6-1967, cc. 8116-19.
29. *L.S. Deb.,* 18.7.1956, cc. 113-14; 7-5-1970, c. 201; 7-5-1987, cc. 444, 446; L.S. Deb., 2-2-2022.
30. *Ibid.,* 10-6-1971, cc. 222-24; 29-7-1986, c. 465.
31. *L.S. Deb.,* 2-5-1972, cc. 443-50; 3-5-1972, cc. 172-86; 15-4-1987, cc. 584-607.
32. *Ibid,* 17-8-1963, cc. 924-26; 4-5-1965, cc. l3923-24; 6-7-1967, cc. 9985-86.

representation by a member[33] or by the person affected,[34] especially a high dignitary under the Constitution (in this case, any time after the debate, but before the debates were printed). Under the Rules, therefore, the Speaker has the power to expunge portions from Debates even after lapse of time[35].

Ordinarily, there is no review regarding word(s) already expunged and the requests from members for restoration of expunged words or to raise the question of expunction in the House have generally been turned down[36]. There have been rare cases where the Speaker on re-consideration has agreed to restore some words expunged from the proceedings of a previous day[37].

The decision of the person presiding regarding expunction of any word is final and no appeal lies to the Speaker. The Speaker has ruled that he has no authority to alter or revise or review a decision once given by the Chair, whether it was the Deputy Speaker or a member on the Panel of Chairpersons[38]. But where a decision on expunction of any objectionable words, etc. is reserved by the person presiding at the time for a decision by the Speaker, the Speaker, after going through the proceedings, may pass orders for expunction, if necessary[39].

When a number of members speak simultaneously or when a member speaks without being called upon to speak or despite being asked to resume his seat continues to speak or speaks without the permission of the Chair, the Chair may, by using inherent powers, declare that the speech will not form part of the record and order its expunction from the proceedings[40].

Indication in Proceedings Regarding Expunctions

The words and portions expunged on the orders of the Chair are indicated by the words "Expunged as ordered by the Chair", in the proceedings. If the expunction is ordered on a subsequent day, such expunged portion is indicated by an asterisk mark with a footnote in the debates. Similarly, if the Chair directs that nothing would go on record in respect of a member's speech or interruption, it is indicated by the words "Not recorded" in the proceedings[41].

Intimation to the Press Regarding Expunctions

In cases where the Chair orders expunction of a certain portion of the proceedings or asks Reporters not to record something, the Director, Verbatim Reporting Service

33. *Ibid.,* 13-3-1973, c. 234.
34. *Ibid.,* 22-5-1956. c. 9223; 13-8-1956, cc. 3078-79.
35. *L.S. Deb.,* 13-8-1956, cc. 3087-90.
36. *L.S. Deb.,* 4-3-1966, c. 3938; 8-3-1966, cc. 4170-73; 16-8-1963, c. 79; 17-8-1963, cc. 924-26; 19-3-1963, cc. 1225-32.
37. *Ibid.,* 28-7-1971, cc. 296, 301-03.
38. *Ibid.,* 5-9-1962, cc. 6761-67; 7-9-1962, c. 6768; 6-3-1968, c. 1981; 1-8-1977, cc. 362-69; 21-3-1978, cc. 539-41; 25-3-1982, c. 282.
39. *Ibid.,* 26-3-1973, cc. 360-62; 27-2-1981, cc. 269-70.
40. *Ibid.,* 29-11-1977, cc. 239-41; 17-4-1978, cc. 297-98; 15-5-1978, c. 171; 24-2-1981, cc. 265-66.
41. A publication, *viz*. "Unparliamentary Expression", containing the expunctions in the form of words and expressions declared unparliamentary in Lok Sabha, Rajya Sabha and State legislatures in India and in some of Commonwealth Parliaments is brought out annually by the Lok Sabha Secretariat.

sends notice in writing to the PPR Wing for communication of the Chair's orders to the Press. The Press is expected to take note of the orders of expunction or non-recording passed in the House. By way of abundant caution, intimation of the expunction is also given to the Press by the PPR Wing, which sends a letter and an email addressed to Editors/Chiefs of Bureau of Media intimating expunctions so ordered. Non-receipt of such intimation by a Press correspondent does not, however, protect him from the consequences that might ensue as a result of the publication of the expunged or non-recorded words. Expunctions ordered by the Speaker outside the House, if they happen on the same day, are communicated to important news agencies as expeditiously as possible and they are requested to ensure that the expunged matter is not published.

Effect of Expunctions when Proceedings are Telecast Live

When certain words or expressions have been ordered to be expunged or not to be recorded, the Media is expected to take note of the orders of expunction or non-recording and to ensure that such portions are not telecast in the 'recorded version' by the electronic Media or reported in the Press.

In the original video recordings available with the Sansad TV Channel or AV Unit, the expunged/not-recorded portions are erased, consistent with the printed version.

Effect in Law Regarding Expunction

The effect in law of an order of the Speaker expunging words, remarks or a portion of the proceedings is as if those words/remarks or that portion of the proceedings had never been spoken. Publication of the expunged words or expressions would amount to a breach of privilege[42].

Expunctions in Video Recorded version of Proceedings of the House

In the video version, expunged portions are erased, consistent with the printed version. This is done to ensure that no expunged portion is dubbed and issued to any member who makes a request for the video version of his speech[43].

Expunctions from Proceedings of Parliamentary Committees

If the Chairperson of a Parliamentary Committee or a sub-Committee is of the opinion that words, phrases or expressions in the proceedings of the Committee or sub-Committee, as the case may be, contain information which will not be in the public interest to publish or that these contain observations of a purely personal character, the Chairperson may order such words, phrases or expressions to be expunged from the proceedings. An indication to this effect is given in the form of a footnote in the relevant page in the copy of the proceedings.

42. Searchlight Case, A.I.R., 1959, S.C. 395-422.

43. Also *see,* Chapter 46, *Telecasting and Broadcasting of Parliamentary Proceedings.*

CHAPTER 39

Printing and Publication of Parliamentary Papers

All papers connected with the Lok Sabha and the Secretariat thereof are printed and published under the authority of the House[1]. Though the House may not spell out the orders in each case, the authority of the House is delegated in all cases. In exceptional cases, orders of the Speaker are taken before a paper or document is printed.

The printing of Lok Sabha papers is primarily executed in-house under the orders of the Secretary-General, Lok Sabha. However, in cases of exigency, printing jobs may be undertaken by Government of India Press, Minto Road, New Delhi, while jobs of secret nature are carried out only by the Secret Section of the Government of India Press, Ring Road, New Delhi. Some publications are printed by the Secretariat under arrangements with private printers or publishers.

Previously, in-house arrangements were made solely for the printing/multigraphing of small jobs of urgent parliamentary/prestigious nature, most printing tasks of the Secretariat are now being executed entirely in-house. Broad classifications of papers cyclostyled/resographed on digital printers/photocopiers printed in-house are as follows: Work connected with Parliamentary Committees such as achievements, List of reports, Brochure on Committee reports, etc.; Background Notes, Information Bulletins, Information Digests, etc., and miscellaneous Circulars/Orders relating to the Secretariat[2].

Papers printed and bound in-house in the Rota Print/Bindery Section of the Secretariat: All sessional papers in English/Hindi versions such as Bulletin Part-I &II, List of Business, Revised List of Business, Private Members' List of Business, Synopsis of Debates, Supplement to Synopsis, Question List (Starred & Unstarred), Short Notice Question, List of Amendments/Cut Motions, Business Advisory Committee Report, standardized forms, Registers, letter-heads; D.O. Stationery; Complimentary cards, Invitation cards, Menu cards, File Covers, etc.; reports of the various Parliamentary Committees, speeches of dignitaries to be delivered in connection with parliamentary functions; programmes, work connected with incoming/outgoing parliamentary delegations; and Training Programmes organized by the ICPS and PRIDE (erstwhile Bureau of Parliamentary Studies and Training). In addition, executions of jobs of urgent and confidential nature are undertaken in-house.

As per needs, papers, registers, books, etc. are bound in ordinary binding, full rexine/cloth binding and half cloth binding.

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1. Rule 382.
2. On account of COVID-19 Pandemic situation and in keeping with the decision to convert the Lok Sabha Secretariat as paperless office, this practice has been discontinued.

Papers printed by Government Press/Private Printers: Debates and Indexes thereto; Bills and Select or Joint Committee Reports on Bills; Bulletins; Question Lists, List of Business, List of Amendments and Cut Motions, Synopsis of Debates, Reports of Parliamentary Committees and Standing Committees, Monographs, Periodicals, Brochures and other research and reference studies for meeting the information needs of members, etc. were earlier printed by the Government of India Press or the private printers/publishers.

The initiative to re-model the Printing and Publication Service was taken in 2017 when the List of Questions being printed by Government of India Press was taken up for in-house printing. This process gained momentum in the year 2020 when a number of significant changes were brought about in overall working system of Printing and Publication Service to reduce dependency on outside agencies. Consequently, the maximum number of routine and prestigious parliamentary printing jobs are being undertaken in-house.

In order to achieve this objective, different printing machines namely Digital multi-color, Digital mono-color including binding machines were installed and officials were imparted training in new printing skills.

Furthermore, jobs like Question List, DRSC reports, bills, sessional papers and various routine and prestigious ones undergo pre-printing stages of formatting, designing and proof-reading in-house. Additionally, capacity building program on printing software was also facilitated by PRIDE to enhance productivity.

The requisitioning branches which used to send manuscript for printing are now required to provide Camera Ready Copies (CRCs) of sessional papers and List of Questions for printing.

The officials are deployed in more than two/three shifts during session period to undertake sessional printing and binding work. The soft copy of text matter, images, designs, etc. pertaining to the publications are provided by the indenting branch in standard format to facilitate printing while responsibility to convert the same into a printable form lies with the Printing & Publication Service.

Well-known publications such as Constituent Assembly Debates, Coffee Table Book, Constitution of India (Calligraphed copy), 'Best Practices of Members during COVID-19' in addition to regular publications are printed and bound in-house.

There was also a sharp decline in the demand for printing work during the year 2020-21 and 2021-22 due to the pandemic and the overall emphasis on reducing paper consumption.

A substantial portion earmarked for printing budget is incurred in e-publishing of Gazette Notifications.

Debates

The Lok Sabha Debates which are printed and published constitute the permanent official record of the proceedings of the House. The proceedings of the House are divided into two parts. Part-I contains answers to Questions – both oral and written as well as answers to the supplementary questions. Part-II consists of Papers Laid on

the Table, Messages, Discussions, etc. and other business transacted by the House. The debates and proceedings are brought out in three versions — (*i*) Original (*ii*) English, and (*iii*) Hindi.

The Original Version contains proceedings in English and Hindi as it actually takes place in the House and the English/Hindi translation of speeches made in regional languages. Till the Twelfth Session of the Fourteenth Lok Sabha, the practice was to keep the original version of debates in cyclostyled (computer printout) form in the Parliament Library. Printing of edited Original Version of Debates was started from the Thirteenth Session of the Fourteenth Lok Sabha *i.e.* February, 2008. However, it has been discontinued from First Session of Sixteenth Lok Sabha onwards *i.e.* June, 2014 and edited Original Version of Debates in MSS form is kept in Library for purpose of record and reference and is made available on the Parliament of India website, *i.e., https://sansad.in/ls*

The English version of Debates is being prepared and published from the First Session of the Eighth Lok Sabha, *i.e.* from January 1985. This contains proceedings in English and English translation of proceedings which take place in Hindi or any other regional language[3].

The full verbatim Hindi Version of Debates was started in November 1978. However, prior to this (since 1952), there used to be a summarized translated version of debates. The Hindi version comprises proceedings in Hindi and Hindi translation of speeches delivered in English or any other regional language.

Both the versions of Debates (English and Hindi) include the verbatim translation in English/Hindi of all starred and unstarred Questions and Answers given thereto.

The first day debate of a Session includes an alphabetical list of members showing their names and constituencies and the list of Council of Ministers. However, in case of the first day debate of the First Session of a newly-elected Lok Sabha, list of members received from the Election Commission is included.

The names of officers of the Lok Sabha are also given at the beginning of each day's debate after the contents.

In case of speeches made in languages other than English/Hindi, *viz*. Assamese, Bengali, Kannada, Maithili, Malayalam, Manipuri, Marathi, Nepali, Odiya, Punjabi, Sanskrit, Tamil, Telugu, Urdu, Bodo, Dogri, Gujarati, Kashmiri, Konkani, Santhali and Sindhi for which interpretation arrangements already exist, the translated version of these speeches into English/Hindi as supplied by the Interpreter concerned after checking the text from the tape-recording, is included in Debates with a footnote indicating the language in which the original speech was delivered.

If a member speaks in a regional language for which simultaneous interpretation arrangement is not available, he is required to furnish in advance an authenticated copy

3. The English translation of Debates was being provided on demand basis from 17th Lok Sabha onwards as per the instructions of the Speaker Lok Sabha issued in the Minutes of the Review meeting held on 08.06.2020. However, translation of Prime Minister's speeches, replies given by Ministers on discussion on Bills and replies to Discussion under Rule 193 and any other important issue is being taken up for translation from Hindi to English. It was decided in review meeting of Hon'ble Speaker held on 5th July, 2021 that English Version of Lok Sabha Debates be prepared so that Members can access Hindi proceedings of the House in English.

of the translation in English/Hindi for its inclusion in Debates. If the translation is not furnished, his speech does not figure in the Debate and a footnote is given therein to this effect[4].

Corrigenda to Debates, if any, is prepared by respective Debates Branches. The Corrigenda thus prepared is pasted on the inner side of the last cover page of the printed Debate.

Till last Session of Sixteenth Lok Sabha a copy of either English or Hindi Version of the Debate was supplied free of cost to all the members according to their choice and those who desire to have their copies bound, were supplied with bound volumes on payment.[5] However, from Seventeenth Lok Sabha the supply of copies of Debates to Members has been discontinued to reduce the use of paper and e-text of these Debates are made available on website of Lok Sabha.

Ten days' debates make one volume. The volumes and series of the published Debates run concurrently with the term of each Lok Sabha, whereas individual printed Debates are numbered serially for each session separately.

The copyright for the reproduction of any material from the Debates vests in the Secretariat under section 2 (k) of the Copyright Act. The permission of the Speaker is required for reproduction of any material from Lok Sabha Debates. A well established procedure has been laid out for dealing with such requests and permission is granted after considering each case on its merits[6]. Where permission is granted to reproduce material from Debates, the party concerned is required to acknowledge the source material in the published document and also supply two copies of such a publication to the Lok Sabha Secretariat.

Confirmation by members: Before the onset of Covid-19 pandemic the transcript of every speech delivered, Question asked or intervention made by a member on a particular day is supplied to him for confirmation at his residence early next morning[7]. The member is required to return the same with corrections, if any, by 1500 hours on the following day. However, in the wake of Covid-19 pandemic and also to achieve the objective of paperless Parliament, from Fourth Session of Seventeenth Lok Sabha *i.e.,* Monsoon Session, 2020, this practice was discontinued and thereafter Members are now required to return the corrections within seven days of conclusion of a Session. The Member may access the transcript of their speeches from Lok Sabha Website under *Business → Debates → Uncorrected Debates* and print the same for confirmation and correction of inaccuracies, which might have occurred in the process of reporting and make legible corrections in ink, send duly signed scanned copy to Editorial Branch by e-mail at *editorial.ls@sansad.nic.in.* Hard copies of such corrected speeches are also accepted

4. Also *see* Chapter 38, *ante*.
5. In keeping with the decision to convert the Lok Sabha Secretariat as paperless office the practice of providing printed copies of Debates to Members has been discontinued.
6. R.O. No. 6, 13-01-2009 (Editorial Branch).
7. On account of COVID-19 pandemic situation and in keeping with the decision to convert the Lok Sabha Secretariat into a paperless office this practice has been discontinued and in its place Editorial Branch has prescribed an online procedure for correction of Speeches by Members.

in Editorial Branch. In case it is not so returned, the transcript prepared by the reporter is considered as final and authentic.

Since the Official Report has to be an exact reproduction of the speeches actually delivered in the House, members are not permitted to improve the literary form of their speeches by additions or deletions. A paragraph is also inserted from time to time in the Bulletin Part II to inform members to print their speeches from Lok Sabha website only for confirmation and for the purpose of correcting inaccuracies, if any, and not for improving the literary form or altering the substance of the speeches. While grammatical corrections or correction of a word here and there or change of a clause from one place to another are permitted, any material correction which would mean a deviation from the substance of what the member actually spoke in the House is not permitted[8].

Indexes to Debates

The English Debates are indexed under two categories, *viz.* Subject Index and Name Index. The Name Index includes the names of the members participating in the debates, Ministers and Parliamentary Secretaries, replying on behalf of the Government, wherever necessary. However, in the case of "Questions and Answers", no entries in respect of Ministers, etc. are included in the Indexes. Entries in the name of the Speaker, the Deputy Speaker or the Chairman are not made. The names of the members, etc. are shown, in the Indexes, in abbreviated form as indicated in the alphabetical List of Members.

With effect from the First Session of the Eighth Lok Sabha, preparation of Indexes to the Hindi Version of Debates was also started. However, in the case of the Hindi Version of Debates, *only Subject Index is prepared*. It is from Thirteenth Session of Fourteenth Lok Sabha that the work relating to preparation and publication of Indexes to the Original Version of Debates has also been started. However, preparation of indices to Original Version of Debates has been discontinued due to discontinuance of printing of Original Version of Debates from First Session of Sixteenth Lok Sabha.

A copy of the Index to either English or Hindi or the Original Version of Debates is supplied free of cost to all members according to their choice. Those who desire to have their copies bound, are supplied with bound volumes on payment. However, from first Session of Sixteenth Lok Sabha, supply of Index to Original Version of Debates is discontinued.

Synopsis of Debates

The Synopsis of Debates is a gist of important suggestions and points made during the Debates. The details of the arguments advanced, motions or amendments moved, Papers Laid on the Table and other formal items are generally not included therein. The Synopsis is prepared on the day of the Debate itself and is printed the same night with the words "NOT FOR PUBLICATION — For Members Only" superscribed on top. The printed copies either in English or in Hindi, depending on individual choice, are made available to the members the next morning along with other Parliamentary

8. *P. Deb*., (Pt. II), 17-2-1950, p. 635; *L.S. Deb*., 19-2-1959, c. 1937.

Papers[9]. This practice continued till the onset of Covid-19 pandemic, after which, the Synopsis of the proceedings of the Lok Sabha (Hindi and English Versions) is circulated electronically through Member's Portal/Lok Sabha Website. The supplement to the Synopsis for the portion not covered in the Synopsis of the day, if any, is issued on the following day. At the end of each session, the daily synopsis is bound in a volume with a Preface, classified Table of Contents, etc. Bound copies are kept in the Library for reference. The Synopsis of the proceedings of the Lok Sabha (English Version) is also made available through Internet/ Intranet.

The Debates and ancillary publications, *viz.* the Indexes and the Synopsis are subsidized publications and hence sold at concessional price. The budget provision for these publications is included in the annual grants for the Secretariat.

Bills

The Government Bills as well as the private members' Bills are printed at various stages, *viz.* to be introduced; as introduced; as reported by Select or Joint Committee in case a Bill is referred to Select or Joint Committee; as passed by the Lok Sabha; and as passed by the Houses of Parliament in case the Lok Sabha is last in possession of the Bill as also all Money Bills.

When a Bill is to be sent to the President by the Lok Sabha for his assent, it is printed in thick azurelaid paper, with a cover of the same colour[10].

Both the Government Bills and the private members' Bills are allotted consecutive serial numbers in the Central Bill Register on an yearly basis. When a Bill is required to be printed or published in the Gazette, the Bill, at each stage, is printed with the number allotted to it in the Central Bill-Register (say 39) followed by distinctive letters 'A', 'B', 'C', etc., as indicated below:

> Introduction – 39; Report of the Select Committee – 39A; Report of the Joint Committee–39B; Bill passed by one House and transmitted to the other House – 39C; Bill passed by one House and reported by Select Committee of the other House – 39CA; Bill passed by one House and returned to the other House – 39D; Bill passed by one House and rejected by the other House – 39DA; Bill passed at Joint sitting of two Houses – 39E; Bill passed by the Houses of Parliament – 39F; Bill passed by the Houses of Parliament and returned by President for reconsideration, if passed again, with or without amendment; by one House and transmitted to the other House–39FC, Bill passed again by the Houses of Parliament under the proviso to article 111 – 39FF.

9. On account of COVID-19 pandemic situation and in keeping with the decision to convert the Lok Sabha Secretariat into a paperless office, this practice has been discontinued and instead digital copies are uploaded on Members Portal and Lok Sabha Website by Synopsis Branch.

10. Earlier, in order to distinguish Bills at their various stages, the cover-pages used to be printed in distinct colours, as described below:

    To be introduced/as introduced — White;

    As passed by the Lok Sabha — Light Yellow;

    As amended by Select/Joint Committee — No cover.

Bills at all stages, except as passed by both Houses, are line-numbered, line- numbers being in multiples of five. The line-numbering is done afresh from five onwards on each page of the Bill.

As soon as a Bill is introduced in the House, a copy thereof is sent for publication in the Gazette[11] of the same date.

On a request made by the member in-charge of a Bill, the Speaker may permit the publication of the Bill before introduction. In such cases, the Bill is published in the Gazette along with a notification to that effect that it is being published before introduction under orders of the Speaker. While making the request, the member in-charge of the Bill has to specify the reasons for pre-publication of the Bill for consideration of the Speaker.

It is not the practice to publish a Bill before its introduction when the House is in session although, in special cases, permission for such publication has been granted by the Speaker[12]. A Bill published before introduction is not published in the Gazette again after introduction[13].

Reports of Select/Joint Committees

The report of a Select or Joint Committee on a Bill is presented to the House and the Bill as reported by the Committee is appended thereto. If there is not enough time for getting the report printed, it is presented to the House in a typed or cyclostyled form, but the Bill as reported is invariably printed with line-numbering before presentation to the House. As soon as such a report has been presented to the House, it is printed together with other connected papers and circulated to the members[14]. Evidence before a Committee is usually printed in a separate volume, if it is decided to lay the same on the Table. Every report of the Select or Joint Committee together with the Bill as reported by the Committee is also published in the Gazette of the same date on which it is presented to the House[15].

Sale of Parliamentary Publications/Souvenirs

To facilitate purchase of priced parliamentary publications/souvenirs and debates, a sales counter has been functioning since 14 May 1950. It operates between 1000 hours and 1800 hours at the North Utility, Parliament House of India. Souvenir items with Parliament House Logo are also sold at Sales Unit Counter at the Ground Floor of Parliament House Annexe (Adjoining Committee Room-B) and *Samvidhan Sadan* (near Lift no. 1). Parliamentary Publications and souvenirs are also made available for sale at venues of Conferences of Presiding Officers of Legislative Bodies in India,

11. Bills are published in Gaz. Ex. (II-2).
12. *See* Chapter 22—'Legislation'.
13. Rule 73.
14. *See* also Chapter 30—Parliamentary Committees under 'Select or Joint Committees on Bills'.
15. Rule 305 – Like Bills, reports on the Bills are also published in Gaz. Ex. (II-2).

Inter-Parliamentary/Commonwealth Parliamentary Conferences hosted by Parliament of India, World Book Fair organised by National Book Trust, etc.

In order to promote digital transactions, Point of Sales (POS) machines have been installed at all the sales outlets in the Parliament House Complex.

CHAPTER 40

Secretariat and Budget of Lok Sabha

The Secretariat

The Constitution provides for a separate Secretariat for each House[1]. With the Constitution coming into force, the former Legislative Assembly Department, which was renamed as Parliament Secretariat, continued to be the Secretariat of the House of the People. The 'House of the People' and its Secretariat were renamed as the 'Lok Sabha' and the 'Lok Sabha Secretariat', respectively, by an announcement made by Speaker Mavalankar in the House on 13 May 1954[2].

With the introduction of the Montague-Chelmsford Reforms in 1920, the Central Legislature became bicameral and consisted of the Legislative Assembly and the Council of State. The administrative and clerical work of both the Houses of the Indian Legislature was carried on by the Legislative Department. The Secretary to the Government of India (in the Legislative Department) was Secretary to both the Houses; Joint and Deputy Secretaries in the Legislative Department were Assistants to the Secretary of the Assembly and of the Council of State and the Clerks at the Table for both the Houses were supplied from among their number; the whole of the clerical establishment was provided from the ministerial staff of the Legislative Department.

In 1921, the question of having a separate establishment for the Assembly was raised in the House by some members[3], and the matter featured in debates during 1922 and 1923[4]. In 1924, the Government stated in reply to a question that "it has been decided that for the present, in the interest, both of economy and efficiency it is desirable that the business of the Legislative Assembly should continue to be conducted by the Legislative Department of the Government of India[5]".

However, in August 1925, when Vithalbhai Patel was elected Speaker, he along with several other members of the House felt that the independence of the elected Speaker was prejudicially affected because the Secretary of the Assembly was the Secretary of the Legislative Department under the Government of India. Many questions were also asked in the Assembly by the members stressing upon the need for having a separate office for the Assembly Department[6].

Soon after he assumed Office, Speaker Patel convened a Conference of Presiding Officers' in January 1926, which passed a resolution advocating the

1. Art. 98.
2. *L.S. Deb.*, 13-5-1954, cc. 7388-89.
3. *L.A. Deb.,* 5-3-1921, p. 595; 22-2-1921, p. 829.
4. *Ibid.,* 16-3-1922, pp. 3166, 3167 and 3169; 22-9-1922, p. 772; 15-3-1923, pp. 3461 and 3464.
5. *Ibid.,* 1-2-1924, p. 28. For a brief history of the Lok Sabha Secretariat—*See* Subhash C. Kashyap: *Sixty Years of Servicing the Central Legislature.* Lok Sabha Secretariat, New Delhi, January 1989.
6. *L.A. Deb.,* 23-2-1926, p. 1648; 16-3-1927, p. 2333; 21-3-1927, p. 2439; 18-8-1927, p. 2996.

creation of a separate office for the Legislative Assembly, independent of and unconnected with the Government. The matter was immediately referred to the Government for consideration and action. As the Government did not take any action in the matter for more than a year, Patel, on his re-election as Speaker, presented to the Government a scheme on 17 August 1927, embodying concrete proposals for setting up a separate Department or office for the Legislative Assembly[7]. The Government of India forwarded the scheme to the Secretary of State for India, but he did not accept the views in certain matters, which the Speaker Patel considered vital[8]. The Speaker, therefore, submitted his proposal for consideration, direct to the House and made the emphatic declaration that, "As an elected President (Speaker), I am responsible to the Assembly and to no other authority"[9]. On 22 September 1928, Motilal Nehru moved a resolution in the House, that a separate Assembly Department be constituted, and it was adopted unanimously[10].

Subsequently, the Secretary of State for India accorded his approval to the scheme, as embodied in the resolution, with certain modifications, and accordingly, a separate self-contained Department, known as the "Legislative Assembly Department" was created on 10 January 1929, in the portfolio of the Governor-General, with the Speaker of the Legislative Assembly as the *de facto* head[11]. Later on, as per the provisions of the Legislative Assembly Department (Conditions of Service) Rules, 1929, the Recruitment of the Staff for the Department started with the approval of the Speaker.

Under the provisions of the Indian Independence Act, 1947, the legislative functions of the Central Legislature were taken over by the Constituent Assembly of India. On 29 August 1947, the Constituent Assembly resolved that the business of the Assembly, as a Constitution making body, should be clearly distinguished from its functions as a Dominion Legislature, and that a provision should be made for election of a Speaker to preside over the Assembly while functioning in the latter capacity. Thereafter, in pursuance of this resolution, the functions of the Constituent Assembly were demarcated as the Constituent Assembly and the Constituent Assembly (Legislative). While the Constituent Assembly was provided with its own separate Secretariat, the Legislative Assembly Department functioned as the Secretariat of the Constituent Assembly (Legislative) under the over all control of the Speaker of that body. With the coming into force of the Constitution and the creation of Provisional Parliament on 26 January 1950, the name of the Department was changed to "Parliament Secretariat".

This position continued even after the House of the People (Lok Sabha) came into existence in 1952, after the first General Election. However, the name of the Secretariat was changed in 1954, from "Parliament Secretariat" to "Lok Sabha

7. *Ibid.,* 5-9-1928, p. 221.
8. *Ibid.,* 17-9-1928, pp. 921-40.
9. *Ibid.,* 5-9-1928, p. 219.
10. *Ibid.,* 22-9-1928, pp. 1249-63.
11. *Ibid.,* 28-1-1929, p. 2.

Secretariat", but the conditions of service of the officers and staff of the Secretariat continued to be governed, till 30 September 1955, by the Legislative Assembly Department (Conditions of Service) Rules, 1929, as amended and adapted from time to time. Subsequently, on 1 October 1955, the present rules, *viz*., the Lok Sabha Secretariat (Recruitment and Conditions of Service) Rules, 1955[12] were framed and promulgated by the President in consultation with the Speaker[13].

The powers relating to the creation of certain permanent and temporary posts, the continuance of temporary posts and their conversion into permanent ones, the appointment to various posts, the conduct, discipline and control of officers/staff and the regulation of quasi-permanent and temporary services are vested in the Speaker, subject to consultation with the Ministry of Finance as and where specified[14]. The Recruitment and Conditions of Service Orders, regulating the method of recruitment and appointment, promotion, quasi-permanent and temporary service, conduct, etc., of officers and staff of the Secretariat are issued by the Speaker[15].

The Speaker has, however, delegated certain powers to the Secretary-General, in matters connected with the administration of the rules[16].

The independent position of the Secretariat has been safeguarded both under the Constitution and the Lok Sabha Secretariat (Recruitment and Conditions of Service) Rules, 1955.

Conditions of Service and Recruitment Rules

The independent status of the Secretariat has, since its very inception in 1929, been recognized by the Government and it has been enjoying the same status as enjoyed by a Ministry (previously Department) of the Government of India in regard to administrative as well as financial powers.

In 1948, while considering the recommendations of the Selection Board regarding appointments to secretarial and senior non-secretarial posts, Speaker Mavalankar observed:

> Every officer, subordinate or otherwise, serving in the Secretariat of the Legislature must be in a position to carry out his duties without fear or favour of the Executive Government, and obviously, this cannot be done if persons in the employ of the Legislature Secretariat have to look upon such bodies as Selection Board, consisting of the officers and nominees of the Executive Government, for their chances and career in the Secretariat of the Legislature. Even in the old regime when the Executive Government was not responsible to the Legislature and the entire power vested technically in the Governor-General, it was a well-established convention that the presiding authority (the Speaker) was the sole judge and controller in respect of appointments, promotions, etc., in the Legislative Assembly Department.

12. Art. 98 (3).
13. S.R.O. No. 2181, *Gaz. Ex.,* 1-10-1955.
14. L.S.S (R. & C.S.) Rules, 1955.
15. *Ibid*.
16. R.& C.S. Order No. PDA-1104/2004, 17-12-2004.

On the question of furnishing information concerning the Secretariat to the Establishment Proposal Committee, set up by the Government of India, Speaker Mavalankar, on 2 April 1948, observed, "it should not be open to any Department of the Executive Government to scrutinize, much less challenge, what the Head of the Legislature considers necessary and proper". The Speaker had, however, agreed to furnish the information required by the Committee on the condition that their recommendations would be forwarded to him confidentially for his consideration and would not form part of the formal report.

In 1955, during the consideration of the draft of the Recruitment and Conditions of Service Rules, the Government and the Union Public Service Commission agreed that there was no need to consult the Commission in regard to matters relating to officers of the Secretariat. A provision to this effect was accordingly made in the Union Public Service Commission (Exemption from Consultation) Regulations, 1958. The Commission is also not consulted in disciplinary matters and in claims for the award of injury pension to officers and staff serving in the Secretariat. The Administrative Tribunal Act, 1985 is also not applicable to any person appointed to the Secretariat staff of either House of Parliament.

The Secretariat thus makes its own recruitment, and functions as an independent entity under the ultimate guidance and control of the Speaker[17].

According to the well-established convention, the orders issued by the Government to the Ministries and Departments of the Government of India do not automatically apply to the officers and staff of the Secretariat. After the promulgation of the Lok Sabha Secretariat (Recruitment and Conditions of Service) Rules, 1955, this position has been formally accepted by the Government. Every order issued by the Government in regard to conditions of service of their staff is examined by the Secretary-General, and if it is decided to extend the provisions thereof in toto to the officers and staff of the Secretariat, the adaptation orders are issued in the form of Recruitment and Conditions of Service Orders without consulting the Ministry of Finance or the concerned Ministry. Where, however, as an exception, when modification or alteration, etc., is considered necessary, the adaptation order is issued after consultation with the Ministry of Finance.

In regard to the orders of financial nature also, the Government has formally recognized that such orders do not automatically apply to the Secretariat, unless these are specifically extended by order of the Speaker. Where the Speaker decides to extend any such order, an adaptation order is issued.

Adaptation of Pay Commission's Recommendations

In view of the independent status of the Secretariat, the recommendations of the Pay Commissions, set up by the Government of India from time to time, are not automatically applicable to the officers and staff of the Secretariat. However, on the basis of the recommendations made by the First and Second Pay Commissions in 1947 and 1959, respectively, the pay scales of the officers and staff of the Secretariat are

17. *See* Subhash C. Kashyap: *Servicing Parliament—Staffing the Legislatures and Training in Parliamentary Institutions and Procedures.* Lok Sabha Secretariat, New Delhi, March 1987.

also suitably revised under orders issued by the Speaker after consulting the Ministry of Finance.

First Parliamentary Committee for Pay Revision and Reorganisation

When the Third Pay Commission set up by the Government of India submitted its Report in 1973, the Speaker of the Lok Sabha and the Chairman of the Rajya Sabha jointly appointed the First Parliamentary Committee in August 1973**,** to advise them on the revision of pay and other conditions of service of the parliamentary staff.

The Speaker announced the constitution of the Committee in the Lok Sabha on 16 August 1973[18]. The Committee was headed by the Chairman of the Estimates Committee and included, among others, the Minister of Finance and the Minister of Parliamentary Affairs, besides the Secretaries-General of the two Houses.

In its Report submitted to the Speaker, Lok Sabha**,** on 20 September 1974, the Committee made a number of recommendations, chief among which was a rational reorganisation of the two Secretariats on a pattern which strove to be functional, efficient and economical.

Second Parliamentary Committee for Pay Revision consequent upon Implementation of the Recommendations of the Fourth Central Pay Commission

Under the provision of article 98 of the Constitution, the Fourth Central Pay Commission had not made any recommendations regarding the structure of pay, allowances, leave and pensionary benefits for the Officers and staff of the Lok Sabha and the Rajya Sabha Secretariats. The Chairman, Rajya Sabha and the Speaker, Lok Sabha appointed a Committee of Parliament on 21 July 1986 after mutual consultations. The Committee was headed by the Chairman of the Estimates Committee and included the Chairman of the Public Accounts Committee, the Minister of Finance and the Minister of Parliamentary Affairs, besides two members of Rajya Sabha. The Committee, while recommending pay scales for officers and staff of the Lok Sabha and the Rajya Sabha Secretariats, observed the following principles:

(i) The number of scales of pay may be reduced to the minimum necessary;

(ii) So far as possible, designations of various posts in the two Secretariats may be the same as in the Government of India;

(iii) In view of the very specialized nature of job requirements in the Secretariats of the Parliament and the need for the staff putting long hours of work, pay scales should be equated with the best available on the Government side for similar responsibilities; and

(iv) Consideration should be given to what appropriate facilities, compensation, incentive or allowance can be provided to staff in the two Secretariats.

In view of the nature of duties and responsibilities performed by the officers and staff belonging to various categories of posts, changes were recommended in the designations as well as scales of pay in a number of cases. Accordingly, the designations and pay scales of posts were revised with effect from 1 January 1986.

18. *L.S. Deb.,* 16-8-1973, p. 358.

Third Parliamentary Pay Committee for Pay Revision consequent upon Implementation of the Recommendations of the Fifth Central Pay Commission

Following the adoption and subsequent implementation of the recommendations of the Fifth Central Pay Commission's Report by the Union Government, as per practice, the Speaker, in consultation with the Chairman of the Rajya Sabha, appointed a six-member Parliamentary Pay Committee with the Chairman of the Estimates Committee as its Chairman. The Chairman, Public Accounts Committee, the Minister of Finance and the Minister of Parliamentary Affairs were among the members of the Committee. The functions of the Committee were to advise the Chairman, Rajya Sabha and the Speaker, Lok Sabha on the changes that were considered desirable in the structure of scales of pay, allowance, leave and pensionary benefits to the officers and all categories of employees of the Rajya Sabha and the Lok Sabha Secretariats in the context of the decision of the Government on the recommendations of the Fifth Pay Commission.

The Committee, in its first meeting held on 11 November 1997, recommended that the recommendations of the Fifth Pay Commission be made provisionally applicable to the officers of the Lok Sabha and the Rajya Sabha Secretariats as an interim measure with some modifications. However, following the dissolution of the Eleventh Lok Sabha on 4 December 1997, the Pay Committee ceased to exist.

Subsequently, on the constitution of the Twelfth Lok Sabha, the Speaker, in consultation with the Chairman, Rajya Sabha, re-constituted the Parliamentary Pay Committee on 20 November 1998 to complete the unfinished work of the previous Committee. The Committee, in all, held six meetings and presented its First Report with regard to the scales of pay on 26 April 1999. However, before the Committee could deliberate upon and make another report on matters other than pay scales, the Twelfth Lok Sabha was dissolved. The recommendations made by the Committee were accepted by the Speaker on 30 April 1999.

On the constitution of the Thirteenth Lok Sabha, the Speaker, in consultation with the Chairman, Rajya Sabha re-constituted the Parliamentary Pay Committee on 28 July 2000 to consider the unfinished items of work left out by the earlier Committee. The Committee concluded their deliberations on allowances, amenities, facilities etc. and other issues in respect of employees of the Rajya Sabha and the Lok Sabha Secretariats, and finalized their report at their sitting held on 28 August 2001, and presented the same to the Chairman, Rajya Sabha and the Speaker, Lok Sabha on 30 August 2001. The recommendations made by the Committee were accepted by the Speaker on 30 August 2001.

Fourth Parliamentary Pay Committee for Revision of Structure of Pay consequent upon implementation of the Recommendations of the Sixth Central Pay Commission

As per practice, the Speaker, Lok Sabha in consultation with the Chairman, Rajya Sabha, constituted a six-member Parliamentary Pay Committee to advise the Chairman, Rajya Sabha and the Speaker, Lok Sabha on the changes considered desirable in the structure of scales of pay, allowances, leave and pensionary benefits to the officers and all categories of employees of both the Rajya Sabha and the Lok Sabha Secretariats in the context of the decision of the Government on the recommendations

of the Sixth Central Pay Commission. The Chairman of the Estimates Committee was appointed its Chairman and the Chairman, Public Accounts Committee, the Minister of Finance and the Minister of Parliamentary Affairs were among the members of the Committee. The Secretaries-General of the Rajya Sabha and the Lok Sabha were also associated with the Committee.

The Committee considered the suggestions given by the Officers and Employees of the Rajya Sabha and the Lok Sabha Secretariats and deliberated the proposals in their various sittings. The Committee concluded their deliberations and adopted the Report at their sixth sitting held on 25 February 2009.

The Report of the Committee was presented to the Chairman, Rajya Sabha and the Speaker, Lok Sabha on 26 February 2009.

The Chairman, Rajya Sabha and the Speaker, Lok Sabha accorded their formal acceptance of the recommendations of the Pay Committee with some modification regarding grant of Parliamentary Allowance. The recommendations in the Report with the said modification were given effect to simultaneously in the Rajya Sabha and the Lok Sabha Secretariats on 20 April 2009.

Fifth Parliamentary Pay Committee for Revision of Structure of Pay consequent upon implementation of the Recommendations of the Seventh Central Pay Commission

As per practice, the Speaker, Lok Sabha in consultation with the Chairman, Rajya Sabha, constituted a six-member Parliamentary Pay Committee to advise the Chairman, Rajya Sabha and the Speaker, Lok Sabha on the changes considered desirable in the structure of scales of pay, allowances, leave and pensionary benefits to the officers and all categories of employees of both the Lok Sabha and the Rajya Sabha Secretariats in the context of the decision of the Government on the recommendations of the Seventh Central Pay Commission. The Chairperson of the Estimates Committee was appointed its Chairperson and the Chairperson, Public Accounts Committee, Chairperson, Standing Committee on Finance, the Minister of Finance, the Minister of Parliamentary Affairs and a senior member of Rajya Sabha were among the members of the Committee. Secretaries-General of Lok Sabha and Rajya Sabha were also associated with the Committee.

The Committee considered the suggestions given by the Officers and Employees of Rajya Sabha and Lok Sabha Secretariats and deliberated the proposals in their various sittings. The Committee concluded their deliberations and adopted the Report at their second sitting held on 17th December 2018.

The Report of the Committee was presented to the Chairman, Rajya Sabha and the Speaker, Lok Sabha on 19 December 2018. The Chairman, Rajya Sabha and the Speaker, Lok Sabha accorded their formal acceptance of the recommendations of the Pay Committee with some modification regarding grant of Parliamentary Allowance. The recommendations in the Report with modifications were approved by both the presiding officers on 14th February 2019.

Broad Division of Work on Functional Basis

The Secretariat is headed by Secretary-General—an office which is unique in many ways. As the administrative head of the entire Secretariat, he has to ensure that the secretarial work of the House and its Committees**,** is performed by qualified, competent and devoted officers**,** and is organised and conducted properly and smoothly, under his own overall responsibility[19].

The Secretary-General is assisted by senior functionaries such as Additional Secretaries, Joint Secretaries and other officers and staff of the Secretariat. The Secretariat is structured on functional basis into the following "Organised Services" which cater to the specific needs of the House and its Committees. These Services are:

I. Legislative, Financial Committee, Executive and Administrative Service (LAFEAS)

II. Library, Research, Reference, Documentation and Information Service (LARRDIS)

III. Verbatim Reporting Service (VRS)

IV. Private Secretaries and Stenographic Service (PSSS)

V. Simultaneous Interpretation Service (SIS)

VI. Printing & Publications Service (P&PS)

VII. Editorial and Translation Service (E&T)

VIII. Parliament Security Service (PSS)

IX. Staff Car Drivers Service[20] [*erstwhile nomenclature 'Drivers and Despatch Riders Service']*

X. Messengers Service

XI. Parliament Museum Service (PMS)

Broadly, functions of each service may be briefly stated as under:–

(i) LAFEAS

The Service consists of officials manning the Legislative, Parliamentary Committees, Protocol, Executive and Administrative Branches of the Secretariat. The Legislative Wing deals with work connected with business of the House which includes Parliamentary Notice Office, Table Office, Legislative branches, Questions Branch, etc. The Parliamentary Committee Branches deal with the work connected with various Committees including Public Accounts Committee, Estimates Committee, Committee on Public Undertakings, the Departmentally Related Standing Committees etc. The Executive and Administrative Wings deal with administrative and general matters including Members' Salaries and Allowances, Members Services,

19. *See* Chapter 8 —'Parliamentary Functionaries'. Also *see* Subhash C. Kashyap: The Office of the Secretary-General, Lok Sabha Secretariat, New Delhi, 1989.

20. R & CS Order No. PDA-1480/2022 dated 20.10.2022.

Budget and Payment Branch, etc.

(ii) LARRDIS

The Service is responsible for maintaining a well-equipped Library along with efficient research and reference services. The Service provides reference/ research material on legislative and other matters coming up before the House, so as to enable the members to effectively participate in the debates. It prepares Background Notes, Information Bulletins, Research Notes, etc. for members of Parliament, Briefs/Research Notes, etc. for parliamentary delegations to IPU CPA and other Parliamentary Conferences. The Service also help bring out various publications from time to time.

(iii) VRS

Parliamentary Reporters under the Verbatim Reporting Service perform the duties of verbatim reporting of the Proceedings of the Lok Sabha/ Parliamentary Committees/Seminars organized by the Lok Sabha Secretariat.

(iv) PSSS

The officials in this Service Provide secretarial and stenographic assistance to the officers of the Secretariat.

(v) SIS

The Service provides simultaneous interpretation (English to Hindi & *vice-versa* as well as regional languages) of the proceedings of Lok Sabha/ Parliamentary Committees/Conferences/Seminars, etc.

(vi) P&PS

The officials in this Service provide printing, proof reading and book binding services to the Secretariat.

(vii) E&T

The officials in this Service are engaged in work related to Translation/ Editing and preparation of Synopses of Lok Sabha debates, Committee Reports, proceedings and allied work. This Service *inter alia* includes – Editorial Branch, Synopsis Branch, Translation (Committee) branch, Translation (Parliamentary Papers) branch etc.

(viii) PSS

The officials in the Parliament Security Service are charged with maintaining Security within Parliament House Estate.

(ix) Staff Car Drivers Service

The members of this Service drive official vehicles available with Lok Sabha Secretariat.

(x) Messengers Service

The incumbents in this Service are from the Group "C" cadres and

provide messenger/attendant services and the Service has been bifurcated into two Units *viz.,* Unit I & Unit II. The erstwhile 'Housekeeping Wing' which formed part of PSS, has since been designated 'Messengers Service' as 'Unit-II' and the erstwhile grades of 'Senior Housekeeper, Housekeeper (Special Grade), Housekeeper Grade-I & Housekeeper Grade-II rechristened as 'Senior Work Attendant, Work Attendant, Work Attendant Grade-I & Work Attendant Grade-II', respectively[21].

(xi) PMS

The members of this Service are responsible for the maintenance and upkeep of Parliament Museum and other related activities.

In addition, Sansad TV Unit (Lok Sabha) [erstwhile nomenclature Lok Sabha Satellite TV Channel Unit][22] has been set up for dealing with various activities relating to Sansad TV [erstwhile channels – RSTV and LSTV], a joint entity of both the Rajya Sabha & Lok Sabha Secretariats[23].

Recruitment in the Secretariat

In 1974, it was decided, on the recommendations of the Parliamentary Committee for Pay Revision and Reorganisation, to have joint recruitment to the common categories of posts for which direct recruitment is provided for in the Lok Sabha and the Rajya Sabha Secretariats, by holding combined recruitment tests and interviews, and drawing up panels on the basis of which appointments in any of the two Secretariats could be offered. The competent authority, for assessing the number of posts in various cadres and services, and revision of scales for the various categories of those scales of pay and allowances in the Secretariats, was to be a Board of the two Secretaries-General of the Lok Sabha and the Rajya Sabha, who could, after consultation with the Ministry of Finance, make suitable recommendations to the Chairman/Speaker, as the case may be, from time to time.

In 2008, the then Hon'ble Chairman, Rajya Sabha approved the creation of a Recruitment Cell for undertaking various recruitment activities of the Rajya Sabha Secretariat and the vacancies for posts in Rajya Sabha Secretariat last notified by the Joint Recruitment Cell were in 2009. Thereafter, the Rajya Sabha Secretariat has been holding separate examinations for posts of that Secretariat. Thus, now Recruitment Branch (RB) exclusively conducts recruitment examinations for filling up of vacancies for various grades/posts in Lok Sabha Secretariat intimated to it by Administration Branch-I from time to time.

Therefore, the nomenclature of the Branch has been changed from Joint Recruitment Cell to Recruitment Branch (RB) *vide* Office Order Part-I No. 2118 dated 1st July, 2019 of the Lok Sabha Secretariat.

21. R&CS Order No. PDA-1489/2023 dated 13.02.2023.
22. Office Order Part-I No. 2346 dated 21.12.2021.
23. Office Order Part-I No. 2337 dated 05.11.2021.

Recruitment Branch now invites applications online from eligible candidates for posts advertised for direct recruitment.

Staff Welfare

The Welfare Branch of the Secretariat looks after the welfare of officers and staff.

An Annual Health Check-up Scheme is in operation for employees in the age group of 40 years and above. Health check-up camps and health talks, lectures and workshops are also organized for welfare of the employees.

Financial assistance to employees is provided from funds constituted for the purpose for medical and sports and cultural activities. A scheme to promote adventure sports and similar activities is also implemented.

Scholarships (for wards of group C employees), and Meritorious Awards are also instituted for deserving wards of employees.

