



# Unit

# 2

## Legislature



### Learning Objectives



- ❖ Students can learn to know about the functioning of the important aspect of democratic governance
- ❖ Students can learn to understand the role of the legislature in everyday changes in society and politics
- ❖ Students can learn to analyze the political structure of the state and constitutional values of the institution
- ❖ Students can learn to observe the elections and its procedures to enhance the knowledge about the public institutions
- ❖ Students can learn to experience the many aspects of rule of law
- ❖ Students can learn to distinguish the differences between central and state legislatures through organizing youth parliament



### Introduction

Legislature is one of most important institution for the functioning of representative democracy. The basic objective of the legislature is to hold its representatives accountable, responsible for the interest of the people in the country. Legislature is generally referred as the highest law-making body, having elected representation from all the constituents of the state to make or change the laws of the country. In India, legislature at the Centre is called as Parliament and is also referred as National Legislature. The legislatures in The State and the Union Territory are called as Legislative Assemblies.

The Parliament consists two houses namely; House of the People (Lok Sabha – Lower House) and Council of States (Rajya Sabha - Upper House). This is known as bicameral system of Parliament, and has inspired by the British Parliamentary system and the bicameral system of the USA. Similarly, the States have Legislative Assembly and Legislative Council but in many of the States only unicameral legislatures exist without any Legislative Councils. In India, the Parliament shares its law making function and responsibilities of implementation with twenty eight states as well as eight union territories. The Union Territories are directly governed by the Union Government.



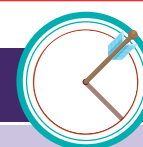
## 2.1. Union Legislature: The Parliament

The Parliament is known as Union Legislature or National Legislature, which is a supreme body of decision making and symbol of democratic governance. The Parliament is the most powerful platform with accountability for debating on the issues regarding welfare of the country and its people and enacting laws and making changes to the constitution.

When the Parliament meet for discussing various agenda and approving bills, motions with a scheduled meeting is called session. The Parliament holds THREE sessions in a year.

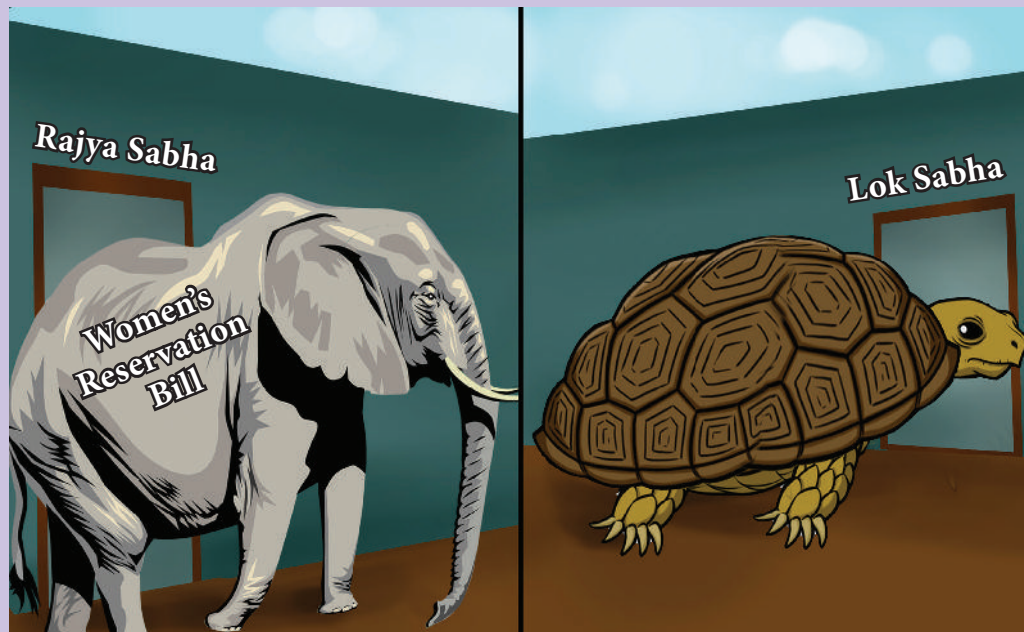
1. Budget session (February-May)
2. Monsoon Session (July-August)
3. Winter Session (November-December)

### Activity - Interpretation of Cartoon



Women members in the Rajya Sabha urged the Government to ensure the passage of the Women's Reservation Bill in the Lok Sabha. The Bill, which proposes 33% reservation for women in Parliament and State legislatures, was passed by the Rajya Sabha in 2010 but has been stuck in the lower house for nine years.