A Creche is managed in the office premises by the Welfare Branch for wards of employees.

Working of the Lok Sabha Secretariat

From the Legislative Assembly Department of 1929**,** to the Lok Sabha Secretariat of today, the servicing of Parliament of the largest democracy in the world has come to acquire new dimensions. The officers and staff of the present day Lok Sabha Secretariat are expected to cater to the multifarious requirements of members of Parliament with a view to rendering them timely assistance in the discharge of their parliamentary functions. They are entrusted with duties of an exacting nature insofar as they are expected to serve the House, the Speaker and the members of Parliament objectively, impartially and efficiently. Over the years, the Secretariat has performed its duties in a remarkable manner**,** and has earned for itself**,** an outstanding reputation for efficiency, integrity, impartiality and promptitude[24].

Implementation of RTI Act

The Right to Information Act, 2005 came into force on 12 October 2005. The Act *inter alia* sets out the practical regime of right to information for citizens**,** to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority.[25] In accordance with the provisions of the Act, information is being provided to citizens by the Lok Sabha Secretariat in respect of Lok Sabha and Lok Sabha Secretariat. Information Cell was created in the Secretariat on 14 November 2005 with a view to properly implement the Act. As per the provisions of section 5 of the RTI Act, 2005, a Central Public Information Officer (CPIO) and a Central Assistant Public Information Officer (CAPIO) are designated in the Secretariat. These officers are assisted in their functioning by the Information Cell. An officer**,** senior in rank to the Central Public

24. *See* working of the Lok Sabha Secretariat – Proceedings of the Seminar held at New Delhi on 1 December 1988 and References in Lok Sabha, 2 December 1988, Lok Sabha Secretariat, New Delhi, 1989.

25. Right to Information Act, 2005.

Information Officer (CPIO), is also appointed as the Appellate Authority, in accordance with section 19 of the Act.

In order to carry out the provisions of the Act, Lok Sabha Secretariat RTI (Regulation of Fee & Cost) Rules, 2005, as amended in 2007, have been framed and notified in the Official Gazette. Applications received from citizens are *prima facie* examined in the Cell, in accordance with the provisions of the Act and the rules made there under for admissibility to provide information. The application is then forwarded to the officers (not below the rank of Director) of the concerned divisions to furnish the information to be supplied to the applicant. The information, duly approved by the Joint Secretary/Director of the Division concerned, received in the Information Cell, is examined with a view to see that it covers information on all the points raised by the applicant in his application. This information is required to be provided to the applicant within a period of 30 days of the receipt of the request[26]. The applicant is requested to make a payment of 'information fee' of rupees two per page as prescribed *vide* notification on Fee and Cost Rules under RTI Act, 2005, issued by the Lok Sabha Secretariat on 27 December 2005, and Notification regarding amendment on Fee and Cost Rules issued on 12 June 2007.

If during *prima facie* examination of the application, it is found that the subject matter of the application does not concern this Secretariat or partly concerns another Ministry/Department, the application is forwarded offline or online, as the case may be, to the concerned Ministry/Department of the Government of India under section 6(3) of the RTI Act, 2005 under intimation to the applicant to get in touch with the Ministry/ Department for further information.

The Information Cell also deals with the 'Appeals', which are made by the applicants under section 19(1) of the RTI Act, 2005, to the Appellate Authority and referred by him to the CPIO. The first 'Appeal', if made by the applicant within 30 days of the decision of the CPIO as conveyed to him, is dealt with by the Appellate Authority of the Secretariat. As per section 19 (3) of the Act, a Second Appeal of the applicant is dealt with by the Central Information Commission, if preferred, within 90 days of the decision of the first Appellate Authority or the date of actual receipt by the applicant. In such cases also, comments of the division concerned of the Secretariat are forwarded to the Central Information Commission within the time specified by the CIC. Besides, officers of the Information Cell accompanied by the officers from division concerned appear before the CIC (Central Information Commission) on a date fixed for hearing.

Every year a large number of applications are dealt with by Information Cell, besides several appeals made to First Appellate Authority of Lok Sabha Secretariat and second appeals made to CIC.

Under section 4 of the RTI Act, 2005 and guidelines issued by the Department of Personnel & Training, Government of India (Implementation of *suo motu* disclosure under section 4 of RTI Act, 2005—Issue of guidelines, dated 15.04.2013), a large

26. Section 7 of RTI Act, 2005.

number of information on various topics, subjects and issues pertaining to Lok Sabha Secretariat are also being uploaded and updated constantly on the Lok Sabha website under relevant Heads/Branches/Divisions/Links which are in public domain. This is in addition to the information that is being disseminated under other provisions of the Act.

Budget of Lok Sabha

Financial Autonomy

The expenditure incurred in respect of salaries and allowances of, and amenities to, members and officers of the Parliament is met from the Consolidated Fund of India. As in the case of other Ministries of the Government of India, separate Demands for Grants in respect of the Rajya Sabha and the Lok Sabha are also laid before both the Houses of Parliament. Parliament sanctions the expenditure through the Appropriation Act every year.

In fact, the financial autonomy is one of the important aspects of the independence of the Legislature and its Secretariat. This autonomy has been attained through a constant correspondence with the executive from time to time and Convention and Directions from the Chair.

In April 1964, during the Budget Session when some members raised the issue of expenditure of the two Houses of Parliament, the Speaker, Sardar Hukam Singh made the following observations:

> "It is not possible to have the Demands of the two parliamentary departments of the Lok Sabha and the Rajya Sabha discussed by this House. That cannot be done because there is nobody to answer that... I have decided, though this year it cannot be possible, that before they are placed before me, I will constitute a Committee – most probably of the Chairman of the Public Accounts Committee, the Chairman of the Estimates Committee and one other hon. member, be the Deputy Speaker or someone else, that is, of three members – to go into the accounts, look into them, scrutinize them and then they will be placed before me. After I have certified them, there ought not to be any check"[27].

Accordingly, a Committee on Budget of Lok Sabha is appointed by the Speaker of Lok Sabha, consisting of the Deputy Speaker as Chairperson and Chairpersons of the Estimates Committee and the Public Accounts Committee as the members[28]. Thus, every year, the proposed Revised Estimates/Budget Estimates of Lok Sabha and its Secretariat, as approved by the Secretary-General are placed before the Committee on Budget of Lok Sabha for its scrutiny and consideration. The proposed Revised Estimates/Budget estimates, as approved by the Committee, along with the minutes of the sitting are finally placed before the Speaker, Lok Sabha for consideration and approval. Thereafter, the approved estimates are sent to the Ministry of Finance for inclusion in the Union Budget.

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27. *L.S. Deb.*, 4-4-1964, cc. 9184-85.

28. From 2019 onwards, since the position of Deputy Speaker is vacant, the Committee is headed by the Chairperson of Estimates Committee and Chairperson of Public Accounts Committee is the Member appointed by the Speaker, Lok Sabha *vide* Bulletin Part II No. 500 dated 9 August 2019.

The Rajya Sabha and the Lok Sabha Secretariats are primarily responsible for the preparation of the Revised Estimates/Budget Estimates of the respective Houses and their Secretariats. These are incorporated in the Union Budget as separate Demands for Grants, *viz.* 'Rajya Sabha' and 'Lok Sabha'.

Prior to 1929-30, the provision in respect of the Legislature, *i.e.,* Council of State and Legislative Assembly, was made under one Demand, namely 'Legislative Bodies'. In 1930-31, the budget estimates in respect of the Council of State and the Legislative Assembly were separated and were made under two different Demands, namely 'Council of State' and 'Legislative Assembly and Legislative Department'. This position continued upto the Budget for 1947-48.

After Independence when a fresh Budget was presented and the Constituent Assembly of India began to function in a dual capacity both as a Constitution-making and a legislative body, a separate provision was made therein in respect of the Constituent Assembly of India (Legislative) and its Department. Similar provision was made for the years 1948-49 and 1949-50.

In 1950, after the Constitution came into force, the Provisional Parliament was formed and provision in respect thereof was made under separate Demand 'Parliament', for the years 1950-51 and 1951-52. General elections were held in 1952 and the First Parliament was summoned in May 1952. From 1952-53 to 1955-56, the provision in respect of the Council of States (now Rajya Sabha) and the House of the People (now Lok Sabha) was made under one Demand namely, 'Parliament'. From 1956-57 onwards the provision in respect of the Rajya Sabha and the Lok Sabha was separated and was incorporated in Demands for Grants under two separate Demands, *viz.,* 'Rajya Sabha' and 'Lok Sabha'.

The Budget Estimates of Lok Sabha and its Secretariat are not subject to examination by any Departmental Committee of the Ministry of Finance or any other Committee of Parliament. The expenditure incurred on various units of appropriations under Lok Sabha and Lok Sabha Secretariat is met from the Consolidated Fund of India. As in the case of other Ministries of Government of India, separate Demands for Grants in respect of Lok Sabha and Rajya Sabha are also placed before both the Houses of Parliament. Parliament sanctions the expenditure through the Appropriation Act. No cut motions, or discussion relating to the budget of both the Houses of Parliament and its Secretariats are allowed on the floor of the House.

In case the Ministry of Finance has any suggestion to make, it is submitted to the Speaker for consideration and, broadly speaking, a final decision acceptable to both is arrived at after discussion[29]. In the unlikely event of any difference of opinion[30] between the Speaker and the Ministry of Finance, the decision of the Speaker would normally prevail as it is for him to decide what is necessary for the Lok Sabha and its

29. Office Order Part I, Nos. 1142 & 1143, 26-10-2006.

30. So far, there has been no unresolved difference in any matter between the Speaker and the Minister of Finance.

Secretariat in the efficient discharge of its responsibilities.

The Budget Estimates of the Lok Sabha are prepared under Major Head "2011" Parliament and divided into four minor heads: 101-Lok Sabha; 102-Lok Sabha Secretariat; 103-Pay and Accounts Office and 01.798-International Co-operation. The estimates are compiled by the Integrated Finance Unit (IFU) of the Secretariat, keeping in view[31], the general principles and guidelines on Budget formulation and implementation.

Most of the expenditure included in the estimates is governed by various Acts and rules and orders made thereunder[32]. The Budget estimates in respect of various maintenance and construction related works being carried out in Parliament House Complex are compiled by Directorate General of Central Public Works Department (CPWD) and forwarded to the Ministry of Housing and Urban Affairs[33] for incorporation in their demands. The provision in respect of members' residence, *i.e.,* their upkeep and maintenance, etc. is made directly by the Ministry of Housing and Urban Affairs.

The decision taken by the Ministry of Finance and the Ministry of Housing and Urban Affairs to transfer the capital budget provisions from the Budget Grant of Ministry of Housing and Urban Affairs to the Budget Grant of Lok Sabha was rejected by the Committee on Budget of Lok Sabha at its sitting held on 20 November 2013, attended by the Finance Secretary and the Secretary (Urban Development). The Ministry of Housing and Urban Affairs was directed to keep the capital budget provisions of the Lok Sabha in the Detailed Demand for Grant of Ministry of Housing and Urban Affairs as per the existing procedure and not to divert the budget provisions for various capital works in the Lok Sabha without prior permission of the Committee on Budget of Lok Sabha and the Speaker. The Speaker approved the views of Committee on Budget of Lok Sabha. The Ministry of Finance and the Ministry of Housing and Urban Affairs accepted the recommendations of the Committee on Budget of the Lok Sabha.

As per revised/new object heads notified by Ministry of Finance[34], from financial year 2023-24 onwards, a capital head has been made operational for Lok Sabha under Major Head 4075 to book capital expenditure on procurement of motor vehicles, machinery and equipment (cost of which exceeds one lakh rupees or three years of useful life, either of the two) and ICT (cost of individual item exceeding the threshold

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31. *See* Chapter 3 of the Compilation of the General Financial Rules (Twenty-Second Edition), 2017 issued by the Department of Expenditure, read with Instructions issued by the Ministry of Finance in this regard every year.

32. These are: the Salaries and Allowances of Officers of Parliament Act, 1953; the Salary, Allowances and Pension of Members of Parliament Act, 1954, as amended; the Members of Parliament (Allowances for Journeys Abroad) Rules, 1960; Officers of Parliament (Travelling and Daily Allowances) Rules, 1956; Lok Sabha Secretariat (Recruitment and Conditions of Service) Rules, 1955; Recruitment and Conditions of Service Orders on various subjects like pay and allowances, leave, pension, etc. and Financial Orders.

33. Government of India, Cabinet Secretariat *vide* gazette notification, No.SO2163 (E) dated 06.07.2017, merged Ministries of Urban Development and Housing & Urban Poverty Alleviation into one Ministry *i.e.* Ministry of Housing and Urban Affairs.

34. Ministry of Finance (Department of Expenditure) O.M. dated 15.12.2022.

limit of one lakh rupees or 3 years of useful life, either of the two).

The financial provision in respect of salaries, allowances and medical treatment charges of the Speaker and the Deputy Speaker is made in the budget of the Lok Sabha under the Minor Head 101–Lok Sabha as a charged item[35]. Provision is made under separate sub-heads in the same Minor Head as voted item for the discretionary grants by the Presiding Officers; salaries, allowances, medical reimbursement, etc. to members; payment to Railways on account of free railway passes issued to members; and payment to Mahanagar Telephone Nigam Ltd. (MTNL) for telephone facilities.

The earlier practice of reimbursement of expenditure incurred during Study Visits of Parliamentary Committees by host organisations/Nodal Ministries has been discontinued w.e.f. 21.08.2020.[36] However, a provision is kept under the Minor Head '101–Lok Sabha' for reimbursement of expenditure in the event of any organization not being in a position to bear the expenditure. Provision is also made under this Minor Head (101-Lok Sabha) for the reimbursement of expenditure incurred during Study Visits of Parliamentary Committees by host organizations/Nodal Ministries, as also for meeting expenditure on Indian Parliamentary Delegations going abroad and Foreign Parliamentary Delegations visiting India under separate sub-heads namely, 'Indian Parliamentary Delegations going abroad', and 'Foreign Parliamentary Delegation visiting India'. The provision in respect of Parliament Library, printing of debates, office expenses of members, hospitality expenses to entertain the delegates from States attending various Parliamentary Conferences and meetings and foreign dignitaries, etc., visiting India in their individual capacity is also made under the Minor Head 101–Lok Sabha.

The expenditure incurred on account of Digital Sansad project is borne by Lok Sabha Secretariat and Rajya Sabha Secretariat in 2:1 ratio.

The provision for pay and allowances of the officers and staff of the Secretariat is made under the Minor Head '102-Lok Sabha Secretariat' under separate sub-heads such as 'Pay of Establishment' and Allowances, Medical Treatment, Travel expenses, Office expenses, Subsidies, etc.

The provision for compassionate fund[37] to give financial assistance to the family of an employee of the Secretariat who dies while in service or to an employee or a dependent member of his family who is treated under extreme emergent circumstances is also made under Minor Head '102–Lok Sabha Secretariat'. Provision is also kept in the Budget of Lok Sabha under the Minor Head '102–Lok Sabha Secretariat' for matching grant to Staff Benefit Fund, Grant-in-aid to Lok Sabha Employees Association and for establishment expenses of Institute of Constitutional and Parliamentary Studies (ICPS).

There is a separate Accounts Office, namely, 'Pay and Accounts Office' attached to the Secretariat whose function is to conduct internal audit, to authorise payments and maintain appropriation accounts and provident fund accounts of the Secretariat.

35. Arts. 97 and 112(3)(b).

36. Committee Coordination Branch Instructional order No. 1364 dated 21.8.2020.

37. Lok Sabha Secretariat (Compassionate Fund Regulation) Rules, 2001, as amended upto 20 December 2005.

The provision for pay and allowances of the officers and staff of the Pay and Accounts Office is made under the Demand of Lok Sabha as a distinct Minor Head '103–Pay and Accounts Office, Lok Sabha'.

Prior to December, 1952, the travelling allowance and daily allowance bills of members were pre-audited by an audit party of the Office of the Accountant General, Central Revenues, which used to be stationed in the Parliament House during sessions. This system was discontinued on the abolition of the pre-audit system of payment. In order to exercise internal checks over the payments of these bills, a Pay Office was established in the Secretariat in February 1953. Later on, the payment of bills relating to pay and allowances of officers and staff as well as contingent bills of the Secretariat were included in the functions of this office.

With the introduction of the separation of accounts from audit, the 'Pay and Accounts Office, Lok Sabha' was set up in October 1955. This office conducts an internal audit and is responsible for making all payments relating to the Lok Sabha Secretariat[38]. It functions much in the same way as the Office of the Accountant General, Central Revenues, in accordance with the relevant rules laid down for the purpose.

The provision for payment of annual contributions to the Inter-Parliamentary Union, Geneva and the Commonwealth Parliamentary Association, London, is made under the Minor Head '01.798-International Cooperation'.

Monitoring of Lok Sabha and Lok Sabha Secretariat Budget

Expenditure control and Monitoring

Once the Demand for Grants of Lok Sabha and its Secretariat are passed by both the Houses and placed at the disposal of the Secretariat, the expenditure incurred under each unit of appropriation is independently monitored by the Secretariat. The Executive is not supposed to interfere in the financial management of the Secretariat, nor is their concurrence sought on any expenditure within the allotted grants.

The re-appropriations out of the savings are made directly by the Lok Sabha Secretariat by scrupulously adhering to principles governing permissible re-appropriations. However, no formal concurrence of the Ministry of Finance is required to be sought, as per well established convention. As recommended by the Public Accounts Committee, any order for re-appropriation, issued during a financial year, which has the effect of increasing the budget provision under any line item ending at an object head by more than 20 per cent of Budget Estimates or Rs. 100 crore, whichever is more, is reported to the Ministry of Finance for being placed before the Parliament, along with the last batch of the Supplementary Demands of the financial year. Similarly, savings, if any, exist under the Grants of Lok Sabha, are in the usual course, surrendered to the Ministry of Finance in the month of March every year with the approval of the Secretary-General, Lok Sabha.

The financial rules and orders issued by the Government to the Ministries and Departments of the Government of India do not automatically apply to the Lok Sabha and its Secretariat. It is for the Speaker to make the financial adjustments as per the

38. Instructional Order (I.O.) No. 702, 18-11-1955.

requirements of the House and its Secretariat.

Mode of drawal of Funds

Funds are drawn out of the allotted appropriation units by presenting Bills, duly signed by the Drawing and Disbursing Officer, to the Pay and Accounts Officer, Lok Sabha, who draws cheques on the accredited Bank (presently), the State Bank of India or through Public Financial Management System (PFMS). The Ministry of Finance appoints the Banker with the concurrence of the Reserve Bank of India.

Authentication of Orders

Various orders or financial sanctions are issued in the name of the Speaker, Lok Sabha. The financial powers of the Speaker, Lok Sabha have been delegated to the Secretary-General and Officers below him[39].

Accountability and Audit

Since the funds for expenditure are drawn by the Lok Sabha Secretariat out of the Consolidated Fund of India, the accounts are also subject to audit as per the provisions of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. For the convenience of both the Secretariats, the Comptroller and Auditor General of India, as a special case, has stationed permanently an audit party in Parliament House Annexe for concurrent audit of accounts of both the Secretariats. Apart from this, a special audit party from the Office of the Comptroller and Auditor General also conducts audit of accounts of the Secretariat once in a year or once in two years. As per Audit conventions, draft audit inspection reports, containing objections and draft paras in respect of the Lok Sabha and its Secretariat, if any, are sent to the Lok Sabha Secretariat for obtaining its views before inclusion of the comments in final report by the Comptroller and Auditor General.

Integrated Finance Unit [IFU] and Financial Adviser [FA]

Integrated Finance Unit (IFU) headed by Financial Adviser (FA) was created on 26 October, 2006[40] to provide assistance to Secretary-General, Lok Sabha in financial matters. The role, functions and duties of FA/IFU in LSS was redefined in 2021[41] for further strengthening of the observance of financial rules/regulations in LSS and to ensure 'value for money' in procurement of goods and services. Accordingly, IFU provides secretarial assistance to FA in the following manner:–

(i) preparation of Budget Estimates of Lok Sabha and its Secretariat;

(ii) in assisting the Secretary-General, Lok Sabha in planning, programming, budgeting and monitoring of expenditure of the Secretariat;

(iii) in assisting in the formulation of schemes, projects of branches;

(iv) in assisting in budget formulation, scrutiny of projects and post-budget vigilance;

(v) assisting in the monitoring of progress of schemes;

39. Office Order, Part I, No. 825, 20-5-1988.

40. Office Order, Part-I, Nos. 1142 and 1143, 26-10-2006.

41. Office Order (Part-I) No.1143 dated 26.10.2006 stands superseded *vide* Office Order (Part-I) No. 2314 dated 19.7.2021.

(vi) rendering advice on financial matters; and

(vii) rendering advice on proposals with financial implication that require approval of Secretary-General, by the Lok Sabha Parliamentary Pay Committee;

(viii) in issuing guidelines for controlling officers of branches etc.; and

(ix) monitoring through Parliament Accounts and Administration Management System (PAAMS), an interface with Public Financial Management System (PFMS) and Online Bill Tracking System (BTS).

Bills and Payment Branch

The Bills and Payments Branch, Lok Sabha was one of the first Branches to be constituted and it dates back to the beginning of the Lok Sabha Secretariat, then known as the Parliament Secretariat. It was initially Accounts and Finance Branch.

In 1954 the House of People was named as the 'Lok Sabha' and this Secretariat came to be known as the Lok Sabha Secretariat[42]. That year Secretariat was reorganized and the then Accounts and Finance Branch was trifurcated into three major Branches namely Accounts & Finance Branch[43], Pay & Accounts Branch[44] currently known as Pay & Accounts Office (P&AO) and Members Salaries & Allowances Branch (MSA)[45] *w.e.f.* 16.08.1954.

Further in 1959, the work of preparation of budget estimates of the Lok Sabha was transferred from MSA Branch to this Branch. Accounts & Finance Branch was renamed as Budget and Payment Branch[46]. Later on in 2006, works related to Budget of the Secretariat and Financial advisory matters were transferred to a newly created 'Integrated Financial Unit' and this Branch was once again renamed as the Bills & Payment Branch (B&P)[47].

Initially the works of the Branch were dispensed manually. Uptill 1987, disbursed through cheques to the gazetted employees and in cash to the non-gazetted employees of the Secretariat. In 1987, NIC introduced computers and the salaries of the employees were prepared using computer software and transferred to the respective bank account of employees. In April, 2010 the e-wisdom software of Tata Consultancy Services was engaged for the preparation of salaries and other dues and payments were directly credited to the bank accounts of the employees. In April, 2019 B&P Branch adopted the Public Finance Management System (PFMS) of the Controller General of Accounts (CGA), Ministry of Finance for processing of Bills related to salaries and other payments to the employees of the Secretariat.

Current Role and Responsibilities

Presently, the Branch *inter-alia* deals with processing bills relating to the Salary,

42. Office Order-I, No. 135 (Lok Sabha Secretariat May 14, 1954).
43. Office Order-I, No. 151 (Lok Sabha Secretariat August 16, 1954).
44. Office Order-I, No. 152 (Lok Sabha Secretariat September 13, 1954).
45. Office Order-I, No. 154 (Lok Sabha Secretariat September 20, 1954).
46. Office Order-I, No. 446 (Lok Sabha Secretariat March 05, 1959).
47. Office Order-I, No. 1142 (Lok Sabha Secretariat October 26, 2006).

Allowances, Bonus, Honorarium, Children Education Allowance, LTC, Income Tax, Medical reimbursement, Leave Encashment, TA/DA, etc. for all employees of this Secretariat. The Branch also deals with processing of various types of bills. During Audit of the Secretariat by Director General of Audit, Central Expenditure (DGACE) the Branch co-ordinates with all the Branches.

Initiatives

The branch has taken numerous initiatives such as Maintaining Pay Bill Register digitally from 2022-23 to save time, energy and expenses; online processing of all pension case on BHAVISHYA portal since November, 2020; online processing of TA/DA bill since September 2020; online submission and processing of bills related to various advances and settlements such as GPF, HBA and Computer Advance Bills; Bill Tracking System (BTS) since 15.10.2018 for submission and monitoring of the status of all Bills submitted by the employees of the Secretariat.

Pay and Accounts Office

Historical Background

Prior to 11th December 1952, an Audit Party of the Accountant General, Central Revenues (AGCR) Office used to pre-audit and pass the Travelling Allowance (TA) and Daily Allowance (DA) claims of Members of Parliament on the spot during the session of Parliament. The bills were then paid through cheques by Lok Sabha Secretariat. However, during inter-session periods, these bills were sent to AGCR office through a special messenger for pre-audit and payment at the Imperial Bank. All other bills relating to Lok Sabha Secretariat were also sent to the AGCR Office for pre-audit and payment.

With effect from 11th December 1952, the Comptroller & Auditor General (C&AG) of India abolished the process of pre-auditing of all Bills and the payment work was transferred to the New Delhi Treasury. The TA/DA Bills of Members of Parliament were also then sent in the New Delhi Treasury for necessary checks and payment. However, this arrangement entailed considerable delay in payment which was brought to the notice of AGCR. As a consequence, Pay Office was formed in Lok Sabha Secretariat with effect from 4th February 1953 with the concurrence of the AGCR and the C&AG. It was decided that the activities of the Pay Office would be confined to the bills of MPs only. With effect from 1st February 1954, the work relating to payment of Pay and Allowances and Contingent Bills of Lok Sabha Secretariat was also taken over by the Pay Office from the AGCR.

Formation of Pay & Accounts Office (P&AO)

The Pay and Accounts Office, Lok Sabha was set up with effect from 1st October, 1955[48] under the scheme of separation of Accounts from Audit *vide* Office Order Part-I No. 231 dated 18th November, 1955. As per the new set-up, the Secretary, Lok Sabha

48. 1.0 No.702 dated 18th November 1955.

is the Chief Accounting Authority and this responsibility is discharged by him through and with the assistance of P&AO. Further, the P&AO functions as a self-contained compartment and does not form a part of the Secretariat. The P&AO functions as a "Head of Office (HoO)" and also the "Drawing & Controlling Officer" in respect of the establishment of Office of P&AO[49].

Functions of P&AO

There are three Branches under the P&AO, Lok Sabha[50] *viz.*, (i) PA(Members and Gazetted) Branch *i.e.* PA(MG) Branch, (ii) PA(Non-gazetted, Pension and Funds) Branch *i.e.* PA(NGP&F) Branch, and (iii) PA(e-Cheques and Accounts) Branch *i.e.* PA(e-CA) Branch.

The post of Cashier in the Office of P&AO was created with effect from 01st October, 1955[51] to ensure timely payment to Members of Parliament and employees of Lok Sabha Secretariat.

Pensions

The first employee retired from service of the Lok Sabha Secretariat on 01st June 1970. The pensions of Ex-Members of Parliament were also undertaken with effect from 09th September 1970[52].

Computer Management Branch (Software Unit)

Parliamentary institutions across the world have been striving to go electronic so as to make their functioning more efficient and responsive. Like other Parliaments in the world, the Indian Parliament has also augmented the use of ICT to bring about greater efficiency and transparency in its functioning. A modest beginning was made in the year 1985 by setting up of Parliament Library Information System (PARLIS).

Initially, it was an index-based database of select Parliamentary Questions, Parliamentary Debates, Legislative Bills, Bio-profiles of MPs, etc. to meet instant reference requirements of members of the two Houses of Parliament. Later, all the databases were converted into full text databases in Web-enabled format wherein full text of the verbatim reports of Parliamentary Debates, Answers given by Ministries in response to Parliamentary Questions, Reports submitted by Parliamentary Committees, Speeches made by the Speaker of Lok Sabha on various occasions, etc. were made available on the Parliament of India Homepage at the web address, *https://sansad.in*. The Parliament of India Homepage was inaugurated by Dr. Shanker Dayal Sharma, the then President of India on 15th March 1996. Since then, the Homepage has become an important source of information and reference tool on matters relating to the Constitution of India, history of Indian Parliament, its practices and procedures, profiles and socio-economic background of members and the proceedings of Constituent Assembly, Rajya Sabha and Lok Sabha.

49. HS approval Note dated 27th September 1955.

50. Office Order, Part-I No. 2264 dated 04th November 2020.

51. R&CS Order No. 6 dated 22nd November, 1955.

52. Inserted by Act 105 of 1976 effective from 09th September 1976.

Computer Management Branch (Software Unit) of Lok Sabha Secretariat, has taken several steps and adopted various technologies with a goal of paperless office and bring efficiency, transparency and accessibility in the functioning of Lok Sabha. For details on Digital Sansad Project, Sansad TV, Lok Sabha Intranet and E-office system, E-mail services, Library OPAC, Parliamentary Documentation, Press Clipping Section, Computer facilities to Members of Parliament, Procurement and Maintainance of Computers, Training, please *see* Chapter 13 "Salaries, Allowances, other Entitlements, Amenities and Facilities".

CHAPTER 41

The Parliament Estate

The Parliament House Estate comprises the Parliament House of India (Plot No. 118)[1], *Samvidhan Sadan* (Plot No. 116 - previously known as Parliament House)[2], *Sansadiya Soudha (*Parliament House Annexe, Extension to Parliament House Annexe and *Sansadiya Gyanpeeth* (Parliament Library Building) and the extensive lawns with water bodies and fountains. The entire Parliament House Estate is enclosed by an ornamental red sandstone wall with iron gates.

Parliament House

A new state-of-the-art Parliament House building was constructed on Plot No. 118 adjacent to the *Samvidhan Sadan* (erstwhile Parliament House). Prime Minister, Shri Narendra Modi laid the foundation stone of the Parliament House on 10 December 2020 in the presence of Speaker Lok sabha Sh. Om Birla and Dy. Chairman, Rajya Sabha. The new triangular shaped building of Parliament creates a unique geometric harmony with the round form of the *Samvidhan Sadan*. The area enclosed by the building is nearly 9.5 acres and plinth area of 65,021 sq m. The building is made up of Reinforced Cement Concrete structure designed for seismic Zone-V. The grand triangular structure was constructed by a dedicated work force of 32,164 workers drawn from all regions of the country. About 24,600 MT of steel and 57,200 MT of cement, various materials such as the sandstone, teakwood carpets, furniture, artifacts, bamboo boards, building materials etc. have been sourced from all parts of the country. Skilled construction workers, masons, stone sculptors, carpenters, weavers, metal workers, artisans, plumbers electricians, tile layers etc. have been drawn from different States and regions.

Prime Minister, Shri Narendra Modi unveiled the National Emblem on the roof of the New Parliament Building above the central foyer in the presence of Speaker Lok Sabha, Deputy Chairman Rajya Sabha, Minister of Parliamentary Affairs and Minister of Housing and Urban Affairs, on 11 July 2022.

Inauguration of the Building

The new Parliament House where ground breaking ceremony was done by the Prime Minister on 10 December 2020 was dedicated to the nation by him on 28 May 2023 in the presence of Speaker Lok Sabha. The historic *Sengol*[3] with Nandi at the top, a symbol of the transfer of power at the time of India's independence was installed by Prime Minister of India on 28 May 2023 in the Lok Sabha Chamber in New Parliament Building on the right side of the Speaker's Chair in a solemn ceremony.

1. Gazette Notification No. 219 dtd. 18.09.2023.
2. Gazette Notification No. 221 dtd. 19.09.2023.
3. In the great Chola empire, Sengol was seen as a symbol of the path of service duty and nation. Under the guidance of Rajaji and Adheenam, this Sengol became the sacred symbol of the transfer of power.

Speaker, Lok Sabha, Shri Om Birla was present at the installation ceremony of the Sengol. The orientation of the Nandi atop the Sengol is such that it faces due North.

Later in the day, an inaugural function was organized in the Lok Sabha Chamber of the new Parliament Building. The event was presided by the Prime Minister with Speaker, Lok Sabha, Shri Om Birla and Deputy Chairman, Rajya Sabha, Shri Harivansh Narayan Singh also present on the dais. Secretary General Lok Sabha conducted the ceremony. Prime Minister released a commemorative coin, first day cover and stamp to mark the historic occasion. The event was attended by ex. President, Ministers, Chief Ministers, Members of Parliament, diplomats, dignitaries from diverse fields, senior officials and constitutional functionaries.

First Session in the Parliament House

The Thirteenth Session of the Seventeenth Lok Sabha will go down as a 'historic session' in which the House met for the last time in the Lok Sabha Chamber of the old building of Parliament on 18 September 2023, now rechristened as the **'***Samvidhan Sadan***'**. The House began transacting its business from the afternoon of 19 September 2023[4] in the new Parliament Building which has been designated as the Parliament House of India.

On the opening day of the Session, on 18 September 2023, Hon'ble Speaker, Lok Sabha, Shri Om Birla, congratulated the nation on the successful conduct of the G-20 Summit in New Delhi.

On the same day, the Hon'ble Speaker made his observations on India's parliamentary journey of 75 years. Thereafter, Prime Minister, Shri Narendra Modi initiated a discussion on "Parliamentary Journey of 75 years starting from Samvidhan Sabha- Achievements, Experiences, Memories and Learnings" and the discussion lasted for 6 hours and 43 minutes. Altogether 36 Members participated in the discussion.

During the Session, a Government Bill, namely, '*The Constitution (One Hundred and Twenty-Eight Amendment) Bill*', 2023 which sought to provide for, as nearly as may be, one-third of total seats in the House of the People, the legislative assembly of every State and the Legislative Assembly of the National Capital Territory of Delhi to be reserved for women, was introduced on 19 September 2023 and the same was passed the next day. This was the first piece of legislation to be passed in the new building of Parliament.

Seating Capacity in Lok Sabha Chamber and Rajya Sabha Chamber

Lok Sabha Chamber has a seating capacity of 988 Members . This can be further enhanced to 1132 Members in future. As of now, 552 seats have been marked for members in the Lok Sabha Chamber. The Lok Sabha Chamber will serve as the venue for sittings of both Houses assembled together. Rajya Sabha Chamber has a seating capacity of 396 Members.

Besides, Lok Sabha and Rajya Sabha Chambers, the building provides accommodation for the offices of Chairman and Deputy Chairman, Rajya Sabha;

4. Bulletin, Part II, No. 4710, dtd. 18 September 2023.

Speaker and Deputy Speaker, Lok Sabha; Prime Minister; Ministers; Leaders of Opposition; Parliamentary Parties/Groups recognised by the Speaker for the purpose; Branches of Lok Sabha and Rajya Sabha Secretariats connected with the work of the respective Houses; and offices of the Ministry of Parliamentary Affairs.

Library/Reading Room

A spacious Reading Room named "Nalanda" in the Parliament House caters to the requirement of Members by providing a large number of journals and newspapers in Hindi, English and regional languages. Facility for internet browsing is also available here.

Committee Rooms

There are seven Committee Rooms in the Parliament House for holding the meetings of the Parliamentary Committees. Out of seven, five Committee Rooms having seating capacity of 74 each are named Samanvay 01, Samanvay 02, Samanvay 03, Samanvay 04 and Samanvay 05. Remaining two Committee Rooms *viz*., Sangoshthi 01 and Sangoshthi 02 have seating capacity of 35 and 105 respectively.

National Emblem

A 6.5 metre high and 4.3 metre width National Emblem cast made of bronze weighing 9,500 kg. with supporting structure weighing 6500 kg. was installed on the roof of the Parliament House.

Special Provisions in the Parliament House

The Parliament House has been equipped with a fully digital wired IP-based system with integrated Multimedia Display for each Member; voting system with additional security button; simultaneous interpretation system; Camera feed with member information & speak time etc. in the two chambers; Separate command centres for fire control and CCTV control; 100% DG (Diesel Generator) backup with 4 nos. of 1500 KVA ; combination of MERV (Minimum Efficiency Reporting Value) 8 & MERV 13 filters for all AHU (Air Handling Unit)/CSUs; Building Management System for centralized monitoring and management of facilities within the building; CCTV surveillance with PoE (Power over Ethernet) ; LAN networking with 10G backbone with Wi-fi modem on all floors; modern security gadgets; and High performance lighting system with control for internal and external lighting.

Energy Efficiency Features

Energy efficiency features such as VFD (Variable Frequency Drive) based cooling tower; Energy efficient LED based lighting & with automatic timer based controls for efficient operation and energy optimization; Energy efficient (VFD Based) pumping systems for irrigation & water supply; EPCB (Environment Protection and Biodiversity Conservation Act) compliant low loss transformer for better performance and energy saving; and Occupancy sensors are being provided in the Parliament House.

Water Efficiency Features

Water efficiency features include STP (Sewage Treatment Plant) with capacity of 100 + 100 KLD (Kilo Litre per Day) and waste management and treatment facility of

capacity 1000 kg/day; Use of native vegetation to minimise irrigation needs; Provision for automatic weather station-based and time of use integrated irrigation system to reduce water demand; Metering provision to monitor water demand; Integration of efficient irrigation system like sub drip, surface irrigation, deep root irrigation & pop-up sprinklers; and Rainwater recharge to augment ground water table have been provided in the Parliament House.

Indoor Environment Quality Features

The indoor environment quality features like recirculation AHU with 2 stage filtration (MERV-8, MERV-13) along with UV lamp and duct mounted UVGI (Ultra Violet Germicidal Irradiation) to ensure clean and sterile air inside air conditioned spaces; Ultrasonic humidifier; and Air quality monitoring devices to ensure good air quality within the premises are also being provided.

Gates of the Parliament House

There are six entrances/gates (three Ceremonial and three Public entrances) to the Parliament House with six guardian statues of auspicious animals from the Indian Indian iconography tradition *viz*. (i) Gaja Dwar; (ii) Makara Dwar; (iii) Ashva Dwar; (iv) Shardula Dwar; (v) Garuda Dwar; and (vi) Hansa Dwar. The brief description of gates/dwars is as under:–

(i) Gaja Dwar: The statue of Gaja at the North Ceremonial entrance draws inspiration from the similar statues placed at the entrance of the 9th Century CE Chalukyan Madhukeshvara Temple at Banabasi, Karnataka. Gaja represents power, wisdom and wealth.

(ii) Makara Dwar: The statue of Makara at the Western Public entrance is inspired by the Hoysaleshvara Temple at Halebidu, Karnataka, dated 12th Century CE. Makara symbolises unity in diversity and peaceful coexistence among the people of different faiths in India.

(iii) Ashva Dwar: The statue of Ashva at the Southern Ceremonial entrance draws inspiration from the Sun Temple Complex at Konark built by Narasimhadeva I of the Eastern Ganga dynasty around 1250 CE. The Konark horse has a place in the Indian Constitution as an illustration executed by Acharya Nandalal Bose. Ashva represents endurance, power and dynamism.

(iv) Shardula Dwar: The statue of Shardula, at the South-Eastern Public entrance, is inspired by the stone statue preserved in Gujri Mahal Museum, Gwalior, Madhya Pradesh. The statue belongs to the 11th Century CE Shiva Temple at Sihonia in Morena district of Madhya Pradesh. Shardula is a hybrid form of a lion and a tiger and it represents the perfect balance of strength and grace.

(v) Garuda Dwar: The statue of Garuda at the Eastern Ceremonial entrance is inspired by the 18th Century CE Nayaka period sculpture from Kumbhakonam, Tamil Nadu, which is currently located at Linden Museum, Stuttgart, Germany. Garuda represents aspiration, prosperity and progress.

(vi) Hansa Dwar: The statue of Hansa at the North-Eastern Public entrance is inspired by the Vijay Vitthala Temple, Hampi, Karnataka, dated 15th Century CE.

Hansa represents the power of discernment, self-realisation and wisdom.

Ceremonial Foyers

1. *Sankalp Mandap*

(i) Mahatma Gandhi: Salt-Satyagraha is an iconic event in the freedom struggle of India. Mahatma Gandhi led the Dandi-Yatra on 12th March 1930 and broke the colonial salt law on 6th April 1930. Dandi-March is a significant example of the 'Power of Mental Resolve'.

(ii) Chanakya: Acharya Chanakya (Kautilya) was a scholar and an adviser to Chandragupta Maurya. His ***Arthashastra*** is a major treatise on Polity and governance and mentions a comprehensive system comprising various heads of the departments to facilitate a multi-layered system of governance. Chanakya represents the Power of Mental Resolve.

2. *Kartavya Mandap*

(i) Konark Wheel: The wheel of Konark represents the Indian notion of cyclic time. It inspires one to follow the path of righteousness, which ultimately leads to success. Inspired from the wheel from the thirteenth-century Konark Sun temple, Odisha.

(ii) Sardar Patel & Babasaheb Ambedkar: Sardar Vallabhbhai Jhaverbhai Patel and Dr. Bhimrao Ramji Ambedkar have significantly contributed in shaping India, post-independence. Sardar Patel played a major role in the amalgamation of princely states and Dr. Ambedkar chaired the Committee which drafted the Constitution of India.

3. *Gyan Mandap*

(i) Gargi: Gargi Vachaknavi was a Brahmavadini and an erudite Philosopher. Her debate with sage Yajnavalkya is a glowing example of Indian tradition of debate. She exemplifies universal access to knowledge in India and also the significance of seeking resolution through discussion.

(ii) Nalanda: During fifth to eleventh centuries, Nalanda was a prominent seat of learning in India. This residential international University was home to thousands of students. It finds mention in accounts of many foreign travellers. Nalanda symbolises the rich knowledge tradition of India.

Three Deerghas

The public entrances lead to three galleries — the Sangeet Gallery which exhibits dance, song, and musical traditions of India; the Sthapthya Gallery, the architectural heritage and the Shilp Gallery showcases distinct handicraft traditions of different States.

Constitution Hall and Constitution Gallery

At the heart of the Parliament House is the Constitution Hall and Constitution Gallery. The Constitution Hall is a magnificent, soaring space which seeks to capture the profound significance of the adoption of our Constitution. At the top of the space,

is a large skylight, which is framed by a decorative ceiling depicting the night-sky on the mid-night of 26th January 1950.

From the center of the skylight, a Foucault's Pendulum is suspended. The pendulum signifies the connection of the cosmos with the earth, its motion, - the rotation of the earth, the passing of time and our strident progress as a nation. At the base of the pendulum is a decorative flooring pattern which depicts the precise location of Delhi on the globe and its relationship with the cosmos on the day our Constitution was adopted. The pattern also incorporates the four cardinal directions.

The constitution hall is adorned with two large murals that reflect the diversity of the people of India, (i) *Manthan* (The Churning), the artwork displayed in the New Parliament Building is inspired from the Angkor Wat temple of Cambodia and reminds us of the churning of various ideas (*Vichara-Manthana*); (ii) *Jan-Janani-Janmabhoomi* which celebrates the cultural diversity, various traditions, the classical, tribal and folk arts, festivals, and lifestyles of India. Seventy-five grass-root level women artists have contributed in creating this artwork.

Around the wall of this great hall, are inscribed in stone, the prayers from different faiths and religions that were recited at bhumi pooja ceremony of the Parliament House.

Flowing out from the Great Constitution Hall, is the Constitution Gallery which endeavours to narrate the journey of our democratic polity from its genesis in ancient times to the adoption of the Constitution. The Preamble to the Constitution has been inscribed in stone on the walls in 22 official languages of India.

The entrance to the constitution gallery greets the visitors with a shloka namely Vasudhaiva Kutumbakam inscribed on stone. The shloka reads like:

अयं निजः परो वेति गणना लघुचेतसाम्।
उदारचरितानां तु वसुधैव कुटुम्बकम्॥

- हितोपदेश – 1.70

Translation: This is mine that is his, say the petty-minded. For the noble-hearted ones, the entire world is a family.

This space showcases the journey of Indian democracy through the sixteen niches. Indian democracy comprises the values of harmony, freedom, acceptability, equality, and inclusivity in society enabling a dignified life for all citizens. The *Rigveda* and the *Atharvaveda* refer to participatory institutions like the *Sabha, Samiti,* and *Sansad*. Texts like the Ramayana and the Mahabharata also talk about involving people in decision-making. So do the *Ashtadhyayi, Arthashastra, Vinaya-Pitaka, Acharangasutra,* and other sources. Inscriptions at Uthiramerur, Ukkal and other sites make specific mention of rules to be followed in order to involve people in governance. As the largest democracy in the world, the people of Bharat institute the central, state, and local governments by means of free and fair elections.

Acharya Nandlal Bose was entrusted with the task of decorating the original

calligraphed manuscript of the Constitution of India. Out of these paintings, sixteen have been represented in the form of frescos in the Constitution Gallery of the Parliament Building.

The replica of the original copy of the Constitution of India, which came into force on January 26, 1950, is placed in Constitution Cabinet at the center of the Constitution Gallery. The Constitution of India can be read in Hindi and English languages, on digital tablets, on either side of the cabinet.

Framed Artworks

Besides in keeping with the grandeur of the new building of the Parliament other artworks have also been showcased. Thematically the artworks are a celebration of cultural diversity, various traditions, festivals and lifestyles in India. The major art forms from different states have been used in the Parliament House.The specially curated framed artworks were broadly based on the themes of ***Panchamahabhutas*** and traditional weaves of India. Along with them, several paintings in the classical, folk and tribal styles were also installed in various alleys, visitor's galleries, etc.

Twelve Repatriated Statues

1. **Mithuna:** The stone statue of the couple Mithuna originally belonged to Gadgach temple in Baran District, Rajasthan, and a centrally protected ASI monument. The antiquity of the statue is dateable to 10^{th}-11^{th} century CE. The statue was repatriated from the USA in 2017.
2. **Manjushri:** The stone statue of Manjushri originally belonged to the eastern part of India. The antiquity of the statue is dateable to the Pala period, 10^{th}-11^{th} century CE.
3. **Buddha:** The statue of Buddha originally belonged to Bihar. The antiquity of the statue is dateable to 8th century CE. The statue was repatriated from the USA in 1999.
4. **Arch for a Jaina Shrine and Jaina Tirthankar (Jina):** The stone Arch for a Jaina Shrine and the statue of Jaina Tirthankar (Jina), originally belonged to Rajasthan. The antiquity of the statue is dateable to the 11th-12th century CE. The statue was repatriated from Australia in 2022.
5. **Lingodbhava:** The stone statue of Lingodbhava originally belonged to Tamil Nadu, India. The antiquity of the statue is dateable to the late Chola era i.e. 12th century CE. The statue was repatriated from the USA in 2021.
6. **Brahma:** This statue of Brahma is made of sandstoner in the Late Historic period. Brahma is one of the important Hindu trial assumed as creator. Four-armed deity standing in tribhanga mudra (tri-flexion) showing a complacent expression.
7. **Chauri Bearer with Devotees:** The stone statue of Chauri-bearer with devotees originally belonged to Central India. The statue was repatriated from the USA in 2021.
8. **Shiva:** The stone sculpture of Shiva originally belonged to Central India. The

statue was repatriated from the USA in 2021.

9. **Durga:** The stone sculpture of Durga originally belonged to South India. The antiquity is dateable to the 12th century CE. The statue was repatriated from the USA in 2021.
10. **Durga:** The stone sculpture of Durga originally belonged to South India. The antiquity is dateable to the 14th century CE. The statue was repatriated from the USA in 2021.
11. **Goat Headed Yogini:** The stone statue of the Goat-headed Yogini originally belonged to Uttar Pradesh, India. The antiquity is dateable to the 9th-10th century CE. The statue was repatriated from the USA in 2022.
12. **Vishnu:** The stone statue of the Vishnu originally belonged to South India. The antiquity is dateable to the 14th century CE. The statue was repatriated from the USA in 2021.

Samvidhan Sadan

The *Samvidhan Sadan* (Old Parliament House), one of the most magnificent buildings in New Delhi, is a massive circular edifice, 560 feet (about 171 metres) in diameter or one-third of a mile (0.54 kilometre) in circumference[5]. The area enclosed by the building is nearly six acres (24281.16 square metres). The building has twelve gates among which Gate No. 1 on the *Sansad Marg* (Parliament Street) is the main gate. The open verandah on the first floor is fringed with a colonnade of 144 cream-coloured sandstone columns, each 27 feet (8.2 metres) high. This Building has been declared as a Heritage Building Grade-I in the New Delhi Municipal Corporation (NDMC) area *vide* Gazette Notification dated 1st October 2009[6].

The foundation stone of the *Samvidhan Sadan* (Old Parliament House or the Council House, as it was originally known) was laid on 12 February 1921 by the Duke of Connaught (1850-1942). The opening ceremony of this building was performed on 18 January 1927 by the then Governor-General of India, Lord Irwin (1881-1959)[7]. The Third Session of the Central Legislative Assembly was held in the Parliament House on 19 January 1927 when elected members were sworn in[8]. The election of the Speaker

5. The construction of the building was done under the supervision of two famous architects— Sir Edwin Lutyens (1869-1944) and Sir Herbert Baker (1842-1946). The construction of the building took six years at a cost of Rs. 83 Lakhs (8.3 million).
6. NDMC F.No.4/2/2009/UD/16565 dated 01.10.2009.
7. At the opening ceremony, the Governor-General read out a message from the King which, *inter alia*, said:

   The circle (referring to the circular edifice) stands for something more than unity. From the earliest times it has been also an emblem of permanence, and the poet has seen in the ring of light a true symbol of eternity. May therefore, we and those who follow us witness, so far as we may, the fruition of these twin conceptions. As our eyes or thoughts rest upon this place, let us pray that this Council House may endure through the centuries down, which time travels towards eternity and that, through all the differences of passing days, men of every race and class and creed may here unite in a single high resolve to guide India to fashion her future well.
8. Prior to this, the Central Assembly and the Legislative Council (predecessor of the Central Assembly) met in the Chamber located in the Secretariat, Old Delhi. The first sitting of the Legislative Council in Delhi was held in that Chamber on 27 January 1913. Before that date, the Legislative Council used to meet at Government House, Calcutta (now Kolkata) as it served as the capital of India till 1911.

took place on 20 January 1927[9] and the Governor-General delivered his Address to the Legislature on 24 January 1927[10].

The centre and focus of the building is the big circular edifice of the Central Hall. On the three axes, radiating from this centre are placed the two Chambers for the Lok Sabha (House of the People) and the Rajya Sabha (Council of States) and the Library Hall (formerly, the Princes Chamber). In between are open garden courts. Surrounding these Chambers is a three-storeyed circular structure providing accommodation for the offices of Chairman and Deputy Chairman, Rajya Sabha, Speaker and Deputy Speaker, Lok Sabha, Ministers, Chairmen of Parliamentary Committees, and Political Parties/Groups recognised by the Speaker for the purpose, Branches of Lok Sabha and Rajya Sabha Secretariats connected with the work of the respective Houses and also the offices of the Ministry of Parliamentary Affairs. Besides, three Committee Rooms on the first floor are used for meetings of the Parliamentary Committees. Three other rooms on the same floor are used by the Press Correspondents who come to the Press Galleries of both the Houses.

The architecture of the building bears a close imprint of the Indian tradition[11], which is reflected in the layout of fountains, both inside and outside the building, the use of Indian symbols, the *chhajjas* (projections), which shade the walls and the windows and the varied forms *of jali* work both in stone and marble.

The outer wall of the corridor on the ground floor of the building is decorated with murals depicting episodes from the Indian history from the earliest times and India's cultural contacts with her neighbours. There are 58 mural paintings (size 11'.9"× 4'.11/2") installed in *Samvidhan Sadan*. These paintings are the works of eminent artists, depicting scenes from the Vedic age down to the attainment of independence in 1947. A brief description of each painting accompanies each mural. There are 28 noble passages in Sanskrit, Hindi, Arabic languages, etc. which are inscribed at various locations such as Lok Sabha Chamber (above Speaker's Chair), Rajya Sabha Chamber, Building Gates, on the Domes near Lifts and Committee Rooms in the *Samvidhan Sadan*. All around the *Samvidhan Sadan* there are extensive lawns with flowers, ponds and fountains, enclosed by an ornamental stone wall with iron gates.

The ceiling of porch of Building Gate No. 1, *Samvidhan Sadan* is decorated with art work/mural painting representing art traditions of various States of India.

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9. On this date, Vithalbhai J. Patel was re-elected as Speaker. He was the first Indian to be elected as Speaker on 24 August 1925. The election took place in the Chamber located in the Secretariat, Old Delhi. For details of election, see Chapter 7— 'Presiding Officers of Lok Sabha,' supra.

10. Addressing the members of the Legislative Assembly in the new Assembly Chamber on 24 January 1927, the Governor-General said:

> "Today, you meet for the first time in your new and permanent home in Delhi. In this Chamber, the Assembly has been provided with a setting worthy of its dignity and importance, and I can pay its designer no higher compliment than by expressing the wish that the temper, in which the public affairs of India will be here conducted, may reflect the harmony of its conception"—LA. Deb., 24-1-1927, p. 43.

11. The building was built by Indian labour with indigenous material—the black marble used in the columns came from Gaya, the white and the lined marble, lining the walls of the Library Hall, was procured from Makrana, the timber (teak and other varieties) used for doors from Assam and Burma, and the black wood (Sheesham) from South India.

Statues and busts of national leaders[12] have been installed in Courtyards, Entrance Halls etc., in the *Samvidhan Sadan* (erstwhile Parliament House).

Facade light have been aesthetically installed to illuminate important building in the Parliament House Estate.

Central Hall (*Samvidhan Sadan*)

The Central Hall, as the name indicates, is in the centre of the building. Short passages radiating from the equidistant points on the circumference of the Hall connect it with the Lok Sabha Chamber, the Rajya Sabha Chamber and the Library Hall.

This spacious Hall is circular in shape and its dome which is 98 feet (29.9 metres) in diameter and 118 feet (36 metres) high is said to be one of the most magnificent domes in the world. Inside the Hall, in line with the passage connecting it with the Rajya Sabha Chamber, is a dais which is a permanent part of the Hall. The Central Hall is fed by an evaporative type of cooling system.

In the arch overlooking the dais hangs a portrait of Mahatma Gandhi, the Father of the Nation[13]. There are twenty-five gilt-edged rectangular picture frames provided in the wooden panelling of the Hall, containing portraits of national leaders[14]. In the arches on the right and left side of the dais, portraits of C. Rajagopalachari and Subhas Chandra Bose adorn the gallery of national leaders in the Central Hall. There are also twelve gilded emblems on the wall of the Hall, representing the twelve Provinces of undivided India.

The Central Hall is a place of historical interest. The Constitution was framed in this Hall and the transfer of power, on the midnight of 14 August 1947, from Britain to India also took place here.

Originally used as the reading room of the Library of the Central Legislature, the Hall was remodelled in 1946 and seating arrangements were made for the meetings of the Constituent Assembly[15] by providing 396 seats on cushioned benches with folding flaps attached to the desks in front. These are still intact.

The Central Hall used to serve as the venue for the President's Address to both

12. Pandit Motilal Nehru, Gopal Krishna Gokhale, Dr. B.R. Ambedkar, Mahatma Gandhi, Y.B. Chavan, Pandit Jawaharlal Nehru (Bust and Statue), Pandit Govind Ballabh Pant, Babu Jagjivan Ram, Pandit Ravi Shankar Shukla, Indira Gandhi, Maulana Abul Kalam Azad, Netaji Subhas Chandra Bose, K. Kamaraj, Prof. N.G. Ranga, Sardar Vallabhbhai Patel, Birsa Munda, Andhra Kesari Tanguturi Prakasam, Loknayak Jayaprakash Narayan, S. Saryamurti, C.N. Annadurai, Lokapriya Gopinath Bordoloi, P. Muthuramalinga Thevar, Chhatrapati Shivaji Maharaj, Mahatma Basaveshwara, Maharaja Ranjit Singh, Shaheed Hemu Kalani, Ch. Devi Lal, Mahatma Jyotirao Phule, S.A. Dange, A.K. Gopalan, Acharya Narendra Deva, Shaheed Durga Malla, Gurudev Rabindranath Tagore, Sri Aurobindo, Swami Vivekananda, Devi Ahilyabai Holkar, Indrajit Gupta, Vithalbhai Patel, Bhupesh Gupta, M.G. Ramachandran, Murasoli Maran, Maharana Pratap, Kittur Rani Chennamma, Shaheed Bhagat Singh, Rajarshi Chhattrapati Shahu Maharaj. Also installed in the courtyard opposite Gate No. 5 of *Samvidhan Sadan*, on a red sandstone pedestal, is a symbolic bronze statue of Chandragupta Maurya.

13. The portrait was painted by Sir Oswald Birley and donated to the nation by A.P. Pattani, a member of the Constituent Assembly of India.

14. The gilded panels display the portraits of Lokmanya Bal Gangadhar Tilak, Deshbandhu Chittaranjan Das, Dadabhai Naoroji, Indira Gandhi, Pandit Jawaharlal Nehru, Lala Lajpat Rai, Pandit Madan Mohan Malaviya, Maulana Abul Kalam Azad, Pandit Motilal Nehru, Gurudev Rabindranath Tagore, Dr. Rajendra Prasad, Sarojini Naidu, Sardar Vallabhbhai Patel, Dr. B.R. Ambedkar, Dr. Syama Prasad Mookerjee, Dr. Rammanohar Lohia, Morarji Desai, Rajiv Gandhi, Chaudhary Charan Singh, Lal Bahadur Shastri, Atal Bihari Vajpayee and Swatantrayaveer Vinayak Damodar Savarkar.

15. The Constituent Assembly met here from 9 December 1946 to 24 January 1950.

the Houses of Parliament assembled together, and for holding Joint Sittings of the two Houses. Further, it was in the Central Hall that the President-elect took the oath of Office. Addresses by foreign dignitaries and other important parliamentary functions were also arranged in this Hall. During the Parliament Sessions, the Central Hall was used by members of both the Houses as a meeting place for informal conversations.

The Central Hall was never used for any purpose other than those arranged by or on behalf of members of Parliament.

The corridors skirting the Central Hall are enclosed to provide six lobbies, suitably covered and furnished. These were used for various purposes, *viz.* one for the general use of the members of Parliament, another for the exclusive use of lady members and yet another for the use of Panel of Chairmen. In another Lobby, a first- aid post for the benefit of members was located.

On the first floor, there are six galleries. At the time of the Joint Sittings of the two Houses, two galleries to the right of the dais were occupied by press correspondents; the one facing the dais was set apart for distinguished visitors, and in the other three were accommodated the guests of the members of the two Houses[16]. Split air conditioners are fixed in galleries.

During the sittings of the Houses, admission to the Central Hall was restricted to members of Parliament and some specified press correspondents. On special requests, former members of Parliament, Ministers, Governors and members of State Legislatures were permitted inside the Central Hall to meet members.

Lok Sabha Chamber (*Samvidhan Sadan*)

The erstwhile Chamber of the Lok Sabha in the *Samvidhan Sadan*, now a hall of great historical significance, is of a horse-shoe shape with a floor area of about 446 square metres. The Chair of the Speaker with a canopy overhead[17] is placed on a dais in the centre of the straight line connecting the two ends of the horse-shoe. On the wooden panel just above the Speaker's Chair is installed a motto in Sanskrit—*Dharma Chakra Pravartnaya*—lit in neon light. Rendered in English, the motto means 'for the rotation of the wheel of righteousness'—which appropriately expresses the ideal of a Legislature.

In the pit of the Chamber just below the Speaker's chair is the seat of the Secretary-General. There is a separate chair and table for him placed in such a way that he can have a full view of the House. In front of him is placed a large table, which is the Table of the House, on which papers are formally laid by the Ministers and the Officers of the House. Here the other officers of the Secretariat, who assist the Secretary-General in his work and the official reporters also sit.

With a floor area of about 4,800 sq. feet (about 466 sq. metres), the Chamber has a seating capacity of 550. Each member was assigned a fixed seat which he was to occupy at each sitting of the House.

Originally designed with a floor area of 3,688 sq. feet (about 342.63 sq. metres)

16. For arrangements made in the Central Hall when the President addresses both Houses assembled together, *see* Chapter 10—President's Address, Messages and Communications to the House supra.

17. Originally designed by Sir Herbert Baker, one of the architects of the Parliament House.

and seating arrangements for 148 members, the Chamber was remodelled in 1947 to accommodate a much larger number of members when the Constituent Assembly took over the functions of the Central Legislature. The seating capacity was increased further to meet the requirements of the Provisional Parliament and of the new House which came into being after the first general election under the Constitution. In 1955, the total number of seats which by then had gone up to 461 was further raised to 499.

The Constitution (Seventh Amendment) Act, 1956, provided for an increase in the membership of the House to 522. At the same time, an Automatic Vote Recording System was also proposed to be installed in the Chamber which envisaged the reservation of a seat for each member. In order to provide a separate seat for each member and to make adequate provision for any future expansion of the House, the seats in the Chamber were increased to 530 fixed seats.

In 1973, the maximum membership of the House was further increased to 547 under the Constitution (Thirty-first Amendment) Act, 1973. Accordingly, the seats in the Chamber were increased to 550.

The seats in the Chamber are divided into six blocks, each with eleven rows. Block 1 on the right-hand side of the Speaker's Chair and Block No. 6 on the left-hand side have 97 seats each. The remaining four Blocks have 89 seats each. A seat was allotted to each member. Seats to the right of the Speaker were occupied by the members of the Ruling Party and to his left by the members of the Opposition and Unattached members. The Party/Group having the largest membership was allotted seats to the extreme left and the Party/Group having the next largest membership to its left and so on[18].

Overlooking the Chamber and fixed on the wood-work opposite to the Speaker's Chair is the solitary portrait of Vithalbhai J. Patel, the first elected Speaker of the Central Legislative Assembly, who fought fearlessly to establish high parliamentary traditions and to assert the complete independence of the Chair[19]. In the wood-work around the Chambers, there are thirty-five gilded designs representing the various Provinces of undivided India, the Dominion and certain other settlements.

The Chamber is fully air-conditioned[20] and is equipped with a modern acoustic

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18. Till the Fifth Lok Sabha (1971-76), the first three blocks and a portion of the fourth block beginning from the right of the Speaker's Chair were occupied by the members of the Ruling Party. The fifth and sixth blocks to his left and the remaining portion of the fourth block were occupied by members of the Opposition and by Unattached members.

19. As a rule, no portraits are permitted to be hung in the Chamber, but a notable exception was made in the case of Speaker Patel and his portrait was unveiled in the Chamber on 8 March 1948— C.A. (Leg.) Deb., 8-3-1948, cc. 1740-43.

20. When the Parliament House was built, the Government of India used to move to Shimla during summer months, and as such no provision was made for cooling arrangements in the Chamber. In 1941, an evaporative type of Cooling Plant was installed for the Chamber and in 1952 it was replaced by a Refrigeration Type of Air Conditioning Plant with cooling arrangements in summer and heating arrangements in winter. As the refrigeration type of air conditioning plant was not giving satisfactory performance, the Central A.C. Plant was installed at Plot No. 118 in 1987 at an estimated cost of Rs. 2,82,71,886/– to feed important places like the Lok Sabha/Rajya Sabha Chambers, Lobbies, Library Hall and other important places. The Central A.C. Plant equipment was replaced in 2002-03 at a cost of Rs. 285 lakhs.

System[21].

This Chamber is provided with a modern Automatic Vote Recording and sound amplifying system. Powerful microphones are also placed in selected positions on pedestals as a backup. Each seat is provided with a sensitive microphone on a flexible stand with the loudspeaker concealed at the back of the bench. Small loudspeakers are also provided in the Galleries.

To conduct the proceedings of the House during Covid-19 period, arrangements were made for additional display screens in the Galleries of the then Lok Sabha Chamber for displaying live proceedings of the House to the Members. Arrangements were also made for Integration of Audio and Video System of Lok Sabha Chamber, Rajya Sabha Chamber and Central Hall for proceedings of the House.

A dedicated Virtual Local Area Network based Wi-Fi facility was made functional in the erstwhile Chamber of the Lok Sabha. Through this network Wi-Fi, access to Intranet Services of Lok Sabha and various Government websites/portals was provided. Members could avail this facility inside the Chamber through their officially registered mobile or officially registered electronic tablets[22].

Restrictions on use of the Chamber

This Chamber was not allowed to be used for any purpose other than the sittings of the House[23]. Though televising of the parliamentary proceedings is nowadays taking place, it was not permissible to film or photograph or sketch the Chamber while the

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21. The present acoustic system was installed in 1994. Originally, there were no loudspeakers in the Chamber and complaints about the bad acoustic were made by members as early as 1929, but it was only in 1943 that a microphone for the Chair connected with two loudspeakers was installed in the Chamber. By 1951 there were 35 microphones spread over the Chamber, but members had to move up to the nearest microphone, and attendants had to move about in the Chamber in order to adjust the height of the microphones. The system was also defective in another way: the voice of a member speaking was not clearly audible in all parts of the Chamber. This old system was, therefore, replaced in 1951.

    On the recommendations of the high powered Committee constituted by the Ministry of Works & Housing, the acoustic system, including an integrated system on Microphone Management, simultaneous interpretation and Automatic Vote Recording System has now been installed in the Lok Sabha Chamber.

22. LS Bulletin (II) dated 8 August 2018, No 7263.

23. Rule 384—This has been an unbroken convention since the inception of the Central Legislative Assembly in 1921. Sir Frederick Whyte, the first Speaker, observed that the Chamber was sacrosanct—LA. Deb., 23-9-1921, p. 975: P. Deb., (II), 24-5-1951, c. 9305. However, due to Covid-19 protocols, the Lok Sabha and its Galleries were used to seat the Members of Rajya Sabha during the 4th, 5th (First Part) and 8th (First Part) Sessions of the 17th Lok Sabha by relaxing Rule 384.

    Rule 384 was also relaxed for the President's Address to both the Houses of Parliament assembled together in the years 2021, 2022 and 2024. During the President's Address held on 29.01.2021 and 31.01.2022, sitting arrangements for Ministers/Members were made in the Central Hall as well as in the Lok Sabha and Rajya Sabha Chambers (*Samvidhan Sadan*) in order to ensure appropriate social distancing and safety norms necessitated by the spread of Covid-19 pandemic. During the President's Address in the year 2024 (i.e. on 31.01.2024), Lok Sabha Chamber of the Parliament House of India was utilized to accommodate the Ministers/Members of both the Houses.

House was in session. Permission to photograph parts of the vacant Chamber has, however, been granted under certain conditions[24].

No paper, document, etc., not strictly and officially connected with the business of the House could be circulated in the Chamber without the orders of the Speaker[25].

Except for the armed police who take possession of the Chamber, no one is permitted to remain within the Chamber (including the Inner Lobby) after the House rises[26].

Members' Lobbies (*Samvidhan Sadan*)

Outside the erstwhile Lok Sabha Chamber are two semi-circular corridors, co-terminous with the Chamber wall. The inner corridor is called the Inner Lobby and the outer one is called the Outer Lobby. The Inner Lobby was for members but press correspondents with Lobby passes could gain admission.

With the coming into being of the First Lok Sabha, the space in the Inner Lobby was found to be insufficient for the increased membership of the new House. Accordingly, the open verandah just outside the Lobby was enclosed in 1955 with glazed *jali* work and suitably furnished as an extension of the Lobby. It came to be known as the Outer Lobby, as distinguished from the Inner Lobby.

On the walls of the Inner Lobby and Outer Lobby are hung the portraits of the former Speakers and group photographs of members of the House from the year 1927 onwards. It has not been the practice to put up any other photograph in the Lobby[27].

A wooden rack has been kept in the Inner Lobby for keeping copies of the Bills, Parliamentary papers and forms for giving various notices, etc., by the members.

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24. In September 1953, when a film company sought permission to take a few snapshots of the vacant Chamber in connection with the production of a film, Speaker Mavalankar directed that the producers could have photographs of the relevant portions of the vacant Chamber but they should not photograph various parts so extensively as to make up the picture of the entire House, showing different passages leading to the Chamber nor should they construct an exact replica of the Chamber with all its doors and passages leading to it and show it on the screen.

    In August 1954, the Films Division of the Government of India sought permission of the Speaker to take photographs of the Press Gallery with a number of reporters taking notes when the House was not in session. Permission was accorded to them to photograph the vacant Press Gallery only when the House was not in session, but permission to the photographing of the Press Gallery with reporters appearing to take notes or the approaches to the Chamber or its view from the Press Gallery was refused.

    Filming of the Lok Sabha Chamber (empty) had been permitted to the Government Publicity Media on a number of occasions on the condition that it was meant for: (a) educational purposes and not meant for commercial exploitation; (b) the shots were to synchronize with the script of the film; and (c) the shots were taken without the appearance of any individual unit.

    In pursuance of this, the Ministry of Information and Broadcasting took filming of the Lok Sabha Chamber (empty) for a documentary film on Parliament of India in 1976 and a film on 'Framing of the Constitution'. Subsequently, permission was accorded to take shots of empty Lok Sabha Chamber in the case of: (i) a documentary film on Pandit Jawaharlal Nehru in 1987; (ii) a T.V. film on Govind Ballabh Pant in April 1988; (iii) a documentary film titled 'Marching Towards the Goal,' by the Department of Economic Affairs in June, 1988; (iv) a T.V. film titled 'Reporter' in June, 1988; and (v) a documentary film on Speaker G.V. Mavalankar in October 1988.

25. L.A. Deb., 14-9-1922, p. 505.

26. L.S. Deb., 26-11-1964, cc. 1899-1905.

27. The only exception in this regard was a painting of the First Round Table Conference, put up in the Lobby in 1935. The painting was removed in 1952 due to certain structural alterations in that part of the Lobby where it was hung.

Lobbies or any part of the Parliament House Estate is not allowed to be used by the members for any demonstrations, strikes, fasts or religious ceremonies[28]. A member could remain in the precincts of the House when the House was sitting and for a reasonable time before or after that. If a member wished to remain there for a longer period, he had to seek the Speaker's specific permission. Permission given to a member to remain within the Parliament House could be withdrawn at any time. A member permitted to remain in the Parliament House Estate was not expected to utilise the concession given to him to stage a demonstration. A member was prohibited from performing a *havan* in the Central Hall or within *Samvidhan Sadan*. A member continuing to sit in *dharna* in the precincts of Parliament House for more than one hour after the adjournment of the House is liable to be evicted by the Parliament Security under orders of the Speaker[29].

Galleries (*Samvidhan Sadan*)

On the ground floor to the right of the Speakers's Chair is the Official Gallery. In a similar position on the other side is the Special Box. Looking down on the Chamber are the other Galleries on the first floor. The Press Gallery runs above the Speaker's Chair and faces the House[30]. Above the Government back-benches are the Diplomatic and the Distinguished Visitors' Galleries and opposite to them are the Speaker's Gallery (meant for the guests of the Speaker), the Rajya Sabha Gallery (meant for Rajya Sabha members) and the Special Gallery. In the rest of the semi-circle is the Public Gallery[31].

Rajya Sabha Chamber (*Samvidhan Sadan*)

The erstwhile Rajya Sabha Chamber is also of a horse-shoe shape and its pattern is similar to that of the Lok Sabha Chamber. It is, however, smaller in size and has a

28. *L.S. Deb.,* 26-11-1964, cc. 1899-1905; 10-5-1968, cc. 14027-33; 10-11-1970, cc. 247-48; 28-8-1972, c. 255; 20-12-1978, cc. 220-22.

29. *Ibid*., 29-8-1972, cc. 233-37.

    On 19 December 1978, eight members of the Opposition (Congress Party), however, remained on hunger strike in the Lobby consequent upon the adoption of a motion committing Indira Gandhi to jail till prorogation of the House and expelling her from the membership of the House.

    On 20 December 1978, they were joined by five more members. On that, some members of the Rajya Sabha also went on hunger strike and dharna in the Lobby of the Rajya Sabha. Fasting members of the Lok Sabha were provided the same facilities as had been extended to fasting members of the Rajya Sabha.

30. The Press Gallery has 98 seats in five rows, the first two being provided with folding flaps have 30 seats each, whereas third row 18 seats and forth and fifth rows 10 seats, respectively. When the Parliament House was constructed, there were only 45 seats in the Press Gallery. By 1952, the number of seats was increased to 73 but even this seating capacity was found to be inadequate to meet the growing requirements of the press correspondents. The Gallery was, therefore, remodelled again in 1953 to accommodate more press representatives.

31. With the coming into being of the First Lok Sabha and increase in the number of visitors, it became necessary to increase the searing accommodation for them. Accordingly, the various Galleries were remodelled and these at present provide seating accommodation for 580 visitors as under:

Speaker's Gallery	—	28
Rajya Sabha Gallery	—	55
Press Gallery	—	98
Public Gallery	—	311
Distinguished Visitors' Gallery	—	55
Diplomatic Gallery	—	28

seating capacity for 250 members. It is fully air-conditioned and has a modern acoustic system including Automatic Vote Recording and simultaneous Interpretation systems.

Originally, the Rajya Sabha Chamber had a seating capacity for 82 members only. The Chamber was remodelled to accommodate 216 members under the new Constitution. In 1957, when the Automatic Vote Recording Equipment was installed there, the number of seats was increased to 250 keeping in view any possible expansion of the House in the future.

Like the Speaker's Chair, the Chair of the Chairman of Rajya Sabha stands on a raised platform in the centre of the straight line connecting the two ends of the horse-shoe. In the location of the Official Gallery and the Special Box as well as in other respects the two Chambers are alike.

Above the Chair are two Galleries which were used only when there was a great rush of visitors in the other Galleries. Starting from the left of the Chair are situated the Public Gallery, the Chairman's Gallery, the Diplomatic and the Distinguished Visitors Galleries, the Press Gallery and the Lok Sabha Gallery[32].

Secured wi-fi facilities in the Parliament House including the Inner/Outer Lobbies and Chamber of the then Rajya Sabha were set up by the National Informatics Centre (NIC). A Member could register for a maximum of three portable devices for wi-fi access in the *Samvidhan Sadan*[33].

Library Hall (*Samvidhan Sadan*)

The Library Hall, like the two Chambers, is also of a horse-shoe shape. Originally constructed as a Conference Hall for the rulers of the various States of undivided India, it used to be known as the 'Princes Chamber'. After Independence it was used as a court room for the Supreme Court of India till August 1958. Thereafter, the design of the Chamber was slightly altered and its flooring was raised so as to be in level with the corridor. Thus the Chamber with the rooms skirting its corridor was remodelled to serve the purpose of a spacious reading room as part of the Library and, therefore, came to be known as the Library Hall.

In the wooden panelling of the Hall there are 102 gilded designs, which represent the emblems of the old Princely States.

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32. There are 386 fixed seats in the various Galleries of the Rajya Sabha as under:

Public Gallery	—	155
Chairman's Gallery		
Diplomatic Gallery	—	78
Distinguished Visitors' Gallery		
Press Gallery	—	76
Lok Sabha Gallery	—	77

33. Rajya Sabha Parliamentary Bulletin Part- II, No. 57970, IT Sections (H&S).

Committee Rooms (*Samvidhan Sadan*)

On the first floor of the *Samvidhan Sadan* there are three spacious Committee Rooms, air-conditioned and adequately furnished[34]. As the name signifies, these rooms were primarily meant for holding the sittings of the parliamentary committees and for that purpose an Audio Conference System and Simultaneous Interpretation System were installed in each room. However, a Committee Room, when it was not required for parliamentary work, could be allotted for a press conference by the Prime Minister organised by the Press Information Bureau or for holding meetings of any of the various Consultative Committees which consisted of members drawn from both the Houses.

On written requests from parliamentary Parties or Groups, the Central Hall or a Committee Room was made available to them for holding party meetings connected with parliamentary work[35].

Ministers' Rooms (*Samvidhan Sadan*)

When Parliament is in session, it becomes necessary for the Ministers to be present in the Parliament House for a major part of the day. In order to provide office accommodation to them a number of rooms in the *Samvidhan Sadan* were placed at the disposal of the Ministry of Parliamentary Affairs during the session periods for allotment to Ministers. Office accommodation in the *Samvidhan Sadan* was also provided for the Chairmen of parliamentary committees.

Cabinet Room (*Samvidhan Sadan*)

For the convenience of the Ministers, a spacious and well-furnished room has been provided on the ground floor in the Parliament House for holding Cabinet meetings, when Parliament is in session. This room has been placed at the disposal of the Cabinet Secretariat.

Party Office Rooms (*Samvidhan Sadan*)

The Parliamentary Parties/Groups[36] have been provided with office accommodation on the ground and third floors of the *Samvidhan Sadan*.

***Sansadiya Soudha* (Parliament House Annexe)**

In order to meet the essential requirements of members and to extend some of the facilities provided to them, *Sansadiya Soudha*, the Parliament House Annexe[37], was built north of Parliament House. The foundation stone was laid by President V.V. Giri on 3 August 1970, and the building was completed in October 1975. It was inaugurated on 24 October 1975 by the Prime Minister Indira Gandhi.

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34. One of the four rooms falls in the Rajya Sabha sector and is under the control of that Secretariat.

35. *See* Chapter 14—Recognition of Political Parties in Parliament, *supra*.

36. *Ibid*.

37. The building was built on 9.8 acres (3.85 hectares) of land. The total floor area of the building is about 35,400 sq. metres and the total cost of the project, including air-conditioning, simultaneous interpretation system and furniture and furnishing was of the order of Rs. 3.70 crore (37 million).

    The building was designed by J. M. Benjamin, Chief Architect, Central Public Works Department (CPWD).

The design of the building is functional and modern. The structure is Reinforced Cement Concrete (R.C.C.) framed with waffle-slab construction. The form and character of the building radiates a new sense of aesthetics and message of peace through the beautiful facade of four "Buddhist Chaitya Arches" in mosaic *jali*. Slender, double-height, free-standing R.C.C columns in front of the mosaic *jali* support the projected roof above the podium, thus creating a pleasing facade.

The three-storeyed front block serves as the main entrance to the seven-storeyed building and common facilities like members' lounges, a multi-purpose Hall with auditorium, two well-equipped rooms for Committee meetings, Bank, Post Office and Specialist Wing of Medical Centre have been provided in the main concourse Hall. A hanging staircase, over a pond at the basement level, connects the three floors of the front block and the glass pyramids over the central areas provide diffused natural light.

The seven-storeyed central block accommodates, at the basement level, a fully equipped Medical Centre, Telephone Exchange, a Banquet Hall, a Private Dining Room, Refreshment Rooms on the ground floor and the Offices of the Secretariats of the two Houses of Parliament on the higher floors.

The three-storeyed rear block has five spacious air-conditioned Committee rooms around a square sunken court with an octagonal water pool in the centre and a fully equipped physiotherapy Unit of Medical Centre. All the Committee rooms are accoustically treated with timber wall-panelling and are equipped with sound and simultaneous interpretation systems. The central court with mosaic *jali* screen above has been tastefully landscaped and paved with Makrana stone and river pebbles. Diffused light from the glass pyramids and the mosaic *jali* on the four sides gives a pleasing environment.

There is a Souvenir shop adjacent to Committee Room 'B' on the Ground Floor of the Parliament House Annexe.

Extension to Parliament House Annexe Building

In order to meet the shortage of space due to the manifold increase in parliamentary activities, an extension to the Parliament House Annexe Building was conceived. The foundation stone was laid by Shri Mohammad Hamid Ansari, Vice President and Chairman, Rajya Sabha and Shri Somnath Chatterjee, Speaker, Lok Sabha on 5 May 2009, and the building was completed on 04.11.2016. It was inaugurated on 31 July 2017 by the Prime Minister Narendra Modi.

The Extension to the PHA building was designed by Senior Architect – PLP and Team, keeping in view the existing architectural character of the Parliament House Annexe. The building has two blocks, Block A and B with total area of 22120.34 sq. mts. and basement area of 17232.10 sq.mts.

Block–A, which is a ceremonial block (2 Basements+ Ground+2 Floors) and is connected to the existing Annexe building and has an inner courtyard. This Block

has four conference/committee rooms equipped with interpretation facilities; VVIP rooms; two Call on rooms; Auditorium for 102 persons; Banquet Hall; Offices. The parking capacity of two basements is 235 cars.

Block–B is a Secretariat Block designed as a "C" shape semi-circular high rise with Basement+Ground+ 6 storeys. This block is connected with the high rise block of the existing Annexe Building. It accommodates Office Rooms of the Chairpersons of Committees; Committee Branches; Crèche, etc.

Modular Rain water harvesting systems have been installed in the Parliament House, Parliament House Annexe and Extension Parliament House Annexe.

220 KWP (100 KWP + 80 KWP + 40 KWP) capacity solar power generation system has been installed on the roofs of EPHA and PHA Building. The Solar Power Generation System installed in PHA and EPHA generates approximately 96000 and 30000 units, respectively per year.

Sansadiya Gyanpeeth **(Parliament Library Building)**

Till, May 2002, the Parliament Library was functioning from the Parliament House. With time, the Library service has gradually developed into what is now familiarly known as the Library and Reference, Research, Documentation and Information Service (LARRDIS). The accommodation available in the Parliament Library and its allied services in the Parliament building was too limited to cope with the volume of literature being acquired by it. Besides, there had been a growing demand for making available to the members of Parliament a more effective, efficient and modern Research, Reference and Information Service. In order to satisfy this requirement the new Parliament Library Building was constructed.

In 1984, the General Purposes Committee of the Lok Sabha approved the proposal for construction of the Parliament Library Building. The foundation stone was laid by the Prime Minister Rajiv Gandhi on 15 August 1987 and the design of the building was approved on 15 November 1991. The construction of a new Parliament Library Building was undertaken in April 1994 on a site between the Parliament House and the Parliament House Annexe[38].

Sansadiya Gyanpeeth has a total plot area of about 39,916 Sq.m. and a total built up area of about 50,440 Sq.m. including about 10,019 Sq.m. for parking. It has 12 domes of various diameters, one fully glazed and the other partly glazed or opaque. The Terrace garden of *Sansadiya Gyanpeeth* is visible from the outer corridor of the Parliament House.

Externally, the building is related to the Parliament House and uses similar materials of red and beige sandstone[39]. The general height is restricted to the podium of the Parliament Building, below the circular colonnade. The roof of the Library building has a series of low-profile bubble domes sitting on a steel structure to complement

38. This fully air-conditioned massive building was constructed by CPWD and M/s Raj Rewal Associates were its consulting architects.

39. The stones were brought from Agra and Dholpur.

the existing surrounding domes of masonry on the Rashtrapati Bhawan. The building is also designed to complement the Parliament House building with smaller circles strewn together in the form of a *mandate* or cosmograph. Internally, it is imbued with a different spirit signifying sagacity and knowledge.

The basic structure for the building is conceived as an R.C.C. framed structure with column spacings generally of 5 metres. The intermediate floors are of coffer unit construction while the roof is partly of coffer units and partly of steel-and-concrete domes.

The design and construction of the domes has been the first of its kind in the country. Some of the novel features involved in the construction of the Domes are:

- Use of stainless steel of grade AISI 304 L in two of the 12 domes. The steel is finished to a satin finish. All other domes are in Carbon Steel finished with epoxy paint.
- All joints in the framework were precast in foundries and connected to the tubes by a combination of HSFG bolts and welding under controlled conditions. Consequently the joints appear sleek even where 12 members meet at one joint.
- Geometric precision was achieved in the manufacture and assembling of the various elements of the Dome., *viz,* the cast joints, the curved tubes and the precast concrete bubbles seated over the steel framework.
- An all-stainless steel, fully glazed 'focal dome' spanning over 25 metres connects the interior of the building to the open sky at the same time cutting off excessive glare and heat. High quality TIG welding has been used for welding the stainless tubes to each other, ensuring a flawless and strong weld.
- The bubbles seated over the domes are not connected to each other structurally. To account for the temperature movements of the bubble the water-proofing was done using a urethane polyurea membrane, capable of taking ultimate elongations up to 500%.

A large amount of glazing has been used throughout the building. The composition of the glazing units are so chosen as to limit the transmission of heat and light energy to the desired level so that the air-conditioning load does not become excessive and a comfortable level of lighting for purposes of reading is available.

Insulated, dessicant-filled, double-glazed vertical units heat strengthened, laminated, insulated and heat-reflective horizontal units and glass blocks for both vertical and horizontal applications have been used. All the fabrication required for the glass, *viz.,* heat strengthening, laminating and insulating, has been done through workshops equipped with computer-controlled processing machines.

About 45,000 sq.m. of the building has been air conditioned (parking and plant room excluded) with a total heat load of 2040 TR. Five energy efficient centrifugal chilling machines of 550 TR each working on R-123 gas (refrigerant) have been installed in the basement. Earlier these machines were functional with R-l1 gas. But R-11 has now been phased out under the Montreal Protocol on Environmental

Protection. Winter heating and dehumidification are provided with the help of 2 × 1000 KW hot water generators and heating coils in AIIU. Double skin air handling units with environment-friendly carbon and micro filters have been provided in the system. Air distribution has been designed compatible with the fire compartmentation of building through 66 AHUs.

Automatic, intelligent fire-alarm system, duly interlocked with fire check doors for co-ordinated functioning in the case of fire, has been provided with a combination of smoke, heat, optical and beam detectors.

Gas based Fire Extinguishing System has been provided for the computer center, micro-filming store, Central Apparatus Room & Control Room of Sansad TV. Efficient fire extraction system either through AHUS (in all the areas) and as an independent system (in the focal dome area) duly integrated with the fire-alarm system is also in place.

The Parliament Library Building has also the following facilities *viz.,* an energy- efficient lighting system throughout the building; CCTV for surveillance; library operations and for telecast of live proceedings of the Parliament; Door frame metal detectors and baggage scanners for security checking; Four hydraulic lifts (13 passengers each), one glazed lift (10 passengers), four goods lifts, ten dumb waiters and one VIP lift of four passenger capacity; PA system for announcements, car hailing, playing pre-recorded messages and bell repeater system; Digital conferencing system in all Committee rooms and simultaneous interpretation system in the three selected Committee rooms; Car calling system for the parking area; and Exit light system working on power through UPS.

Open spaces within the library building complement similar spaces within the Parliament building, but are more subtle and complex. These are located between the inner core of building activities and external peripheral functions. They help in reducing the temperature during summer months. Courtyards provide outdoor movement areas in a meandering form around the core of the central public areas.

There are three courtyards symmetrically placed around the central built form, supporting the distinct functions to be performed within the adjoining area of the building. The first courtyard is built adjoining the M.P.'s reading room and Parliamentary Research and Training Institute for Democracies (PRIDE) (erstwhile BPST) lecture room and has an atmosphere of tranquility around a sunken amphitheatre which is symbolic of LIBERTY. The second courtyard is dominated by a big tree symbolizing JUSTICE. The third courtyard is surrounded by the Museum and Auditorium and its space can be utilized for out-door exhibitions around the water pool which represents EQUALITY.

The main entrance of the library is directly to one of the gates of the Parliament. It leads to an atrium covered with a circular room, allowing muted light, lightly placed above a stainless steel ring.

The focal centre of the building is built with a sun reflecting, state-of-the-art, structural glass and stainless steel. It is composed of four petals. These petals are tied together with delicate tension rods. The upper part of the glass dome has a symbol of circle representing the Ashok Chakra.

Reading Halls for Members of Parliament

The room located at 'H' Block is in the central core of the library complex and faces an internal courtyard. It is a two-storey high space with an internal atrium, covered with a circular dome supported on four columns. The primary structure of the white painted steel is raised above the roof level and admits translucent light through glass blocks creating a serene ambience within a hall of noble proportions.

The Library

The large hall of the main library and the audio-visual museum at the two ends of a cross axis have a similar configuration. They have a large span of 35 metres. This is lit from the top with glass blocks inserted within the concrete bubbles. The primary steel structure is kept low and illuminated with natural light on the periphery. The Library has a stack area for housing three million volumes.

G.M.C. Balayogi Auditorium[40]

This auditorium, that underwent significant modifications and refurbishment in 2022, has a seating capacity of about 800 persons including four seats for Divyangjans. Since 2022 the auditorium has been equipped with a state-of-the-art digital surround-sound system for 10.2 metre×5.4 metre, 4K resolution LED Cinema Screen; a wireless simultaneous interpretation system for floor plus four language interpretation; a 3 chip DLP, WUXGA resolution, 14500 lumens video projection; system with high-power LED based FOH lights and stage lights system with DMX control and platform stair lift for wheel chair movement to stage Parliament Museum is also located in the Parliament Library Building on the Ground and First Floor. The Parliament Museum which was set up in 2006 is being renovated/modernized/upgraded.

Other Facilities Provided

Apart from these, the building also houses Research and Reference Division, a Computer Centre, a Media Centre equipped with the latest telecommunication facilities as part of the Press and Public Relations Service, Press Briefing Room, Parliamentary Research and Training Institute for Democracies (PRIDE) (erstwhile Bureau of Parliamentary Studies and Training), Parliamentary Museum and Archives, an Audio-Visual Unit, a Microfilm Reader Room, Library Committee Rooms and Conference Rooms. The building also has a Conservation Laboratory, a Binding Unit and an Archival Room with temperature below freezing point to preserve audio-video materials and microfilm rolls. Besides, the Sansad Television Channel Unit with independent broadcasting facilities round the clock also functions from this building.

Prerna Sthal

Prerna Sthal, located in front of the Gate No. 7 of the *Samvidhan Sadan*, showcases statues of 15 eminent leaders and freedom fighters who have made important contributions to the nation's history, culture and freedom struggle. Inaugurated on 16 June 2024, the statues of Mahatma Gandhi, Dr. B.R. Ambedkar,

40. The auditorium is named after the Speaker G.M.C. Balayogi who died while in office in an air crash on 3 March 2002.

Birsa Munda, Chaudhary Devi Lal, Chhatrapati Shivaji Maharaj, Hemu Kalani, Kittur Rani Channamma, Lala Lajpat Rai, Maharaja Ranjit Singh, Maharana Pratap, Mahatma Basaveshwara, Mahatma Jyotirao Phule, Pandit Motilal Nehru, Rajarshi Chhatrapati Shahu Maharaj and Shaheed Durga Malla have been installed in one place on a picturesque lawn to enable visitors to pay homage to these great leaders. The inspiring stories and messages of these great leaders can be read by scanning the QR Code placed alongside every statue.

Special Amenities for Members in the Parliament House

With a view to upgrade/modernize the quality of food, service, hygiene, cleanliness in catering facility for members, the operation, supervision and management of Catering Units was handed over to the India Tourism Development Corporation Limited (ITDC) w.e.f. 16.11.2020.

In order to meet the Food Safety Standards Authority of India (FSSAI), International Organisation for Standardisation (ISO) and Hazard Analysis Critical Control Points (HACCP) standards in preparation and service of food and beverages, the existing kitchens were refurbished to meet the latest standards. Latest gadgets and equipments were customized for smooth operations. Food Safety and Standards Authority of India granted License under FSS Act, 2006 to ITDC for its operation in the Parliament Estate.

RuPay Pre-paid cards have been given to the Members of Parliament of both the Houses for easy, smooth and hassle free cashless transactions at ITDC Catering Units in Parliament House Estate.

As a digitization initiative, 04 kitchen Display Systems along with Kitchen Order Tickets (KOT)/Billing Printers have been installed in the catering units Parliament House for smooth and hassle free functioning of Billing process. Bill Tracking System has also been installed. Tablets have also been issued to waiters for booking orders.

Measures are also put in place to minimize wastage of food to control operational costs and eliminate food subsidies in catering operations.

Admission of Visitors when Parliament is not in Session [*See* Chapter 33]

Special Services for Members [*See* Chapters 13]

Challenges faced during COVID Pandemic

The conduct of Parliament Session in COVID times was very challenging. However, all House activities were allowed to run while adhering to public health protocols.

CHAPTER 42

Parliament and the States

The Constitution of India has been described as quasi-federal with a strong unitary or pro-centre bias. The founding fathers of the Constitution declared their intention at the very outset that "the Constitution would be federal with a strong centre"[1]. As Dr. B.R. Ambedkar observed that the Indian system was unique in the sense that it created a dual polity with a single Indian citizenship**.** This system could be both unitary and federal according to requirements of time and circumstances[2]. The scheme of distribution of powers, legislative, administrative and financial has been such that it is tilted in favour of the Centre. The exercise of powers by the States even in the allotted fields is hedged in by certain restrictions with the result that the powers of the States are not coordinated with those of the Union.

In so far as the distribution of legislative powers between the Union and the States is concerned, not only more weightage has been given to the former but in cases of conflict between the Union and State laws**,** the principle of Union supremacy is expressly recognised[3]. That apart, the Constitution seeks to ensure the predominance of Parliament in various other ways. For example, certain heads of legislation which in the first instance belong specifically to the States may become the subject of exclusive concern of Parliament if the Rajya Sabha has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List while the resolution remains in force[4].

In the executive sphere, the executive power of the State, subject to the provisions of the Constitution, extends to matters with respect to which the Legislature of the State has power to make laws, provided that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by**,** the executive power expressly conferred by the Constitution or by any law made by Parliament upon the Union or authorities thereof [5]. Any law enacted by Parliament has the force of law in every State, unless contrary is expressed in the enactment. It is the constitutional duty of every State to enforce Union's laws as are applicable to the State. To that end, the executive power of a State has to be so exercised as to ensure compliance with the laws made by Parliament and the Union Executive has the power to give directions to the State Government to

1. R.C.S. Sarkar: *Union-State Relations in India (1986),* p. 7, National Publishing House, New Delhi.
2. Subhash C. Kashyap: *An Introduction to India's Constitution and Constitutional Law,* p. 43, (1994) National Book Trust, New Delhi.
3. *See* Chapter 22—Legislation, *supra.*
4. Art. 249. The Rajya Sabha passed resolution under this article on 12-13 August 1986 authorising the Parliament to legislate on certain matters covered by entries 2, 4, 64, 65 and 66 made under List II–State List in the Seventh Schedule of the Constitution.
5. Art. 162.

ensure due compliance with this duty[6]. Not only that, the executive power of the State even within its own sphere must be so exercised as not to impede or prejudice the exercise of the executive power of the Union, and the executive power of the Union extends to the giving of such directions to a State as may appear to the Government of India to be necessary for the purpose[7]. In case a State fails to comply with or give effect to, any directions given in the exercise of the executive power of the Union, the President is authorised to hold that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of the Constitution[8].

The Constitution (Forty-second Amendment) Act, 1976 empowered the Union to send any armed force or other force of the Union for dealing with any grave situation of law and order in any State. Such force was to act in accordance with the directions of the Union Government and was not subject to the control of the State Government. The Parliament could also specify, by law, the powers, functions and liabilities of the members of any such force deployed in a State. This provision was subsequently omitted with the repeal of article 257A *vide* the Constitution (Forty- fourth Amendment) Act, 1978.

In times of national, political or financial emergency, the States may exercise only such powers, legislative and executive, as the Union permits. When a state of emergency is declared, Parliament has the power to make laws for the whole or any part of the territory of India with respect to any matter in the State List, and the laws made by Parliament prevail over the State laws in the event of any repugnancy between the Union law and State law. If as a result of war, external aggression or armed rebellion, the security of India or any territory thereof is threatened, the President may declare a state of emergency, and the executive power of the Union will thereupon extend to giving directions to the States as to the manner in which the executive power of the States is to be exercised, and the power of Parliament to make laws will extend to making laws conferring or authorising conferment of powers and imposition of duties upon the Union or its officers and authorities as respects any matter, even if such matter is not enumerated in the Union List[9]. The President may also, during emergency, suspend the operation of the constitutional provisions relating to the distribution of revenues between the Union and the States and, during financial emergency, require that all money Bills shall be submitted to the President for his consideration, after they are passed by the State Legislatures.

It has been held by the Courts that the States are not 'sovereign' under the Constitution[10]. What appears to militate against the theory of the sovereignty of the States, the Supreme Court has observed, is the wide power which is vested in Parliament to alter the boundaries of States, and even to extinguish the existence of a State[11].

6. Art. 256.
7. Art. 257(1).
8. Art. 365.
9. Art. 353.
10. *Virendra Singh v. State of Uttar Pradesh* (1955) 1 S.C.R. 415; *H.C. Sen Gupta vs. Speaker, West Bengal A.I.R* 1956 Calcutta 378; *Srikishan vs. State A.I.R.* 1957 Andhra 734.
11. *State of West Bengal vs. Union of India* A.I.R. 1963 *S.C.* 1241—In this case, the State of West Bengal had challenged the competence of Parliament to enact legislation which sought to acquire for the Union Government coal bearing land and rights in or over the land which are vested in a State, *vide* Entry 23 of the State List and Entry 54 of the Union List.