The Constitution (108th Amendment) Bill, commonly known as the Women's Reservation Bill, needs to be approved by the Lok Sabha in order to become law.



**Cartoon Courtesy :** The Hindu, 13.3.2010.

As a class, discuss what you already know or think about the following topics:

- a. Women's Reservation Bill
- b. 33% quota
- c. Needs to be approved by the Lok Sabha

It has two important powers and functions called as legislative and financial. The legislative powers are for law making and the financial powers are to prepare money bill as called as budget. Also the parliament has electoral functions with regard to elect the President and the Vice-President of India.

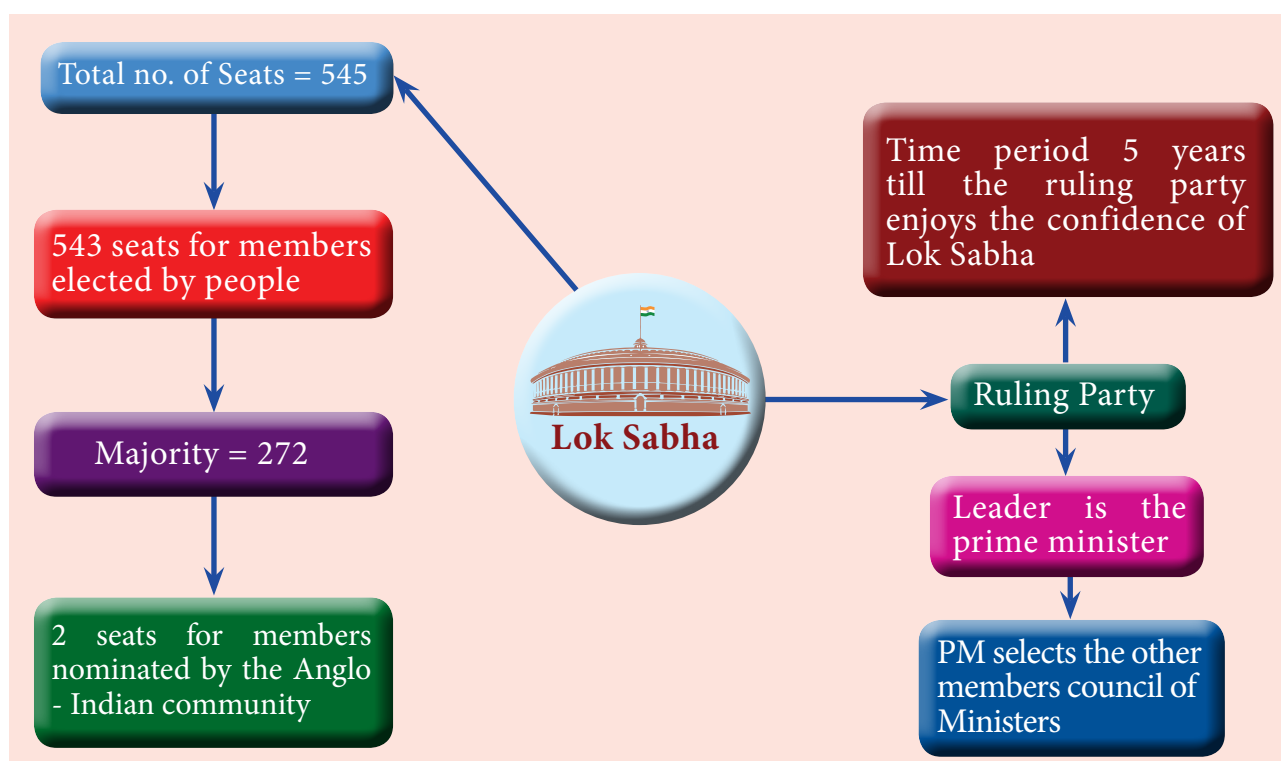
The Parliament has judicial function also on the matters of the proposals for the removal of the President, Vice – President, Judges of the Supreme Court and High Courts and the process of removal is called ‘impeachment’. It is the duty of the President to summon the Parliament and it must have not less than two sessions in a year. Every year, at the commencement of the first session of the parliament, the President delivers his special address which would be the future course of action of the parliament in view of giving framework for new policies, programmes and initiatives of the government. The parliament of India has functions of legislation, overseeing of administration, passing of the