However, the States cannot be said to be dependent on the Union for the exercise of their legislative and executive authority insofar as it concerns the sphere allotted to the States and does not impinge on the sphere of authority of the Union. The Council of Ministers in a State exercises its functions in complete autonomy in relation to administration of the State[12]. The restrictions on the States' authority, in normal times, are more in the nature of safeguards to be brought into operation for wider national interest. It is only when the existence of a grave emergency or financial emergency is declared by the President that the autonomy of a State may be interfered with.

The Governor

The executive power of the State is vested in the Governor and is exercisable by him directly or through officers subordinate to him in accordance with the Constitution[13]. The Governor is appointed by the President by warrant under his hand and seal and as an extra-constitutional convention, the Chief Minister of the State concerned is informally consulted before making the appointment[14]. The Governor holds office during the pleasure of the President[15], the normal term of office, being five years. In practice, some Governors have been permitted to continue in office beyond the normal term. Sometimes, during the term of office a Governor has been transferred from one State to another by an order of the President. The oath of Office of the Governor requires him to "preserve, protect and defend" the Constitution and the law[16].

The functions of the Governor are laid down in the Constitution. They may, broadly speaking, be divided into three categories as Head of the State; as a link with the Union; and as chief executive during the President's rule acting for the President.

Some of the important functions of the Governor of a State are: the appointment of a Chief Minister and other members of the Council of Ministers[17]; the summoning, prorogation and dissolution of the State Legislative Assembly[18]; assenting to or reserving a Bill for President's consideration[19]; and reporting to the President on the failure of constitutional machinery in the State[20].

As Head of the State, the Governor has a duty to see that the administration of the State does not break down due to political instability and he has equally to take care that responsible government in the State is not disturbed or superseded[21].

The Constitution does not specify as to how these functions would be exercised by the Governor nor does it conceive the vesting of power in any authority to issue any directions to the Governor or lay down any code or rules for his guidance. However, it is open to the President to make such provision as he thinks fit for the discharge of the

12. *Report of the Committee of Governors,* President's Secretariat, New Delhi, 1971, p. 6.
13. Art. 154.
14. *L.S. Deb.,* 23-2-1968, S.Q. No. 265 cc. 2889-90; 25-4-1969. U.S.Q. No. 7696 c. 151.
15. Arts. 155 and 156.
16. Art. 159.
17. Art. 164.
18. Arts. 172 and 174.
19. Art. 200.
20. Art. 356.
21. *Report of the Committee of Governors, op. cit*., p. 68.

functions of a Governor of a State in any contingency not provided for in Chapter II of Part VI of the Constitution[22].

The question whether an Instrument of Instructions should be issued to the Governor was considered by the Constituent Assembly; but the proposal was subsequently given up. The main reason for giving up the proposal was that, unlike the position previously obtaining, the Governor under the Constitution would be functioning as Head of the State and would not be subject to control by anyone. Dr. Ambedkar explained the position in the following words:

> .....The purpose of the Instrument of Instructions as was originally devised in the British Constitution for the Government of the colonies was to give certain directions to the head of the States as to how they should exercise their discretionary powers that were vested in them. Now the Instrument of Instructions was effective insofar as the particular Governor or Viceroy to whom these instructions were given was subject to the authority of the Secretary of State. If in any particular matter which was of a serious character, the Governor, for instance persistently refused to carry out the Instrument of Instructions issued to him, it was open to the Secretary of State to remove him, and appoint another and thereby secure the effective carrying out of the Instrument of Instructions. So far as our Constitution is concerned, there is no functionary created by it who can see that the Instrument of Instructions is carried out faithfully by the Governor[23].

The Governor functions, for most purposes, as a part of the State apparatus; but he has, at the same time, a duty to report to the Union. This responsibility to the Union flows from the Constitution, mainly because of the provision that he is appointed by, and holds office during the pleasure of the President[24]. In his role as a link with the Union, the Governor keeps the President informed, periodically and regularly, on matters connected with the affairs of the State. There may be occasions for the Governor, in addition to his periodic reports, to inform the President particularly of any serious internal disturbance, and more especially in certain States, of the existence or otherwise of a possible danger of external aggression in the context of all India[25].

As regards the Governor's duty of reporting to the President, it has been observed:

> The duty to report flows from article 355 and is specifically mentioned in article 356. The Union Government has the duty to ensure that the Government of every State is carried on in accordance with the provisions of the Constitution. It has no agency in a State, other than the Governor, to keep it informed of happenings there and whether the State Government is being carried on in accordance with the provisions of the Constitution. In the event of a constitutional break-down, the Governor is expected to make a report to the President and can advise him to assume the functions of the Government of a State[26].

As stated earlier, it is the constitutional duty of a State to so exercise its executive power as to ensure compliance with the laws made by Parliament and, secondly,

22. Art. 160.
23. *C.A. Deb.,* 11 October 1949, Vol. X, p. 115.
24. *Report of the Study Team on Centre—State Relationships submitted to the Administrative Reforms Commission,* New Delhi, 1967, Vol. I, p. 272.
25. *Report of the Committee of Governors,* 1971*, op. cit.,* pp. 22-23.
26. *See* Report of the Study Team (Vol. I) (1967), *op. cit.,* p. 276.

as not to impede or prejudice the exercise of the executive power of the Union. In this connection, the Union Government is competent to give such directions to a State Government as might be necessary for the purpose. The Governor is the medium through which the Union is broadly informed as to whether a State is complying with such directions.

In certain cases, the Governor may, under the Constitution, function independently of his Council of Ministers. Such cases may, for example, arise in connection with the appointment of a Chief Minister when no party in the Assembly commands absolute majority, dissolution of the Assembly when the Chief Minister has lost majority, reserving a Bill for the President's consideration, making a report to the President in case of failure of the constitutional machinery in the State, or where a Governor is required—under the Constitution, law or practice—to come to a decision independently of the advice of his Council of Ministers.

The Governor has a duty to make a report to the President if in his view a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of the Constitution thereby inviting the President to assume to himself the functions of the Government of the State. The President may also otherwise come to the conclusion that such a situation has arisen[27]. Following elections to the Sixth Lok Sabha when the Janata Party took office at the Union, they requested the Chief Ministers of nine States to advise their Governors to dissolve their Assemblies and to seek fresh elections on the ground that the seven States had completed the term of five years originally laid down in the Constitution (term was extended to six years during the Emergency *vide* the 42nd Constitution Amendment Act, 1976) and also the fact that Congress Party (ruling in the nine States) had returned only two members to the Lok Sabha during the elections in March 1977 and hence had lost mandate to govern the States. The Chief Ministers refused. The President on the advice of the Council of Ministers at the Union issued a Proclamation under article 356 dissolving the Legislatures in the nine States and ordered elections to the Legislative Assemblies of these States.

Following the mid-term Lok Sabha elections of January 1980**,** Proclamations under article 356 were issued in respect of nine States on 17 February 1980 and the Legislative Assemblies of these States dissolved simultaneously as the Government at the Union felt that having suffered an overwhelming defeat in Lok Sabha elections, the ruling party in these States no longer represented the people.

The President's rule was imposed under article 356 in the State of Nagaland on 7 August 1988 on the basis of the Governor's report. The validity of the imposition of the President's rule in the State was questioned in the Gauhati High Court[28]. The State of Karnataka was brought under the President's rule on 21 April 1989 on the basis of the Governor's report. The imposition of the President's rule was challenged in the Karnataka High Court[29]. Appeals against the judgments of the Gauhati and the

27. See *President's Rule in the States and Union Territories,* Lok Sabha Secretariat, 2010 for details pertaining to Presidential Proclamations issued under article 356 of the Constitution and section 51 of the Government of Union Territories Act, 1963.

28. (1988) 2 Gauhati L.J. 468.

29. A.I.R. 1990 Karnataka 5.

Karnataka High Courts were filed in the Supreme Court. These cases were decided by the Constitution Bench of the Supreme Court in the landmark case of *S.R. Bommai v. Union of India*. The Supreme Court held that imposition of President's Rule in Nagaland in 1988 and Karnataka in 1989 was unconstitutional and, therefore, liable to be struck down. In these States, however, no action could be taken as elections had subsequently taken place and new Governments installed and it was not possible to revive old State Assemblies.

After the demolition of the Babri Mosque at Ayodhya, President's rule under article 356 was imposed in December 1992 in the States of Uttar Pradesh, Rajasthan, Madhya Pradesh and Himachal Pradesh where the ruling party was the Bharatiya Janata Party. The validity of the President's action was questioned in the High Courts of three States, *viz.,* Madhya Pradesh, Rajasthan and Himachal Pradesh. The High Court of Madhya Pradesh held that imposition of the President's rule in Madhya Pradesh was unconstitutional and there was no relevant material to justify the act[30]. An appeal was filed by the Union of India in the Supreme Court against the judgment. A nine-Judge Bench of the Supreme Court heard together the appeals against the judgments of the Gauhati, Karnataka and Madhya Pradesh High Courts and the petitions filed in the Rajasthan and Himachal Pradesh High Courts, which were transferred to the Supreme Court.

The Supreme Court in its majority judgment *inter alia* held that the power conferred by article 356 upon the President is a conditional power. It is not an absolute power. The existence of material—which may comprise or include the report(s) of the Governor—is a pre-condition. The President's satisfaction must be found on relevant material. It further said that article 74(2) did not bar the Court from calling upon the Union Council of Ministers (Union of India) to disclose to the Court the material upon which the President had formed the requisite satisfaction. The administrative decision taken by the Council of Ministers is entirely different from the advice tendered to the President, and the latter cannot be equated with the grounds or the reasons for Presidential Proclamation. The former are not part of the advice tendered to the President by the Council of Ministers. The Proclamation under article 356(1) is not immune from judicial review. The Supreme Court or the High Court can strike down the Proclamation if it is found to be *mala fide* or based on wholly irrelevant or extraneous grounds. When called upon, the Union of India has to produce the material on the basis of which action was taken. It cannot refuse to do so, if it seeks to defend the action. The Court will not go into the correctness of the material or its adequacy. Its enquiry is limited to see whether the material was relevant to the action. Even if part of the material is irrelevant, the Court cannot interfere so long as there is some material which is relevant to the action taken. If the Court strikes down the Proclamation, it has the power to restore the dismissed Government to office and revive and re-activate the Legislative Assembly wherever it may have been dissolved or kept under suspension. The power of dissolving the Legislative Assembly shall only be exercised after the Proclamation is approved by both the Houses of Parliament and not before[31].

30. 1993 Jab. L.J. 387.

31. *S.R. Bommai vs. Union of India,* A.I.R. 1994 S.C. 1918 (at P. 2006, para 96) (1994) 3 S.C.C. 1.

In another similar instance, the elections for the Thirteenth Bihar Legislative Assembly were held in three phases in the month of February 2005. On 4 March 2005, the Notification was issued by the Election Commission of India regarding the due constitution of the Legislative Assembly of Bihar in pursuance of section 73 of the Representation of the People Act, 1951. For the 243 seats of the Assembly, none of the parties/pre-poll combinations could gather simple majority. In the circumstances, the Governor of Bihar in his Report dated 6 March 2005 recommended to the President that the newly constituted Assembly be kept in suspended animation. Since no political party was in a position to form a Government, a notification was issued on 7 March 2005 under article 356 of the Constitution imposing President's Rule over the State of Bihar and the Assembly was kept in suspended animation. However, since no stable combination could be formed, the Governor of Bihar sent another report on 21 May 2005 to the President of India. It was mentioned in the Governor's report that in his view, a situation had arisen in the State wherein it would be desirable in the interest of the State that the Assembly which has been kept in suspended animation be dissolved so that the people/electorate could be provided with one more opportunity to seek the mandate of the people. The Union Cabinet decided to accept the report and recommended to the President the dissolution of the Legislative Assembly of Bihar. The President was pleased to approve the recommendation. After due process, the notification for the dissolution of the Assembly was issued on 23 May 2005. Thus the Bihar Assembly, after its constitution, was dissolved even without holding a single sitting. However, the action was challenged before the Supreme Court. The Supreme Court by majority judgment held that the Bihar Assembly was for all intents and purposes, deemed to be duly constituted on issue of notification under section 73 of the Representation of the People Act, 1951 and the duration thereof is distinct from its due constitution. The Court further held that the proclamation dissolving the Legislative Assembly of Bihar was unconstitutional but observed that even if the dissolution notifications were unconstitutional, the natural consequence is not restoration of *status quo ante*. In declaring the dissolution notifications to be invalid, the Court can also assess the ground realities and the relevant factors and it can mould the reliefs as the circumstances warrant. The Court felt that restoration of the *status quo ante* would not be a proper relief even if the notifications were declared invalid[32].

When the President issues a Proclamation as to the failure of the constitutional machinery in a State, he usually appoints the Governor as the chief executive of the State to carry out the functions which have been assumed by the President under the Proclamation[33].

It has been suggested, both within and outside Parliament, that guidelines should be formulated on the manner in which discretionary powers should be exercised by the Governors. There was scope, the Union Home Minister said, for giving certain guidelines to the Governors, particularly during the transitional period, but those guidelines would have to be based on an agreement of all political parties so that it might have the force of convention. No guidelines were, however, issued as no response to certain suggestions made to the leaders of the parties was forthcoming[34].

32. *Rameshwar Prasad & Ors. vs. Union of India & Anr.,* A.I.R. 2006 S.C. 980 (at pp. 1103-04).
33. *See* art. 356.
34. *L.S. Deb.,* 24-3-1970, c. 395.

The Committee of Governors, which was constituted at the instance of the President, expressed itself against the laying down of any rigid guidelines for the Governors as it "would be unrealistic and unwise to do so, quite apart from the fact that the Constitution itself does not make any provision for such guidelines"[35]. The Committee, however, came to the following conclusions in respect of the references made to it[36].

Choice of Chief Minister

Where no single party has a majority of seats in the Legislative Assembly, the Governor has to essentially satisfy himself in the first instance that the person whom he invites to form the Government commands majority support in the Legislature, and nothing prevents him from consulting the leaders of different Parties or Groups; in fact, in most circumstances, it may be necessary for him to do so.

If prior to a general election some parties combine on an agreed programme or an electoral understanding that if such a combination gets a majority they will form the Government, and if such combination gets a majority, the Governor is bound to call upon the commonly chosen leader of the combination to form the Government.

Where some parties or groups combine, after the election, for the purpose of forming a Government, it would facilitate the task of the Governor in making his choice of a Chief Minister if the Parties or Groups forming the combination elect their leader.

Inviting a person, who is not a member of the Legislature, or a nominated member, to form a Government, is open to criticism of being against the spirit of the parliamentary system.

Council of Ministers to hold Office during Governor's Pleasure

In a coalition, where there is an open split among the partners and one or more of them withdraw support from the Ministry, the Chief Minister, instead of demanding the resignation of his colleagues with whom he is no longer in accord, should submit his own resignation which implies the resignation also of his Council of Ministers. In such an event, he may, if he so chooses, stake a fresh claim to form a new Ministry with majority support, and the Governor may, if he is satisfied that such support exists, allow him to form the Government. However, if the Chief Minister fails to resign in such circumstances, the Governor should forthwith initiate steps for exploring the possibilities of forming an alternative Government. Only when he finds that there is no such possibility, he must report to the President in terms of article 356.

If some Ministers in a coalition belonging to a particular Party or Group themselves resign due to disagreement with the Chief Minister or any other reason, the Chief Minister may not necessarily resign. If, however, his majority in the Assembly is threatened by the resignations, it would be expected of him to demonstrate his continuing strength in the Assembly by advising the Governor that the Assembly be summoned within the shortest possible time and obtaining its verdict in his favour. If the Chief

35. *Report of the Committee of Governors, op. cit.,* p. 73.

36. *Ibid.,* pp. 28-63.

Minister does not follow this procedure, the Governor should start consultations with the leaders of other parties with a view to forming another Government. If the Governor is satisfied that there is another leader who can form a Government with majority support, he should invite him to form the Ministry. The Governor would then be justified in withdrawing his "pleasure" from the existing Chief Minister and his Council of Ministers. On the other hand, if the Governor is satisfied that there is no one who is in a position to command a majority in the Legislature, he must make a report to the President in terms of article 356 of the Constitution and also recommend dissolution. Dissolution in the case would be the proper course to adopt because the electorate would then have the chance of voting to power a stable Government.

Summoning of the Assembly

In the summoning of the Legislature, the Governor has to act on the advice of his Council of Ministers, as it is the Council of Ministers which provides business for a session of the Legislature.

Prorogation of the Assembly

As regards prorogation, the Governor should normally act on the advice of his Council of Ministers. Where a notice of no-confidence against his Ministry is pending in the Assembly, the Governor should first satisfy himself that the notice is not frivolous and is a genuine exercise of the parliamentary right of the Opposition to challenge the Government's majority. If so satisfied, the Governor should ask the Chief Minister to face the Assembly and allow the motion to be debated and voted upon. To prorogue the Assembly otherwise would amount to avoidance of responsibility of the Council of Ministers to the Assembly.

If an Assembly of Legislature has been prorogued in a State, the matter may be raised in the Lok Sabha and the Speaker may, in certain circumstances, allow a discussion thereon[37].

Dissolution of the Assembly

Normally, a Governor should exercise the power of dissolution on the advice of the Council of Ministers. If a Chief Minister who enjoys majority support advises dissolution, the Governor must accept the advice, but if he advises dissolution after losing his majority, the Governor need to accept his advice only if the Ministry suffers a defeat on a question of major policy and the Chief Minister wishes to appeal to the electorate for a mandate on that policy. If there is a no-confidence motion against a Ministry and the Chief Minister, instead of facing the Assembly, advises the Governor to dissolve the Assembly, the Governor need not accept such advice, but should ask the Chief Minister to get the verdict of the Assembly on the no-confidence motion. A motion for adjournment on the dissolution of the Jammu and Kashmir Legislative Assembly[38] was taken up by the Lok Sabha on 29 March 1977. The Motion was, by

37. Leave of the House was granted and a motion for adjournment on the ground of "failure of the Central Government to prevent prorogation of the Madhya Pradesh Assembly by the Governor" was admitted after Rules 60 and 61 were suspended.—*L.S. Deb.,* 20-7-1967.

38. The State of Jammu and Kashmir has been reorganized respectively into the Union Territory of Jammu and Kashmir and Union Territory of Ladakh *vide* the Jammu and Kashmir Reorganisation Act, 2019 (Sections 3 and 4). *Vide* section 2(g) of the same Act "Legislative Assembly" of Jammu and Kashmir means the Legislative Assembly of the Union Territory of Jammu and Kashmir.

leave, withdrawn after discussion[39]. On 27 November 1996, notices of adjournment motion were given by Atal Bihari Vajpayee, Dr. Murli Manohar Joshi, Jaswant Singh, Pramod Mahajan, S. Bangarappa and Ram Naik regarding (i) alleged unconstitutional action of the Governor of Uttar Pradesh and continuation of the President's Rule in that State; (ii) Political and constitutional statement in Uttar Pradesh; and (iii) failure of the Government to formulate guidelines for the conduct of Governors in regard to formation of Governments in the States. The Speaker, after hearing the members and the Minister concerned, withheld his consent to the notices as the matter was *sub judice*[40]. Yet in another instance, the Speaker had withheld his consent to a notice for moving an adjournment motion given by L.K. Advani regarding the dismissal of the duly elected Government in Goa as the matter being *sub judice*[41].

In a case where the Chief Minister recommends dissolution of the Assembly when the Budget has not been voted and the Ministry claims majority support, the Ministry in such a situation should face the Assembly and get the Budget passed before seeking dissolution for whatever reason. If, on the other hand, there is reason to believe that the Chief Minister no longer commands majority support, it is clearly open to the Governor to take steps to ascertain if it is possible to install another Ministry which is able to command majority support and get the Budget passed. Failing both, the Governor has no alternative except to make a report to the President under article 356 because Parliament alone could then sanction appropriation for carrying on the administration of the State.

A Governor is not bound to accept the advice of a Chief Minister to dissolve the Assembly if the Chief Minister has lost the majority support.

Parliament and State Matters

The Rules of Procedure and Conduct of Business in Lok Sabha preclude the discussion of State matters which can appropriately be discussed in the concerned State Legislature[42]. However, there are mixed questions, where both State and Union responsibility is involved, *e.g.,* though law and order is a State responsibility, the use of police force in suppressing Scheduled Castes and Scheduled Tribes or in dealing with violent disturbances in an Undertaking under the control of the Union Government or for putting down the demands of the industrial labour, etc. questions which attract Union responsibility—can be raised in Parliament. Thus, an adjournment motion on a matter concerning a State Government is not in order[43], unless the notice is accompanied by a statement showing how the responsibility of the Union has not been discharged[44]. Similarly, resolutions or motions on matters which are primarily the concern of the State Governments and are tantamount to an interference with their autonomy are inadmissible.

39. *L.S. Deb.,* 29-3-1977, cc. 159-237.
40. *L.S. Deb*., 27-11-1996, cc. 200-01.
41. *Ibid.,* 1-3-2005, cc 11-12.
42. *See* Subhash C. Kashyap: "Parliament and State Legislatures—A look into their Participatory Relationship" in the *Silver Jubilee Souvenir of the Himachal Pradesh State Legislature Assembly,* 1988, pp. 16-19.
43. *See* for instance, *L.S. Deb.,* 13-3-1959, cc. 6144-45; 25-7-1966, cc. 127-57, 12-8-1966, cc. 4606-07.
44. *L.S. Deb.,* 29-8-1957, cc. 10666-67.

Normally, notices for calling attention on matters which are not primarily the concern of the Government of India are not admitted. Thus, arrests of individuals in a State cannot become the subject matter of a calling attention notice, unless it is shown that the arrests were made on the advice of the Union Government[45]. In a few cases, such notices have been admitted in view of their special significance and public interest, *e.g.,* alleged harassment of a marriage party of Scheduled Castes[46], or violation of the sanctity of the premises of a State Legislature[47]. Calling attention notice on a particular aspect of a State matter has been admitted if it attracts Union responsibility[48] *e.g.* situation arising out of inaction on the part of Government to solve the problems being faced by the residents of Delhi due to massive demolition drive being undertaken in NCT Delhi[49], situation arising out of alleged brutal attack on and killing of *Adivasis* by Police in Kalinganagar in Odisha[50] and situation arising out of violence during and after the demonstration by All *Adivasi* Students Association of Assam (AASAA) on 24 November 2007 at Guwahati and steps taken by the Government in this regard[51]. More recently, calling attention notices regarding situation arising out of spread of Dengue and Chikungunya in different parts of the country and the plight of coconut growers of Tamil Nadu leading to starvation deaths were also admitted and discussed[52]. Also, in view of the constitutional duty of the Union to ensure that the Government of every State is carried on in accordance with the provisions of the Constitution[53], calling attention notices pertaining to constitutional crisis in Punjab Legislative Assembly and in Tamil Nadu Legislative Assembly have been admitted and discussed[54].

In another case, calling attention notice relating to a matter of law and order in a State having been disallowed, the Minister was asked to make a factual statement after calling for the information from the State Government, on the understanding that members who have tabled the notice would not be allowed to ask questions on the statement[55].

No question is admissible on a matter which is wholly within the State autonomy or in respect to which State Governments have no concern with the Union Government and are not responsible to it in law or fact. Questions which simply elicit information of statistical nature on a matter of all-India character without touching the policy or administration of a State may be admitted. However, in certain cases, questions touching the policies of the State administration may be allowed where: (*i*) action is required to be taken on an all-India basis though separately by each State administration;

45. *Ibid.,* 15-3-1966, cc. 5582-83.
46. *Ibid.,* 20-2-1959, cc. 2176-77.
47. *Ibid.,* 4-8-1969, cc. 236-37; 6-8-1969, cc. 231-34.
48. *Ibid.,* 17-8-1963, c. 926.
49. *Ibid.,* 6-3-2006 c. 331.
50. *Ibid.,* 14-3-2006 c. 353. Orissa was renamed as 'Odisha' by The Orissa (Alteration of Name) Act, 2011.
51. *Ibid.,* 3-12-2007 c. 480.
52. *L.S. Deb.*, 30-11-2012, cc. 778-86; and 10-12-2012, cc. 799-811.
53. *See* Art. 355.
54. For constitutional crisis in Punjab, *see L.S. Deb.,* 11-3-1968, cc. 2908-15; 14-3-1968, cc. 892-930; 20-3-1968, cc. 1821-23 and 1890-98; 21-3-1968, cc. 2303-98 and in Tamil Nadu *see L.S. Deb.,* 5- 12-1972.
55. *L.S. Deb.,* 18-4-1966, cc. 11395-96.

(*ii*) the matter is of all-India importance or interest; (*iii*) policies or matters are involved in which the Government of India give grants, loans or advice; (*iv*) the State Governments act as agents of the Government of India, though details are left to be worked out by the State Government as such agents; (*v*) the matter is of atrocities on Scheduled Castes and Scheduled Tribes, minorities or communal disturbances; (*vi*) the matter is of safety in Railway travels; and (*vii*) the question relates to enforcement of a Central Act or implementation of Centrally sponsored schemes.

Where representations or allegations against a Chief Minister of a State are made to the President or the Prime Minister, a question may be asked as to the action taken on them. Questions relating to charges against Chief Ministers, Ministers of State Governments and corruption charges against ex-Chief Minister of a State could also be asked, if the matter had been investigated by the Union Government.

On matters which are or have been the subject of correspondence between the Government of India and the Government of a State, no question can be asked except as to a matter of fact, and the answer is also confined to a statement of fact. A member might ask a question seeking information on a matter of fact, for instance, as to whether the Union Government was consulted by a State Government with respect to a certain important matter[56]. It is left to the Minister concerned to determine what particular information regarding any correspondence between the Union and State Governments might be given to the House[57]. Questions which ask for a statement of views expressed by State Governments on a particular reference made by the Government of India are not usually admitted.

Law and order is a State subject, but discussion on the law and order situation in a State may be allowed if national security is involved and the responsibility of the Government of India in some form or the other is made out[58]. For instance, discussion was allowed on the incident of gang rape in South-Delhi on 16 December 2012[59].

Parliament has recognised the sovereignty of State Legislatures concerning their procedure and conduct of business inside the House, and the Speaker has not permitted discussion relating to any matters connected therewith[60]. There have, however, been a few exceptions, and in these cases discussion has been permitted because of the special significance attached to such incidents. A calling-attention notice was admitted as the subject matter dealt with the violation of the sanctity of the premises of a State Legislature[61]. A similar notice was admitted on the "reported refusal to administer the oath/affirmation to some members" of a State Legislative Assembly in the Urdu language, on the ground that it was a constitutional issue whether an elected member belonging to a minority language group could be deprived of his right to take the oath in his own language[62], and the aggrieved party could go for redressal to a court of law. In yet another instance, notice of an adjournment motion was tabled by some

56. *L.S. Deb.,* 21-5-1957, S.Q. 189.

57. *Ibid.,* 8-8-1957.

58. *See,* for instance, *L.S. Deb.,*13-6-1967, cc. 4741-52; 19-3-1984, cc. 682-711.

59. *L.S. Deb.,* 18-12-2012, cc. 887-90.

60. *L.S. Deb.,* 21-8-1969, cc. 234, 235, 244-245; 29-8-1969, cc. 286-88.

61. *Ibid.,* 4-8-1969. cc. 236-37; 6-8-1969, cc. 231-34.

62. *L.S. Deb.,* 20-3-1969, c 201.

members in the Lok Sabha, about developments in a State wherein the State Legislative Assembly was prorogued when the motion of no-confidence in the Council of Ministers was pending before that House. The Speaker, while disallowing the adjournment motion held that the Lok Sabha was not competent to question the procedure adopted in the State Legislative Assembly. The Speaker, however, permitted the House to consider the constitutional aspect of the question and observed during the discussion that members should avoid making any reference to the competence of the Assembly to take a particular decision as also to the ruling of the Speaker of the State Legislative Assembly[63].

When a Governor performs the duties of a constitutional Head of State, his actions do not become the subject matter of questions or debate in Parliament. But, where he takes a decision independently of his Council of Ministers or where he acts as the chief executive of the State under President's rule, his actions are subject to scrutiny by Parliament.

As a result of the fourth general elections, the Governors of many States had to face difficult and delicate situations. The emergence of Coalition Ministries in several States comprising various political parties with different political ideologies, policies and programmes, and shifting loyalties of legislators resulted in great political instability and consequently, created many problems for the Governors, which were perhaps not fully envisaged by the framers of the Constitution. Many a decision taken by them, though inherent in their constitutional position, raised controversy both inside and outside Parliament.

The actions taken by the State Governors have, therefore, been the subject-matter of discussion in Parliament from time to time. On an objection raised, it has been held by the Speaker that while Parliament could not discuss the conduct of a Governor, his official actions could legitimately be discussed[64]. The action of the Governor in dismissing the Ministry[65], or the manner and procedure adopted by him in appointing a Chief Minister[66], or in the formation of Ministry[67] has been discussed in the House. The question of the recall of the Governor of a State as demanded by the State Government concerned was raised in Parliament through a calling attention notice[68]. In another case, a motion was moved in Parliament recording 'its disapproval of the conduct of the Governor of... in handling the recent constitutional crisis in that State' and recommending that 'the Governor be recalled'. The motion was, however, negatived[69].

The questions pertaining to the abrupt summoning, adjournment, prorogation and dissolution of the Legislative Assemblies in Madhya Pradesh, Haryana, Jammu & Kashmir (now Union Territory *w.e.f.* 9 August 2019), Punjab and West Bengal by the respective State Governors have been discussed in Parliament[70]. Various issues which

63. *Ibid.,* 4-3-1970, c. 326.

64. *Ibid.,* 28-2-1968, cc. 505-09.

65. *Ibid.,* 1-12-1967, cc. 4265-319; 4-12-1967, cc. 4509-585; 21-8-1984, cc. 347-498.

66. *Ibid.,* 28-2-1968. cc. 505-64 and 11-4-1968, cc. 300-19.

67. *Ibid.,* 23-2-1970, cc. 304-62; 24-3-1970, cc. 389-414.

68. *Ibid.,* 3-3-1969.

69. *Ibid.*, 19-11-1970. cc. 272-433.

70. *See* for instance, *L.S. Deb.,* 3-3-1969, cc. 214-24; 12-3-1969, cc. 200-11; 4-3-1970, cc. 298-378; and *R.S. Deb.,* 21-6-1971. cc. 97-148; 22-6-1971, cc. 19-42.

arose in some State Legislatures concerning these matters have also been discussed earlier[71].

Parliament may also discuss the failure of the Union Government to give directions to a State on any matter under article 365. Similarly, where a Governor fails in his duty to report to the President or to reserve a Bill for the President's assent, Parliament may discuss or call for a statement from the Union Government either in response to a Question or a Call Attention Notice. To avoid the transgression into State autonomy, Parliament may discuss the matter on a motion for the dismissal or recall of a Governor or withdrawing of the pleasure of the President.

When a State is under the President's rule, questions can be asked on all aspects of the State administration, including matters which have been previously the concern of the State Government and the State Legislature. But when the Proclamation is revoked and the President's rule is terminated, Parliament has no power to entertain questions or raise debates even though they relate to a period when the State was under the President's rule. Even if such questions or discussions have been previously fixed and are included in Question List or *List of Business,* they are either deleted or not proceeded with as soon as the Proclamation is revoked. The test is as to which authority—the State or the Union Government—is administering the State under responsibility to the State Legislature or Parliament, as the case may be, when the matter for a question or discussion arises.

While Proclamation under article 356 is in operation, Parliament becomes competent to discuss all the subjects in the State List which, but for the Proclamation the Legislature of that State alone could discuss; and the Union Ministers become answerable to Parliament for the affairs of the State. Admissibility of the various items of business is governed by the Rules of Procedure of Lok Sabha and not those of the defunct Assembly[72]. The Budget of a State under the President's rule is presented to the Lok Sabha and the Lok Sabha votes/grants and Parliament passes Appropriation Bill for the withdrawal of moneys from the Consolidated Fund of the State concerned.

Parliamentary Committees of the Lok Sabha assume the functions of the State Committees and are empowered to deal with any State matter during the period of Proclamation. However, Parliamentary Committees may not take up a matter; for instance, the Committees on Subordinate Legislation did not consider it advisable to scrutinise the State rules or "orders" as they thought that the State Committee could do so later when the normal State Administration under the control of the State Legislature was restored.

President's Acts relating to a State under President's rule are made after consultation with a Parliamentary Committee constituted under the appropriate Act of Parliament. The reports and papers which are required to be laid before the State Legislature are placed on the Table of Lok Sabha during the President's rule.

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71. *See* Chapter 9 —'Summoning and Prorogation of the Houses of Parliament and dissolution of the Lok Sabha, *supra.*

72. *L.S. Deb.,* 5-8-1959, c. 665.

CHAPTER 43

Parliament and Judiciary[1]

The Parliament, the Executive and the Judiciary are the three main pillars of our democratic edifice. The Constitution of India defines powers, delimits jurisdictions and demarcates responsibilities of each organ. As regards the relationship between the Parliament and the Judiciary, both are under constitutional obligation not to encroach upon each other's jurisdiction. In this respect, article 121 provides that the conduct of a Judge of the Supreme Court or High Court cannot be discussed in Parliament except upon a motion, for presenting to the President, praying for the removal of such Judge. Also, the matters which are *sub judice* cannot be discussed in Parliament. Article 122 provides that the Judiciary too cannot question the validity of any proceedings of Parliament on the ground of any alleged irregularity of procedure. It further provides that no officer or member of Parliament in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in Parliament shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

Under the scheme of our Constitution, Parliament being the supreme legislative body has been accorded the pre-eminent position in our polity. Several constitutional provisions amply demonstrate our Parliament's primacy in legislative sphere. Reflecting the hopes and aspirations of the people, the Parliament, over the years, has truly become a people's institution *par excellence*. As the supreme law-making body in the country, the Parliament discusses, scrutinizes and amends the drafts of various legislations if necessary and thereafter**,** puts the seal of approval, thereby legitimizing the legislative proposals formulated by the Executive.

The Constitution also accords an important place to the Judiciary, with the Supreme Court at the apex of the judicial system. The Supreme Court, in addition to being the final court of appeals—civil and criminal—has exclusive original jurisdiction in disputes between the Government of India and one or more States; or between the Government of India and any State or States on one side and one or more other States on the other; or between two or more States; and is the ultimate arbiter in all matters involving the interpretation of the Constitution. It has also extensive writ jurisdiction for the enforcement of fundamental rights[2], and an advisory jurisdiction on a question of law or fact referred to it by the President[3]. The power of judicial review conferred upon the Supreme Court and the High Courts ensures that both Legislature and Executive act in their respective spheres of jurisdiction and also they do not act in defiance of the Constitution. It also guards, protects and enforces the fundamental rights guaranteed to the citizens by the Constitution. The Supreme Court has indeed declared judicial review to be one of the basic structures of the Constitution which is to be regarded as sacrosanct.

1. *See* also Chapters 5, 11 and 26. *supra.*
2. Art. 32.
3. Art. 143.

Thus, as per the Constitutional scheme, both Parliament and Judiciary are supreme in their respective spheres. Various constitutional provisions do not leave any scope for confrontation between these two important organs of State. Indeed, the harmonization of the principles of Parliamentary Sovereignty and Judicial Review is a unique feature of India's Constitution.

Appointment of Judges

Judges of the Supreme Court are appointed by the President after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose[4]. In the case of appointment of a Judge of the Supreme Court, the Chief Justice of India is invariably consulted[5]. It is the Union of India which is the ultimate authority to approve the recommendation for appointment as a Judge[6]. Thus, the Judges of the Supreme Court are appointed under clause (2) of article 124 of the Constitution, while the Judges of the High Courts are appointed by the President under clause (1) of article 217 of the Constitution[7]. Though the number of Judges of the Supreme Court, other than the Chief Justice has been limited under the Constitution to 'not more than seven', power has been

4. Art. 124(2).

5. *Ibid.,* Proviso.

   The question whether the opinion of the Chief Justice of India in the matter of appointment of Judges under article 124(2) of the Constitution should enjoy primacy was considered by the Supreme Court in the *S.P. Gupta vs. President of India* (ACR 1982 SC 149). The majority opinion in that case was against any such primacy being given to the Chief Justice of India. However, in the *Supreme Court Advocates – on-Record Association vs. Union of India* (A.I.R. 1994 SC 268), the majority of the nine-Judge Bench held:

   "Opinion of the Chief Justice of India which has primacy in the matter of appointment of superior Judiciary means the opinion formed by the CJI collectively, *i.e.* after taking into account views of his senior colleagues. In other words, the view of the Chief Justice of India is to be expressed in the consultative process as truly reflective of the opinion of the Judiciary, which means that it must necessarily have the element of plurality in its formation. In actual practice, this is how the Chief Justice of India does, and is expected to function, so that the final opinion expressed by him is not merely his individual opinion, but the collective opinion formed after taking into account the views of some other Judges who are traditionally associated with this function."

   The President of India made a reference to the Supreme Court on 23 July 1998 under article 143(1) of the Constitution regarding the consultation process to be adopted by the Chief Justice of India for appointment of Judges of the Supreme Court and High Courts. In a unanimous pronouncement, a nine-member Constitution Bench of the Supreme Court held that recommendations of the Chief Justice of India on appointment of Judges to the Apex Court and High Courts without following the consultation process are not binding on the Government. The consultation process to be adopted by the Chief Justice of India required consultation of plurality of Judges. The Bench was of the view that the sole individual opinion of the Chief Justice of India does not constitute consultation within the meaning of article 124(2). [A.I.R. January 1999, S.C. Vol. 86].

6. *Shanti Bhushan and another vs. Union of India and another* (2009) 1 S.C.C. 657; (2008) 17 S.C.R. 791.

7. The National Judicial Appointments Commission (NJAC) was established by the Ninety-ninth Constitution Amendment Act, 2014 which was passed by Lok Sabha and Rajya Sabha on 13 and 14 August 2014, respectively. The NJAC sought to replace the collegium system for the appointment of judges. Along with the Constitution Amendment Act, the National Judicial Appointments Commission Act, 2014, was also passed by Parliament to regulate the functions of the NJAC. The Constitutional Amendment Bill and the NJAC Bill received Presidential assent on 31 December 2014 and came into force from 13 April 2015. (PIB, 13.4.2015)

   On 16 October 2015, the Constitution Bench of Supreme Court by 4:1 majority upheld the collegium system and struck down the NJAC as unconstitutional after hearing the petitions filed by several persons and bodies. (Supreme Court ... *vs.* Union of India, 16 October, 2015)

given to Parliament to prescribe a larger number. At present, the number of Judges so prescribed is thirty three[8].

A person to be eligible for appointment as a Judge of the Supreme Court or of a High Court must be a citizen of India. While appointing a Judge of the Supreme Court, the choice of the President is limited to Judges of High Courts who have held that office for at least five years, or advocates of a High Court with at least ten years' standing or who in the President's opinion are distinguished jurists[9].

Every Judge of a High Court is also appointed by the President after consultation with the Chief Justice of India, the Governor of the State concerned, and, in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of that High Court[10]. No statutory limit is prescribed on the number of Judges in a High Court. For appointment as a Judge of a High Court, a person should either have held a judicial office in India for at least ten years or should have been an advocate of a High Court for at least the same period[11].

Conditions of Service of Judges

A Judge of the Supreme Court holds office until he attains the age of sixty-five years[12], and a Judge of a High Court till the age of sixty-two years[13]. A Judge of the Supreme Court, after ceasing to hold that office, is debarred from practising throughout India[14]. No person, who, after the commencement of the Constitution, has held office as a permanent Judge of a High Court can plead or act within the jurisdiction of the High Court of which he was a Judge. He may, however, plead or act in the Supreme Court and other High Courts[15].

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8. The Supreme Court (Number of Judges) Amendment Bill, 2019 was introduced in and passed by Lok Sabha on 5 August to amend the Supreme Court (Number of Judges) Act, 1956 for increasing the maximum number of judges from 30 to 33 (excluding the Chief Justice of India). The Rajya Sabha considered the Bill and returned it to the Lok Sabha on 7 August 2019 which received Presidential assent on 9 August 2019. (Rajya Sabha, Parliamentary Bulletin, Part-I, 7.9.2019)

   The High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill, 2018 was passed by Lok Sabha on 4 January 2018. On 5 January 2018, the Rajya Sabha received a message from the Lok Sabha with a revised copy of the Bill as passed by Lok Sabha, in its sitting held on the 4 January 2018, wherein the Speaker had certified that the Bill was a Money Bill within the meaning of Article 110 of the Constitution. A copy of the revised Bill, as passed by Lok Sabha, was laid on the Table. (Rajya Sabha, Parliamentary Bulletin Part-I, 5.1.2018) Thereafter, the Rajya Sabha was adjourned *sine die*. The Bill received Presidential assent on 25 January 2018.

   As per the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2018, the Chief Justice of the Supreme Court receives a monthly salary of Rs. 2,80,000. Judges of the Supreme Court receive a monthly salary of Rs. 2,50,000 which is equal to the monthly salary of the Chief Justice of the High Court. Judges of a High Court draw a salary of Rs. 2,25,000.

   (The Gazette of India, Part-II, Section-I, 27.1.2018)

9. Art. 124(3).

   The practice generally has been to make new appointments as Judges of the Supreme Court from amongst the Judges or retired Judges of the High Courts or from amongst the advocates of High Courts of requisite standing. No Judge has so far been appointed from the category of distinguished jurists.

10. Art. 217(1).

11. Art. 217(2).

12. Art. 124(2).

13. Art. 217(1).

14. Art. 124(7).

15. Art. 220.

The salaries of the Judges of the Supreme Court and of the High Courts were originally fixed by the Constitution and thereafter revised in 1986 by the Constitution (Fifty-fourth) Amendment Act, 1986, by amending Part D of the Second Schedule. The Constitution Amendment Act also amended articles 125(1) and 221(1) to provide that the Judges of the Supreme Court and of the High Courts shall be paid such salaries as may be determined by Parliament by law and, until provision in that behalf is so made, they shall be paid such salaries as are specified in the Second Schedule. In view of the power conferred on it, the Parliament passed the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2018 which amended the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 *inter alia* to increase the salaries of the Chief Justice and Judges of the Supreme Court and of the High Courts with retrospective effect from 1 January 2016[16].

A Judge of the Supreme Court is also entitled to a rent-free residence[17]. The salaries and allowances of the Judges cannot be varied: it is only during the period of a Proclamation of Financial Emergency that the President may effect reduction therein[18].

Parliament is empowered to regulate by law the conditions of service relating to leave, pension and other privileges and allowances of the Judges of the Supreme Court and the High Courts, but these cannot be varied to the disadvantage of a Judge after his appointment[19].

There is no ban on the re-employment of retired Judges of the Supreme Court or a High Court.

Resignation and Removal of Judges from Office

A Judge of the Supreme Court or of a High Court may, by writing under his hand addressed to the President, resign his office[20], but he cannot be removed from his

16. Arts. 125(1) and 221(1).

    The Constitution of India *vide* Part D of Second Schedule originally prescribed Rs. 5,000 for the Chief Justice of India and Rs. 4,000 for any other Judge of the Supreme Court and Chief Justice of the High Court and Rs. 3,500 for any other Judge of the High Court. Subsequently, the Parliament enacted the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 which provides and deals with the salary and other conditions of service of the Judges of High Courts and the Supreme Court.

    The Act has been amended from time to time to enhance the salary etc. of the Judges of the Supreme Court and High Courts. As per the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2018, which sought to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954, the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958, the Chief Justice of the Supreme Court receives a monthly salary of Rs. 2,80,000 Judges of the Supreme Court receive a monthly salary of Rs. 2,50,000 which is equal to the monthly salary of the Chief Justice of the High Court. Judges of a High Court draw a salary of Rs. 2,25,000 per month.

17. *See* Second Schedule of the Constitution, para 9(2).

18. Art. 360(4)(b).

19. Arts. 125(2) and 221(2). By virtue of the power conferred under the Constitution, Parliament has enacted the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 and the High Court Judges (Salaries and Conditions of Service) Act, 1954, laying down the conditions relating to leave, pension and other privileges and allowances of the Supreme Court and High Court Judges, respectively, The two Acts were amended in 1971, *vide* Acts 77 and 78 of 1971; in 1976 *vide* Acts 35 and 36 of 1976; and in 1980, 1985, 1986, 1987, 1988, 1989, 1993, 1994, 1996, 1998 and 1999 *vide* Acts 57 of 1980, 36 of 1985, 38 of 1986, 48 of 1987, 20 of 1988, 32 of 1989, 72 of 1993, 2 of 1994, 20 of 1996, 18 of 1998 and 7 of 1999, respectively; in 2003 *vide* Acts 7 and 8 of 2003; in 2005 *vide* Act 46 of 2005; *vide* Act 23 of 2009 and *vide* Act 10 of 2018.

20. Arts. 124(2)(a) and 217(l)(a).

office except by an order of the President passed after an address by each House of Parliament in the prescribed manner[21].

The address for the removal of a Judge, whether of the Supreme Court or a High Court, can be presented to the President only on the ground of 'proved misbehaviour' or 'incapacity'. Such an address has to be presented to the President in the same session in which it is passed by each House of Parliament supported by a majority of the total membership of each House and also by a majority of not less than two-thirds of the members of each House present and voting[22]. If the address of both the Houses is in conformity with the aforesaid provision of the Constitution, the President issues an order for the removal of the Judge from office.

The procedure for the investigation and proof of the misbehaviour or incapacity of a Judge and for the presentation of an address to the President has been prescribed by the Judges (Inquiry) Act, 1968[23].

Under the procedure laid down by the Act, a notice of a motion for presenting an address to the President for the removal of a Judge, if given in Lok Sabha, is to be signed by not less than one hundred members of the House and if given in Rajya Sabha, by not less than fifty members of that House. The Speaker or the Chairman, as the case may be, after due consideration and consultation, may admit or refuse to admit the motion[24]. So far two such notices have been admitted, one by the Speaker, Lok Sabha in 1991 and another by the Chairman, Rajya Sabha in 2009[25].

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21. Art. 124(4) and (5), and Art. 218.

22. Arts. 124(4) and 217(l)(b).

    Even if a Judge is said to have committed gross errors in judgement, that does not amount to misbehaviour—*C.K. Daphtary Vs. O.P. Gupta,* A.I.R.1971 S.C. 1132.

23. A Bill namely, the Judges (Inquiry) Bill, 2006 seeking to replace the Judges (Inquiry) Act 1968, introduced in Lok Sabha on 19 December 2006 provided, *inter alia* for setting up of a National Judicial Council for examining any allegation of misbehaviour or incapacity against a Judge of the Supreme Court or High Court. The Bill was referred to the Departmentally Related Standing Committee on Personnel, Public Grievances, Law and Justice for examination and report. The Report was laid on the Table of the House on 17 August 2007. The Bill lapsed following the dissolution of the Fourteenth Lok Sabha on 18 May 2009. Another Bill, namely, the Judicial Standards and Accountability Bill, 2010 was introduced in Lok Sabha on 1 December 2010 (Sixth Session, Fifteenth LS). The Bill sought to lay down judicial standards and provide for accountability of Judges, and, establish credible and expedient mechanism for investigating into individual complaints for misbehaviour or incapacity of a Judge of Supreme Court or of a High Court and to regulate the procedure for such investigation; and for the presentation of an address by Parliament to the President in relation to proceeding for removal of a Judge. The Bill also sought to repeal the Judges (Inquiry) Act, 1968.

    The Bill was passed by the Lok Sabha on 29 March 2012 and laid on the Table of Rajya Sabha on 30 March 2012. The Bill could not be taken up for consideration till the dissolution of the Fifteenth Lok Sabha.

24. After the passing of the Judges (Inquiry) Act, 1968**,** a notice of a motion for presenting an address to the President for the removal of a Judge of the Supreme Court was given in Lok Sabha by S.M. Joshi and 198 other members on 15 May 1970 (10th Session, 4 LS). The Speaker (Dr. G.S. Dhillon) did not consider it to be a fit case for action under the Judges (Inquiry) Act, 1968 and did not admit the notice.

25. During the Ninth Lok Sabha, on 28 February 1991, the Speaker (Rabi Ray) received a notice of motion dated 27 February 1991 signed by Prof. Madhu Dandavate and 107 other members for presenting an address to the President of India for the removal of Justice V. Ramaswami, Judge of the Supreme Court of India. On finding the notice of motion in order, the Speaker admitted it on 12 March 1991.