budget, ventilation of public grievances, and discussing national policies and issues of concern. The cabinet, both individually and collectively is accountable to and removable by the Lok Sabha.

### Functioning of House of People (Lok Sabha)

The parliament has two houses and both houses carry the same values and responsibilities with a few exception such as passing the finance bills. The first one is the Lok Sabha (Lower House or House of People) with 543 members elected from 543 Parliamentary constituencies across the country directly by the people who have attained the age of 18 and above and registered as voters. The Lok Sabha has 2 nominated members from the Anglo-Indian community.

**Quorum of the House:** One tenth of the total number of members of Lok Sabha / Rajya Sabha constitutes the quorum for a meeting of the House.





The grand total number of members in the Lok Sabha is 545, but the nominated members cannot decide the government when it proves majority on the floor of the House. The Lok Sabha is the highest forum for discussion, debate on public issues, interest and policies to cater to the socio-economic needs of the people.

The members of both houses are generally called by the public as Member of Parliament. Member of Parliament, Lok Sabha is one who represents the constituency of the state, comprising of six Assembly constituencies, directly elected by the people through elections. The term of the Lok Sabha is for five years.

### **Roles and Responsibilities of the Speaker**

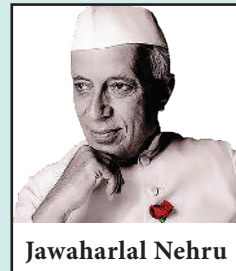
The leader of the House of the People is the Speaker – who is elected by the Lok Sabha, from among its members. The Speaker's duties are to conduct, facilitate the debates and discussions as well as the answers to questions, regulating the conduct of Members of the House and taking care of their privileges and rights. The Speaker of Lok Sabha is the administrative head of the parliamentary secretariat.

The Speaker also ensures that the members adhere to the appropriate procedures, and to allow the members to raise question, allotting time to speak and withdraw the objectionable remarks from record and moving a motion of thanks to the President's speech. The Speaker has the power to expel the members if they flout or violate the norms and rules of the house.

The permission of the Speaker is required to move amendments to a bill. It is

up to the Speaker to decide whether the bill has to be moved or not. The Speaker plays the role of guardian of the rights and privileges of the house, its various Committees such as consultative, select, advisory and of members of that Committees. Another important power of the Speaker is to refer any question of privilege to the Committee of privileges for examining, investigating and reporting. The questions raised by the members and answers, explanations and reports are addressed to the Speaker.

Jawaharlal Nehru, one of the chief architects of India and a driving force behind its democratic principles of the Constitution, placed the office of the Speaker in India in the



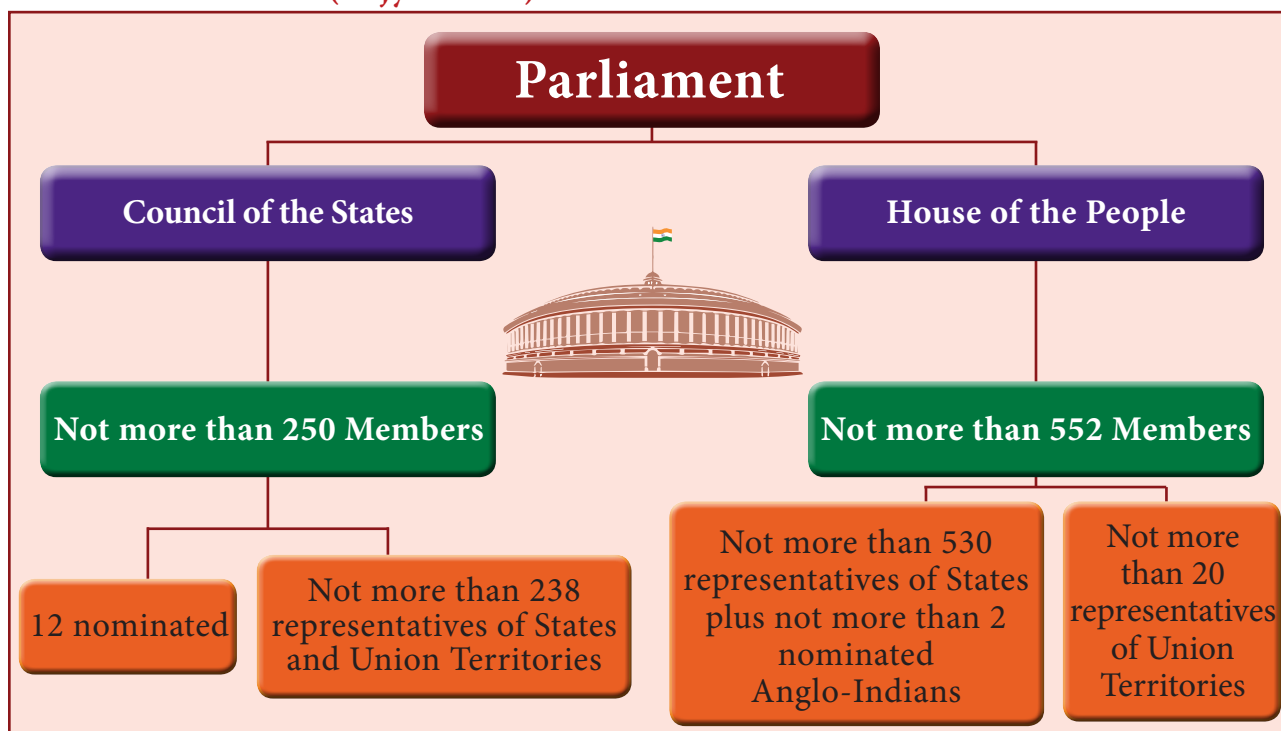
proper context when he said: "The Speaker represents the House. He/she represents the dignity of the House, the freedom of the House and because the House represents the nation, in a particular way, the Speaker becomes a symbol of nation's freedom and liberty. Therefore that should be an honoured position, a free position and should be occupied always by persons of outstanding ability and impartiality".

The Speaker is the final authority to decide on the question of point of order. Under the constitution, the Speaker enjoys special provisions and certifies money bills. The Speaker of the House of the People presides the joint sessions of the parliament in case a special occasions or in the event of disagreement between the two houses on certain legislative

measures. The Speaker decides whether a Bill is a Money Bill or not and his decision on this question is final. It is the Speaker who decides on granting recognition to the Leader of Opposition in the House of People. Under 52<sup>nd</sup> Constitution Amendment, the Speaker

has the disciplinary power to disqualify a member of the house on the grounds of defection. Even though, the Speaker also one of the members of the House and holds neutral, does not vote in the house except rare occasions when there is a tie at the end of the decision.

### Council of the States (Rajya Sabha)



The Rajya Sabha or the Council of States is called as upper house. It has a total number of 250 members including 238 from all the states and union territories and 12 members nominated by the President. The council of states Rajya Sabha is called as second chamber of the Parliament of India. The Rajya Sabha is an institution to protect the rights and interests of the states like the senate in USA. It was constituted on 3<sup>rd</sup> April, 1952.