    On 20 February 2009, the Chairman, Rajya Sabha (M. Hamid Ansari) received a notice of motion dated 20 February 2009 signed by Sitaram Yechury and 56 other members of Rajya Sabha for presenting an address to the President of India for removal of Justice Soumitra Sen, Judge, Calcutta High Court. On finding the notice of motion in order, the Chairman admitted it on 27 February 2009.

Consequent on the admittance of the motion, the Speaker or the Chairman, as the case may be, constitutes a Committee of three members, one each from among the following: (*i*) the Chief Justice and other Judges of the Supreme Court; (*ii*) Chief Justices of the High Courts; and (*iii*) distinguished jurists[26]. In case the notices of motion are given on the same day in both the Houses, the Committee will be constituted only if the motion has been admitted in both Houses and thereupon jointly by the Speaker and the Chairman. In case notices of motion are given in both the Houses on different dates, the notice which is given later shall stand rejected.

The Committee will frame definite charges against the Judge on the basis of which investigation is proposed to be held and will have the powers of a civil court in respect of summoning persons for examination on oath, production of documents, etc. The charges together with a statement of the grounds on which each such charge is based, shall be communicated to the Judge and he shall be given a reasonable opportunity of presenting a written statement of defence within such time as may be specified. In a case of alleged physical or mental incapacity and where such an allegation is denied, a Medical Board will be appointed for the medical examination of the Judge by the Speaker or, as the case may be, the Chairman or, where the Committee has been constituted jointly, by both of them.

At the conclusion of the investigation, the Committee will submit its report to the Speaker[27] or, as the case may be, to the Chairman, or where the Committee has been constituted jointly, to both of them, stating therein its findings on each of the charges

26. The Speaker, in pursuance of Section 3(2) of the Judges (Inquiry) Act, 1968, constituted a Committee consisting of Justice P.B. Sawant, Judge of the Supreme Court of India (Chairman), Justice P.D. Desai, Chief Justice of the High Court at Bombay and Justice O. Chinnappa Reddy, former Judge of the Supreme Court of India (Members), for making an investigation into the grounds on which the removal of Justice V. Ramaswami was prayed for. (*L.S. Deb.,* 12 March 1991 cc. 115-18).

    In the matter of Justice Soumitra Sen, the Chairman, Rajya Sabha, constituted a Committee consisting of Justice D.K. Jain, Judge of the Supreme Court of India (Chairman), Justice T.S. Thakur, Chief Justice of the Punjab and Haryana High Court and Fali S. Nariman, Senior Advocate, Supreme Court of India for making an investigation into the grounds on which the removal of Justice Soumitra Sen was prayed for.

    The Chairman reconstituted the Committee on 25 June 2009, consisting of Justice B. Sudershan Reddy, Judge of the Supreme Court of India, Justice T.S. Thakur, Chief Justice of the Punjab and Haryana High Court, and Fali S. Nariman, Senior Advocate, Supreme Court of India.

    The Chairman again reconstituted the Committee on 16 December 2009 consisting of three members *viz*., Justice B. Sudershan Reddy, Judge of the Supreme Court of India, Justice Mukul Mudgal, Chief Justice of the Punjab and Haryana High Court and Shri Fali S. Nariman, Senior Advocate, Supreme Court of India.

27. In the case of Justice V. Ramaswami, before the Committee could submit its report, the Ninth Lok Sabha was dissolved by the President on 13 March 1991. The question whether the motion lapsed or remained alive on the dissolution of the Lok Sabha was raised in a petition filed before the Supreme Court. The Supreme Court held–

    "It is true that Purushothaman Nambudiri case (A.I.R. 1962 S.C. 694) dealt with a legislative measure and not a pending business in the nature of motion. But, we are persuaded to the view that neither the doctrine that dissolution of a House "passes a sponge over parliamentary slate" nor the specific provisions contained in any rule or rules framed under article 118 of the Constitution determine the effect of dissolution on the motion for removal of a Judge under article 124. The reason is that article 124(5) and the law made thereunder exclude the operation of article 118 in this area" (*Sub-Committee of Judicial Accountability vs. Union of India, A.I.R. 1992, S.C. 320, p. 344*). Accordingly, the notice of motion remained alive. The Tenth Lok Sabha was constituted on 20 June 1991. The Justice Sawant Committee submitted its report to the Speaker (Shivraj V. Patil) of the Tenth Lok Sabha in July 1992.

separately with such observations on the whole case as it thinks fit. The report will thereafter be laid before the respective House, or the Houses where the Committee has been appointed jointly by the Speaker and the Chairman. If the Committee absolves the Judge of any misbehaviour or incapacity, the motion pending in the respective House or Houses, as the case may be, will not be proceeded with. If the report of the Committee contains a finding that the Judge is guilty of any misbehaviour[28] or suffers from any incapacity, the motion will, together with the report of the Committee, be taken up for consideration by the House or the Houses in which it is pending[29].

In the event of the adoption of the motion in accordance with the constitutional provisions, the misbehaviour or incapacity of the Judge will be deemed to have been

28. The Justice Sawant Committee in its report found that Justice V. Ramaswami was guilty of misbehaviour and the Report was laid on the Table of the House on 17 December 1992 by the Secretary-General of Lok Sabha.

    In the case of Justice Soumitra Sen, the Committee, under the Chairmanship of Justice B. Sudershan Reddy, in its Report found that Justice Soumitra Sen was guilty of misappropriation of large sums of money, which he received in his capacity as receiver, appointed by the High Court of Calcutta and misrepresentation of facts with regard to the misappropriation of money before the High Court of Calcutta. The Report was simultaneously laid on the Table of both the Houses on 10 November 2010, by the respective Secretaries-General.

29. In Justice V. Ramaswami's case after the Inquiry Committee Report was laid on the Table of the House, notices were received from several members for consideration of the motion for presentation of an address to the President under article 124(4) and the Report of the Committee. As this was the first case of its kind, the Speaker in consultation with the Leaders of Parties and Groups in the House, formulated the following procedure and the House agreed to it:

    (i) Notices of only those members would be taken into account who were signatory to the notice of motion which was given during the Ninth Lok Sabha; and

    (ii) The provisions governing discussion on motions under Rule 184 of the Rules of Procedure and Conduct of Business be broadly followed, as far as possible.

    The following two motions were included in the names of five members in order of priority in the *List of Business* for 10 May 1993:

    (i) Motion for presenting an address to the President of India under clause (4) of article 124 of the Constitution; and

    (ii) Motion for considering the Report of the Inquiry Committee constituted to investigate into the grounds on which the removal of Justice V. Ramaswami, Judge of the Supreme Court of India, was prayed for.

    Before the motions were taken up for consideration, the Speaker made the following announcement in the House:

    > The matter may be dealt with in a very careful and sound manner to be very precise, correct and just and not to repeat the points, not to bring in extraneous points and not to complicate the issue to arrive at correct conclusions very neatly. Only a few members may speak. The Report given by the Judges Committee and the defence of the Judge have been made available to the members well in time. The debate on the motion may be concluded today itself; if need be, it may continue even beyond 6 p.m. About this, I leave it to the judgment of the House. The mover of this motion may move the motion and then speak. The Judge or the lawyer of the Judge may be allowed to make submission to the House in this matter and then withdraw. The mover of the motion may reply to the debate; then the motion and address to be presented to the President of India may be put to vote. The motion and the address to be passed need the support of majority of the total membership of the House and also the majority of not less than two-third members of the House present and voting. [*L.S. Deb.,* 10-5-1993, cc. 486-87].

    The House agreed to the above procedure.

    Somnath Chatterjee, who was first in priority, moved both the motions (which were discussed together) and also spoke. Thereafter, Kapil Sibal, the Counsel for Justice V. Ramaswami, made submissions from the Bar of the House on behalf of Justice V. Ramaswami. After making his submissions, the Counsel withdrew. Other members were allowed to speak. The discussion on the motions continued on next day as well *i.e.* 11 May 1993. After the members had spoken, the mover of the motions replied to the debate.

proved and an address praying for the removal of the Judge will be presented in the prescribed manner by each House of Parliament in the same session in which the motion has been adopted[30].

Before the procedure was laid down by law, notices of motions for the removal of a Judge on the ground of misbehaviour or incapacity were on occasions tabled by members. Whenever a notice was received from a member of his intention to move such a motion, the Speaker discussed the matter with the member and examined the material on which the allegation was based to ensure that there was a *prima facie* case to proceed in the matter. He asked the member not to make the contents of his motion public: in fact, a strict secrecy about the matter was ensured. After the Speaker had satisfied himself that there was a *prima facie* case, he sent a copy of the complaint to the Chief Justice of the concerned High Court and to the Chief Justice of India to look into the matter. A copy was also sent to the Minister of Home Affairs for his comments. The Speaker adopted this procedure in order to resolve the matter without its being raised on the floor of the House.

As a result of the adoption of this procedure in such cases, either the Judge concerned retired voluntarily or the defect was soon rectified and thus unpleasant controversy which might have lowered the prestige of Judiciary was avoided on the floor of the House, and the cases complained of were resolved before the matter could be raised in the House[31].

Relation of Courts with the Legislature

While the Constitution has not recognised the doctrine of separation of powers in its absolute rigidity, the functions of the three organs of State, *viz.,* the Legislature, the Judiciary and the Executive have been sufficiently demarcated. As observed by Raghava Rao J.:

The powers of each one of the three organs have to be exercised as fundamentally subject to the provisions of the Constitution relating to that organ

30. Arts. 124(4) and 217(l)(b); In the case of Justice V. Ramaswami**,** the motion and the address were put to the vote of the House. As a result of the division (Ayes: 196 and Noes : Nil), the motion and the address were declared as not carried by the requisite majority in accordance with clause (4) of article 124 of the Constitution. [*L.S. Deb.,* 12-3-1991, cc. 115-18; 10-5-1993, cc. 485-656; and 11-5-1993, cc. 513-758].

In case of Justice Soumitra Sen, the motion and the address were put to the vote of the Rajya Sabha on 18 August 2011. As a result of the division (Ayes: 189 and Noes: 19), the motion and the address were carried by the requisite majority in accordance with clause (4) of article 124 read with art. 217(1) (b) of the Constitution. Message was transmitted to the Lok Sabha Secretariat on the same day and was reported in the Lok Sabha on 19 August 2011. The address passed by the Rajya Sabha for presenting to the President was also laid on the Table of Lok Sabha.

The motion to consider and support the motion and the address supported by the Rajya Sabha and an address by the Lok Sabha for presenting to the President, praying for removal of Justice Soumitra Sen from office were included in the List of Business for 5 September 2011 for being taken up at 1400 hrs. When House met at 1400 hrs. the Minister of Law and Justice informed the House about the resignation of Soumitra Sen. Thereupon, the Speaker after taking sense of the House decided not to proceed with the items regarding removal of Justice Soumitra Sen. Accordingly, the items were not taken up. [*L.S. Deb.* 5-9-2011].

31. *See* the Evidence of M.N. Kaul, former Secretary of Lok Sabha, given before the Joint Committee on the Judges (Inquiry) Bill, 1964.

individually as well as to the provisions relating to other organs...It is the respect that is accorded by one organ of the State to the others that ensures that healthy working of the Constitution which is the acid test of its merits whatever the paper value of its provisions[32].

Both Parliament and State Legislatures are sovereign within the limits assigned to them by the Constitution. For realization of financial autonomy in managing the affairs of State Legislatures, the 83rd All India Presiding Officers' Conference resolved that Chairperson, AIPOC be authorized to conduct wide ranging consultations with State Governments[33]. The supremacy of the Legislature under a written Constitution, as observed by the Supreme Court, is only within what is in its power but what is within its power and what is not, when any specific Act is challenged, it is for the Courts to say[34].

All legislations, whether Union, State or delegated, are subject to the doctrine of *ultra vires* and liable to judicial review[35]. The scope of review is limited to see whether the legislation impugned falls within the periphery of the power conferred and whether it is in contravention of the Fundamental Rights guaranteed by the Constitution or of any other mandatory provision of the Constitution. The Courts are concerned only with interpreting the law and are not to enter upon a discussion as to what the law should be[36]. The Legislature can amend laws to meet the lacunae or defects pointed out therein by the Courts, or legislate afresh to give effect to their original intentions and such amendments are accepted by the Court as valid law.

Further, under article 368 of the Constitution, Parliament has been empowered to amend the Constitution by way of addition, variation or repeal of any provision according to the procedure laid down therein. But this constituent power is subject to the 'doctrine of basic structure of the Constitution' as propounded by the Supreme Court *vide* its judgement in *His Holiness Kesavananda Bharati Sripadagalvaru v. State of Kerala case*[37] and reiterated in number of subsequent cases. Accordingly, the position at present is that every provision of the Constitution can be amended provided

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32. *In re. A.K. Gopalan,* A.I.R. 1953 Madras 41.

33. 83rd All India Presiding Officers' Conference held on 10-11 January 2023, Jaipur, Rajasthan.

34. *Rustom Cawasjee Cooper vs. Union of India,* A.I.R. 1970 S.C. 1318.

35. *K.J. Thomas vs.* Commissioner *of Agricultural Income-tax, Madras*, A.I.R. 1958 Kerala 6.

    Prior to 1976, the constitutional validity of a Union law could be questioned before either the Supreme Court or a High Court. After the Constitution (Forty-second Amendment) Act, 1976, only the Supreme Court had exclusive jurisdiction as regards determination of the constitutional validity of Union laws and the High Courts were debarred from considering the validity of a Union law.

    Similarly, the High Courts were conferred with exclusive original jurisdiction in the matter of validity of State laws. However, the Supreme Court continued to have authority to decide upon the validity of State laws in its appellate jurisdiction; where a case involved constitutional validity of both a Union law and a State law, the Supreme Court alone had the jurisdiction to determine the constitutional validity of such laws. But, with the enforcement of the Constitution (Forty-third Amendment) Act, 1977 the position prevailing prior to 1976 with regard to the constitutional validity of a Union or State law stands restored.

36. *Purshottam Govindji Halai vs. B.M. Desai,* A.I.R 1956 S.C. 20.

37. A.I.R. 1973 S.C. 1961.

that the basic foundation and structure of the Constitution remains the same. The basic features of the Constitution are not finite. In the *Indira Nehru Gandhi v. Raj Narain case*[38] and also in the *Minerva Mills Ltd. v. Union of India case*[39], it has been observed by the Supreme Court that the claim of any particular feature of the Constitution to be a 'basic feature' would be determined by the Court in each case that comes before it. The Supreme Court besides being the highest court of appeal in the country is also the guardian of the Constitution. Thus the final say as to what the Constitutional provisions mean rests with the Supreme Court.

Courts not to inquire into Proceedings of Parliament

Subject to the provisions of the Constitution, Parliament and the State Legislatures can regulate their own procedure. The validity of any proceedings in either House of Parliament or a State Legislature cannot be questioned before a court of law on the ground of any alleged irregularity of procedure[40]. In its judgment in *Raja Ram Pal v. The Hon'ble Speaker, Lok Sabha and Ors.Case*[41], it has been held by the Supreme Court that in the context of article 122(1), mere irregularity of the procedure cannot be a ground of challenge to the proceedings in Parliament or effect thereof, and while the same view can be adopted as to the element of "irrationality", but in the constitutional scheme, illegality or unconstitutionality will not save the Parliamentary proceedings. Apart from Parliament or the State Legislatures, the Presiding Officer of each House or any other officer or member of Parliament or State Legislature who is for the time being vested with the powers to regulate procedure or the conduct of business or to maintain order in, or to enforce or carry out the decision of, either House of Parliament or the State Legislature, as the case may be, is not subject to the jurisdiction of the Courts in exercise of those powers[42].

The Supreme Court also upheld the power of Parliament to expel its members from the House[43].

The Courts have no jurisdiction to issue a *writ*, direction or order relating to a matter in respect of what is done in the House or which affects the internal affairs of the House[44].Similarly, the Presiding Officer is also not subject to the jurisdiction of any court for failure to exercise his power to regulate the proceedings of the House[45].

38. A.I.R. 1975 S.C. 2299.

39. A.I.R. 1980 S.C. 1789.

40. Arts. 122(1) and 212(1); *M.S.M. Sharma vs. Shri Krishna Sinha* (Searchlight Case-Second Judgement), A.I.R. 1960 S.C. 1186.

41. (2007) 3 S.C.C. 184.

42. Arts. 122(2) and 105(3) *C. Shrikishen vs. State of Hyderabad,* A.I.R. 1956 Hyderabad 186.

43. *Raja Ram Pal vs. The Hon'ble Speaker, Lok Sabha and Others*, (2007) 3 SCC 184. For details, also *see* Chapter XI on Privileges.

44. It has been held in *Raj Narain Singh vs. Govind Kher* that although the right of a member to continue to represent his constituency in Parliament gets affected by his suspension from the House for whatever period, still there is no legal remedy open to the members as his rights have got affected by something done within the walls of the Legislature. A.I.R. 1954 Allahabad 319.

45. *Surendra Mohanty vs. Nabakrishna Choudhary,* A.I.R. 1958 Orissa 168.

The Constitution guarantees immunity from proceedings in any Court in respect of "anything" said in the House or any committee thereof, and "anything" has been held to be equivalent to "everything"[46].

Restrictions on Questions and Discussion on Conduct of Judges in Parliament

In order to secure the independence of the Judges, both from the Executive as also from the Legislature, specific provisions have been made in the Constitution to provide that the conduct of a Judge of the Supreme Court or a High Court 'in the discharge of his duties' cannot be discussed in Parliament except upon a substantive motion for presenting an address to the President for removal of a Judge[47].

Thus, judicial conduct of a Judge of the Supreme Court or of a High Court cannot be discussed on the floor of the House in any debate[48] or commented upon collaterally, by way of a motion for adjournment[49] or question, etc[50]. The only mode of discussing the conduct of a Judge in the discharge of his duties is upon a motion for his removal and that too when the motion is tabled under the specified provisions and the procedure prescribed therein is followed. If in the discharge of his judicial functions, a Judge comes to an erroneous finding or makes adverse comments upon any person, the only course open is to appeal against that decision, if an appeal, review or revision lies. The protection of the Judge in this regard is restricted only in respect of his judicial duties and does not apply to his private conduct[51].

The State Legislatures are also prohibited from discussing the conduct of a Judge of the Supreme Court or of High Court in the discharge of his duties[52].

Matters relating to appointment of Chief Justice of India and promotion and supersession of Judges of Supreme Court, etc. have, however, been discussed in the Lok Sabha[53].

Normally, matters relating to judicial functions of the Courts are not permitted to be raised in the House but questions asking for factual information about High Courts or the extent of arrears pending in the High Courts have been admitted and answered

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46. *Tej Kiran Jain v. N. Sanjiva Reddy,* A.I.R. 1970 S.C. 1573. For 'Courts of Law and Matters of Privilege', *see* Chapter XI.

47. Arts. 121 and 124(4).

48. Rule 352 (*v*), H.O.P. *L.S. Deb.* (II), 1-12-1953, c. 1164; *L.S. Deb.,* 27-3-1961, c. 7433; *L.S. Deb.,* 27-3-1984, c. 417. *R.S. Deb.,* 11-8-1980, S.N.Q. No. 2, cc. 53-54.

49. Rule 58 (viii).

50. Rule 41 (ix).

51. The Judicial Officers Protection Act, 1850, s. 1 provides that no Judge, Magistrate...acting judicially shall be liable to be sued in any Civil Court for any act done or ordered to be done by him in the discharge of his judicial duty.

52. Art. 211.

53. (i) The appointment of A.N. Ray as Chief Justice of India and the supersession of three Supreme Court Judges was discussed in Lok Sabha under Rule 193 on 2 and 4 May 1973- *L.S. Deb.,* 2-5-1973, cc. 311-401; 4-5-1973, cc. 174-205, 206-317; 6-5-1975, cc. 362-80.

(ii) A private member's resolution by K.S. Veera Bhadrappa regarding procedure followed for promotion of a Judge was discussed on 12 and 27 April 1979. The resolution lapsed on the dissolution of Sixth Lok Sabha.

in the Lok Sabha[54]. Similarly, private members' resolutions regarding use of Hindi in Supreme Court and High Courts, the arrears of work in the High Courts, vacations in High Courts or the general question of transfer of Judges among different High Courts have also been admitted[55]. Judgments given by Courts can be referred to in the course of speeches by members to explain a point of view, to suggest whether the laws need be changed and, if so, in what manner, or to pinpoint criticism against the Government or individuals referred to in the judgment. Members may also observe that a particular conclusion was erroneous on the facts, or the facts were not properly placed before the Judge[56].

Discussion on *sub judice* Matters

It is the absolute privilege of the Legislatures and members thereof to discuss and deliberate upon all matters pertaining to the governance of the country and its people. Freedom of speech on the floor of the House is the essence of parliamentary democracy. Certain restrictions on this freedom have, to a limited degree, been self-imposed. One such restriction is that the discussion on matters pending adjudication before courts of law should be avoided on the floor of the House, so that the courts function uninfluenced by anything said outside the ambit of trial in dealing with such matters.

While applying the restrictions regarding the rule of *sub judice,* it has to be ensured that the primary right of freedom of speech is not unduly impaired to the prejudice of the Legislatures. In this context, the Speaker ruled:

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54. For instance, *see L.S. Deb.,* 25-8-1965, S.Q. No. 197, c. 1695; 25-8-1965, U.S.Q. No. 682, c. 1758; 6-4-1966, U.S.Q. No. 3282, cc. 9685-86; 25-7-1978, U.S.Q. No. 1214, cc. 289-90, U.S.Q. No. 1368, cc. 446-49, U.S.Q. No. 1371, cc. 451-56; 23-2-1982, U.S.Q. No. 284, cc. 118-27, *L.S. Deb.,* 6-12-1991, U.S.Q. No. 2662, cc. 441-48; 24-4-1992, U.S.Q. No. 7815, cc. 156-62; 29-3-1995, S.Q. No. 222, cc. 6-7; 25-2-1996, U.S.Q. No. 242, cc. 58-64 and 12-7-1996, U.S.Q. No. 409, cc. 136-37; 29-4-2005, U.S.Q. No. 5181, cc. 147-48; 3-3-2006, S.Q. No. 191, cc. 57-62; 18-8-2006, U.S.Q. No. 2647, cc. 260-61 and 24-11-2006, S.Q. No. 55, cc. 193-94; 10-8-2007, U.S.Q. No. 96; 16-11-2007, S.Q. No. 35; 30-11-2007, U.S.Q. No. 2144*;* 11.12.2013, U.S.Q. No. 1101; *R.S. Deb.,* 3-5-1982, U.S.Q. No. 609, cc. 117-21; 19-3-2001, U.S.Q. No. 2459, pp. 94-95; 21-3-2005, U.S.Q. No. 2103, pp. 132-33; 6-3-2006, U.S.Q. No. 1434, pp. 193-97; 7-3-2013, S.Q. No. 142, pp. 25-33; 14-3-2013, U.S.Q. Nos. 2853 and 2964; 13-12-2013, U.S.Q. No. 1027; 6-8-2015, U.S.Q. No. 2858 and 2954; 20-11-2019, U.S.Q. No. 473; 11 -12-2019, U.S.Q. No. 3715; 05-02-2020, U.S.Q.No.670; 03-02-2021, U.S.Q.No.29; 03-12-2021, U.S.Q.No.1070; 10-12-2021, U.S.Q.No.2157; 11-12-2021, U.S.Q. No. 3348; 04-02-2022, U.S.Q. No. 550; 25-03-22, U.S.Q. No. 3782; 29-03-2022, U.S.Q. No. 4151; 01-04-2022, U.S.Q. No. 4886.

55. The following private members' resolutions were admitted:–

    (i) "This House is of opinion that to avoid delay in disposal of cases and clear off arrears in High Courts, the Government should bring forward appropriate legislation; ...to cut down the long summer vacation in High Courts; and…" *Bn.* (II), 21-7-1959, para 2728.

    (ii) "This House is of opinion that High Court Judges should frequently be transferred in pursuance of the provision of article 222 of the Constitution." *Bn.* (*II*), 7-4-1970, para 3631. These resolutions, however, did not secure priority in ballot.

    (iii) A private member's resolution by Ch. Lachchi Ram regarding use of Hindi in the Supreme Court and High Courts was admitted and included in the *List of Business of Private Members' Resolution* for 12 April 1989.

56. *L.S. Deb.,* 15-9-1965, cc. 5765-66, 5795, 5810-11; 3-11-1965, cc. 220 and 229; 11-11-1965, cc. 1450 and 1458; 19-11-1965, cc. 2944-45; 22-11-1965, cc. 3116 and 3117; 9-12-1965, c. 6673; 31-7-1992, cc. 358-59; 25-8-1993, cc. 376-77; 27-8-1993, cc. 403-09 and 11-8-1994, U.S.Q. No. 2727.

> The rule whether a motion which relates to a matter which is under adjudication by a court of law should be admitted or discussed in the House has to be interpreted strictly. While on the one hand the Chair has to ensure that no discussion in the House should prejudice the course of justice, the Chair has also to see that the House is not debarred from discussing an urgent matter of public importance on the ground that a similar, allied or linked matter is before a court of law. The test of *sub judice* in my opinion should be that the matter sought to be raised in the House is substantially identical with the one on which a court of law has to adjudicate. Further, in case the Chair holds that a matter is *sub judice,* the effect of this ruling is that the discussion on the matter is postponed till judgment of the court is delivered. The bar of *sub judice* will not apply thereafter, unless the matter becomes *sub judice* again on an appeal to the higher court[57].

It is a well-established rule that discussion on a matter which is *sub judice* is out of order[58], and it has been held that a matter is not *sub judice* until legal proceedings have actually started[59]. However, having regard to the public importance of the issue and in view of consistent demands by members of various political parties/groups, the Speaker may permit a discussion on a *sub judice* matter. Where a discussion on a *sub judice* matter is permitted, the Speaker always cautions the members not to say anything which may prejudice the course of action of the matter before the Court in any manner[60]. The question whether a particular matter is *sub judice* is decided by the Speaker on the merits of each case.

A matter does not become *sub judice* if a writ petition for admission is pending before a court[61].

Under the Rules of Lok Sabha, any matter which is under adjudication by a court of law having jurisdiction in any part of India cannot be raised in the House in any form such as questions[62], adjournment motions[63], motions[64], resolutions[65] and cut motions[66].

57. *L.S. Deb.,* 9-5-1968, c. 3154.

58. *Ibid.,* 20-3-1956, cc. 3143-44.

59. *L.A. Deb.,* 13-2-1946, pp. 924-25.

60. Discussions on following *sub-judice* matters have been permitted by the Speaker, Lok Sabha:–

    (i) Statement made by the Minister of Home Affairs on 4 December 1981 re: tragic death of 45 persons and injuries to several others at Qutab Minar, Delhi on 4 December 1981 (Under Rule 193 on 7 December 1981);

    (ii) Motion calling upon the Prime Minister to drop three Ministers from his Government namely Lal Krishna Advani, Dr. Murli Manohar Joshi and Uma Bharti against whom *prima-facie* charges were found to exist for their involvement in the demolition of the Babri Masjid on 6 December 1992 (Under Rule 184 on 13 December 2000 and 14 December 2000);

    (iii) Ayodhya issue (Under Rule 193 on 3 December 2001);

    (iv) Situation arising out of the ongoing sealing drive in Delhi (Under Rule 193 on 27 November 2006).

61. *L.S. Deb.,* 6-9-1966, c. 9476.—It was also held that the writ petition could not stand in the way of legislation.

62. Rule 41(2)(xviii).

63. Rule 58(vii); *L.S. Deb.* (II), 9-3-1953, cc. 1579-81.

64. Rule 186(viii).

65. Rule 173(v).

66. Rule 210(viii).

An adjournment motion, though admitted, cannot be proceeded with at the appointed hour if by that time the subject matter thereof has become *sub judice*[67]. If the subject matter of an adjournment motion consists of two parts and one part becomes *sub judice* after leave of the House to the moving of the motion has been granted, discussion on the motion is restricted to the other part which is not *sub judice*[68]. *A* resolution was also not allowed to be moved as the matter had since become *sub judice*[69].

The rule has been extended to matters pending before a parliamentary committee, any statutory tribunal or statutory authority performing any judicial or *quasi-judicial* functions or any commission or court of inquiry appointed to inquire into, or investigate any matter. Such matters are not ordinarily raised by way of a question, an adjournment motion, a resolution, motion or cut motion. However, there is a provision that those aspects whose discussion might not prejudice the inquiry can be allowed by the Speaker. Discussion on a matter of public importance, or of great importance may be allowed but one shall have to confine oneself within limits.[70] The Speaker may, admit a question in case it refers to matters concerned with procedure or subject or stage of inquiry if it is not likely to prejudice the consideration of the matter by the tribunal or commission or court of inquiry[71]. Likewise, the Speaker may, in his discretion, allow any such matter being raised in the House, on an adjournment motion, resolution, motion or cut motion as is concerned with procedure or subject or stage of inquiry if he is satisfied that it is not likely to prejudice the consideration of such matter by the statutory tribunal, statutory authority performing any judicial or *quasi-judicial* functions, or commission or court of inquiry[72].

A question on a subject under police investigation is not disallowed on the ground that the matter is *sub judice.* However, questions regarding matters under police investigation have been discouraged; members in possession of any particular and reliable information about a matter under police investigation have been advised to pass on that information to the Minister concerned[73].

A member, during the course of his speech, is required not to refer to any matter of fact on which a judicial decision is pending[74]. Discussion on a matter which is *sub judice* is out of order[75]. On an objection being raised that a member should not be allowed to quote from a document as it would prejudice a case pending judicial decision, the Speaker permitted the member to quote only that portion which was relevant to contradict points raised by the Minister in his statement laid on the Table[76]. The Speaker has, however, ruled that the members are free to make their observations

67. *L.A. Deb.,* 24-2-1938, p. 1104; 25-2-1938, pp. 1220-21.
68. *Ibid.,* 13-2-1946, pp. 958-59; *L.S. Deb.*, 18-7-1967, cc. 12738-41; 4-8-1977, cc. 295-315.
69. *P. Deb.* (*II*), 23-11-1950, cc. 541-43.
70. *L.S. Deb.,* 7-4-1966, cc. 10029-33.
71. Rule 41(2)(xxiii).
72. Rule 59, 175, 188, 210 (xxii).
73. *L.S. Deb.,* 7-4-1958, cc. 8533-34.
74. Rule 352(i).
75. *L.S. Deb.,* 20-3-1956, cc. 3143-44.
76. *Ibid.,* 25-7-1967, cc. 14587-94.

by way of advancing arguments on a matter which is *sub judice* and the rule will not come in their way[77].

So far as privilege matters are concerned, a Legislature is the sole judge of its privileges. The rule of *sub judice* does not apply to matters of privilege or in matters where disciplinary jurisdiction of the House with respect to its own members is concerned[78].

The rule of *sub judice* cannot stand in the way of legislation. Where a legislation has to be brought, the law-making has to be done, the rule of *sub judice* does not apply[79]. If the rule of *sub judice* were to be made applicable to legislation, it would not only make Legislatures subordinate to the courts in that matter but would make enactments impossible because numerous cases concerning a large number of statutes await adjudication at all times in one court or the other. Parliament's main function to make laws will thus come to a standstill. This is neither sanctioned by the Constitution nor justified on merits. Legislatures are supreme and sovereign in the matter of making laws and there is no bar on their work in the field of legislation. The law-making power of Parliament is unfettered with regard to legislation even when the subject matter of the legislation is *sub judice*. Whatever be the case and the merits of the case, Parliament can make any law[80]. The members should, however, refrain from referring to the facts of a case pending before a court when a Bill is under discussion in the House.

The Speaker has held that discussion on a Bill, the subject matter of which is *sub judice* by virtue of an appeal pending in the Supreme Court, is also in order, provided members refrain from referring to the facts of the particular case under appeal, as thereby the debate in the House is not likely to prejudice the hearing of the appeal by the Supreme Court[81].

A Bill seeking to replace an Ordinance can be discussed in the House notwithstanding the fact that the Ordinance has been challenged in a court of law and the court has issued *rule nisi* to the Government[82].

> A point of order was raised in the House that the Resolution which had been moved disapproving of the Essential Services Maintenance Ordinance, 1968, could not be discussed as the Ordinance was pending adjudication before courts of law. The point of order was ruled out on the ground that "the rule of *sub judice* does not apply to legislation and the Resolution to disapprove the Ordinance is in the nature of legislation because all it seeks to do is to disapprove the Ordinance, *i.e.,* to repeal the legislation which is in force, and that an Ordinance has the same force as a law of Parliament." It was held that "Parliament is supreme and sovereign in the exercise of its legislative powers and cannot be paralysed by reason only of the fact that a writ petition against the constitutionality of the existing legislation is pending in a court of law"[83].

77. *L.S. Deb.,* 22-11-1965, cc. 3113-28.
78. *Ibid*., 20-11-1974, cc. 193-239; 2-12-1974, cc. 222-36.
79. *Ibid.,*11-4-1974, cc. 215-40.
80. *Ibid.,* 12-12-1974, cc. 220-42.
81. *L.S. Deb.,* 26-9-1955, cc. 15235-54.
82. *Ibid.,* 22-11-1965, cc. 3126-29; 27-8-1974, cc. 172-80.
83. *Ibid.,* 11-12-1968, cc. 152-54.

As regards a matter which is *sub judice* and which has been referred to in a speech or debate or in any statement in the House, the Speaker has no power to order expunction of any words or phrases merely on the ground that they relate to a matter which is pending for a judicial decision in a court of law. Where a member insists on referring to a matter which is *sub judice* in spite of the Chair asking him not to do so, the Chair may ask him to discontinue his speech forthwith. The Speaker may also observe that the member should not have referred to a matter which was *sub judice.* Both the statements would then be on record, but the Speaker cannot and should not order expunction of such words.

In pursuance of the decision taken at the Conference of Presiding Officers held in New Delhi in October 1967, a Committee of Presiding Officers was constituted by the Chairman in November 1967 to examine *inter alia* as to the exact scope of the rule of *sub judice* namely, whether a matter whilst under adjudication by a court of law, should not be brought before the House by a motion or otherwise (except by means of a Bill) in relation to Parliamentary proceedings. The Committee examined the issue of *sub judice* and finalized the matter under the Chairmanship of V.S. Page, Chairman, Maharashtra Legislative Council. The Committee felt that it would be useful to the Presiding Officers if some guidelines were framed. The Committee accordingly, gave the following guidelines[84]:–

1. Freedom of speech is a primary right whereas the rule of *sub judice* is a self-imposed restriction. So where need be, the latter must give way to the former.
2. Rule of *sub judice has* no application in privilege matters.
3. Rule of *sub judice* does not ordinarily apply to legislation.
4. Rule of *sub judice* should apply in regard to proceedings before civil and criminal courts and courts martial in any part of India and not ordinarily to other judicial or *quasi-judicial* bodies such as tribunals, etc., which are generally fact-finding bodies[85].
5. Rule of *sub judice* applies to questions, statements, motions (excluding motions in respect of leave to introduce a Bill, take a Bill into consideration, refer a Bill to a Select/Joint Committee, circulate a Bill for eliciting opinion thereon, pass a Bill), resolutions, and other debates.
6. Rule of *sub judice* applies only in regard to the specific issues before a court. The entire gamut of the matter is not precluded.

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84. Page Committee Report, 1968, Para 30.

85. According to Rule 188, no motion which seeks to raise discussion on a matter pending before any statutory tribunal or statutory authority performing any judicial or *quasi-judicial* functions or any commission or court of enquiry appointed to enquire into or investigate any matter, shall ordinarily be permitted to be moved:

    Provided that the Speaker may, in his discretion, allow such matter being raised in the House as it is concerned with the procedure or subject or stage of enquiry if the Speaker is satisfied that it is not likely to prejudice the consideration of such matter by the statutory tribunal, statutory authority, commission or court of enquiry.

7. In case of linked matters, parts of which are *sub judice* and parts not *sub judice,* debate can be allowed on the matters which are not *sub judice.*

8. Rule of *sub judice* has application only during the period when the matter is under active consideration of a court of law or courts martial. That would mean as under —

   (a) In *criminal cases* — From the time charge-sheet is filed till judgment is delivered.

   (b) In *courts martial* — From the time charges are preferred till the charges are confirmed.

   (c) In *civil suits* — From the time issues are framed till judgment is delivered.

   (d) In *writ petitions* — From the time they are admitted till orders are passed.

   (e) *Injunction petitions* — From the time they are admitted till orders are passed.

   (f) Appeals — From the time the appeal is admitted till judgment is delivered.

Committee of Presiding Officers on Measures to promote Harmonious Relations between the Legislature and the Judiciary

A Committee of Presiding Officers on *Measures to promote Harmonious Relations between the Legislature and the Judiciary* was constituted by the Speaker, Lok Sabha and Chairman of the Conference of Presiding Officers of Legislative Bodies in India in pursuance of a decision taken at the Presiding Officers' Conference held in Madras (now known as Chennai) on 25 and 26 June 1993. The Committee unanimously adopted the Report on 22 January 1994. The terms of reference of the Committee were:–

(i) To suggest measures to promote harmonious relations between the Legislature and the Judiciary; and

(ii) To make any other recommendations on matters incidential to point (i) above.

The Committee identified the following four main zones of conflict between the Legislature and the Judiciary:–

(i) Existence, extent and scope of parliamentary privileges and power of Legislatures to punish for contempt;

(ii) Interference in the proceedings of Parliament/Legislatures;

(iii) Decisions given by the Presiding Officers of Legislatures under the Anti-Defection Law; and

(iv) Decisions given by the Presiding Officers of Legislatures in Administration of their Secretariats.

Each of these zones of conflict was dealt separately by the Committee which made the following observations/conclusions/recommendations in that regard[86]:–

(1) Existence, Extent and Scope of Parliamentary Privileges and Powers of Legislatures to punish for contempt

The power of the Parliament/Legislature to determine the existence, extent and scope of its privileges, to safeguard them against any infringement and to award punishment in case of any possible breach or contempt of the House is an essential right of the House. In fact, without the inherent right to protect its privileges and immunities and the power to punish breaches and contempt, all other privileges of the House have little meaning.

The Committee, however, observed that the intention of the Founding Fathers of the Constitution was very clear when they provided for express constitutional provision under article 105/194 in respect of the privileges of the House, its members and Committees and reiterate that the jurisdiction of the House to decide these matters is exclusive.

The Committee examined whether codification of privileges would help in bringing about greater clarity on the subject and thereby reduce the areas of conflict between the Legislature and the Judiciary. The Committee, however, opined that codification will not *ipso facto* ensure greater harmony between the Legislature and the Judiciary. It might, on the other hand, create other unforeseen problems.

The Committee observed that the Constitution has allotted specific duties and responsibilities to the Legislature and the Judiciary and their roles are intended to be complementary to each other. It would, therefore, be in the best interests of democracy in the country if both function with mutual trust and respect, each recognising the independence, dignity and jurisdiction of the other.

(2) Interference in the Proceedings of the Parliament/Legislatures

The Committee observed that under article 118/208 of the Constitution of India, each House of Parliament/State Legislatures has the right to frame rules for regulating, subject to the provisions of the Constitution, its procedure and conduct of its business. Judicial interference in the procedure of the Legislatures has thus added a conflicting dimension to the mutual relationship of the Legislature and the Judiciary.

While making the above observation, the Committee did not intend to take recourse to a blanket opinion that courts in India should not go into the proceedings of Legislatures. The Committee observed that in India, the Legislature is as much bound by the provisions of the Constitution as the Judiciary is. As per the system, it is the Legislature that makes the laws while the Judiciary interprets them and can also see if the laws are within the ambit of constitutional provisions or not.

In the opinion of the Committee, the question of proceedings of Legislatures in a parliamentary democracy essentially presupposes supremacy

86. Report of the Committee of Presiding Officers on *Measures to promote Harmonious Relations between the Legislature and the Judiciary* (Lok Sabha Secretariat, January 1994).

of Legislatures in their own sphere. Hence Legislatures need to have their essential freedom to conduct their own business with the due dignity, decorum and independence. The Committee, therefore, recommended that subject to the limits stipulated by the Constitution, the Legislatures should have complete freedom in matters of procedure and the conduct of business of their respective Houses.

In this regard, the Committee also took note of article 121/211 of the Constitution that imposes restriction on discussion in Parliament/State Legislatures with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties. The Committee felt that a reciprocal provision with respect to the Presiding Officers may help in further safeguarding the independence and dignity of the Presiding Officers as also of their respective Houses. The Committee, therefore, recommended suitable amendment to the Constitution to that effect.

(3) Decisions given by the Presiding Officers of Legislatures under the Anti-Defection Law[87]

87. *Keisham Meghachandra Singh v. The Hon'ble Speaker Manipur Legislative Assembly & Ors.(2020 SCC ONLINE SC 55):* In this case, the SLPs raised important questions relating to the Tenth Schedule to the Constitution of India. The election for the 11th Manipur Legislative Assembly was conducted in March, 2017. The said Assembly election produced an inconclusive result as none of the political parties were able to secure a majority *i.e.* 31 seats in a Legislative Assembly of 60 seats in order to form the Government. It was argued that the Speaker in the present case has refused to decide the disqualification petitions before him. The Supreme Court of India held that the Speaker of the Manipur Legislative Assembly is a *quasi-judicial* authority who is required to take a decision within a reasonable time under the Tenth Schedule to the Constitution of India. The Court also held that judicial review is not available at a stage prior to the making of a decision by the Speaker either by way of *quia timet* action or by other interlocutory orders. The Court further held that the power to resolve disputes vested in the Speaker or Chairman is a judicial power. The Court also stated that the Speaker, in acting as a Tribunal under the Tenth Schedule, is bound to decide disqualification petitions within a reasonable period. The Court further observed that disqualification petitions ought not to be entrusted to a Speaker as a *quasijudicial* authority when such Speaker continues to belong to a particular political party either *de jure* or *de facto*.

Union of India v. Shri Harish Chandra Singh Rawat [(2016) SCC OnLine SC 618]: The SLPs in the present case dealt with the constitutionality of the orders issued by the President of India in exercise of powers vested under Art. 356 of the Constitution. In this case, the Chief Minister of Uttarakhand lost majority as 9 members of then ruling party defected to a different political party. The ruling party at such time sought to pass an appropriation Bill on which the Speaker ordered a voice vote. Further Speaker ordered the floor test to be conducted on 10th day. However, on the 9th day Speaker disqualified 9 members who had so defected. President issued a proclamation under Article 356 of the Constitution which was challenged before the Hon'ble Supreme Court. The Supreme Court *inter alia* ordered that proclamation issued under Art. 356 shall be quashed. The Court further ordered that all the records related to the recommendation of the application of the President's rule in Uttarakhand shall be placed on record. The court ordered Harish Rawat to restore his Government with all of his Council of Ministers and to restart the office as the Chief Minister of Uttarakhand and revive the 3rd Uttarakhand Legislative Assembly. The court also issued an order declaring all the orders or actions passed during the period of President's rule as *void-ab-initio* i.e. illegal and hence quashed. The Supreme Court also directed that the entire proceedings in the legislative assembly be videographed and shall be placed before the Court.

Shrimanth Balasaheb Patil vs. Hon'ble Speaker, Karnataka Legislative Assembly and Others, Writ Petition (Civil) No. 992 of 2019: Seventeen MLAs from the ruling coalition of Indian National Congress and Janata Dal (Secular) resigned from their membership of the Karnataka Legislative Assembly. However, their resignations were not accepted by the Speaker. In the meantime, the Government had to prove its majority in the assembly through a confidence motion. The MLAs did not vote in the motion and the Government fell. Subsequently, the Speaker rejected the resignation of the MLAs and disqualified them till the end of the assembly's term in 2023. The Supreme Court upheld the Speaker's decision to disqualify the MLAs but set aside the order on the terms of their disqualification.

The operation of the Anti-Defection Law has revealed several lacunae and deficiencies. As a result, while deciding the cases under the law, the Presiding Officers have given varied interpretations to its provisions. This has created considerable uncertainty in the area of its operation and has become a source of tension in the Legislature-Judiciary relationship. The power of the Presiding officers to decide the defection cases and the resultant disqualification of the members has been questioned on the ground of infringement of Fundamental Rights in the Supreme Court of India and various High Courts.

The Committee explored the possibility of entrusting the power to decide cases under the law to a judicial body without involving the Chairman/ Speaker of the House and opined that although such an arrangement may have several obvious advantages, it may create new areas of conflict.

The Committee examined the issue and opine that one of the following options can be followed in dealing with cases under the Anti-Defection Law:

(a) The concerned Chairman/Speaker may decide the case and an appeal against such decision may lie in the Supreme Court of India if the case relates to the either House of the Parliament, or the concerned High Court if the case relates to a State Legislative Council/Assembly.

In such a case, the Chairman/Speaker, who acts as a judicial authority while deciding a case under the Anti-Defection Law, should not be a necessary party to such proceedings and appropriate laws should be drafted/amended to provide for appeals to be filed against such decisions in the nature of an appeal from a Judgment by a Court of Law.

(b) The concerned Chairman/Speaker may decide the case and an appeal against such decision may lie jointly with the President and Vice-President of India if the case relates to the Rajya Sabha; or the President of India, the Vice-President of India and the Speaker, Lok Sabha, if the case relates to the Lok Sabha; or the Governor of the State and the Chairman of the Legislative Council, if the case relates to the Legislative Council of a State; or the Governor of the State, the Chairman of the Legislative Council, if any, and the Speaker of the Assembly, if the case relates to the Legislative Assembly of a State.

(c) The case may be decided by a Committee of senior members of the House and an appeal against the decision may lie with the concerned Chairman/ Speaker of the House.

(d) Any other procedure which may be agreed upon by the three organs of the State, namely, the Legislature, the Executive and the Judiciary.

The Committee recommend that the Speaker, Lok Sabha, may be authorised to take up the matter, if necessary, with the President, the Vice-President of India and any other authority to decide the proper procedure that may be adopted for such cases.

(4) Decisions given by the Presiding Officers of Legislatures in Administration of their Secretariats

The Committee observed that administrative matters of the Legislature Secretariats very often involve the Fundamental Rights of the individual employees as guaranteed in the Constitution of India. Such employees should, therefore, have the right to move the court as a means of redressal of their grievances under articles 32 and 226 of the Constitution.

On the question of the personal appearance of Presiding Officers before the court of law in matters relating to the administration of their Legislature Secretariats, the Committee took note of the fact that although the administrative decisions of the Chief Justice of India and the Chief Justices of various High Courts in relation to their respective Secretariats are also liable to be challenged in a court of law, they do not make personal appearance before the court in such matters. The Committee were of the opinion that on the same analogy, immunity should be provided to Presiding Officers also from personal appearance before the court in such matters.

The Committee also took note of the provisions of the Code of Civil Procedure in India which provide that in case of a suit against the Central/ State Government, the notice is served on the Secretary to that Government who in turn pursues the case in the court of law.

The Committee emphasized that in view of their unique position, important functions and the delicate role that Presiding Officers are called upon to perform in a parliamentary democracy, it is essential that their status, dignity and independence are safeguarded both by law and conventions. In this context, the Committee were of the opinion that personal appearance by a Presiding Officer in a court of law is uncalled for and must be avoided.

The Committee, therefore, recommended that Presiding Officers should not be made a party personally in a suit pertaining to the administrative matters of their Legislature Secretariats. The suit, in turn, could be filed against the concerned Legislature through the Secretary of the Legislature who can represent the Legislature in the court and if necessary appear personally in the case. The Committee recommended suitable amendment in the Code of Civil Procedure to provide for exemption to Presiding Officers of the two Houses of Parliament and State Legislatures in India from personal appearance in a court of law in a suit pertaining to the administrative matters of their Secretariats.