The members for Rajya Sabha are elected by the members of the respective State Legislative Assemblies (MLAs). Apart from the members of the states, twelve distinguished members from the

fields of literature, science, art, and social service were nominated by the President of India. Unlike House of People, Council of States is not subject to dissolution but one third of the members retire every second year. The term of the individual member is six years. The members of the Council of States are elected by their respective state legislative assemblies in accordance with the system of proportional representation by means of the single transferable vote.

### Functioning of Rajya Sabha

The Vice-President of India is the ex-officio Chairman of the Rajya



Sabha. The Chairman presides over the proceedings and regulates the Rajya Sabha. Except the Money/Financial Bill all other bills will be placed before the Rajya Sabha for discussion, questions, motions and resolutions under the rules of procedure and conduct of business. The functions of Rajya Sabha may broadly be categorised as: Legislative, Financial, Deliberative and Federal. Legislation is by far the most important business of Rajya Sabha, as indeed of Parliament and in this sphere, Rajya Sabha enjoys almost equal powers with Lok Sabha. In the U.S.A, the representatives in the state council is called as Senate where every state has equal representation irrespective of size and population of the states. But in India, the representation in the Rajya Sabha is based on its size of population.

For example, Uttar Pradesh with the highest population elects 31 members to Rajya Sabha; on the other hand, Sikkim, the least populated state, elects only one member to Rajya Sabha. Tamil Nadu elects 18 members to the Rajya Sabha. The number of members to be elected from each State has been fixed by the fourth schedule of the Constitution. Members of the Rajya Sabha are elected

for a term of six years and then they can be re-elected. The Rajya Sabha is known as Permanent House of the Parliament that never gets fully dissolved. Some of the important privileges and immunities are given to the Members of Rajya Sabha as follows.

### Who can be a Member of Rajya Sabha?

- ❖ Must be a citizen of India
- ❖ Must not be less than 30 years
- ❖ Under the Representation of the People Act, 1951, a person had to be an elector in a parliamentary constituency in the State from where he seeks election to Rajya Sabha.
- ❖ It may, however, be mentioned that the Representation of the People (Amendment) Act, 2003, which amended Section 3 of the Representation of the People Act, 1951, has done away with the requirement of being a resident of State or Union territory from which a person seeks to contest elections to Rajya Sabha.
- ❖ He/She has to be an elector in a parliamentary constituency anywhere in India.

## Activity

### Think-Pair-Share

**Topic :** Which House is considered to be more powerful the Lok Sabha or the Rajya Sabha?

**Task :** Student should think individually for a few minutes, and then discuss and compare their responses with a partner before sharing with the entire class.

Preparing students to participate more fully and effectively in whole class discussions.



### **Powers and Privileges of Members of Parliament**

1. Freedom of speech in Parliament and immunity of 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.
2. Immunity to a person from proceedings in any court in respect of the publication by under the authority of either House of Parliament of any report, paper, votes or proceedings.
3. Prohibition on the court to inquire into proceedings of parliament.
4. Immunity to a person from proceedings in any court in respect of the publication in 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.
5. Freedom from arrest of members in civil cases during the continuance of the session of the House and forty days before the commencement and forty days after its conclusion.
6. Exemption of a member from service of legal process and arrest within the precincts of the House.

**Source:** [https://www.india.gov.in/sites/upload\\_files/npi/files/coi\\_part\\_full.pdf](https://www.india.gov.in/sites/upload_files/npi/files/coi_part_full.pdf)

## **2.2 Parliament: Lok Sabha, Rajya Sabha**



### **Powers of the Lok Sabha**

1. The Lok Sabha is the most powerful political institution which reflects the political, social and economic conditions of the country, holds highest responsibility and virtually represents the entire population.
2. The Lok Sabha is constituted with members elected directly by the people. These members represent the varied interests of the people. Thus it becomes the apex democratic institution. It is here that the nation's policies, programmes and laws emerge.
3. The Lok Sabha makes the Laws on the matters of Union List and Concurrent List. It can exact new laws and repeal existing law or amend the same. It has an exclusive authority over money bills.
4. The special power of the Lok Sabha is that once it passes the budget or any other money related law, the Rajya Sabha cannot reject it. But the Rajya Sabha can only delay the law for 14 days and if Rajya Sabha suggests any changes regarding the law, it is upto the Lok Sabha to accept or reject it.
5. One of the privileges of the Lok Sabha is preparing and presenting the budget and financial statement, which is an



explicit expression of people's control over the nation's economy.