Resolutions adopted at the Presiding Officers' Conference

The elections to the Jharkhand Legislative Assembly were held in February, 2005. The Governor of Jharkhand invited Jharkhand Mukti Morcha and its allies led by Shri Shibu Soren, to form the Government on 2 March 2005. The Soren Government was required to prove its majority on the floor of the House by 21 March, 2005. The Leader of National Democratic Alliance who claimed to have the support of majority in the 81 member Jharkhand Legislative Assembly, filed a writ petition in the Supreme Court of India challenging the appointment of Shri Shibu Soren as the Chief Minister of Jharkhand. On 9 March, 2005, Supreme Court of India, passed an interim order

to conduct the floor test with instructions that no nomination from Anglo-Indian community should be made and the floor test shall remain confined to the 81 elected members only. Supreme Court also directed that the video recording of the floor test should be provided to the Court[88].

The interim order of the Supreme Court thus contains directions about fixing agenda of the House, maintenance of order in the House and video recording of the proceedings of the House etc., which relate to matters, decision on which, under the rules and by convention fall within the exclusive domain of the Presiding Officer of the House or the House itself. The matter was discussed in both the Houses of Parliament on 10 March 2005 and some Hon'ble members expressed concern over the judgment of the Supreme Court.

In the wake of these development, an Emergent Conference of Presiding Officers of Legislative Bodies in India on "Relationship between the Legislature and the Judiciary" was called at New Delhi on 20 March 2005. At the end of the Conference, the following Resolution was adopted unanimously[89]:–

1. That there must exist mutual trust and respect between the Legislature and the Judiciary and also an understanding that they are not acting at cross purposes but striving together to achieve the same goal that is to serve the common man of this country and to make this country strong;
2. That the Judiciary commands and justly deserves all the respect and dignity it enjoys;
3. That the Legislatures also, as the supreme legislative and representative bodies which give voice to the hopes and aspirations of the teeming millions of this country, deserve the same degree of respect and dignity;
4. That the success of democratic governance would be greatly facilitated if these two important institutions respect each others' role in the national endeavour and do not transgress into areas assigned to them by the Constitution;
5. That it is imperative to maintain harmonious relations between the Legislatures and the Judiciary.

In December 2005, ten members were expelled from the membership of Lok Sabha due to acts of improper conduct of accepting money for asking questions in the House. Taking cognizance of the expelled members' plea, the Delhi High Court and the Hon'ble Supreme Court had issued notices *inter alia* against the Speaker of Lok Sabha and the Lok Sabha Secretariat. In the wake of the developments, Hon'ble Speaker convened All-Party Meeting on 20 January 2006 wherein it was unanimously decided that the Speaker should neither accept any such notice nor respond to the same. Meanwhile an Emergency Conference of Presiding Officers was called on 4 February 2006 at New Delhi to deliberate on the issue. The Conference at the end of the deliberations adopted the following Resolution:

> The Presiding Officers of Legislative Bodies in India, having assembled in their Emergency Conference in New Delhi on 4 February 2006 and having deliberated on the issue arising out of and related to proceedings initiated in Courts of Law

88. Arjun Kumar Munda v. Governor of Jharkhand & Others, Writ Petition No.123/2005 dated 9-3-2005.
89. Journal of Parliamentary Information, Vol. LI, No. 2, June 2005, p-204.

challenging the expulsion of members of Parliament, unanimously endorse the decision taken by the Chairman, Rajya Sabha and the Speaker, Lok Sabha not to accept or respond to the notices issued by Courts of Law in the matter of expulsion of the members of the two Houses.

The Seventy-Second Conference of Presiding Officers of Legislative Bodies in India held in Thiruvananthapuram, unanimously adopted on 26 May 2007 the following Resolution, 'Re. Relationship between Legislature and Judiciary'.

The Presiding Officers of Legislative Bodies in India, assembled in their 72nd Conference in Thiruvananthapuram on 26 May 2007 notes with concern the trend of interference in the functioning of the Legislature leading to avoidable tension in the relationship between the Legislature and the Judiciary.

The Conference observes that according to the scheme of our Constitution, the three main organs of the State, that is, the Legislature, the Executive and the Judiciary function independently within their own spheres free from interference by the other two and that the Constitution clearly defines their powers and jurisdictions; demarcates their responsibilities; and regulates their relationship with one another.

The Conference reiterates that the powers, privileges and immunities of the Legislature are the Constitutional underpinning of the system of responsible Government for they ensure that the Constitutional functions performed by this organ is immune from the interference by either the Executive or the Judiciary.

The Conference, accordingly, resolves that as the Constitution does not contemplate any super organ having overriding authority over the other, the Legislature, as the supreme legislative and representative body which gives voice to the hopes and aspirations of the teeming millions of this country, is entitled to function without any interference from any other authority which is not accountable to the people and that all organs of the State strictly adhere to the functions and jurisdictions assigned to them by the Constitution so as to ensure the harmonious working of the democratic system in the country.

The Eightieth Conference of Presiding Officers of Legislative Bodies in India held in Gujarat during 25-26 November 2020 unanimously adopted the following Resolution:–

"The Constitution has kept people at the centre. Each organ of the State is responsible towards the people in one or the other way. The three organs of the State share the collective responsibility of protecting and strengthening the Constitution."

The Eighty Third Conference of Presiding Officers of Legislative Bodies in India held in Rajasthan during 11-12 January 2023 unanimously adopted the following Resolution:–

"Conference reaffirms its complete faith in the primacy of the people of India in law making through the legislative bodies of the nation and while reposing confidence in the principle of separation of powers, exhorts all organs of State to respect the Constitutional boundaries enshrined in the Constitution of India."

CHAPTER 44

Parliament and Civil Service

The term 'Civil Service' has been explained in a number of ways but no precise definition has been given to suit all circumstances. The most appropriate definition probably is that a civil servant is a civilian career public sector employee working for a government department or agency and this excludes the armed forces. The precise classes of personnel included therein vary from country to country. It may be incidentally mentioned that the term itself originated in relation to India; it first occurs in contradistinction to armed forces[1].

The professional, scientific and technical classes represent a relatively new addition to the civil service. By accepted usage in India, the term 'Civil Service' is limited to the administrative class of public service though in the wider sense it may refer to millions of civil servants employed by Government whether in general or specialised fields. The term 'Civil Service' has, however, been used in this Chapter to mean and include the top civil officers who stand close to Ministers, give them advice and receive instructions from them and are responsible to them for the detailed working of the administrative machine. They form an elite corps of the civil service.

The essence of parliamentary government, especially where the franchise is democratic, is the appointment of Ministers, who may or may not be well versed in the art of administration though in positions of considerable administrative power. In the nature of things, before a Minister has had time to learn all the intricacies of his office he may be swept off to some new Department. In order to discharge his responsibilities satisfactorily a Minister requires constant assistance by the officers of his Ministry. The Minister has, by and large, to work with and through them.

Civil servants are permanent officers of Government and do not vacate office with the change in the Government; they continue to function whatever be the party in power. While Ministers are more interested, and rightly so, in issues of policy, the civil servants are concerned with the execution of that policy although the role of the civil servants in the framing of the policy is no less significant. The civil servants enjoy full freedom to express themselves frankly in giving advice to the Ministers. In fact, it is the duty of the civil servant to advise the Minister against the pitfalls of a particular policy.

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1. The term 'Civil Service' was first used by the East India Company as a name for its establishment of non-military or 'civilian' employees in India to distinguish it from its military, maritime and ecclesiastical establishments. These civilian employees were originally traders; with the gradual transformation of the Company from a commercial corporation into a Government, its 'civil servants' became administrators. Thus, the term 'Civil Service' acquired its present restricted meaning of the non-combatant branches of the administrative service of State.-E. Blunt, The I.C.S., The Indian Civil Service, 1937, p.1.

But once a final decision is taken by the Minister, the civil servant has to implement it strictly, even if the decision taken is contrary to the advice given by him.

An essential feature of the civil service is its non-political character. A civil servant is expected to be impartial. Though he can have his personal political viewpoints, he is not to express them in public or media. He should be a trustworthy advisor and his role is to formulate and implement the policy initiatives of the Government sincerely and honestly regardless of whoever is in power.

The civil servants should have a dedicated application to work. They have to develop a sense of deep involvement in the nation-building task without identifying themselves too closely with the political philosophy behind it.

Fundamentally, the relationship between the Civil Service and the Parliament is through the agency of the Minister. The civil servants have very little contact with the members as such. So far as the direct parliamentary control over the civil servants is concerned, there cannot be any; it is only through the Minister, who acts as a buffer between them. Parliament does not interfere with the Executive in day-to-day matters. But, the omissions or commissions of civil servants have to be justified before the Parliament. Therefore, a great responsibility lies on the administration to always give a correct position of all its activities to the Parliament.

Being the advisor, a civil servant has to be very careful about how he briefs his Minister keeping in view the fact that members are conscious of even small matters and that they have their own sources of information too. A civil servant should never mislead the Parliament, as it may excuse bad action but would never accept a deliberate misinformation. No information should be kept back from Parliament nor should it be delayed. Also information given to Parliament must be relevant and to the point; additional or unnecessary information should not be given.

Parliament, which is concerned with the welfare and well being of the people, also takes interest in the welfare of the civil servants as a whole. The various terms and conditions governing the method of recruitment and tenure of office[2] in regard to civil servants have to be approved by Parliament. Though individual cases are not brought before the House, Parliament concerns itself with the legitimate grievances of general character affecting the various categories of Civil Service. Such matters are raised by means of questions, discussions on specific motions, etc.[3].

Parliament can create All-India Services (including an All-India Judicial Service)[4] common to the Union and the States and can regulate their recruitment and conditions

2. Arts. 309 and 310.

3. Similarly, there is no direct control of Parliament over the armed forces but it keeps itself well informed about their welfare, etc. through the Minister of Defence. Parliament does not normally discuss military operations or matters relating to discipline in the armed forces. It has, however, always found ample time to discuss policy matters concerning the armed forces and their general conditions of service.

4. Art. 312(3)—Any post inferior to that of a District Judge is not to be included in the All-India Judicial Service; also *see* art. 236.

of service[5].

Parliament can by law provide for the setting up of Administrative Tribunals for resolving disputes relating to the recruitment and conditions of service of Union Government servants and servants of the States, including the employees of any local or other authority under the control of the Government of India or of a Corporation owned or controlled by the Government. Separate tribunals for the Union and for each State or for two or more States can be constituted. The jurisdiction and powers of such tribunals can also be defined by such a Parliamentary law[6].

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5. Art. 312. Parliament has enacted the All India Services Act, 1951 which empowers the Union Government, after consultation with the States, to make rules regarding recruitment and conditions of service of persons appointed to an All-India Service, which have to be laid before Parliament and are subject to amendment by it. Rules have been framed by the Union Government in exercise of this power.

   Out of the All-India Services that have been constituted, the Indian Administrative Service and the Indian Police Service, in existence at the commencement of the Constitution, are deemed to have been created by Parliament under Art. 312. In pursuance of a Resolution adopted by the Rajya Sabha, the All-India Services (Amendment) Act, 1963, was passed providing for the creation of three other All-India Services, namely, the Indian Service of Engineers, the Indian Forest Service and the Indian Medical and Health Service. The Indian Forest Service was constituted with effect from 1 July 1966. A Resolution for the creation of two more All-India Services — the Indian Agricultural Service and the Indian Educational Service — was adopted by the Rajya Sabha on 30 March 1965. Since many States decided not to opt for these two services, the centre did not proceed further in the matter.

   In September 1946, the Indian Foreign Service (IFS) was established for India's diplomatic, consular and commercial representation overseas. In 1948, the first group of IFS officers was recruited under the combined Civil Services Examination administered by the Union Public Service Commission. Apart from this, the All-India Judicial Service was brought in along with clauses (3) and (4) of article 312 *vide* the Constitution (Forty-second Amendment) Act, 1976.

   The All India Services Act, 1951 (Section 3) provides that the Central Government may, after consultation with the Governments of the States concerned, make rules for the regulation of recruitment, and the conditions of service of persons appointed to an All-India Service. Consequent upon the Jammu and Kashmir Reorganisation Act, 2019, coming into effect from 31 October 2019, the erstwhile State of Jammu and Kashmir was reorganised into the Union Territory of Jammu and Kashmir with Legislature and Union territory of Ladakh without Legislature. Accordingly, The Jammu and Kashmir Reorganisation (Amendment) Act, 2021 provides that "(2) The members of the Indian Administrative Service, Indian Police Service and Indian Forest Service for the existing cadre of Jammu and Kashmir, shall be borne and become part of the Arunachal Pradesh, Goa, Mizoram and Union territories cadre, and all future allocations of All India Services Officers for the Union territory of Jammu and Kashmir and Union territory of Ladakh shall be made to Arunachal Pradesh, Goa, Mizoram and Union territories cadre for which necessary modifications may be made in corresponding cadre allocation rules by the Central Government. (3) The officers so borne or allocated on Arunachal Pradesh, Goa, Mizoram and Union territories cadre shall function in accordance with the rules framed by the Central Government".

   Besides the All-India Services, there are in existence a large number of Central Services of various descriptions and grades under the Union Government.

6. Art. 323A. The Administrative Tribunals Act, 1985 empowers the Union Government to establish Central Administrative Tribunals and State Administrative Tribunals to adjudicate disputes and complaints relating to service matters of Union Government employees and concerned State Government employees, respectively.

   The Central Administrative Tribunal, which was set up on 1 November 1985 as a measure to provide speedy and inexpensive relief to Government employees, has started functioning in full swing with the setting up of six more Benches in June 1986. There are at present a total of 21 Benches of the Tribunal, namely, New Delhi, Ahmedabad, Allahabad, Bangaluru, Lucknow, Mumbai, Kolkata, Chandigarh, Cuttack, Ernakulam, Guwahati, Hyderabad, Jabalpur, Jodhpur, Jaipur, Chennai, Patna, Nagpur, Gwalior, Indore and Ranchi.

Role of Ministers *vis-a-vis* Civil Servants

Suggestions have been made from time to time about the role of Ministers in the democratic government, particularly with reference to their relationship with the civil servants. Since Independence, certain principles have been evolved for maintaining proper relations between a Minister and his Ministry.

Ministers have rather two different roles. In one of these, as members of the Cabinet, they rather share in the formulation of general government policy. For this purpose, apart from their general experience in life, their party activities and their membership in Parliament, the contribution that they can make, must derive from their second role as heads of particular Ministries. It is because, they have an opportunity to see the programmes actually conceive and develop. That they are aware of various administrative problems within their own Ministries.

An effective Minister is the one, who appreciates, utilizes well, develops and gives general guidance to the operating agency which he heads. A good head of any organisation will expend a considerable part of his energies in upholding his subordinates, defending them from unwarranted and ignorant criticism, and thus encouraging them to make their best efforts.

If the Minister tries to make too many decisions himself, he might make many unwise decisions and also deprive himself of the aid and the abilities readily available to him in his own organisation. He should confine himself to relatively general decisions, and to relatively rare decisions that cannot satisfactorily be taken below his level. By and large, the successful Minister is he, who delegates adequately and gives general guidance to the systematic process by which decisions are reached below him. His fundamental responsibility, indeed, is for the method by which decisions are reached and for the deployment of personnel for the most satisfactory utilisation of their abilities[7].

Doctrine of Ministerial Responsibility

The head of every Government Department is a Minister, and Parliament exercises control over the Department through the Minister. A Ministry has practically an autonomous existence of its own and conducts its business in pursuance of statutory provisions, rules and regulations or according to a long-standing practice. The parliamentary control over the Ministry rests in the fact that any action of the Ministry can be called in question by any member and the Minister responsible for the administration of that Ministry has to defend the acts of his officers, for it is a well-established constitutional principle that a Minister is responsible to Parliament for all the acts of his Ministry and it is he who takes the blame should Parliament disapprove of any administrative act. There can, however, be a case where a civil servant acts, either intentionally or irrationally, outside the policy of his Minister or contrary to that policy. By doing so, he relieves the Minister of the responsibility of protecting him. But the constitutional responsibility of the Minister to Parliament remains and he has to satisfy the Parliament that he is dealing with the matter adequately.

7. Paul H. Appleby, "Concerning Ministers", *Indian Journal of Public Administration.* April-June, 1955. Vol. I, No. 2, pp. 89-91.

Parliament does not specify which civil servant should be punished nor how he should be punished. This is left to the discretion of the Government though Parliament may express its feelings. As to whether a civil servant should be punished for an act which Parliament has criticised or disapproved is also left to the Government to deal with[8].

It is the Minister's duty to defend his subordinates, howsoever lowly, against unmerited or unfair criticism, especially when the civil servant is debarred from replying to criticism in his personal capacity. By doing so, the Minister engenders in the civil servants the confidence that they will receive a fair deal and due protection. The principle that persons who are not in a position to defend themselves should not be subjected to attack has been laid down repeatedly in the Lok Sabha with reference to officers of the Government as well as others. The Speaker has observed[9]:

> I have said many times that it is wrong and it is not fair that any member of this House should refer to names of individuals who are not present in the House and who have no opportunity, therefore, of either explaining the facts to the House or replying to the charge made. Whatever defects were found or were believed to exist by the member who spoke, he could criticise the Minister without mentioning the names. It is the Minister who is responsible to this House and the officers who are acting under him must not come into the purview of the discussion in the House.
>
> There is also a rule[10] on this question. Sometimes in the heat of debate allegations are made. I would like to appeal to members not to refer to any names— he who violates it will not be able to catch the Speaker's eye....
>
> A member while criticising the policy of the Government is entitled to give out his views and make the allegations he thinks are well-founded. The mistake lies in mentioning names of particular officers and associating them with the allegations. That should not be done.

To a query of a member, whether in criticizing a Minister, members would be precluded from saying that the Minister had appointed such person because he was related to him, thereby avoiding making any charge against the person but making the charge against the Minister, the Speaker replied:

> The member must first come to the Speaker if he wants to make a charge like that. The Speaker must be satisfied about the facts and then the allegation can be made. I am not going to permit mere relationship as a charge or a matter of insinuation that mere relationship gives a ground for believing that there has been nepotism. It should be the unanimous effort of the members of this House to see that the prestige of the administration by giving names like that is not lowered and the level of the debate does not go down. That is the whole point[11].

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8. The Government has internal procedures whereby indisciplined or erring civil servants are suitably punished. While arriving at decisions, the Government takes note of parliamentary criticism in the House in respect of individual officers, but it is entirely within its discretion to decide whether an officer should be punished and if so, what the nature of punishment should be. Parliament has, however, the right to be informed in such cases and it may comment on non-punishment or inadequacy of punishment. Such comments are generally offered by individual members but there is no formal motion before the House nor is any vote taken to determine the issue.
9. *H.P. Deb., (II),* 8-4-1954, cc. 4361-62.
10. Rule 353.
11. *H.P. Deb., (II)*, 8-4-1954, c. 4363.

However, there may be cases where in order to bring home certain defects in the administration, it may be necessary to refer to the official misconduct of any particular officer. In such a case, the procedure evolved is that if the member has sufficient material either from personal experience or on reliable evidence that an officer has been guilty of misconduct in his official duties, it is necessary that before raising the issue on the floor of the House he should, in the first instance, give intimation to the Minister concerned so that the Minister in turn may call for records and find out what answer he should give when the matter is taken up. He may have material to refute the allegations or he may be convinced that there is sufficient basis for the allegations in which case he may order an inquiry or take departmental action. This procedure, while achieving the purpose which a member has or should have in raising the matter, also safeguards the interests of officers who are not in a position to defend themselves in the House.

When serious charges were made on the floor of the House against certain officers, the Deputy Speaker observed:

> With respect to these matters, I always expect of every hon. member here that before he or she wants to make such allegations, the hon. Minister should be informed of them, not with respect to the general points, but with respect to charges against individuals or with respect to the manner in which officers have conducted themselves. I always expect that the Minister should be given notice regarding such points, so that he may be able to find out and say whether the information is right or wrong, and we need not have in the proceedings information which is exaggerated or wrong.
>
> Later on the same day, when the Deputy Speaker was asked to give a ruling as to whether it was in order to attack officers by name, he observed that because a member could attack a Minister it was neither fair nor proper nor consistent with the dignity of the House that officers should be singled out and their names mentioned and all sorts of baseless charges made against them, and reiterated his earlier observations[12].

For all the active role that they are called upon to play, the civil servants have to avoid publicity and lime-light for themselves. According to the well-established convention, Ministers do not praise or abuse any officer on the floor of the House. In case the Minister names any officer for any good or bad action, the House becomes entitled to make comments in regard to that officer.

Functions of Civil Service *vis-à-vis* Parliament

In a democratic and welfare state, the members of the Civil Service work closely with the political executive. Remaining behind the scenes, they make policies, draw up and execute plans and schemes, formulate legislations and handle issues raised in the Parliament. The Officers' Gallery in the Lok Sabha, just behind the right side of the Speaker's Chair, is often occupied to capacity by civil servants. Though they are not actual participants in the business of the House, they help Ministers in the performance of their duties. From time to time, the Minister may rise from his seat to seek information on a particular point raised by a member or he may send one of his Deputy Ministers to get a few facts on a particular subject. Serving as a handy source of information and advice, the civil servants supply the necessary brief to

12. *H.P. Deb.,* 30-3-1953, cc. 3252-54.

enable the Government to reply to the House. The activities of the top civil servants are concerned mostly with the current parliamentary business when Parliament is sitting. Parliamentary business keeps the civil service busy with much of its work such as preparation of Bills, replies to questions in the House and to informal letters addressed to Ministers by members, compilation of notes for the use of Ministers during debate, briefs for their speeches in the House, etc.

It is the job of the civil servant to give right advice to the Minister. It is for the latter to accept that advice or not. Once he accepts the advice, it becomes his decision. The civil servant's responsibility comes in only in the matter of implementation.

The Civil Service is responsible for preparation of Budget and for spending moneys according to law and rules. The annual accounts prepared by the administration are examined thoroughly by the Comptroller and Auditor-General who makes reports on them which include comments not only on defective budgeting and financial irregularities but also on wasteful and nugatory expenditure and inefficiency. Ultimately, it is the Parliament and its committees which scrutinise these accounts in order to satisfy themselves that the sums of money have been directed to the purpose intended and the administration has spent them prudently and economically.

The top civil servants appear before the parliamentary committees like the Estimates Committee, Public Accounts Committee, Committee on Public Undertakings, Committee on Welfare of Scheduled Castes and Scheduled Tribes, Departmentally Related Standing Committees, etc., almost on all matters on which reports are presented by these Committees. They are called upon to explain the working and performance of their Ministries, Departments and Public Undertakings, use of money consistent with efficiency, and how irregularities in accounts, if any, have taken place and the measures adopted to prevent them in future, or about the representation of Scheduled Castes and Scheduled Tribes in services, banks, public undertakings, etc. It is through Committees that top civil servants[13] come into close contact with members of Parliament and it is in these Committees that their mettle is tested. Officers of Government Departments or of Public Sector Undertakings also come in contact with members of Parliament when Parliamentary Committees undertake on-the-spot tours although during such tours the discussions are informal and no official evidence is taken.

In every Department, the administrative head of the Department is the custodian of the money. The administrative head, the Secretary to the Government of India in the Ministry, or other designated officers of a subordinate or attached office is the custodian of all money. So, it is under his signature that all accounts are compiled, money is spent and policies are implemented. Therefore, it is he who is responsible for the implementation of the policies. If something has gone wrong, he has to explain how it has gone wrong. That is why in a Parliamentary Committee, also it is only the officers, the secretaries and their subordinates, who appear and they have to explain why irregularities, if any, have taken place and why a particular policy should be followed or should not be followed.

13. *Dirs*. 59 and 60. The Secretaries of Ministries or Heads of Departments or Undertakings should appear before them, when summoned. If they are unable to attend, they have to give reasons to the satisfaction of the Committee, *e.g.* illness, unavoidable official work, etc. and have to take the prior permission of the Chairman of the Committee to depute other senior officers in their places.

As a rule, the various committees of the Lok Sabha do not mention names of officers in their reports. Wherever necessary, such officers are mentioned only by their designations and the committees recommend to Ministries concerned to take appropriate action against them. The committees do not concern themselves with individual appointments, promotions, transfers; they do not ask for names, except in rare cases, of officers who are at fault; they do not make investigations themselves nor do they come to any judgment as to the punishment that should be meted out to any recalcitrant officer. The committees adopt an impersonal attitude towards defaulting officers because committees are concerned with the system of administration and not with the individuals.

Due to the heavy pressure of business and limitations arising from the composition of Parliament a law-making body being non-technical in nature, it has to confine itself to broad objectives and policies; it is for the civil service to work out details within this framework. Under the compulsions of Parliamentary democracy and the dynamics of a 'welfare state', Parliament has to include in most of the statutes, special provisions empowering the Civil Service to make rules and regulations in respect of specified matters.

The delegation of this power of rule-making to the Civil Service brings it indirectly in contact with Parliament, through the Committee on Subordinate Legislation, the working of which has already been explained earlier[14]. The civil servants who make rules, regulations, orders, etc. know that they will have to justify them before this Committee and this constitutes a check, in addition to scrutiny by Parliament, upon any tendency on the part of the civil servants to try to exceed their statutory powers.

The civil servants are also called upon to explain before the Committee on Petitions why the grievances of individuals have not been remedied, and they may be directed by the Committee to look into them and furnish a satisfactory answer. Similarly, civil servants have to respond to any calls made on them or to produce documents and papers before any committee of Parliament.

Members of Parliament and Civil Servants

The relationship between members of Parliament and civil servants is largely governed by certain well-recognised principles and conventions developed over the years. Civil servants are enjoined to accord due courtesy and regard to the representatives of the people, and to help them to the extent possible in the discharge of important functions which they have to perform. In case, however, officers are unable to accede to the request or suggestions of members, the reasons for their inability are politely explained to them[15].

In their official dealing with the members of Parliament, civil servants are required to adhere to the protocol norms laid down from time to time. To ensure that there is no violation of such norms and all government officers show due courtesy in their official dealings with the members of Lok Sabha, a Committee on Violation of Protocol Norms and Contemptuous Behaviour of Government Officers with Members of Lok Sabha was constituted with effect from 2 August 2012. The Committee has the mandate to

14. *See* Chapter 30 – Parliamentary Committees, *supra*.

15. *L.S. Deb*., 26-4-1968, U.S.Q. No. 8667.

examine every complaint referred to it by the Speaker relating to – (i) violation of protocol norms laid down from time to time regarding official dealings with members of Parliament; (ii) violation of instructions or guidelines issued by the Government regarding official dealings between Administration and members of Parliament; and (iii) discourteous behavior by government servants with a member during official dealings[16].

During the 16th Lok Sabha, the Committee was reconstituted by Hon'ble Speaker on 15 September 2014, which functioned as an *ad-hoc* Committee throughout the full term. The Committee presented eight reports in this Lok Sabha[17].

Generally, there is no direct contact between the members of Parliament and the civil servants. However, in all matters of a routine character, members have been advised to address invariably their communications to the Secretary of the Ministry concerned, irrespective of the fact that the information required is in relation to the Ministry itself or an attached or subordinate office thereto. Where the matter is important and the member feels that it should receive consideration at a higher level, he may address the letter direct to the Minister or the Deputy Minister. In case a member wants to ascertain facts about a case of fraud, corruption, nepotism, bribery, maladministration, etc. which might have come to his notice, he may address the Minister concerned direct under copy to the Minister of Parliamentary Affairs, or discuss the matter with the Minister concerned personally[18].

Communications received from members are given high priority in the Ministries. In the case of such of the communications as cannot be answered promptly, that is, to which replies cannot be given straightaway on the basis of information available, an interim reply is sent. All replies to communications are ordinarily issued with the approval of the Secretary or Joint Secretary concerned[19].

Civil Servants and the Franchise

As already stated, a civil servant may have his own political views but he does not ally himself with any political group or party. No civil servant can be a member of, or be otherwise associated with, any political party or any organisation which takes part in politics nor can he take part in, subscribe in aid of, or assist in any other manner, any political movement or activity[20]. A civil servant cannot canvass or otherwise interfere or use his influence in connection with or take part in, an election to any Legislature or local authority[21]. If any civil servant wants to stand for election, he must resign before taking any step in that direction. While a civil servant has an unqualified right of vote,

16. *L.S. Bulletin*, No. 4274, 2-8-2012.
17. During the 17th Lok Sabha Committee on Violation of Protocol Norms and Contemptuous Behaviour of Government Officers with Members of Lok Sabha has not been constituted so far.
18. Handbook for Members, *op. cit.*, para 45(III).
19. *L.S. Deb.,* 25-2-1970, U.S.Q. No. 519.
20. Central Civil Services (Conduct) Rules, 1964, Rule 5(1).

    The courts of law have held that the Government servant cannot collect funds or sell tickets even for non-political bodies where the rules explicitly so provide *Sethumadhava Rao* v. *Collector of South Arcot,* A.I.R. 1955 Madras 468.
21. Central Civil Services (Conduct) Rules, 1964, Rule 5(4).

he is to so exercise it as to "give no indication of the manner in which he proposes to vote or has voted[22]".

The Civil Service today has become an integral part of the democratic process. Parliament, the Ministers and the Civil Service, together, have important and indeed vital roles to play. None of these three can function independently of the other with any real efficiency, particularly when Government's functions and activities/conditions and the well being go far beyond the maintenance of law and order and include almost everything that has the effect of improving the conditions and the well-being of the people.

22. *Ibid.* Proviso (i) to Rule 5(4).

The courts of law have, however, held that a Government servant is entitled to nominate or second a candidate for election. The policy of the law is to keep Government servants aloof from politics and also to protect them from being imposed on by those with influence or in position of authority and power, and to prevent the machinery of Government from being used in furtherance of a candidate's return. But at the same time it is not the policy of the law to disenfranchise them or to denude them altogether of their rights as ordinary citizens of the land. –*Raj Krushna v. Binod,* A.I.R. 1954 S.C. 202.

It has also been held that a Government servant can be appointed as a polling agent. However, it would amount to corrupt practice if the candidate or his agent abuses the right to appoint a Government servant as polling agent by exploiting the situation for furthering his election prospects.–*Satya Dev Bushahri v. Padam Dev,* (1955) I.S.C.R. 549.

CHAPTER 45

Parliament and the Media

In a parliamentary democracy, the Media has assumed the role of being the principal communication link between the Parliament and the people. It plays a pivotal role in the dissemination of information. In fact, it is the Media that provides the background needed to bring the work of Parliament in tune with the demands of time. It is also the Media, which conveys to the people the business transacted in the Parliament, the substance of parliamentary legislation and discussion, thereby enhancing public perception of Parliament. The Media also keeps people informed of what is happening in the Parliament. It is owing to the significant role played by it, that the Media is often regarded as the 'Fourth Estate' in a democratic polity. Both the Media and Parliament, which serve the public interest, are vital for the successful and smooth functioning of democracy.

The Media is the standard vehicle for the dissemination of public opinion. It is through the Media that Parliament gathers information which helps it to keep surveillance and ensure the responsibility of the Executive to it effectively. Often called an extension of Parliament, the Media unearths administrative lapses; gives expression to public grievances and hardships, omissions and commissions by the Government and reports on how policies are being implemented and administration is affecting the people.

Much of the basic information required for parliamentary questions, motions and debates comes from the Media and this is an important tool on which a member often relies. Though what appears in the Media may influence the members and provide them with necessary background, the material itself does not form an authentic record of facts and exclusive reliance cannot be placed by a member of Parliament on the matter as reported. Thus, it has been ruled by successive Speakers that questions, motions and other notices which are merely based on Media reports may not be admitted. The member may be required to produce some other primary evidence on which his notice is based.

It is of paramount public and national importance that the proceedings of Parliament are communicated to the people who are interested in knowing what transpires within its walls because on what is said and done there depends the welfare of the community[1]. The Media can discharge this function effectively only if it enjoys what is termed as 'freedom of the Press'[2].

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1. Wason Walter, L.R. 4 Q.B. 73.
2. In the words of Patanjali Sastry J., "....Freedom of speech and of the Press lay at the foundation of all democratic organizations, for without free political discussion, no public education, so essential for the proper functioning of the processes of popular Government, is possible". *Romesh Thappar v. State of Madras,* (1950) S.C.R. 594 (602).

   In the judgment delivered in the *Bennett Coleman & Co.* case, the Supreme Court quoted: "Freedom of the Press is the Ark of the Covenant of Democracy because public criticism is essential to the working of its institutions.." A.I.R. 1973. S.C. 106(150).

Freedom of the Media

The expression, "Freedom of the Press or Media" has been defined as 'freedom to hold opinions, to receive and to impart information through the printed word without any interference from any public authority'[3]. But 'freedom carries with it responsibilities and cannot be absolute in a democracy or for that matter in any organised human society'[4]. In the words of Prime Minister Jawaharlal Nehru, 'freedom, like everything else, and more than everything else, carries certain responsibilities and obligations and certain disciplines, and if these responsibilities and obligations and disciplines are lacking then it is no freedom, it is the absence of freedom, whether an individual indulges in it or a group or a newspaper indulges or anyone else'[5].

Freedom of the Press has not been expressly provided for in the Constitution, 'but is implicit in the fundamental right of the "freedom of speech and expression" guaranteed to the citizens under the Constitution'[6]. Further, it has been settled by judicial decisions that freedom of speech and expression includes freedom of the Press[7]. Under the Constitution, freedom of Press or Media is 'not higher than the freedom of an ordinary citizen and is subject to reasonable restrictions being imposed by law in the interests of the sovereignty and integrity of India, the security of the State, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence'[8]. The term "freedom of speech and expression" 'includes the liberty to propagate not only one's views but also the right to print matters which have been borrowed from someone else or are printed under the direction of that person[9] and also includes the liberty of publication and circulation'[10].

Parliamentary Privileges and the Media

The question of privileges of Parliament *vis-a-vis* the Media 'arises mainly in two ways: the publication of the proceedings of Parliament, and comments casting reflections on either House, its committees, members or officers'[11].

3. *Report of the Press Commission,* 1954, Part I, p. 358.
4. In the words of Blackstone, the liberty of the Press consists in laying no previous restraints upon publications**,** and not in freedom from censure for criminal matter**s** when published —*Blackstone's Commentaries*, Vol. V, pp. 151-52.
5. *P. Deb.,* 16-5-1951, cc. 8823-24.
6. Art. 19(1)(a).

   The non-reference to the liberty of the Press in art. 19(l)(a) was due to the fact that the express mention of the liberty of the Press was considered unnecessary. This was explained by Dr. B.R. Ambedkar in the Constituent Assembly in the following words:

   "…The Press has no special rights which are not to be given or which are not to be exercised by the citizen in his individual capacity. The editor of a press or the manager are all citizens and therefore when they choose to write in newspapers, they are merely exercising their right of expression, and in my judgment therefore no special mention is necessary of the freedom of the press at all."

   — *C.A. Deb.* Vol. VII, p. 780. *See* also *Romesh Thappar v. State of Madras,* (1950) S.C.R. 594(597).
7. *Brij Bhushan vs. State of Delhi*, (1950) S.C.R. 605; *Sakal Papers Ltd. v. Union of India*, (1962) 3 S.C.R. *842; Bennett Coleman & Co. vs. Union of India*, (1973) 2 S.C.R. 757.
8. Art. 19(2).
9. *Express Newspapers v. Union of India and others*, (1959) S.C.R. 12.
10. *Romesh Thappar v. State of Madras*, (1950) S.C.R. 594 (597).
11. *See* Subhash C. Kashyap, *Parliamentary Privileges,* Lok Sabha Secretariat, New Delhi, 1988.

Absolute immunity from proceedings in any court of law has been conferred under the Constitution on all persons connected with the publication of proceedings of either House of Parliament, if such publication is made by or under the authority of the House[12]. This immunity does not extend to the publication of reports of parliamentary proceedings in newspapers, whether published by a member of the House or by any other person, unless such publication is expressly authorised by either House[13]. However, statutory protection has been given to the publication in newspapers or broadcasts by wireless telegraphy of substantially true reports of any proceedings of either House of Parliament, provided the reports are for the public good and are not actuated by malice[14]. This protection has been accorded within the overall limitation that the House has the power to control and, if necessary, to prohibit the publication of its debates or proceedings and to punish for the violation of its orders[15]. Normally, no restrictions are imposed on reporting the proceedings of the House. But, when debates or proceedings of the House or its committees are reported *mala fide* or there is wilful misrepresentation or suppression of speeches of particular members, it is a breach of privilege and contempt of the House and the offender is liable to punishment[16]. Further, the Media is 'forbidden to publish any part of the proceedings or evidence given before, or any document presented to, a parliamentary committee before such proceedings or evidence or document has been reported to the House'[17]. It is also incumbent on the Media 'not to disclose the proceedings or decisions of a secret sitting of the House, until the ban on secrecy is lifted by the House'. Any such publication or disclosure is treated as a gross breach of privilege of the House[18]. Similarly, publication of such portion of the debates as have been expunged from the proceedings of the House by order of the Speaker is a breach of privilege and contempt of the House, and accordingly punishable[19].

The Media has also to 'guard itself against printing or publishing any libels casting reflections on the character or proceedings of the House or its Committees, or on any member for, or relating to his character or conduct as a member of Parliament, as such

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12. Art. 105(2); *see* also Rule 379.

13. *Dr. Suresh Chandra Banerji and others v. Punit Goala,* A.I.R. (38) 1951 Calcutta 176. *See* also *Dr. Jatish Chandra Ghose v. Harisadhan Mukherjee,* A.I.R. 1956 Calcutta 433.

14. The protection was initially given in 1956 *vide* the Parliamentary Proceedings (Protection of Publication) Act, 1976. The said Act was repealed *vide* the Parliamentary Proceedings (Protection of Publication) Repeal Act, 1976. The protection was, however, restored to the Press by enacting the Parliamentary Proceedings (Protection of Publication) Act, 1977, in April 1977. Later, this provision was added to the Constitution of India by insertion of Art. 361 A.

15. *M.S.M. Sharma v. Sri Krishna Sinha,* A.I.R. 1959 S.C. 395-422. *See* also *L.S. Deb.,* 21-12-1959, cc. 6264-66; 9.2.1960, cc. 110-11.

16. *See* also Chapter 11 — 'Powers, Privileges and Immunities of Houses, their Committees and Members'.

17. *Sundarayya Case,* R. (CPR-1LS) pp. 2-3, Rule 275 and Dir. 55; *see* also the *Hindustan Standard Case,* 7R (CPR-2LS); *L.A. Deb.*, 6-3-1940, p. 979, 12-3-1940, pp. 1183-84; *P. Deb.* (II), 27-3-1950, p. 2187.

    According to parliamentary practice, usage and convention, it is improper for any person, though technically not a breach of privilege or contempt of the House, to give premature publicity in the Press to various other matters connected with the business of the House. For details, *see* Chapter 11—'Powers, Privileges and Immunities of Houses, their Committees and Members'.

18. Rules 251 and 252; *see* also *Observer Case,* H.C. 94 (1940-41), p. iv.

19. Arts. 105(3) and 118(1) read with Rules 380, 381 and 313-315; also *see* Chapter XI—'Powers, Privileges and Immunities of Houses, their Committees and Members'.

publication would constitute a breach of privilege and contempt of the House'[20].

However, it is considered inconsistent with the dignity of the House to take any serious notice or action in the case of publication of every defamatory statement which may constitute a breach of privilege or contempt of the House. In deciding such cases of libel, the extent and circumstances of the publication of the libelous statement as also the standing of the person making such statement are taken into consideration[21].

Though it is obligatory on the Media to 'take notice of the expunction and not to publish the portions ordered to be expunged/not to go on record', the Media is 'kept advised as a measure of extra precaution about the expunction or portion not recorded and asked to check up with the Secretariat the exact portions expunged or not gone on record. Further, full facilities are given to the Media 'both in the matter of identification of members[22] and in resolving doubts by referring to the official record of the proceedings'[23].

The other facilities provided to the Media are briefly described in the following paragraphs:

Press Gallery

Correspondents representing newspapers/news agencies/non-governmental Indian electronic media accredited to the Lok Sabha are admitted to the Press Gallery as per the discretion of the Speaker[24]. While exercising this power, the Speaker, however, takes into consideration the recommendations of the Press Advisory Committee[25]

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20. For details, *see* Chapter 11— 'Powers, Privileges and Immunities of Houses, their Committees and Members'.

    For the *Blitz Case, see* 13R (CPR-2 LS); *L.S. Deb.*, 18-8-1961, cc. 3044-53; 19-8-1961, cc. 3318- 80, 21-8-1961, c. 3786; and 29-8-1961, cc. 5501-02.

21. 9R (CPR-2LS), M.O. Mathai's letter.

22. For identification of the members of Parliament, bio-data of members concerned from *Who's Who* are provided to the Media on request. Besides, the bio-data of members are also available on the official website**,** *https://sansad.in/poi or https://sansad.in/ls.*

23. A notice regarding the portions ordered to be expunged/not to go on record is displayed on the notice board. Copies of the notice are also provided in the three Media Rooms informing the Media not to publish the same. Information is issued electronically also, through e-mail and WhatsApp to correspondents.

24. The Press Gallery was open to the Media as usual even during the sessions held in the period of Emergency (1975-77). They were admitted to the Press Gallery on the orders of the Speaker. The Speaker in his discretion extended Press Gallery facilities to certain Correspondents, whose accreditation had not even been renewed by the Government. The Correspondents were also permitted to take down the verbatim proceedings of the House. Censorship imposed in the country by the Government was not applicable to parliamentary proceedings and the Censor Office of the Government was not allowed to function in Parliament House.

25. The first Press Advisory Committee consisting of seven members was appointed in 1929. In 1933, its name was changed to the Press Gallery Committee with enhanced membership of 9 members, which continued to be called so till 1993-94. In 1970-71, the membership was raised from 9 to 10, which was further increased to 12 in 1974-75. However, after the constitution of the Committee for the year 1993-94, the Speaker renamed it as the Press Advisory Committee instead of the Press Gallery Committee and the membership was also increased from twelve to twenty-one. In 2004, the membership was again raised to twenty-seven to give representation to all parts of the country. The Speaker nominates 27 members to the Committee, including four office bearers, *viz*. Chairman, Vice-Chairman, Secretary and Joint Secretary. However, the number may vary, subject to the discretion of the Speaker. While nominating the members of the Committee, it is ensured that all parts of the country and correspondents of various language newspapers and the electronic media accredited to the Press Gallery are represented in the Committee. It is also kept in view that the members being nominated have adequate experience of reporting of the proceedings of Parliament and/or of State Legislatures/ Foreign Parliaments.

appointed by him/her every year from amongst the senior representatives of the Media having Press Gallery Passes. These passes are issued by the Secretary-General for a period of one year[26] in accordance with the general orders of the Speaker.

The Press Advisory Committee performs the following functions:

(*i*) To recommend the issuance of temporary passes to the representatives of the Newspapers/News Agencies/Electronic Media/other Media organisations intending to attend and cover the proceedings of the House from the Press Gallery and/or any other Parliamentary event or activity.

(*ii*) To recommend the issuance of permanent passes to the representatives of the Newspapers/News Agencies/Electronic Media/other Media organisations intending to report the proceedings of the House.

(*iii*) To examine the complaints made against the representatives of the Newspapers/News Agencies/Electronic Media/other Media organizations and to recommend to the Speaker, Lok Sabha, for appropriate action.

(*iv*) To recommend to the Speaker, Lok Sabha, the kind of facilities that may be given to them to discharge their duties.

(*v*) To do such other things which are related to their functions.

Press Advisory Committee was not reconstituted during the Seventeenth Lok Sabha.

In the new building of Parliament which has been designated as the Parliament House[27], Lok Sabha has two Press Galleries *i.e.* Gallery No. 1 and 6 with a seating capacity for 112 correspondents *i.e.* 56 seats in each of both the Press Galleries. Out of the 112 seats, 84 seats are earmarked for mediapersons accredited to Lok Sabha, and 28 seats are earmarked for mediapersons accredited to Rajya Sabha. The seats are equipped with writing desks, headphones and simultaneous interpretation facilities. Four large screen television sets have also been kept in the Press Galleries.

Sufficient number of parliamentary papers, including Lists of Questions, *Bulletins* and Synopses were kept in the Press Galleries for consultation by the media persons. A pigeon-hole had also been provided to keep their mobile phones before entering the Press Gallery.

In the old Building of Parliament which is now designated as '*Samvidhan Sadan*'[28], the Press Gallery of the Lok Sabha had a seating capacity for hundred correspondents and the seats were connected with simultaneous interpretation system. Besides, 25 additional chairs had been provided in the Gallery. Fifty-seven seats in the first two rows, provided with small writing desks and headphones connected with the simultaneous interpretation system were allotted to specific newspapers and news agencies in consultation with the Press Advisory Committee. The remaining 68 seats were for free seating.

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26. Radio Frequency Tags are issued to the correspondents accredited to the Lok Sabha Press Gallery for a period of one year since the year 2004.

27. New Parliament Building was inaugurated by Prime Minister Shri Narendra Modi on 28 May, 2023. *vide* Notification dated 18 September, 2023, New Building of Parliament has been designated as the Parliament House of India. Refer to Bulletin.

28. *Vide* Notification dated 19 September, 2023, Old Parliament Building has been designated as *Samvidhan Sadan*.

During onset of the Covid-19 pandemic, social distancing norms, as issued by the Government of India and adopted by the Lok Sabha Secretariat, from time to time, were followed with regard to entry of media persons to Parliament premises, including Press Gallery. Media persons were given entry by rotation.

Any misrepresentation of the proceedings of the House, advance publication of questions and answers or publication of any matter which is not intended for the public may be considered a sufficient ground for withdrawal of a Press Gallery Card[29].

Supply of Parliamentary Papers

Parliamentary papers such as Lists of Business, Lists of Questions, Bulletins, copies of Bills as introduced in the House and reports of parliamentary Committees and statements made by Ministers in the House are provided to the media persons covering the Lok Sabha proceedings. Copies of other papers Laid on the Table, *viz*. Annual Reports/Memoranda of Understanding are photocopied and supplied to media persons on request.

Media Room Facilities

In the '*Samvidhan Sadan*', three rooms furnished with sufficient number of chairs and desks have been provided to enable the correspondents and supporting staff of news agencies, leading newspapers and Government electronic media to work and prepare their reports.

Before inauguration of the new Parliament House Building, two Media Stands had been set up opposite Building Gates 4 and 12 of *Samvidhan Sadan* to facilitate media interactions with Ministers and Members. Necessary arrangements - such as Television sets, drinking water, air-conditioning etc. were made available at the Media Stands. After inauguration of the new Parliament House Building on 28 May 2023, the following facilities have been provided to the media persons:

(i) Media Facilitation Room – Media Facilitation Room *i.e.* Room No. L 41, Basement in New Parliament Building has facilities like computers, internet and printers for media persons.

(ii) Media Lounge – Media Lounge is situated in North Utility Building of New Parliament Building with modern facilities.

(iii) Media Briefing Centre – Media Briefing Centre is situated in North Utility Building of Parliament House from where electronic media can take interviews of Ministers and Members in case they are interested for the same.

(iv) Media Stand – A media stand has been set up to facilitate media interactions with Ministers and Members. Necessary arrangements - such as Television sets, drinking water, air-conditioning etc. are made available at the Media Stands.

(v) Canteen and Pantry Facilities – Canteen facilities have been extended to mediapersons in Parliament House. North Utility has a pantry which extends its services to mediapersons. Similarly, Parliament Library Building has a pantry which extends its services to media.

29. As for the grounds for withdrawal of Press Gallery facilities to the Press Correspondents, *see* Chapter 33—'Admission of Strangers to Lok Sabha'.

Library and Reference Facilities

Mediapersons having Lok Sabha and Rajya Sabha Press Gallery Cards are also allowed to make use of the Parliament Library for reference purposes. Photocopies of chapters/portions of the books/documents needed by correspondents are made available to them free of cost. Besides, a small Library maintained in the Press & Public Relations Wing contains books generally referred to by the Press correspondents. One set each of the debates of various Sessions, Reports of Parliamentary Committees, Bills as introduced and important Papers laid on the Table, etc., and books on parliamentary practices and procedures, are also maintained in the Press Library for the use of media persons.

Central Hall and Lobby Facilities

Press correspondents with experience of reporting the proceedings of Parliament and/or of State Legislatures/Foreign Parliaments for at least ten years were given the privilege of admission to the Central Hall of the old Parliament House (now *Samvidhan Sadan*) on behalf of their respective newspapers/agencies under certain conditions. Journalists of standing and integrity[30] holding Press Gallery Cards of Lok Sabha were given the privilege of admission to the Lobbies of the House at the discretion of the Speaker. The issue of fresh Lobby Passes to Press correspondents was, however, discontinued from May 1970. In accordance with the decision of the General Purposes Committee taken at their sitting on 12 August 1986, the number of Lobby passes to the Press correspondents has been frozen at 12. However, if any vacancy occurs on account of the death of a correspondent or his leaving the profession, it could be filled up by accommodating another suitable journalist fulfilling the criteria.

Lobby Pass holders could contact the Members of Parliament in the Lobby as well as in the Central Hall; whereas, the Central Hall Pass holders could contact Members only in the Central Hall.

Media Work Station, Parliament Library Building

A Media Work Station, equipped with computers and printers, telephone and Television set, has been provided for the use of mediapersons accredited to the Lok Sabha Press Gallery in the Parliament Library Building.

Issue of Press Releases

To help the mediapersons in preparing their dispatches on the reports presented to the House by the Parliamentary Committees, Press Releases are generally issued by the Secretariat on these reports, highlighting the salient points in the recommendations or observations made therein. Similar Press Releases are also issued about parliamentary Conferences, Seminars, parliamentary events, etc. through electronic medium like e-mail, WhatsApp and hard copies with images of photographs.

Facilities to Government Publicity Organizations

The Press Gallery facilities are provided to four agencies of the Government of India — All India Radio, *Doordarshan,* Press Information Bureau and the External Publicity Division.

30. The term 'standing' in this context means at least 20 years' experience of covering proceedings of Parliament and with 'integrity', as reliable persons who can be trusted, who are not of propagandist by nature and who use judgment and discretion in picking up news from various sources.

The Press Information Bureau (PIB), whose officers are attached to different Ministries of the Government of India and who have to perform functions analogous to those of correspondents in giving publicity to the proceedings of the House, is allotted one seat in the Press Gallery. Against this seat, thirty-nine Information Officers are issued Gallery Cards on alternate basis. Similarly, the External Publicity Division is allotted one seat in the Press Gallery and its Information and Publicity Officers are issued four Gallery Cards against the seat on alternate basis.

Facilities to Photographers

Photographers and camerapersons of print and electronic media accredited to the Press Information Bureau (PIB) of the Government of India are issued photographers' passes for entry to the Parliament precincts for taking photographs/TV shots of the functions/meetings arranged by the Secretariat[31] in the Parliament House Complex. Passes are issued to photographers of the Photo Division, print media, camerapersons of the electronic media and other agencies who are permitted to take the film shots of the selected places inside the Parliament House Complex, provided the film shots are required for educational purposes and not for commercial use.

Photographers accredited to the Press Information Bureau are, however, permitted to take photographs of high dignitaries and Members of Parliament only from Gate No. 1 of *Samvidhan Sadan* and from outside the VIP Gate in Parliament House Annexe on production of their respective PIB accreditation cards.

Facilities during Conferences

During International Parliamentary Conferences, Seminars, Symposia, etc. hosted by the Parliament of India in New Delhi, Media Centres are set up at the venue wherein facilities such as computers with internet connections, telephones, fax and photocopy are provided to accredited mediapersons to enable them to prepare and transmit their reports.

Control Room for Visits of Indian Parliamentary Delegations abroad

A control room is set up in Parliament House Complex during the visits of Indian Parliamentary Delegations (IPDs) to foreign countries. Officials of Press and Public Relations Wing, Sansad Television, Editorial and Translation Service and Parliament Security Service are deputed at the Control Room to facilitate the media coverage of such visits.

Digital Outreach

In order to secure wide publicity of parliamentary events, dedicated social media accounts - X (formerly Twitter), Facebook and Instagram have been operationalized. These are updated on a day to day basis with an objective to channelize all relevant information to the public at large. A team of Social Media Consultants is deputed to undertake this work.

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31. A limited number of photographers' passes are issued to Government photographers and Government newsreel and TV cameramen on a sessional basis as they are required to come to the Parliament House every now and then on official assignments.

A dedicated website *pprloksabha.nic.in* is also operational; the website provides information about parliamentary events alongside photographic resources, Press Releases, Press Advisories, Sessional Statements, Lok Sabha Calendar and other relevant material. The Website also has an Accreditation Index of the accredited media persons.

Familiarization Programme for Mediapersons

The Parliamentary Research and Training Institute for Democracies (erstwhile BPST) of the Lok Sabha Secretariat organizes Familiarization Programmes for the benefit of Media persons which provide them opportunity to interact on various relevant parliamentary themes with the distinguished members of faculty. The Familiarization Programme is so scheduled as to provide the mediapersons a deeper insight into the operational dynamics of the Indian parliamentary system.

Access to Mediapersons' Children to the Children's Corner

Children in the age group of 8 to 17 years of Mediapersons, accredited to the Media Galleries of Lok Sabha and Rajya Sabha are entitled to access the Children's Corner of the Parliament Library.

CHAPTER 46

Telecasting and Broadcasting of Parliamentary Proceedings

The desirability of allowing the entry of the electronic media inside the legislative chambers had been engaging the attention of the Presiding Officers and others for a long time. Concrete steps were taken in this direction by the end of 1989[1]. On 20 December 1989, for the first time, the Address by the President to the members of the two Houses of Parliament, assembled together in the Central Hall, was permitted to be telecast/broadcast live, by *Doordarshan*/All India Radio.

Subsequently, serious consideration to this issue was given when the Deputy Speaker of the Ninth Lok Sabha mooted for the first time a very comprehensive proposal highlighting the feasibility, technical viability, modalities and the general advantages of telecasting of parliamentary proceedings.

The matter was considered by the General Purposes Committee of the Lok Sabha at its meeting held on 23 August 1990. The Committee authorised the then Speaker to constitute a Joint Sub-Committee of both the Houses to examine the desirability, technical feasibility and cost involved in televising the proceedings of both the Houses and to make suitable recommendations for their consideration. Accordingly, the Speaker, Lok Sabha, constituted a Joint Sub-Committee with six members from the Lok Sabha and three members from the Rajya Sabha[2]. This Committee could not proceed with their work as the Ninth Lok Sabha was dissolved on 13 March 1991. However, the issue of televising parliamentary proceedings remained alive.

After the constitution of the Tenth Lok Sabha, the matter was taken up afresh by the Speaker, who held discussions with the Leaders of Parties and Groups in the Lok Sabha. In a meeting with the Ministers of Parliamentary Affairs and Information and Broadcasting, senior officers of the Lok Sabha Secretariat and other concerned Departments held on 18 November 1991, it was unanimously agreed that televising of the Question Hour might begin on an experimental basis. The matter was considered in depth on 26 November 1991, first by the General Purposes Committee of the

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1. The speeches made in the House, as early as on the assassination of Mahatma Gandhi, were however, recorded and later Broadcast by All India Radio. In the Budget Session 1946, a question was tabled by a member suggesting to the Government to consider the advisability of installing loud speakers outside the Chamber to enable the public to hear the proceedings of the House. Speaker Mavalankar did not favour the idea and the question was answered accordingly by the Leader of the House on 26 February 1946.

2. The Members from the Lok Sabha were Satya Pal Malik (Chairman), Basudeb Acharia, Sontosh Mohan Dev, Indrajit Gupta, Jaswant Singh and R. Muthiah and those from the Rajya Sabha were Dr. Bapu Kaldate, P. Shiv Shanker and Atal Bihari Vajpayee.

Lok Sabha[3] and then at a joint sitting of the General Purposes Committees of both the Houses[4]. It was decided to record the proceedings of the Question Hour in the Lok Sabha and the Rajya Sabha. These recordings, after adding the question in the text form, voicing it over and then superimposing the names of the members who asked questions and the Ministers who answered them, were to be telecast the next morning. It was also decided that the Question Hour in the Lok Sabha and the Rajya Sabha might be telecast during alternative weeks.

Soon after the above decision was taken, the Question Hour of the Lok Sabha was telefilmed on 2 December 1991 and telecast on the following morning from 7.15 to 8.15 hours. Thus, the Parliament of India joined the select band of those Parliaments all over the world that permitted telecast of their proceedings. This experiment continued throughout the Winter Session of 1991. On 1 January 1992, the Speaker, Lok Sabha, constituted a ten-member Parliamentary Committee[5] to suggest improvements in the lighting and audio systems. On the recommendations[6] of this Committee, necessary modifications/changes were effected in course of time.

With a view to making further improvements in the televising arrangements, the Speaker deputed a Parliamentary Study Group to visit U.K., France and Germany

3. The following points/decisions emerged out of the discussion on various aspects of the proposal:
   (i) The proposal to televise the proceedings of the House was laudable;
   (ii) At the initial stage, telecasting might be confined to the proceedings of the Question Hour only. Later on, matters raised under Rule 377, important points raised during the so-called 'Zero Hour' and legislative and financial business should also be telecast;
   (iii) A small committee may be set up under the Chairmanship of the Speaker, Lok Sabha to decide about the occasions, issues and events to be telecast;
   (iv) As the members would like to watch the proceedings being telecast, the timing of such telecast should not clash with the timing of the sitting of the House. Several members, including the Minister of Information & Broadcasting, favoured telecast of the proceedings on the next day during morning transmission;
   (v) The Committee agreed that only the recorded version of the proceedings as approved by the Speaker may be telecast;
   (vi) Framing of guidelines in consultation with the Leaders of various Parties/Groups in Parliament in regard to editing of the proceedings was suggested; and
   (vii) A review of the proceedings of Parliament during the week might be telecast on weekends, *i.e.* on Saturdays and Sundays.
4. The following points/decisions emerged out of the discussions during these meetings:
   (i) There was near unanimity in regard to the proposal to telecast the proceedings of the two Houses;
   (ii) At the initial stage, proceedings of the Question Hour may be televised. At later stages proceedings relating to legislation, financial and other important matters may also be televised;
   (iii) The timing of the telecast should not clash with the timings of the two Houses; and
   (iv) In view of the infrastructural constraints, it was felt that to begin with, the pre-recorded proceedings of the two Houses might be telecast on alternate weeks.
5. Members from the Lok Sabha were Sunil Dutt (Chairman), Arvind Trivedi, Mohan Singh, Saifuddin Chaudhry, D. Venkateswara Rao and Geeta Mukherjee; members from the Rajya Sabha were Suresh Pachauri, Shankar Dayal Singh, Sarala Maheshwari and Sushma Swaraj.
6. The Committee stressed the need to ensure glare-free lighting arrangements without disturbing the aesthetics of the Chamber. The Committee also wanted the height of the microphone stands to be reduced so that a full view of the Minister/Member is not blocked from the eye of the camera. It was also suggested to have the pillars and walls in the Chamber painted in white colour, so that better light effect could be created. The Committee reiterated the need to procure more sophisticated cameras and other allied equipment so that the need for high intensity lights as was provided in the Chamber could be obviated.

in June 1992 to study the technological and procedural aspects of televising parliamentary proceedings. A seven-member team, led by the Minister of Information and Broadcasting, studied the technology and design of the individual systems and collected information on the procedures being followed by the three countries in implementing the same and submitted a comprehensive report incorporating therein several recommendations.

Encouraged by the public response to the initial phase of televising the Question Hour, the General Purposes Committee of the Lok Sabha decided not only to continue with it but also to expand further the scope of telecasting. Accordingly, besides the Address by the President on 24 February 1992, the presentation of the Railway Budget and the General Budget were televised live for the first time on 25 February 1992 and 29 February 1992, respectively[7]. Further, important speeches of the Prime Minister, Leader of the Opposition and leaders of other parties during the discussion on the Motion of Thanks to the President for his Address, general debate on the Budget and discussions on the Demands for Grants of the Ministries like Human Resource Development, Agriculture, Food, Rural Development, Civil Supplies and External Affairs were telecast in capsule form in order to project the views of various parties for the benefit of the viewers[8]. Doordarshan used to telecast these speeches on Mondays when there was no telecast of the Question Hour. The first such telecast was made on Monday, 23 March 1992. The complete discussions on the Demands for Grants of the above Ministries were also telefilmed for archival purposes. A meeting of the leaders of Parties and Groups in the Lok Sabha on 7 July 1992 decided that the excerpts from the proceedings could be shown in the *Doordarshan* news bulletin(s) the same day[9].

Since 18 April 1994, the entire proceedings of the Lok Sabha are being telefilmed[10] for archival purposes.

A major step towards the live telecast of the entire parliamentary proceedings was taken on 25 July 1994 when a 100 Watt VHF transmitter was installed in the Parliament House. With the help of this Low Power Transmitter (LPT), live telecast of the Lok Sabha proceedings within a radius of 15 kilometres from Parliament House was formally started from 25 August 1994[11]. The telecast was available on Channel 11 Band 3. The live telecast of the Rajya Sabha was started on 7 December 1994 on Channel 9 Band 3 through another LPT, also installed in the Parliament House.

Besides, since 7 December 1994, the proceedings of the Question Hour of both the Houses are being telecast live on alternate weeks throughout the country on the primary channel of *Doordarshan* from 1100 to 1200 hours[12]. In addition to the Question Hour, the Address by the President, Railway and General Budgets and Debates on the Motions of Confidence/No-Confidence in the Council of Ministers are being telecast live on the primary channel. The first such live telecast of the discussion on a Motion of Confidence in the Council of Ministers took place on 27 May 1996.

7. The Speaker made a reference in this regard while making valedictory references at the end of the Budget Session on 12 May 1992—*L.S. Deb.,* 12-5-1992, cc. 209-10.
8. *Ibid.,* cc. 212-13.
9. The clippings which were shown first on the *Doordarshan* news bulletin related to the re-election of Dr. Najma Heptulla as Deputy Chairperson of the Rajya Sabha on 10 July 1992.
10. *Bn.* (*II*), dated 26-4-1994, para 2964.
11. Announcement made by the Speaker in the Lok Sabha—*L.S. Deb.,* 25-8-1994, c. 333.
12. Announcement made by the Speaker in the Lok Sabha—*L.S. Deb.,* 7-12-1994, c. 7.

On 1 August 1997, it was announced[13] in the Lok Sabha that due to the inadequate reach of the existing cameras to every section of the House and their inability to take shots from different angles, it was decided to install a Remote Control Camera System for each House after studying such systems in various countries. The robotic cameras, eight in number, were then installed and made operational by remote control from a state-of-the-art studio set up in Room No. 50, Parliament House. These cameras could cover all areas of the Chamber. The system became operational during the Winter Session of Parliament in 1997[14].

Broadcasting

On 6 July 1992, the Speaker, Lok Sabha directed that the proceedings of the Question Hour should also be broadcast. In pursuance of this decision, technical arrangements were worked out in consultation with the officials of the All India Radio for the broadcasting of the Question Hour beginning from the Monsoon Session of 1992[15]. The first broadcast of recorded version of the Question Hour was made on 21 July 1992 on the national hook-up at 2130 hours on Delhi 'B'. According to the decision then taken, when the Question Hour in the Lok Sabha was broadcast, the Question Hour in the Rajya Sabha was to be telecast and in the following week it was to be broadcast and *vice versa.* The recording of the day's proceedings by the All India Radio is broadcast the same night.

Guidelines for Telecasting the Proceedings

On 22 June 1994, the Speaker issued the guidelines regarding telefilming and telecasting of the Address by the President and the Lok Sabha proceedings.

As per the guidelines, the telecasting of the Address by the President is to commence with the reception of the President at Gate No. 5, Parliament House. Long and wide-angle shots of the entire Presidential procession are taken from time-to-time. To ensure the solemnity and dignity of the Address by the President in the Central Hall, the cameras are focused most of the time on the President and occasionally on the high dignitaries. Only wide-angle shots of members of both the Houses are taken occasionally. Cameras are not to be focused on the Press and Public Galleries and on any interruption, disorder or walkout.

Besides the Address by the President, other important Addresses such as those by visiting high dignitaries from abroad to the members of both Houses and other special invitees, Parliamentary awards, functions, anniversary functions of Lok Sabha may also be telecast live as per specific decision taken on each such occasion by the Chairman or the Speaker. The telecasting of such Addresses may be covered on the lines of guidelines as in the case of the Address by the President.

While telecasting the Question Hour, only the proceedings pertaining to questions and answers are shown. However, the following items of business transacted during the Question Hour are also shown at times: (a) obituary reference on the passing away

13. Announcement made by the Chair in the Lok Sabha on 1 August 1997.

14. These were later replaced by ten new robotic cameras. *See* this Chapter under LSTV, *infra.*

15. At a meeting held with the leaders of various Parties and Groups in the Lok Sabha on 7 July 1992, the Speaker apprised them of this decision.

of any member/dignitary; (b) welcome to a visiting foreign Parliamentary Delegation; (c) oath taking by a new member; (d) special mention by the Chair; and (e) any other item as directed by the Chair from time-to-time. Telecast of the Question Hour should not include: (a) anything that is unparliamentary; (b) anything that is repetitive in nature; (c) anything that is expunged or disallowed by the Chair; and (d) supplementary questions to which no answer is given as per directions of the Chair.

Since the so-called 'Zero Hour' is not governed by any rule in the Rules of Procedure and Conduct of Business in the Lok Sabha, the U-matic/Betacam/Dvc Pro/ tapes containing the proceedings of the 'Zero Hour' are not shown/made available to anyone without the express prior permission of the Speaker. However, since 5 July 2004, the proceedings of the Zero Hour are being included in the live telecast and are also being supplied on request.

Important debates may be telecast later, after due approval, in capsules of one to three hours. For preparation of capsule(s) of important debate(s), the total time available is apportioned to various Parliamentary Parties/Groups broadly in proportion to their strength in the House. The concerned Party/Group Leader may be informed about the time allotted to his Party/Group for particular capsule(s). After a decision made is known by the concerned Party/Group leader about the name(s) of the member(s) whose speech(es) would be included in the capsule(s), the concerned member(s) may be requested to suitably edit the speeches within the time allotted to them by their Party/Group.

During the live telecast of the General/Railway Budget, cameras are focused most of the time on the concerned Minister. Occasionally, shots of the Chair and wide-angle shots of the House are taken.

The portions of each day's proceedings which are not permitted by the Chair to go on record or which are expunged subsequently are erased from the recorded devices the very next day to bring the same in conformity with the written record. The recorded devices are sent to the Library/archives only after erasing such portions.

Greater care is exercised in showing the occupant of the Chair. Shots of the Presiding Officer are taken while he is giving a ruling or making an observation/ intervention. Shots of the Presiding Officer giving any instructions to the officers or receiving any paper from them are not taken.

Shots of the Officers at the Table of the House (other than Secretary-General) and attendants/messengers in the Chamber are not normally shown unless they happen to form part of any wide-angle shot of the House. Occasional group shots**,** mid-shots and close ups are taken either for the purposes of showing the reaction of a group of members, or in order to establish the geography of a particular part of the Chamber. Galleries occupied by the Press, public, officials and other guests, not being directly related to the proceedings, are not shown. An exception has, however, been made in the case of foreign Parliamentary Delegations seated in the Special Box. On occasion of any grave disorder or of unparliamentary behaviour, the cameras are focused on the occupant of the Chair until order has been restored. Occasional wide-angle shots of the Chamber could, however, be taken during such period.

Revision of Guidelines

The telecasting guidelines were later revised in May 2005 in which as per the direction of the Speaker, the following amendments were carried out**.** The telecast of Lok Sabha proceedings should be a true reflection of what is happening in the House including the scenes of disorder, walk-outs, coming to the Well of the House, etc. On occasions of such disorder in the House, the cameras will focus on the spots of disorder in the Chamber. In such situations, short glimpses of the occupant of the Chair may be shown occasionally. The guidelines were further revised in 2010. As per the revised guidelines, the live telecast shall commence as soon as the Speaker, Deputy Speaker or the Chairman enters the Chamber and will continue till such time as one of the following happenings takes place: (i) An adjournment is announced from the Chair; (ii) the Chair presses the button specifically provided for indicating to the control Room to switch off the cameras or live telecast; (iii) The Chair gives verbal directions for switching off the cameras or live telecast and on the occasions of disorder in the house, the cameras shall focus on the occupant of the Chair.

Recording of Parliamentary Proceedings

The entire proceedings of the Lok Sabha are telefilmed**.** The portions that are expunged on the orders of the Speaker are later erased from the recorded devices. The tele-record of the proceedings of each day is preserved in the Audio Visual Unit of the Lok Sabha Secretariat. Recording of parliamentary proceedings was being carried out by *Doordarshan*/All India Radio till the inception of Lok Sabha Television (LSTV) Channel. From July 2006 to August 2021, the recordings were being done by LSTV Channel/All India Radio. Subsequently, with the merger of LSTV and Rajya Sabha Television (RSTV) on 15 September 2021, a new channel *i.e.*, Sansad TV came into existence and since then, the recording of parliamentary proceedings is being carried out by the Sansad TV. Doordarshan and All India Radio may take signal from Sansad TV for broadcasting of the proceedings, and All India Radio may directly broadcast those proceedings as may be decided by the Speaker, Lok Sabha. Other television and radio broadcasting/telecasting agencies are allowed to make use of recorded excerpts of the televised/broadcast proceedings with the prior approval of the Lok Sabha Secretariat.

Private agencies which are permitted to use audio-visual footage in their programmes are required to ensure that their telecast/broadcast—

(a) The use/retransmission of the proceeding of the Lok Sabha shall be fair and the reporting shall be accurate;

(b) The recordings shall not be used for satire or ridicule;

(c) The recordings shall not be utilized for commercial purpose;

(d) The footage shall not be further supplied to any other agency/channel/party; and

(e) There shall be no tampering or distoration of the recordings and due acknowledgement shall be provided to Sansad Television Channel.

Robotically Controlled Multi-Camera System

A Robotically controlled multi-camera system and Production Control Rooms were set up on 9 December 2004 in GMC Balayogi Auditorium and BPST (known as PRIDE *w.e.f* 2019) Main Committee Room, Parliament Library Building for the purpose of coverage of the Parliamentary functions/events. A Mobile Robotically Controlled Multi-Camera Unit was also procured for the online production of the programmes/events/functions to be held in other Committee Rooms of the Parliament Library Building, Central Hall, Parliament House and out-door shooting of LSTV programmes in Parliament House Complex. Two Electronic News Gathering (ENG) cameras were procured for covering news from outside locations. All these items held by the Audio Visual Unit were taken over by LSTV on 9 May 2008.

Dedicated Satellite Channels for Live Telecast

On 14 December 2004, Vice-President of India and Speaker, Lok Sabha launched two separate dedicated satellite channels for telecasting the Live proceedings of both Houses of Parliament *viz*. Lok Sabha and Rajya Sabha. The entire proceedings of the two Houses of Parliament were being telecast live through two separate dedicated satellite channels by *Doordarshan* since 14 December 2004. With the launch of dedicated Satellite Channels, the telecasting of Parliamentary Proceedings on Low Power Transmitters were discontinued.

Lok Sabha Satellite Television (LSTV) Channel

The Speaker in consultation with Leaders of Political parties in Lok Sabha, took a decision in August 2005 to start a 24-hour television channel of Lok Sabha, independent of Doordarshan, that would be carried by cable operators all over the country. On 24 July 2006, with the commencement of the Monsoon Session, Lok Sabha Television began continuous 24-hour broadcast. This development placed the Lok Sabha in a select league of Parliaments which owned and operated a TV Channel. The Lok Sabha Channel was also available throughout the country on the Doordarshan DTH platform. It was compulsory to carry this channel by all other DTH Providers. To further enhance the reach of the Channel, a website of Lok Sabha TV Channel was launched by the Speaker, Lok Sabha on 9 May, 2012.

A studio equipped with modern recording and telecasting facilities was set up in the first basement of the Parliament Library Building for the Lok Sabha Television Channel. The studio was initially set up by Doordarshan and later handed over to Lok Sabha Television. Accordingly, the old Robotic Cameras in the Parliament House were replaced and ten new Robotic Cameras were installed in strategic locations for better visibility of the proceedings. A second studio was also set up with High Definition (HD) equipment to further facilitate the recording and telecasting of LSTV proceedings. Besides, modern and latest edit and graphics equipment were in place which gave LSTV Channel a technical edge in the broadcasting domain.

An Earth Station was installed for LSTV Channel for direct Satellite link. With the installation of the Earth Station, the Channel achieved an unique distinction of being among the first Parliamentary Channel to own an earth station.

In addition to the live and recorded telecast of proceedings of the Lok Sabha, the Channel also features various informative, interactive and substantial value-added programmes of general interest and on issues related to parliamentary democracy, governance, social, economic and constitutional issues and citizens' concerns. The Speaker had constituted an Advisory Council for Lok Sabha Television to aid and advice on the programme-related matters of Lok Sabha Television[16]. The Lok Sabha TV Channel has since 15 September, 2021 been merged with Rajya Sabha TV to form a new entity Sansad TV.

Sansad Television

On 15th September 2021, the Presiding Officers of the Rajya Sabha and Lok Sabha, and the Prime Minister of India, launched 'Sansad TV' (STV) with the merger of Lok Sabha and Rajya Sabha TVs.

Vision and Objective: STV envisions showcasing parliamentary democracy in India to the world. The objective is to telecast live proceedings of the Rajya Sabha and Lok Sabha and produce programmes that exhibit the vibrant democratic ethos of the country. With its USP, the channel seeks to enhance awareness of parliamentary debates by critically presenting crucial issues. As a publicly-funded broadcaster, STV aims to strengthen the bond between the citizens and their elected representatives.

Governance Mechanism: STV's governance mechanism is led by a Governing Council that provides guidance and policy direction. The Council is chaired and co-chaired by the Hon'ble Chairman, Rajya Sabha and Hon'ble Speaker, Lok Sabha, respectively. Members of the Council include the Secretary Generals of the Rajya Sabha and Lok Sabha, and the Chief Executive Officer (CEO) serves as its Member Secretary. The CEO oversees the channel's operations, assisted by an Additional CEO who supervises programming editors and a Joint Secretary who manages administrative affairs. Similarly, a Financial Advisor discharges the financial functions. Officers from Rajya Sabha and Lok Sabha Secretariats occupy these positions.

Programme: STV is constantly innovating ways to showcase live proceedings of the Rajya Sabha and Lok Sabha. In addition, the channel offers high-quality content designed to provide in-depth knowledge to its viewers. Talented and widely-experienced STV professionals produce quality programs that stand out in terms of

16. The members of the Advisory Council for Lok Sabha Television were:
    i. The Speaker, Lok Sabha – Chairperson.
    ii. The Deputy Speaker – Vice Chairperson.
    iii. The Minister of Information & Broadcasting – Vice Chairperson.
    iv. Leaders of parties in the Lok Sabha that have 10 or more members, or their nominees.
    v. Secretary General, Lok Sabha.

quality of content and production. The channel continuously revamps its programme content and expands its outreach through thematic programmes that cover culture, women-centric, educational, spiritual, social, economic, international and current issues, etc. It features prominent public figures and high dignitaries on its programmes. STV aims to leverage regional languages to further expand its outreach.

Technology: The channel owns leading-edge technology, including advanced hardware and software for production, live telecasts, and coverage of events. It broadcasts HDTV and SDTV formats to ensure the viewership of rural and urban populations. The legacy content is secured with the digitisation and archiving of content, enabling easy retrieval from a rich and enormous program database. STV is committed to maintaining state-of-the-art studios and hi-tech camera equipment, including robotically controlled cameras, to showcase programs from the New Parliament House.

Synergy with other institutions: STV interacts with different sources and organisations, such as Prasar Bharati and shares content, resources, and training programmes.

Online/Social Media presence: STV has gained considerable popularity among the younger generation and has become the most popular parliamentary channel globally, boasting millions of YouTube subscribers. It also has a significant presence on social media platforms like Twitter, Facebook, Instagram, and Koo. A new website, *www.sansadtv.nic.in* was launched alongside the formal launch of STV. These platforms further help expand STV's outreach and engagement with the public.

STV is a testament to the Indian parliament's dedication at promoting transparency, inclusivity, and public engagement in the parliamentary process, and it continues to be a beacon of information, insight and knowledge.

Audio-Visual Unit and Telecasting Unit

Audio-Visual Unit

As part of the modernisation of the Library and Information Services, an Audio-Visual Unit with a Viewing Room comprising four small cabins was set up in Room No. 46, Parliament House. With the shifting of Parliament Library in the year 2002, the Audio-Visual Unit is now functioning from Room No. G140, Parliament Library Building. The Unit is looking after the work of selection and collection of material, accession, classification and preservation of recorded devices on important parliamentary functions and events like conferences, seminars, symposia, workshops and telefilms on different aspects of parliamentary practice and procedure.

The Unit preserves[17] audio-video (U-matic, Betacam, VHS DVC Pro tapes, Professional Discs and Hard Disc Drives) and audio cassettes/tapes of all parliamentary proceedings, other parliamentary functions, Sansad TV Programmes, etc. The Unit also provides different types of blank recording devices to the Sansad TV Channel for recording of various programmes.

Facilities and Services

Facilities for viewing video records of the Lok Sabha Debates, programmes of LSTV (new Sansad TV), proceedings of national and international parliamentary conferences/seminars, parliamentary films and language courses are available to members of Parliament, dignitaries and accredited correspondents of the Lok Sabha in the Viewing Room set up in the Unit[18]. Arrangements have also been made to provide video clips of speeches of members of Parliament in Pen Drive on their request on complimentary basis. Video clips of speeches of Members are provided online rather than on physical media. Software module has been developed during the 17th Lok Sabha to provide video clips of participation in House proceedings to Members online through Member's Portal. Video recordings of participation in the house proceedings of Rajya Sabha is also being supplied to Members through Member's Portal *w.e.f.*

17. The tape-recording of the proceedings of the Lok Sabha was introduced in August 1956. The recorded tapes were normally preserved till the expiration of a week from the day to which they are related, after which they were erased and recycled for use. However, tapes of proceedings which are the subject matter of contention, such as privilege matters, are retained for a longer period till the matter is disposed of. The Address by the President to members of both the Houses of Parliament and Addresses to members by visiting dignitaries, which do not form part of the proceedings of the Lok Sabha, were also tape-recorded. Tapes which are of sufficient historical interest are preserved permanently in the Audio-Visual and Telecasting Unit since 1992. These include:

    Address by the President to members of both the Houses of Parliament assembled together. Addresses to members by visiting dignitaries.

    Important speeches by the Prime Minister, including reply to the debate on Motion of Thanks on the Address by the President.

    Proceedings relating to matters of historical importance.

    Proceedings relating to Constitution (Amendment) Bills passed by the House.

    Railway Budget speech as delivered by the Railway Minister. Reply of the Railway Minister to the debate on the Railway Budget.

    Budget speech as delivered by the Finance Minister.

    Reply of the Finance Minister to the General Discussion on the General Budget. Speech of the Finance Minister moving the Finance Bill for consideration.

    Reply of the Finance Minister to the debate on the Finance Bill. Important speeches of the Leader of the Opposition.

    Discussion on No-Confidence Motions.

    Discussion on important Bills and Motions. Discussion on Confidence Motions.

    Question Hour.

    Swearing in of members.

    Since April 1994, recordings of entire Lok Sabha proceeding are preserved in broadcast quality video cassettes. Previously, the tapes relating to swearing in of members of a particular Lok Sabha were being preserved only for the duration of that Lok Sabha.

18. Previously, if a member wanted to listen to particular portion of the recorded speech of any other member, he had to make a written request to the Speaker within three days of the speech so made, indicating the particular portion of the speech which he would want to listen to and the reasons therefor. Only when the Speaker gave permission, the member was allowed to listen to that portion of the recorded speech.

258th session of Rajya Sabha. Video records of speeches of Members are also made available in the public domain through 'Digital Sansad' Website and App. Necessary infrastructure required for video editing and related works are available in the Unit.

Digitization of Audio-Video recordings

Audio/-Video recordings of Lok Sabha/Rajya Sabha proceedings and Parliamentary events since 1992, are preserved in different types of storage devices for future use. With the old storage devices becoming technologically obsolete, retrieval of audio-video recording is getting more and more tedious. Hence, digitization of video recordings of Lok Sabha and Rajya Sbha proceedings has been undertaken since February 2023.

YouTube channel

In order to showcase the history of functioning of the Parliament, a YouTube channel (Digital Sansad – Parliament of India) has been launched in November 2022. Historic speeches of former Presidents and Prime Ministers, prominent leaders and parliamentary events have been uploaded onto the channel.

Video Recordings of Rajya Sabha Proceedings

Video Recordings of Rajya Sabha proceedings are also being procured by the Unit for archival and library purposes since March 1992. After the formation of Sansad TV in 2021, AV Unit is providing video recordings of Rajya Sabha proceedings to Members of Rajya Sabha also.

Telecasting Unit

This Unit coordinates with the *Doordarshan*/All India Radio and other official agencies for the telecasting/broadcasting of proceedings of national and international conferences/seminars, besides other important parliamentary functions held in the Parliament precincts and elsewhere. The Unit makes all necessary arrangements for effective and uninterrupted telecasting/broadcasting by providing infrastructural and other assistance to the concerned agencies.

> As an extension of telefilming and televising of parliamentary proceedings, video films are being prepared on different parliamentary practices and procedures and related parliamentary topics for new members of Parliament and State Legislatures. These films facilitate in educating students, media persons and others about various facts of the functioning of Parliament[19].

In pursuance of a resolution[20] adopted at the Conference of Presiding Officers of Legislative Bodies held in October 1996 in New Delhi, the Speaker, Lok Sabha

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19. Six parliamentary films have so far been prepared, *viz.* "Private Members' Bills"; "Parliamentary Questions"; "Parliamentary Etiquette and Manners"; "Financial Committees"; "Enriching the Debates in Legislatures"; and "How to be an Effective Parliamentarian?"

20. The resolution *inter alia* includes the following recommendations:

> As telecasting has wide-ranging implications in operational terms, a Committee of Presiding Officers headed by the Speaker, Lok Sabha, should examine all aspects of the matter and make report, giving its considered recommendations.

constituted a Committee[21] of Presiding Officers of Legislative Bodies on Telecasting of the Proceedings of the State Legislatures. At its first meeting, on 18 December 1996, the Committee decided that pending approval and installation of infrastructure for the live telecast of proceedings of State Legislatures, the Address by the Governor, the presentation of the Budget and the Question Hour of the State Legislative Assemblies may be recorded and shown the same evening. Accordingly, the *Doordarshan* has commenced telecasting the Address by the Governor and certain important proceedings (*e.g.,* Finance Minister's Budget speech in some State Legislatures) with effect from the Budget Session of 1997. A proposal for telecasting the proceedings of the State Legislatures was adopted during the Sixty-Seventh Conference of Presiding Officers of Legislative Bodies in India held in Kolkata in October 2004.

Supply of Video recordings of the Proceedings of the Lok Sabha/Rajya Sabha

Video recordings of the proceedings of the Lok Sabha/Rajya Sabha are presented/ supplied on complimentary basis to constitutional functionaries/dignitaries in India and foreign countries; Press Correspondents (print/electronic media) accredited to the Lok Sabha/ Rajya Sabha; Ministries and Departments of Governments of India/State Governments; State Legislatures; established news agencies having PIB accreditation/ eminent producers in the field; libraries, teachers, research scholars of recognized educational institutions/universities; parliamentary political parties and others as may be decided by the Lok Sabha Secretariat.

Whenever a request is received for providing a copy of the recording of speech of a member in a regular debate of any proceedings of the Lok Sabha, the same is arranged by the Audio-Visual Unit and supplied (after necessary editing) on complementary basis or on nominal payment. Since 5 July 2004, the proceedings of the Zero Hour are being included in the live telecast and are also being supplied.

If the audio-visual recordings of parliamentary proceedings are intended to be utilised for any other purpose than personal use, such use would be subject to the same conditions as are applicable to private agencies which are permitted to use audio-visual footage in their programmes as outlined earlier.

Breach or violation of any of these conditions would involve action under the relevant provisions relating to breach of agreement, misconduct and/or breach of privilege of the House.

The Lok Sabha Secretariat ensures the following :—

(i) The contents selected for sale do not contain any defamatory matter or other matter regarded as actionable under law.

(ii) The recordings, as far as practicable, are consistent with the printed version and do not contain portions ordered by the Speaker/Deputy Speaker/ Chairman to be expunged or portions not to go on record.

(iii) The recordings carry at the beginning a recital of (reference to) the date of the proceedings as that would help to authenticate the tapes being privileged under article 105(2) of the Constitution.

21. The Committee was headed by the Speaker, Lok Sabha, P.A. Sangma, and the members were: Hashim Abdul Halim, Speaker, West Bengal Legislative Assembly; Dattaji Shankar Nalwade, Speaker, Maharashtra Legislative Assembly; Ramesh Kumar, Speaker, Karnataka Legislative Assembly; Kaul Singh Thakur, Speaker, Himachal Pradesh Legislative Assembly; Sriniwas Tiwari, Speaker, Madhya Pradesh Legislative Assembly; Jingson Dringwell Rymbai, Speaker, Meghalaya Legislative Assembly; and Ch. Mohd. Aslam, Speaker, Jammu and Kashmir Legislative Assembly.

CHAPTER 47

Inter-Parliamentary Relations and Exchanges

Inter-Parliamentary Relations, Inter-Parliamentary Co-operation and Parliamentary Diplomacy are an integral part of the charter of all the members of the comity of Parliaments. These dimensions of parliamentary functioning have acquired immense significance in the present era of globalization. Globalization enjoins upon Parliamentarians to join hands to safeguard democracy and work in synergy to confront the challenges before the world and convert them into opportunities to facilitate peace, prosperity and development in their countries as well as globally. Parliamentarians from different parts of the world therefore, have established fora where they can meet to discuss and find out solutions to their common problems and where also some sort of cross-fertilization of ideas can take place not only between the older and the younger Parliaments, but also between Parliamentarians working under different Parliamentary systems. These problems are no doubt discussed in inter-governmental conferences but those discussions are not so frank and free as they can be at a conclave of Parliamentarians.

Inter-parliamentary relations, thus, assume great importance today when the whole world is beset with many pressing problems. The problems which are faced by one Parliament today may confront another tomorrow. It is, therefore, essential that a link should exist between the various Parliaments of the world. This link is maintained by Parliament of India through the exchange of delegations, correspondence, documents, Memorandum of Understanding, etc. with foreign Parliament. At multi-parliament level it is ensured through participation of delegations in multilateral parliamentary for a *viz.* IPU, CPA, CSPOC, etc. These interactions are carried out under the auspices of the Indian Parliamentary Group (IPG) the umbrella body which has the representation of both the houses of Parliament *i.e.* Rajya Sabha and Lok Sabha. IPG acts both as the National Group of the Inter-Parliamentary Union (IPU) and also as the India Branch of the Commonwealth Parliamentary Association (CPA).

Indian Parliamentary Group (IPG)

The Indian Parliamentary Group (IPG) is an autonomous body formed in the year 1949 in pursuance of a Motion adopted by the Constituent Assembly (legislative) on 16 August 1948.

Membership of the Indian Parliamentary Group is open only to the members of Parliament. Former Members of Parliament can become associate members and are entitled to limited rights[1]. The management and control of all affairs of the IPG are

1. Each Member (including Associate Member) is required to pay a fixed subscription for life-membership of IPG. An Associate Member is not entitled to representation at meetings or Conferences of the IPU or the CPA or to the travel concessions provided to members by certain Branches of the CPA.

vested in the Executive Committee consisting of a President, two Vice-Presidents, a Treasurer and not more than 20 Members. Some Members/Ex-Members are also nominated as Permanent Special Invitees to the meetings of the Executive Committee. The Speaker is the *ex-officio* President of the IPG and the Executive Committee. As per the IPG Rules, the Deputy Chairman of Rajya Sabha and the Deputy Speaker of Lok Sabha are the *Ex-Officio* Vice-Presidents of the Group. The Treasurer and other members of the Executive Committee are elected at the Annual General Meeting from amongst the life members of the Group[2]. The Secretary-General of the Lok Sabha functions as the *ex-officio* Secretary-General of the IPG and its Executive Committee.

The meetings of the Executive Committee are held from time to time as may be necessary.

The Annual General Meeting of the IPG is held during a session of Parliament every year. However, the President of the IPG may summon a Special General Meeting if a requisition in writing, signed by not less than twenty members of the IPG, is received for the purpose.

With a view to developing contacts with Members of other Parliaments, Indian Parliamentary Delegations visit foreign countries and Foreign Parliamentary Delegations visit India on behalf of the IPG.

Indian Parliamentary Delegations led by Speaker Lok Sabha visit countries on the invitation of Presiding Officers of Foreign Parliaments. The delegations are normally composed of four MPs from Lok Sabha and two MPs from Rajya Sabha. Foreign Parliamentary Delegations are invited to India, usually when the Parliament is in session.

During such bilateral visits, MoUs are often exchanged to strengthen parliamentary cooperation, particularly in the areas of capacity building of Parliamentarians and Parliamentary officials, and sharing of best parliamentary and legislative practices. During the 17th Lok Sabha, Parliament of India signed bilateral MoUs with the Parliaments of Maldives, Vietnam, Mozambique, Surinam, Bhutan, Israel, and Mongolia.

Parliamentary Delegations under the auspices of IPG attend conferences of the IPU and the CPA. IPG constitutes Parliamentary Friendship Groups (PFGs) for strengthening ties with foreign Parliaments. Each PFG consists of twelve sitting members (08 from Lok Sabha and 04 from Rajya Sabha). The aims and objectives of the PFGs are to maintain political, social and cultural contacts between the countries and facilitate exchange of information between Parliaments.

The IPG have been organizing various functions in the Central Hall of *Samvidhan Sadan* such as (i) address by foreign Heads of State/Government; (ii) conferment of Outstanding Parliamentarian Awards (OPA); (iii) farewell of retiring

2. Election of the Treasurer and other members of the Executive Committee — Normally, at the Annual General Meeting of the IPG the General body authorizes the Speaker, Lok Sabha (President of the Group) to nominate the Treasurer and members.

President of India; (iv) welcoming newly-elected Members of Parliament; and (v) Conferences, etc.

As per decision of the Indian Parliamentary Group, an 'Award for Outstanding Parliamentarian' was instituted in the year 1995 to be given annually to a Parliamentarian to be selected by an Award Committee, consisting of Speaker or Former Speaker, Lok Sabha; Deputy Chairperson or Former Deputy Chairperson, Rajya Sabha; a senior Parliamentarian from each of the two Houses of Parliament; and a senior Journalist.

The recipients of the award so far have been : Chandra Shekhar (1995), Somnath Chatterjee (1996), Pranab Mukherjee (1997), Jaipal Reddy (1998), L.K. Advani (1999), Arjun Singh (2000), Jaswant Singh (2001), Dr. Manmohan Singh (2002), Sharad Pawar (2003), Sushma Swaraj (2004), P. Chidambaram (2005), Manishankar Aiyar (2006), Priya Ranjan Dasmunshi (2007), Mohan Singh (2008), Dr. Murli Manohar Joshi (2009), Arun Jaitley (2010), Dr. Karan Singh (2011) and Sharad Yadav (2012), Dr. Najma A. Heptulla (2013), Hukmdev Narayan Yadav (2014), Ghulam Nabi Azad (2015), Dinesh Trivedi (2016) and Bhartruhari Mahtab (2017).

IPG publishes a quarterly Newsletter and presents its annual report to the Executive Committee. The details of the activities held under the auspices of IPG are available on the IPG website *i.e. www.ipg.nic.in.*

Inter-Parliamentary Union (IPU)

The Inter-Parliamentary Union (IPU) established in 1889, is an international organization of the Parliaments of 181 Sovereign States headquartered at Geneva (Switzerland). It aims to work for peace and cooperation and for establishment of representatives institutions, to foster contacts and coordination among Parliaments and Parliamentarians, to consider questions of international interest, defend and promote human rights and strengthen representative institutions. It supports efforts of United Nations and cooperates with other international organizations, which are motivated by same ideals.

The key organs of the Inter-Parliamentary Union are the Assembly, the Governing Council, and the Executive Committee. The Assembly is the principal statutory body of the IPU member Parliaments. The Governing Council is the policy making body which determines and guides the activities of the IPU. The Executive Committee is the main administrative body which oversees the administration of the IPU and provides advice to the Governing Council.

The IPU's statutory Assembly is held bi-annually. The Assembly is the key IPU body which provides a global forum to parliamentarians to express their views on issues related to peace, democracy, sustainable development, climate change, gender equality, youth empowerment etc. During the Assembly, the Delegates participate in a General Debate on a chosen theme of contemporary global relevance, and also attend meetings of various IPU bodies.

The Assembly is also assisted in its work by four Standing Committees, namely, (i) Standing Committee on Peace and International Security, (ii) Standing Committee on Sustainable Development, (iii) Standing Committee on Democracy and Human Rights, (iv) Standing Committee on United Nations Affairs. The aforesaid Committees contribute to the work of the IPU Assemblies by preparing reports and drafting resolutions on subject-items related to their respective domains. Each Standing Committee elects a Bureau, which sets the agenda and programme of the work of the Committee.

The Parliament of India and its bicameral multiparty delegations under the auspices of IPG have been regularly participating in the IPU statutory assemblies, meetings of IPU Standing Committees and other specialized IPU Conferences. In October 2019, during the 141st IPU Assembly in Belgrade, Serbia, the proposal of Indian Parliamentary Delegation led by Shri Om Birla, Speaker, Lok Sabha on the theme "*Addressing Climate Change"* was included in the Agenda of the Assembly as an Emergency Item, and a resolution was adopted on the same. Also, during the 141st Belgrade Assembly of IPU, Shri Om Birla, Speaker, Lok Sabha addressed the General Assembly in Hindi.

Apart from participation in the IPU Assemblies and specialized conferences, the IPDs take part in bilateral meetings on the sidelines[3].

Under the extraordinary circumstances created by the COVID-19 pandemic, IPU and other inter-parliamentary organizations held conferences in virtual/hybrid mode. In August and October 2020, Shri Om Birla, Speaker, Lok Sabha participated in the virtual Fifth World Conference of Speakers of Parliament (5WCSP) and the virtual Sixth BRICS Parliamentary Forum[4].

The Parliament of India hosted the 57th and 89th IPU Assemblies in New Delhi in October-November 1969 and in April 1993, respectively. Besides, India Group of IPU also hosted specialized IPU conferences in the past and the last one was South Asian Speakers' Summit on Achieving the Sustainable Development Goals (SDGs) at Indore, Madhya Pradesh in February 2017.

The Parliament of India have also held leadership positions in IPU. Dr. Gurdial Singh Dhillon, former Speaker, Lok Sabha and Dr. (Smt.) Najma A. Heptulla, former Deputy Chairman, Rajya Sabha were Presidents of IPU during the period 1973-1976

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3. During the 17th Lok Sabha, during his participation in the IPU Assemblies and P20 Summits, Shri Om Birla Hon'ble Speaker, Lok Sabha has held more than fifty bilateral meetings with his counterparts. These bilateral meetings have significantly contributed in renewing bilateral parliamentary contacts and have resulted in many subsequent formal visits under bilateral parliamentary exchanges.

4. Subsequently, in November 2020, Hon'ble Speaker, Lok Sabha attended the virtual Extraordinary Session of the Governing Council of IPU, and participated in the remote voting to elect the new IPU president for the term 2021-23. During the virtual 142nd IPU Assembly (May 2021), the members of Indian Parliamentary Delegation (IPD) participated in the Assembly and more than 24 meetings on its sideline.

and 1999-2002, respectively[5].

Further details on the functioning of the IPU are available at *https://www.ipu.org.*

Specialized IPU Conferences

In addition to the Assemblies and related meetings, IPU also organizes specialized global and regional conferences of parliamentarians. Some of the important specialized Conferences organized under the auspices of IPU:

(i) World Conference of Speakers of Parliaments

The IPU, in cooperation with the United Nations, convenes the World Conference of Speakers of Parliament every five year since 2000 to bring about greater cooperation between Parliaments and United Nations in addressing contemporary global challenges. Speakers and Presiding Officers of Parliament of India have been attending these Conferences.

(ii) The G20 Parliamentary Speakers' Summit (P20)

The G20 Parliamentary Speakers' Summit (P20) is the apex forum for parliaments of the G20 members. The Summit is organized by the Parliament of the country holding the G20 Presidency, usually in collaboration with the Inter-Parliamentary Union.