6. The Lok Sabha controls the executive by asking questions, supplementary questions, passing resolutions, motions and no confidence motion.
7. The Lok Sabha has the power to amend the constitution and approve the proclamation of emergency.
8. The Lok Sabha involves in electing the President and Vice-President of India.
9. The Lok Sabha has power to establish new Committees and commissions and tabling their reports for debate and discussion and further consideration for implementation.
10. The Lok Sabha controls the council of Ministers and a Prime Minister, who enjoys the majority support of it. If the Prime Minister loses the confidence of the Lok Sabha, the entire government has to quit and face the election.

## **Powers of Rajya Sabha**

### **Position of Rajya Sabha**

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

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

### **Equal Status with Lok Sabha**

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

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





10. Consideration of the reports of the constitutional bodies like Finance Commission, Union Public Service Commission, comptroller and auditor general, etc.
11. Enlargement of the jurisdiction of the Supreme Court and the Union Public Service Commission.

### **Unequal Status with Lok Sabha**

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

1. A Money Bill can be introduced only in the Lok Sabha and not in the Rajya Sabha.
2. Rajya Sabha cannot amend or reject a Money Bill. It should return the bill to the Lok Sabha within 14 days, either with recommendations or without recommendations.
3. The Lok Sabha can either accept or reject all or any of the recommendation of the Rajya Sabha. In both the cases, the money bill is deemed to have been passed by the two Houses.
4. A financial bill, not containing solely the matters of Article 110, also can be introduced only in the Lok Sabha and not in the Rajya Sabha. But, with regard to its passage, both the Houses have equal powers.
5. The final power to decide whether a particular bill is a Money Bill or not is vested in the Speaker of the Lok Sabha.
6. The Speaker of Lok Sabha presides over the joint sitting of both the Houses.

7. The Lok Sabha with greater number wins the battle in a joint sitting except when the combined strength of the ruling party in both the Houses is less than that of the opposition parties.
8. Rajya Sabha can only discuss the budget but cannot vote on the demands for grants (which is the exclusive privilege of the Lok Sabha).
9. A resolution for the discontinuance of the national emergency can be passed only by the Lok Sabha and not by the Rajya Sabha.
10. The Rajya Sabha cannot remove the council of ministers by passing a no-confidence motion. This is because the Council of ministers is collectively responsible only to the Lok Sabha. But, the Rajya Sabha can discuss and criticize the policies and activities of the government.

### **Special Powers of Rajya Sabha**

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

1. It can authorize the Parliament to make a law on a subject enumerated in the State List (Article 249).
2. It can authorize the Parliament to create new All-India Service common to both the Centre and states (Article 312).

An analysis of the above points makes it clear that the position of the Rajya Sabha in our constitutional system is not as weak as that of the House of Lords in the British constitutional system



nor as strong as that of the Senate in the American constitutional system. Except in financial matters and control over the council of ministers, the powers and status of the Rajya Sabha in all other spheres are broadly equal and coordinate with that of the Lok Sabha.

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

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

### Article 120

Hindi and English have been declared by the Constitution to be the languages for conducting business in Parliament. The Presiding Officer may, however, allow any member not proficient in either to address the House in his mother tongue (Article 120).



## 2.3 Law Making Process

The law making process in Indian Parliament stands evident for its democratic credentials. In the law

making process, the role of opposition parties becomes much more important to reflect upon the relevance of the bill and its context so as to streamline the democratic governance.

The law is a guiding force to regulate the society, politics and economy for the welfare of the state and people. The law is primarily introduced in the Parliament in the form of 'bill' as proposed legislation for consideration of the legislature. The bill will be taken for thorough discussion in the parliament to have an understanding within the framework of the constitution.