Under India's G20 Presidency, the Parliament of India hosted the 9th G20 Parliamentary Speakers Summit (P20) in cooperation with IPU on 13-14 October 2023 at Yashobhoomi New Delhi. Speakers and Presiding

5. Members of our Parliament have also been contributing to the agendas and affairs of the IPU and its events over the years through their memberships of the Executive Committee, Bureaus of Standing Committees/Advisory Groups etc. Membership details of Indian Parliamentarians to various IPU bodies during the 17th Lok Sabha is as follows:

(i) Sh. Rajiv Pratap Rudy, MP, LS-Member, Steering Committee of the Parliamentary Conference on WTO (2019- 2023).

(ii) Dr. Sasmit Patra, MP, RS-Member of Committee on Promoting Respect for International Humanitarian Law (2019-2023).

(iii) Shri Anil Yeshwant Desai, MP, RS-President of Bureau of Standing Committee on Democracy and Human Rights (until May 2021).

(iv) Dr. Sanjay Jaiswal, MP, LS-Member of Advisory Group on Health (until March 2022).

(v) Smt. Raksha Nikhil Khadse, MP, LS-Member of Bureau of Forum of Young Parliamentarians (until March 2023).

(vi) Smt. Poonamben Maadam, MP, LS-Member of Bureau of Forum of Women Parliamentarians (until March 2023).

(vii) Shri Bhartruhari Mahtab, MP, LS-Member of Bureau of Standing Committee on Peace and International Security (2021-2025).

(viii) Shri Vishnu Dayal Ram, MP, LS-Member of Bureau of Standing Committee on Sustainable Development (2021-2025).

(ix) Km. Diya Kumari, MP, LS-Member of Bureau of Standing Committee on UN Affairs (2021-2025).

(x) Smt. Aparajita Sarangi, MP, LS-Member of IPU Executive Committee (2022-2026).

(xi) Dr. Heena Vijaykumar Gavit, MP, LS-Member of Working Group on Science and Technology (2021-2025).

(xii) Ms. Sumalatha Ambareesh, MP, LS-Member of High Level Advisory Group on Countering Terrorism (2023-2027).

Officers of G20 members including, the Pan-African Parliament, and 9 invited countries, namely, Bangladesh, Egypt, Mauritius, Netherlands, Nigeria, Oman, Singapore, Spain and UAE were invited to attend the Summit. The Pan-African Parliament took part in the P20 Summit for the first time after the induction of African Union as a full member of G20 at the G20 summit of leaders in New Delhi in September 2023.

Parliaments for One Earth, One Family, One Future was the theme of the Summit. During this Summit, four high-level sessions were held on *(i) Agenda 2030 for SDGs: Showcasing achievements, accelerating progress; (ii) Sustainable energy transition: Gateway to green future; (iii) Transformation in people's lives through Public Digital Platforms;* and *(iv) Mainstreaming gender equality: From women's development to women-led development.*

The participating Speakers unanimously adopted the Joint Statement during the Summit.

A pre-summit Parliamentary Forum on LiFE (Lifestyle for Environment) was held on 12 October, 2023 to promote adoption of sustainable lifestyles and sustainable patterns of production and consumption.

(iii) Parliamentary Conference on WTO

The Parliamentary Conference on WTO (PCWTO) is a joint initiative of the IPU and the European Parliament to provide Parliamentarians with the opportunity to examine developments in the WTO, and obtain first-hand information on the state of multilateral trade negotiations. The smooth running of the PCWTO is ensured by a Steering Committee, of which India is a member. The Member of Parliament nominated on the Steering Committee attends the sittings of the Steering Committee and also the Annual Session of the PCWTO.

(iv) South Asian Speakers' Summit on Achieving the SDGs

The South Asian Speakers' Summit is an initiative of the IPU in partnership with the Parliaments of South Asian Region to share national experiences and good practices for achievement of the SDG's Agenda 2030. Presiding Officers of Lok Sabha and Rajya Sabha have been attending the Summits.

Other Specialized Inter-Parliamentary Bodies

Indian Parliamentary Delegations (IPDs) also actively participate in the meeting of (i) the Asian Parliamentary Assembly (APA), (ii) BRICS Parliamentary Forum, (iii) ASEAN Inter-Parliamentary Assembly (AIPA), (iv) Asia-Europe Parliamentary Partnership (ASEP), (v) Asia-Pacific Parliamentarians' Conference on Environment & Development (APPCED), (vi) Association of SAARC Speakers and Parliamentarians, and (vii) Meeting of Speakers of Eurasian Parliaments.

Commonwealth Parliamentary Association

Commonwealth Parliamentary Association has its headquarters at London (United Kingdom). CPA activities focus on the Commonwealth's mission to

promote knowledge of the constitutional, legislative, economic, social and cultural aspects of parliamentary democracy, with particular reference to the countries of the Commonwealth." The Association brings together Members, irrespective of gender, race, religion or culture, who are united by community of interest, respect for the rule of law and individual rights and freedoms, and by the pursuit of the positive ideals of parliamentary democracy.

Presently, CPA is composed of over 180 Branches formed in Legislatures in Commonwealth countries which subscribe to Parliamentary democracy. For a Branch to qualify, it must be a legislative body; thus, both national and State or provincial Parliaments and the Legislatures of dependent territories may be its members.

CPA Branches are currently grouped geographically into nine Commonwealth Regions for representation on the CPA Executive Committee and for the organization of Regional Conferences and Seminar on Parliamentary Practice and Procedure. The nine Regions of CPA are: Africa, Asia, Australia, British Islands and Mediterranean, Canada, Caribbean Americas and the Atlantic, India, Pacific and South East Asia. Indian Region currently comprises of India Union + 30 State Branches.

Earlier, Plenary Conferences of the CPA used to be held biennially in various capitals of the Commonwealth countries, but since 1961, it has become an annual feature. So far sixty-six Conferences have been held since 1948. India hosted the Fifth, the Twenty-first, the Thirty-seventh and Fifty-third Conferences in New Delhi in 1957, 1975, 1991 and 2007 respectively.

Dr. Balram Jakhar, Former Speaker, Lok Sabha and Shri Hashim Abdul Halim, Former Speaker, West Bengal Legislative Assembly were Chairpersons of the Executive Committee of CPA during the period 1984-1987 and 2005-2008 respectively[6].

Seminars on Parliamentary Practice and Procedure for the CPA Branches

India Branch of CPA had organised four Regional Seminars on Parliamentary Practice and Procedure for the CPA Branches in Asia and South-East Asia Regions of the CPA. Of these, three Seminars were organised in New Delhi in October 1980, January 1982 and January 1984. The fourth Seminar was organized in December 1986 in Bangalore (now Bengaluru). Delegates from the CPA Branches in Asia, South - East Asia and Africa Regions participated in the last three Seminars. Participation in these Seminars was limited to two members each from the main Branches of the Regions and one delegate each from four State CPA Branches of Countries having State Branches. The State Branches in India were requested to send two delegates each and Union Territory Legislatures one delegate each. The subjects for discussions were selected by the Executive Committee of India Branch. The discussion was held after keynote address was delivered on each subject.

The object of the Seminar was to promote contact among parliamentarians and strengthen the parliamentary systems and bonds of friendship among the Commonwealth countries.

6. During the 17th Lok Sabha, important positions held by our MPs in international bodies in CPA are as follows:
   (i) Shri Anurag Sharma, MP, Lok Sabha Regional Representative from India Region in CPA Executive Committee (2020-22), and Treasurer, CPA (2022-25).
   (ii) Shri Uday Pratap Singh, MP, Lok Sabha Regional Representative from India Region in CPA Executive Committee (2022-25).

Annual CPA Seminar

The CPA holds an annual Commonwealth Parliamentary Seminar, hosted jointly since 1989, with different Branches on a regional rotation. The annual Commonwealth Parliamentary Seminar usually focuses on the Parliamentary Practice and Procedure. India has also hosted three annual Parliamentary Seminars in India in coordination with CPA Secretariat, London. The Sixth Commonwealth Parliamentary Seminar was held in New Delhi from 17 to 25 January 1994 under the joint auspices of the Indian Parliamentary Group and the CPA Secretariat. The Fourteenth CPA Seminar was hosted by Andhra Pradesh CPA Branch in Hyderabad in October 2002. India Union CPA hosted the twenty-second Annual CPA Seminar in New Delhi from 24 to 29 November, 2011 in which 21 delegates from member Commonwealth Countries attended. Dr. William F. Shija, Secretary General, Commonwealth Parliamentary Association, members from Parliament of India and delegates from State CPA Branches also attended the Seminar.

Commonwealth Youth Parliament

The Commonwealth Youth Parliament is an annual gathering hosted jointly by the CPA with different Branches on a regional rotation to discuss issues of democracy and governance. It brings together young people aged 18–29 representing nine CPA Regions – Africa; Asia; Australia; British Islands & Mediterranean; Caribbean, Americas & Atlantic; Canada; India; Pacific; South-East Asia. Each member Parliament of the Commonwealth Parliamentary Association nominates up to two delegates to attend the Commonwealth Youth Parliament.

The 10th Commonwealth Youth Parliament was hosted by CPA and Delhi Legislative Assembly in Delhi, India from 24-28 November 2019 under the overall supervision of CPA India Region. Hon'ble Speaker, Lok Sabha and Chairperson of the CPA India Region, Shri Om Birla inaugurated the Conference on 24 November 2019 and addressed the gathering. Discussions were held on issues such as climate change, the SDG's and urbanization during various Sessions. 47 delegates representing thirteen countries and 33 CPA Branches participated in the Event.

Commonwealth Women Parliamentarians

The CWP was founded by women delegates of plenary conference in 1989. CWP has a Steering Committee of 11 members – one each nominated from each region of CPA for a three year term, one Chairperson elected for three year term and the President nominated by the branch hosting the CWP plenary Conference held once in three years. One woman Member of Lok Sabha represents CPA India Region in the CWP (International) Steering Committee.

Commonwealth Parliamentarians with Disabilities (CPwD) Network

Recognizing the need to increase representation of persons with disabilities in political institutions, the Commonwealth Parliamentarians with Disabilities (CPwD) network has been established. In 2020, the network established its governing committee of nine regional champions.

India Region Seminar

India Region CPA has organised a Commonwealth Women Parliamentarians (CWP) Seminar on the occasion of International Women's Day on 8 and 9 March 2013. The theme of the Seminar was "Gender Justice and Responsive Governance". Thirty-eight delegates/CWP members from CPA Branches of India Region attended the Seminar. Two topics for discussion taken up at the Seminar were: (i) Gender and Criminal Justice System: Challenges to understanding Crimes against Women in Society, and (ii) Need for a special programme for creating awareness of Legal Rights among Women. India Region CPA had also organized a CWP Seminar in New Delhi in 2014. The then Speaker, Lok Sabha Smt. Sumitra Mahajan delivered an Inaugural Speech on the occasion.

India Region of Commonwealth Parliamentary Association

Commonwealth Parliamentary Association has grouped Commonwealth Countries into nine Regions. India Region of CPA came into existence as a ninth Region on its separation from Asia Region in September 2004.

The control and management of the Region is vested in the Executive Committee of the Region. The Executive Committee comprises the Chairperson and six members. Speaker, Lok Sabha is the *ex-officio* Chairperson of the Executive Committee.

The Constitution of India Region of CPA was adopted by the General Assembly of India Region of CPA on 25 September 2007 at New Delhi and amended by General Assembly on 13 February 2015 at Goa, on 11 April 2022 at Guwahati, on 21 August 2023 at Udaipur and by the Executive Committee of India Region of CPA on 23 September 2024 at New Delhi. The Constitution was drafted by the Committee of Secretaries**,** constituted on 20 March 2005 by the Executive Committee of India Region of CPA in their meeting.

The 31 State/UT Branches in India Region have been divided into nine Zones. Each Zone organizes Zonal Conference on important and relevant zonal, regional, national and even international subjects. So far seven zonal events were held in different zones since 2018 after the Sixth CPA India Region Conference held in Patna.

The Fifty-Third Commonwealth Parliamentary Conference, hosted by the Parliament of India at New Delhi in September 2007, was held under the auspices of India Region of CPA. The Conference was attended by approximately 800 persons from Commonwealth Countries comprising Speakers, Presiding Officers, members of Parliament, observers, spouses and accompanying persons. This was the fourth occasion for the Parliament of India to host a Commonwealth Parliamentary Conference. Prior to this, Conference was held in New Delhi in 1957, 1975 and 1991.

So far, India Region of CPA has held four joint India-Asia Region Conferences in 2004, 2005**,** 2007 and 2010 at Hyderabad (Andhra Pradesh), New Delhi, Islamabad and Raipur, respectively. India Region of CPA has also held Regional Conferences exclusively for India Region in February 2015, February 2018 and in January 2020 at Goa, Patna and Lucknow, respectively. The 8th CPA India Region Conference was held in Guwahati, Assam on 11 and 12 April 2022. The General Assembly, during Guwahati Conference approved the proposal to hold, henceforth, CPA India Region on

annual basis. The 9th CPA India Region Conference was held in Udaipur, Rajasthan on 21 and 22 August 2023. The last edition (10th CPA India Region Conference) was held in New Delhi on 23 and 24 September 2024.

India Region of Commonwealth Women Parliamentarians

The Commonwealth Women Parliamentarians (CWP), a group of Women Parliamentarians, is a part of CPA, which provides Women Parliamentarians opportunities to discuss ways to increase female representations in Parliament and work towards mainstreaming of gender considerations in all CPA activities and programmes. On the lines of CWP (International), an India Region CWP was formed. A Steering Committee has also been constituted. The Committee comprises of eleven women members, that is one each from the Lok Sabha and the Rajya Sabha and nine women legislators, representing nine Zones in which State Branches have been grouped. The representative from CPA India Region to CWP (International) Steering Committee is the *ex-officio* Chairperson of the Committee.

Conference of Speakers and Presiding Officers of Commonwealth Parliaments (CSPOC)

The first Conference of Speakers and Presiding Officers of the Parliaments of the Commonwealth was held in Ottawa and Toronto from 8 to 12 September 1969 following the decision taken by the Speakers at an informal meeting of the CPA held in Ottawa in 1966. So far, twenty- seven[7] such Conferences have been held. Of these, three Conferences have taken place in New Delhi – the Second Conference in 1970-71, the Eighth Conference in 1986 and the Twentieth Conference in 2010.

Membership

Membership of the Conference is restricted to the Speakers and Presiding Officers of the Parliaments of the sovereign nations of the Commonwealth. A Deputy Presiding Officer may, by prior notification to the host Parliament, attend the Conference as a substitute for a Speaker or a Presiding Officer of his Parliament and any such substitute shall enjoy the same status as a member of the Conference.

7. First Conference was held in Ottawa and Toronto (Canada) from 8 to 12 September 1969; Second in New Delhi (India) from 28 December 1970 to 1 January 1971; Third in Lusaka (Zambia) from 24 to 28 September 1973; Fourth in London (United Kingdom) from 7 to 10 September 1976; Fifth in Canberra (Australia) from 28 August to 1 September 1978; Sixth Conference in Ottawa (Canada) from 23 to 25 April 1981; Seventh Conference in Wellington (New Zealand) from 9 to 11 January 1984; Eighth Conference in New Delhi (India) from 6 to 8 January 1986; Ninth Conference in London (United Kingdom) from 20 to 22 July 1988; Tenth Conference in Harare (Zimbabwe) from 8 to 12 January 1990; Eleventh Conference in Kingston, (Jamaica) January 1992; Twelfth Conference in Papua (New Guinea) from 3 to 7 January 1994; Thirteenth Conference in Nicosia and Paphos (Cyprus) from 4 to 9 January 1996; Fourteenth Conference in Trinidad & Tobago from 5 to 11 January 1998; Fifteenth Conference in Canberra, Australia Capital Territory, (Australia) from 5 to 8 January 2000; Sixteenth Conference in Kasane (Botswana) from 8 to 13 January 2002; Seventeenth Conference in Montebello, Quebec (Canada) from 9 to 12 January 2004; Eighteenth Conference in Nairobi and Mombara (Kenya) from 3 to 8 January 2006; Nineteenth Conference in London (United Kingdom) from 2 to 6 January 2008; Twentieth Conference in New Delhi (India) from 4 to 8 January 2010; Twenty-first Conference in Port of Spain (Trinidad & Tobago) from 7 to 12 January, 2012; Twenty-second Conference in Wellington (New Zealand) from 21 to 24 January 2014; Twenty-third Conference in Kota Kinabalu (Malaysia) from 9 to 14 January 2016 ; Twenty-fourth Conference in Seychelles from 8 to 13 January 2018; Twenty-fifth in Ottawa (Canada) from 5 to 9 January 2020; Twenty-sixth in Canberra (Australia) from 3 to 6 January 2023; and Twenty-Seventh in Kampala (Uganda) from 3 to 6 January 2024.

The Speaker of the Lower House of the host Parliament is the Chairperson and the Clerk or Secretary of the Lower House is the Secretary-General of the Conference. Two Vice-Chairpersons are elected by the Conference. Nominations for the Vice-Chairpersons are proposed and seconded from the floor of the Conference. If more than two candidates are nominated, election is conducted for the posts.

The host Parliament, at the discretion of its Speaker or Presiding Officer, may invite any person who can make a contribution to the Conference as an Observer.

The Conference provides an opportunity to Speakers and Presiding Officers to meet, get acquainted and discuss matters of mutual interest. The Conference is held by rotation in various countries of the Commonwealth. The normal practice is to hold the Conference every two years and it lasts for three days.

The Conference may refer any matter arising out of an item on the agenda to an *ad-hoc* Committee for consideration. Normally, the Conference decides the terms, reference and composition of the *ad-hoc* Committee; the Chairman is elected from amongst the members. The Conference may discuss the report of the Committee should it consider proper.

Standing Committee of CSPOC

A Standing Committee[8] consisting of fifteen members from nine regions are elected by the Conference at a General Meeting. The Committee has three *ex-officio* members representing the last host, the current host and the next hosting members. The Chairperson shall be the Speaker or Presiding Officer of the host Parliament. The term of office of the Committee is from the end of one Conference to the end of the succeeding Conference. The quorum is five members of the Committee.

The meeting of the Standing Committee is held to decide dates and venue of the next Conference; to propose subjects for discussions at the next Conference and to prepare a draft agenda; to propose draft amendments to the rules for the consideration of the Conference; and to consider all matters concerning the organisation and conduct of the Conference, including financial arrangements.

The meeting of the Committee is generally held before the Conference. Decisions taken at the meeting are circulated to all Speakers and Presiding Officers of Commonwealth Parliaments for their information and consideration.

The Association of SAARC Speakers and Parliamentarians

In pursuance of the decision of successive Summits of the South Asian Association for Regional Co-operation (SAARC) stressing the importance of a greater degree of people-to-people co-operation, the Speakers of the Parliaments of the SAARC countries (Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka), at a meeting held in Kathmandu (Nepal) in 1992, resolved to establish the Association of SAARC Speakers and Parliamentarians with its headquarters at Kathmandu.

The Charter of the Association endeavours, among other things, to promote, coordinate and exchange experience among member Parliaments; to supplement and

8. The rule for constituting the Standing Committee was adopted at the General Meeting of the Conference of Commonwealth Speakers and Presiding Officers held in New Delhi in 1970.

complement the work of SAARC and enhance knowledge of its principles and activities among parliamentarians; to provide a forum for exchange of ideas and information on parliamentary practices and procedures and for making suggestions; and to cooperate in international forums on matters of common interest.

The First Conference of the Association of SAARC Speakers and Parliamentarians was hosted by the Parliament of India in New Delhi from 22 to 24 July 1995,

The Second Conference was held in Islamabad, Pakistan from 25 to 28 October 1997,

The Third Conference was held in Dhaka, Bangladesh from 18 to 22 March 1999,

The Fourth Conference was held at Colombo, Sri Lanka from 28 March to 3 April 2003,

The Fifth Conference was held at New Delhi, India from 9 to 12 July 2011,

The Sixth Conference was held at Islamabad, Pakistan from 4 to 6 November 2012,

The Seventh Conference was held at Male, Maldives, 21 to 23 December 2013, and

The Eighth Conference was held in Colombo, Sri Lanka, from 4 to 8 October 2017.

Relationship between Parliament and State Legislatures

Under the Constitution, each House of Parliament or a State Legislature has the power to make rules for regulating its procedure and the conduct of its business[9]. All the Legislatures have, by and large, adopted similar rules of procedure for the conduct of their business, except with slight variations to suit their local needs. This uniformity has been brought about by the constant contact and interaction which Parliament and the State Legislatures have maintained among themselves through conferences, discussions, correspondence, etc.[10].

Conferences are held periodically by the Presiding Officers and the Secretaries of legislative bodies and by the Chairperson of Parliamentary Committees. The agenda of the Conferences of Presiding Officers is decided by the Standing Committee of the All India Presiding Officers' Conference. The Agenda of the Conference of Secretaries is decided by the Secretary General, Lok Sabha and Chairperson of the Conference in concurrence with the Secretary General, Rajya Sabha, who is Co-Chairperson of the Conference. The agenda of the Conference of Chairperson of Parliamentary Committees is prepared by the Secretariat with the approval of the Chairperson of the concerned Conference, in consultation with the Secretariats of the State Legislatures. The Conferences are held in private, except that the Press and a few distinguished visitors are invited to attend the opening session of the Presiding Officers' Conference. No votes are taken and, as a rule, no formal resolutions are passed during Conferences, except for AIPOC. On an important issue, however, a resolution may be adopted by the Conference and it may be sent to all concerned.

9. Arts. 118 and 208.

10. *See* Subhash C. Kashyap: "Parliament and State Legislatures—A Look into their Participatory Relationship" in the *Silver Jubilee Souvenir of the Himachal Pradesh State Legislative Assembly,* 1988, pp. 16-19.

The opinions are, by their very nature, recommendatory and the discussions serve a useful purpose as these become an important source of information for arriving at decisions on complicated questions of practice and procedure. The conclusions arrived at these Conferences are treated as confidential and are not cited in support of rulings in the House or communicated to any outside authority.

Verbatim record of the proceedings of such Conferences is kept, and is printed later and circulated to all State Legislature Secretariats. The secretarial functions are performed by the Lok Sabha Secretariat, under the guidance and supervision of the Secretary-General.

All India Presiding Officers' Conference

The institution of the All India Presiding Officers' Conference (AIPOC) is as old as the Central Legislative Assembly. The first Conference was held on 14 September 1921, at Shimla, under the chairmanship of Speaker Frederick Whyte. The Conferences were held frequently thereafter, though not at regular intervals, but of late they have become an annual feature. The Conference provides a valuable forum of discussion where experience is exchanged and procedural problems thoroughly analysed. The object of the Conference is to see that the parliamentary system of Government grows on proper lines, that proper conventions and traditions are developed in that direction and that, as far as possible, uniformity is established in the practice and procedure in Parliament and State Legislatures.

The Speaker, Lok Sabha, is the *ex-officio* Chairperson and the Secretary-General, Lok Sabha, the *ex-officio* Secretary of the Conference. The points discussed at the Conference generally relate to procedural matters in respect of various subjects connected with the business of the House or its Committees. The agenda of the Conference is decided by the Standing Committee of the All India Presiding Officers' Conference.

The Conference is held in various States[11] and at a time when Parliament or the State Legislatures are not likely to be in session, thereby enabling all the Presiding Officers to take part in the Conference. The normal practice is to hold the Conference once a year and it lasts for two or three days. The 79th Conference was held in December 2019 in Dehradun. The 80th AIPOC was held in Kevadiya, Gujarat on 25 and 26 November 2020; The 81st AIPOC was held in Delhi in Virtual Mode on 15 September 2021 and the 82nd AIPOC was held in Shimla on 17 and 18 November 2021. During the 82nd AIPOC held in Shimla which was the Centenary year of the Conference (being first held in 1921 in Shimla), it has been decided that AIPOC may be hosted twice in a year, once in New Delhi and the other in a State. The 83rd AIPOC was held in Jaipur, Rajasthan from 11 and 12 January 2023. The 84th AIPOC was held in Mumbai, Maharashtra from 27 to 28 January 2024.

Emergent Presiding Officer's Conferences were held on 1984, 1992, 2005 and 2006.

The Conference may set up a Committee to examine in detail an important matter and to report for further consideration. Normally, the Conference decides the terms of reference but the composition and the appointment of the Convener or Chairperson of

11. Till 1950, the venue of the Conference was either Delhi or Shimla.

the Committee is left to the Chairperson of the Conference. The Committee ceases to function after it has presented its report. The Presiding Officers's Committees have been constituted on different subjects[12].

Conference of Secretaries of Legislative Bodies

The object of the Conference of Secretaries[13] is to discuss administrative, procedural and other matters; to bring about uniformity of organization in Legislature Secretariats throughout India; to consider and report on any matter referred to it by the Conference of the Presiding Officers; and to recommend to that Conference any points requiring their consideration. The agenda of the Conference is decided by the Secretary General, Lok Sabha and Chairperson of the Conference in concurrence with the Secretary General, Rajya Sabha, who is Co-Chairperson of the Conference.

The Conference is generally held on the day preceding the Presiding Officers' Conference and as in the case of the latter, no votes are taken nor any formal resolution passed. At the end of the discussion, the Chairperson sums up the position stating

12. (1) Committee of Speakers on the "Procedure to be adopted when a Member of Parliament or a State Legislature commits breach of privilege in respect of the other house or another legislature or its members or Committees thereof"; (2) The Committee of Presiding Officers on the "Formation of the Inter-Legislature Association"; (3) The Committee of Presiding Officers on "the proposed Indian Parliamentary Service and the extent of independence of State Legislature Secretariats from the Executive"; (4) The Committee of Presiding Officers on: (i) what conventions, traditions and other procedural devices are required to be adopted or evolved to enable the Parliament Legislatures to function effectively and meet the new challenging situations witnessed in the country? (ii) is the exact scope of the rule of *sub judice*, that whether a matter whilst under adjudication by a court of law, could be brought before the House by a motion or otherwise (except by means of a bill) in relation to Parliamentary proceedings, (iii) the extent of independence of State Legislature Secretariat from the Executive, (iv) the proposed Indian Parliamentary Service; (5) The Committee of Presiding Officers on: (i) Draft rules prepared in pursuance of the decisions taken at the emergent conference of Presiding Officers held in New Delhi in April, 1968. (ii) Implications of the Judgment dated 30.7.1968 of the Supreme Court relating to the Punjab Appropriation Act, etc., insofar as the Presiding Officers and Legislatures are concerned. (iii) Unfinished work of the previous Committee of Presiding Officers (page Committee), (constituted by the conference held in Trivandrum in October, 1968); (6) The Committee of Presiding Officers on "Future Pattern of Conference of Presiding Officers"; (7) The Committee of Presiding Officers on 'Committee System'; (8) The Committee of Presiding Officers on "need for a uniform set of rules of procedure and conduct of business in all the legislatures in the country"; (9) The Committee of Presiding Officers on "All India Presiding Officers Forum"; (10) The Committee of Presiding Officers on "All India Presiding Officers Forum"; (11) The Committee of Presiding Officers on "measures to promote harmonious relations between the legislature and the judiciary"; (12) The Committee of Presiding Officers on "procedural uniformity and better management of the time of the house"; (13) The Committee of Presiding Officers on "telecasting of the proceedings of legislatures"; (14) The Committee of Presiding Officers to "review the anti-defection law"; (15) The Committee of Presiding Officers "to go into different aspects of the future pattern including funding of the conference of Presiding Officers"; (16) The Committee of Presiding Officers on "regulation of zero hour"; (17) The Committee of Presiding Officers to "ensuring executive accountability to the legislature"; (18) The Committee of Presiding Officers "to evaluate the use of communication & information technology (C&IT) in the functioning of legislatures and suggest way forward"; (19) The Committee of Presiding Officers "to examine the matter of financial independence of Legislature Secretariats"; (20) The Committee of Presiding Officers "to look into the matter of smooth functioning of the house"; (21) The Committee of Presiding Officers "to review the powers of Presiding Officers under the Tenth Schedule of the Constitution and the rules made thereunder"; (22) Committee of Presiding Officers to suggest criteria for outstanding Legislative Council/Legislative Assembly Award; and (23) Committee of Presiding Officers to review the Committee system.

13. The idea of holding Conferences of Secretaries of Legislative Bodies in India was first mooted by Speaker Mavalankar at the Presiding Officers' Conference held in New Delhi in 1950.

briefly the unanimous opinion or consensus expressed. Important decisions taken at the Conference are separately circulated to the State Legislature Secretariats for implementation and the progress is watched by the Secretariat. The 57th Conference of Secretaries was held in December 2019 in Dehradun. The 58th Conference of Secretaries was held on 16 December 2021 in Shimla. The 59th Conference of Secretaries was held on 10 January 2023 in Jaipur, Rajasthan. The last Conference of Secretaries (60th Conference) was held on 27 January 2024 in Mumbai, Maharashtra.

Conference of Chairpersons of Parliamentary Committees

Conferences of the Chairpersons of Parliamentary Committees are in the nature of a 'get-together' for discussing questions of mutual interest relating to these Committees and for exchanging views on individual questions of practice and procedure with a view to evolving a uniform approach to such questions both at the Union and in the States[14]. They are intended to facilitate the growth of healthy parliamentary conventions. All these Conferences are held in Parliament House Annexe, New Delhi and the Chairperson of the concerned Parliamentary Committee of the Lok Sabha functions as the Chairperson of the Conference. The decision regarding holding of any such Conference is taken by the Speaker after ascertaining the views of the Chairperson of the concerned Committees of Parliament and the State Legislatures. The points relating to the scope and, functions, composition, rules of business, implementation of recommendations, etc. of the Committees are normally discussed at these Conferences.

The decisions arrived at each Conference are, if so decided by the Conference, forwarded to the State Legislatures for their information and implementation before the printed proceedings are sent.

Apart from these Conferences, members of State Legislatures visit Parliament, attend the various Committees in session and exchange ideas in informal discussions with the Speaker, the Chairperson, the Secretary-General and members of Parliament.

14. The Conferences held so far are:
    (i) Conference of Chairmen of Public Accounts Committees (April-May 1955, March 1959, April 1966, December 1971, December 1978, February 1983, September 1986, March 1997, January 2001, September 2015), and 4-5 December 2021 (Centennial Celebrations).
    (ii) A Conference of PACs in SAARC Parliaments was also held in New Delhi on 30 and 31 August 1997.
    (iii) Conference of Chairmen of Estimates Committees (November 1954, April 1958, April 1965, April 1975, December 1982, December 1988, December 2002).
    (iv) Conference of Chairmen of Public Undertakings Committees (March 1975, April 1982, December 2000, March 2015).
    (v) Conference of Chairmen of Committees on Subordinate Legislation (April 1960, March 1975, July 1981, November 1986 and October 2005).
    (vi) Conference of Chairmen of Committees on Government Assurances (March, 1976, August 1981, August 1987, October 2006).
    (vii) Conference of Chairmen of Committees on the Welfare of Scheduled Castes and Scheduled Tribes (January 1976, April 1979, August 1983, March 1987, December 2001).
    (viii) Conference of Chairmen of Petitions Committees (April 1979, August 1986, November 2002).
    (ix) Conference of Chairmen of Library Committees (November 1976, March 1983).
    (x) Conference of Chairmen of Committees on Private Members Bills and Resolutions (May 1982).
    (xi) Conference of Chairmen of Committee of Privileges (March 1992).

A large number of references are received from the Secretariats of the State Legislatures on matters of parliamentary practice and procedure. Whenever a State Legislature finds any difficulty in interpreting a particular rule or an article of the Constitution or a question of privilege, they write to the Secretariat for advice and guidance. These exchanges between the State Legislatures and the Secretariat help them to know the problems which face each other and to evolve a common procedure to tackle them.

In order to acquaint their officials with the method of working of the Secretariat and also to inform them of the practice and procedure followed in Parliament, the State Legislatures send them to the Secretariat quite often for training and study.

These officials are imparted training in the different branches of the Secretariat. They are also attached with certain concerned Branches and are afforded opportunities for personal discussions with the officials. Officers from the Secretariat have also been sometimes deputed to the State Legislatures to assist them in reorganizing their Secretariats.

Parliamentary Research and Training Institute for Democracies[15]

The Parliamentary Research and Training Institute for Democracies (PRIDE) is an integral division of the Lok Sabha Secretariat which provides institutionalized facility for training to parliamentarian, legislators, parliamentary staff, civil servants and other stakeholders in various disciplines of parliamentary processes and procedures.

PRIDE has been organizing various capacity building programmes in parliamentary processes and procedures including legislative drafting with a view to develop professionalism, competence, expertise and orientation among those involved in the working of the parliamentary system.

PRIDE's activities include holding of orientation programmes for Members of Parliament and State Legislatures; lecture series for members of Parliament; annual Parliamentary Memorial Lectures; round table discussions and seminars on topical issues; Hindi learning classes for Members of non-Hindi-speaking states; outreach programmes for representatives of Panchayati Raj Institutions and Urban Local Bodies; training programmes and workshops for officers of the Lok Sabha and Rajya Sabha and state legislature secretariats; appreciation courses for probationers of All India and Central Services and for senior and middle level officers of the Government of India and the defence forces. PRIDE also conducts capacity building programmes, study visits and customized training programmes for Members and officials of Foreign Parliaments and Governments regularly. Such programmes are organised on the request of foreign Parliaments and Governments as well as on the request of Ministry of External Affairs.

PRIDE also conducts two international training programmes for foreign parliamentary and government officials, *viz.* (i) 'Parliamentary Internship Programme' for Foreign Parliament and (ii) 'International Training Programme in Legislative

15. The Capacity Building/ Training Division of Lok Sabha Secretariat was earlier known as Bureau of Parliamentary Studies and Training (BPST) which was set up in 1976. BPST has been renamed as Parliamentary Research and Training Institute for Democracies (PRIDE) on 9 September 2019.

Drafting' for the officials of Foreign Parliaments and Governments every year. These programmes are organised under the ITEC Scheme of MEA and fully funded under the ITEC Scheme.

Orientation Programmes for Members of Parliament/State Legislatures

PRIDE organizes orientation programmes with a view to familiarizing newly elected members of Parliament and State Legislatures in parliamentary practices and procedures, conventions, etiquette, and traditions. Orientation programmes are also organised in New Delhi or in state capitals on request of state legislatives bodies. During such programmes, eminent parliamentarians, senior parliamentary officials and experts on parliamentary practices and procedures address Members.

Parliamentary Outreach Programmes for the Empowerment of Panchayati Raj Institutions

During the 17th Lok Sabha, a novel initiative in the form of outreach programmes for the Panchayati Raj Institutions and Urban/Local Bodies in the country was launched in several States and UTs to help enhance awareness about procedures and processes followed by democratic institutions from the grassroots to the apex levels. These programmes intended to strengthen grass roots representative institutions.

The first outreach programme was organized at Dehradun in Uttarakhand in January 2021 with the cooperation and support of the State Government. The programme was attended by 445 Panchayat representatives. In addition, approximately 40,000 Panchayat Representatives and officials were also connected to the programme online *via* weblink. The second outreach programme was organised in Shillong for north eastern states in February 2021. The Programme was attended by 118 representatives from different North-Eastern States. The third outreach programme was organised for Union Territory of Ladakh in August 2021 at Leh and was attended by 422 participants. The fourth programme was organised for the Panchayati Raj Institutions of the Union Territory of Jammu & Kashmir in August 2021 at Srinagar. The Programme was attended by 1151 participants.

Presentations by Padma Awardees

The main objective of the presentations is to provide exposure to Members of Parliament about innovations and best practices by eminent Padma Awardees.

Lecture Series for Members of Parliament

PRIDE has been organizing lectures by domain experts on subjects of topical importance for Members of Parliament since 2005. These lectures help Members to gain valuable insights on important subjects.

Annual Parliamentary Memorial Lectures

The first Annual Parliamentary Memorial Lecture in honour of the eminent parliamentarian, Prof. Hiren Mukerjee, was instituted by the Lok Sabha in 2008. The Memorial lectures are organised in the Central Hall of *Samvidhan Sadan*. In addition to the Members of Parliament, other dignitaries holding constitutional positions, High commissioners/Ambassadors are invited to attend

these lectures. The Inaugural Memorial Lecture was delivered by Nobel Laureate, Prof. Amartya Sen in the Central Hall of *Samvidhan Sadan* on 11 August 2008 on the theme, "Demands of Social Justice". Prof. Muhammad Yunus, Nobel Laureate and Founder/Managing Director of the Grameen Bank of Bangladesh, delivered the second Lecture on "Social Business: A Step towards creating a New Economic and Social Order". The third Lecture was delivered by Prof. Jagdish Bhagwati, Professor of Economics and Law at Columbia University and Senior Fellow in International Economics at the Council on Foreign Relations, USA, on "Indian Reforms: Yesterday and Today" on 2 December 2010. The fourth Lecture was delivered by His Excellency, Lyonchchen Jigmy Y. Thinley, Prime Minister of Bhutan, on "Gross National Happiness: A Holistic Paradigm for Sustainable Well-being", on 20 December, 2011.

Seminars and Workshops for Members of Parliament/State Legislatures

PRIDE organizes Seminars and Workshops on various topics of parliamentary and topical importance for the benefit of Members of Parliament from time to time.

Indian and Foreign Language Programmes

PRIDE organizes Indian and Foreign Language programmes from time to time through online mode. The programmes are organised in all 22 Indian Languages included in the Eighth Schedule of the Constitution as well as in foreign languages like French, German, Japanese, Portuguese, Russian, Spanish etc.

National Youth Parliament Programme (NYP)

PRIDE in collaboration with the Ministry of Youth Affairs & Sports organizes National Youth Parliament Festival in the Central Hall of *Samvidhan Sadan*. Youth from different parts of the country and winners of the Youth Parliament Festival at State/Regional levels participate in the programme. The National level winners are also selected during the programme through an open competitive process. The first programme was organised in January 2021 on the occasion on the National Youth Day.

Programmes on the occasion of National and International Days of importance

In a bid to raise awareness, PRIDE organizes International days of importance such as, International Women's Day, International Yoga Day, International Day of Sport for Development and Peace, Sensitization Programme on Tuberclosis Day, World Day against Child Labour, Awareness Programme on World Hepatitis Day etc. These programmes are organised both in physical and online mode. Besides Members of Parliament, Members of State Legislatures, officials of Parliament and State Legislatures attend these programmes.

Computer Awareness Programmes

PRIDE periodically organizes computer awareness programmes for Members of Parliament and their staff to assist them in discharging their parliamentary duties effectively. Computer awareness programmes are also organised for officials of Lok Sabha.

Classes for Members of non-Hindi speaking States

From time to time, PRIDE also organizes Hindi learning classes for Members of non-Hindi speaking States.

Programmes for Personal Staff of Members of Parliament

PRIDE organizes programmes such as computer training in parliamentary practices and procedures, 'E-Parliament and Access to Information', 'Members' Portal and Research/Reference Support to Members' for personal staff of Members of Parliament periodically to help them improve their skills.

Familiarization Programmes for Media Persons

PRIDE organizes Familiarization Programmes for media persons covering the proceedings of Parliament and State Legislatures. The programmes are designed to enhance their knowledge and understanding of various parliamentary practices and procedures.

Programmes for Foreign Parliamentarians and Foreign Officials

Customised Programmes and Study Visits for Presiding Officers, parliamentarians and parliamentary officials from foreign Parliaments are organised by PRIDE on request. The Programmes are specially tailor made to suit the special requirements of participants.

Programmes for Foreign Parliamentary and Government Officials

Two International Training Programmes, *i.e.* the Parliamentary Internship Programme and the International Training Programme in Legislative Drafting for the foreign parliamentary/Government officials are month-long programmes organised every year since 1985. Participants are drawn from countries covered under the Indian Technical and Economic Cooperation (ITEC) Scheme and are funded by the Ministry of External Affairs. The Programmes are open to other foreign officials also in case the sponsoring authority or the participants are prepared to meet the expenses on boarding, lodging, international travel, etc.

The aim of the Parliamentary Internship Programme is to provide the participants an opportunity to gain better understanding and knowledge about the environment, tradition, culture and working procedure of the parliamentary institutions in India and exchange ideas based on their own experiences. The International Training Programme in Legislative Drafting is designed to equip parliamentary officials with the basic concepts, skills and techniques required for drafting of legislation.

PRIDE, in 2013, has also organised two Specialized Training Programmes in Arabic and Spanish for Parliamentary Officials from Arabic and Spanish speaking countries.

Appreciation Courses for Probationers of All India and Central Services and Government Officials

The PRIDE regularly organizes Appreciation Courses in Parliamentary Processes and Procedures of 3-5 days' duration for Probationers of All India and Central Services and middle and senior level Officials of the Government of India.

Courses for Parliamentary and State Legislature Officials

PRIDE organizes Foundation Courses, Refresher Courses and Specialised Courses on regular basis for officials of Secretariats of Parliament and the State Legislatures

on Parliamentary Processes and Procedures and different aspects of Parliament's functioning.

Training of Officials at other Institutions in India and Abroad

PRIDE also facilitates customized programmes for officers of the Secretariat in various training institutions in India and abroad.

Lok Sabha Internship Programme

A one-year long 'Lok Sabha Internship Programme' was launched in January 2008 to provide an opportunity to young men and women with outstanding academic and extracurricular achievements to acquaint themselves with the working of parliamentary democracy and democratic institutions in general and specifically the Indian Parliamentary System. The Programme was aimed at imparting the requisite skills and knowledge to the five selected Interns to develop a proper perspective about the role of the Legislature in our parliamentary system.

The Internship Programme has subsequently undergone changes since more Interns are selected for the internship every year. The recognition of the programme has increased manifold after it was revived in 2016. The selected Interns are also paid stipend during the period of internship. The interns are given various assignments/ projects in divisions of the Lok Sabha Secretariat and are required to submit a project report at the end of the programme. On successful completion of the internship, the interns are awarded a Certificate of successful completion of the programme.

Lok Sabha Research Fellowships

The Lok Sabha Secretariat encourages original studies on the functioning of Parliament by way of Research Fellowship grants to scholars. The selection for the grant of Research Fellowships is made by a Fellowship Committee. The terms of the Research Fellowships are governed by the Lok Sabha Secretariat.

Online Training Programmes

Since May 2020, the PRIDE has started Online Training Programmes. First such programme was successfully organised for officials of Lok Sabha, Rajya Sabha and State Legislatures dealing with Questions, Legislative and Budgetary Processes from 11 to 13 May 2020.

Newsletters, Brochures and Study Material

PRIDE first brought out its "Newsletter" in the year 1976 which contained details relating to course programmes. A new edition of the PRIDE newsletter "GAURAV" has been released in 2021. The newsletter primarily provides information about activities of PRIDE.

PRIDE functions under the overall control and supervision of the Secretary General of Lok Sabha. Housed in the Parliament Library Building, PRIDE is equipped with modern infrastructure and training facilities.

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ANNEXURE

STATEMENT INDICATING DETAILS OF PRIVATE MEMBERS' BILLS ENACTED

SI. No.	Short title of the Bill	Member-in-Charge	Object	Date(s) of Discussion	Remarks	Act No.
1	2	3	4	5	6	7
1.	The Muslim Wakfs Bill, 1952	Syed Mohammad Ahmad Kazmi	To provide for the better governance and administration of Muslim Wakfs and the supervision of Mutawallis' management of them in India.	16.7.52 30.7.52 13.3.53 14.8.53 26.11.53 18.2.54 4.3.54 12.3.54	Passed	Act 29 of 1954 21-5-1954
2.	The Code of Criminal Procedure (Amendment) Bill, 1953 (*Amendment of Section 435*).	Shri Raghunath Singh	To empower the revisional court to stay or suspend the final orders of lower courts.	27.11.53 29.4.55 5.8.55 27.7.56 13.8.56	Passed	Act 39 of 1956 1-9-1956
3.	The Indian Registration (Amendment) Bill, 1955 (*Amendment of Section 2, etc.*).	Shri S.C. Samanta	To remove the anomaly of recording castes and sub-castes of parties in a deed for registration, as India is a secular state.	16.9.55 16.12.55 15.3.56 23.3.56	Passed	Act 17 of 1956 6-4-1956

1	2	3	4	5	6	7
4.	The Proceedings of Legislatures (Protection of Publication) Bill, 1956	Shri Feroze Gandhi	To define by law the privilege available to publications made in good faith of reports of proceedings of legislatures.	24.2.56 23.3.56 6.4.56 1.5.56 4.5.56	Passed	Act 24 of 1956 26-5-1956
5.	The Women's and Children's Institutions Licensing Bill, 1954	Rajmata Kamlendu Mati Shah	To regulate and license orphanages and other institutions caring for women and children under 18 years of age and to provide for the Proper custody, care and training of their inmates.	26.2.54 10.8.56 24.8.56 25.8.56 30.11.56 7.12.56	Passed	Act 105 of 1956 30-12-1956
6.	The Ancient and Historical Monuments and Archaeological Sites and remains (Declaration of National Importance) Bill, 1954 (as passed by Rajya Sabha on 24.8.1956).	Shri Balwant Singh Mehta	To get certain monuments included in the list of Monuments of National Importance declared in the principal Act of 1951.	31.8.56 (laid on Table) 7.12.56	Passed	Act 70 of 1956 15-12-1956
7.	The Hindu Marriage (Amendment) Bill, 1956 (*Amendment of section 10*) (As passed by Rajya Sabha on 30.11.56).	Smt. Uma Nehru	To permit the persons, when both the parties belong to the Hindu religion and are marrying under the Special Marriage Act, to be governed by the Hindu Succession Act, 1956.	3.12.56 (laid on Table) 7.12.56	Passed	Act 73 of 1956 20.12.1956

1	2	3	4	5	6	7
8.	The Code of Criminal Procedure (Amendment Bill, 1957 (*Amendment of section 198*).	Smt. Subhadra Joshi	To remove the hardship caused to a woman in spending money in litigation when her husband commits the offence of bigamy.	20.12.57 11.9.59 27.11.59 23.8.60 23.12.60	Passed	Act 56 of 1960 26.12.1960
9.	The Orphanages and other Charitable Homes (Supervision and Control) Bill, 1960 (As passed by Rajya Sabha on 19.2.60).	Shri Diwan Chand Sharma	To provide for the supervision and Control of Orphanages and other charitable institutions for their better management.	26.2.60 18.3.60	Passed	Act 10 of 1960 9.4.1960
10.	The Indian Marine Insurance Bill, 1959 (as introduced in Rajya Sabha). Marine Insurance Bill, 1963 (as passed by Rajya Sabha and laid on the Table of Lok Sabha).	Shri Diwan Chand Sharma	To modify the law relating to marine insurance.	14.3.63 22.3.63 5.4.63	Passed	Act 110 of 1963 18.4.1963
11.	The Hindu Marriage (Amendment) Bill, 1962.	Shri Diwan Chand Sharma	To make the right to apply for divorce available to both the parties in case of a decree for judicial separation or restitution of conjugal rights instead of the right being available only to the party who. obtained the decree.	22.2.63 4.12.64	Passed	Act 44 of 1964 20.12.1964

1	2	3	4	5	6	7
12.	The Salaries and Allowances of Members of Parliament (Amendment) Bill, 1964 (*Amendment of Sections 3 and 5*)	Shri Raghunath Singh	To raise the salaries and allowances of Members of Parliament in order to meet the high cost of living. Also to provide air travel facilities.	10.4.64 24.4.64 25.9.64	Passed	Act 26 of 1964 29.9.1964
13.	The Indian Penal Code (Amendment) Bill, 1967 (*Amendment of Sections* 292, 293, *etc.*)	Shri Diwan Chand Sharma	To enable works of art to be exempted from the penal clauses in the principal Act relating to punishment for obscenity.	20.12.67 (laid on Table) 14.3.68 29.3.68 11.4.68 1.5.69 16.5.69	Passed	Act 36 of 1969 7.9.1969
14.	The Enlargement of the appellate (Criminal) Jurisdiction of the . Supreme Court Bill, 1968.	Shri Anand Narain Mulla	To enlarge the appellate jurisdiction of the Supreme Court in regard to criminal matters.	15.11.68 3.4.69 18.4.69 17.11.69 19.12.69 25.3.70 31.7.70	Passed	Act 28 of 1970 9.8.1970

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