The bill will become law once the legislature passed it and approved by the President. The law becomes an act only after getting consent from the President of India. The primary function of the Parliament is to make fresh laws and bring changes in the existing laws in accordance with the constitutional procedures. The Parliament of India passes two types of bills such as:

1. Money Bill
2. Non-Money Bill or ordinary or public bills



An ordinary bill has to pass through different stages before becoming an Act. The procedures prescribed in the Constitution for passing the bills are of two

different categories. These are as follows:  
An ordinary bill under consideration has to go through following stages and has to pass through both houses with discussions, suggestions and approval. An ordinary bill may be introduced in either House of the Parliament.

1. The first stage of the bill relates to the introduction of the bill in either house as 'Reading of the Bill'. Most of the bills are introduced by the Ministers concerned. The bill is drafted by the technical experts in that particular field and then council of ministers will approve the bill. The ordinary Member of Parliament can also introduce a bill which is called as 'Private Member Bill'. For the introduction of the bill it should be informed to the Speaker of the Lok Sabha or The Chairman of Rajya Sabha one month in advance. Then the date of introduction for the Private Member Bill will be fixed and allowed to move the bill in the floor of house. Generally, there will be no discussion on the proposed bill at this reading stage which is only a formal affair.

2. After the introduction of bill, it will be published in Gazette of India. The Speaker or the Chairman may allow some bills to be published in the Gazette even before the first reading, in that case, no motion for leave to introduce bill is necessary.

3. The Second Reading of the bill usually takes place after an interval of two days

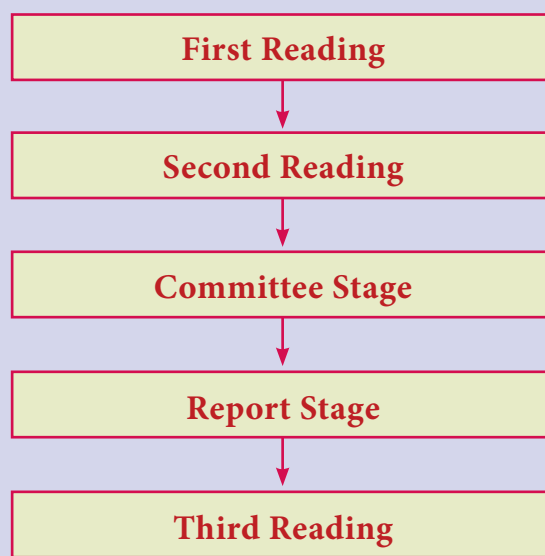
after the first reading. At this stage, any of the four courses are adopted.

- ❖ The bill may be taken for consideration by the House at once.
- ❖ It may be sent to a select Committee of the House.
- ❖ It may be sent to a joint select Committee of the two Houses or
- ❖ It may be circulated for eliciting public opinion. Very rarely bills are taken up for consideration straight away.

When the bill is adopted for circulation (i.e. 4<sup>th</sup> course), the secretariat of the House concerned requests the State Governments to publish the bill in the State Gazettes inviting opinions from local bodies and recognized associations. Such opinions are circulated among the members of the House.

### Activity - Flow Chart

**Every bill has to pass through the following stages.**





## Committee Stage

If the bill is referred to a select Committee, the mover selects the members of the Committee, the Speaker or the Chairman of the House appoints one member of the Committee and the Chairman of the Committee. The Committee will study of the bill and reports back to the House.

## Report Stage

The report stage is the most important stage where a bill is debated clause by clause. In this stage, the report is circulated along with original bill and the report of the Select Committee. The report stage is for giving final shape to the bill. Then the bill will be submitted for the Third Reading in which the bill is to be passed with majority of votes. The Third Reading is for formal approval by the Parliament.

After the bill is adopted at the Third Reading in either of the house, it is transmitted to the other House, where it goes through all the stages. The other house may accept the bill as it is. After coming across all the stages, it is sent to the President's assent.

Once a bill is passed in its originating house, it also may be rejected in the other house. Otherwise, it may introduce amendments not acceptable to the original House, or may not return the bill within six months. In such a case, a constitutional deadlock develops between the two Houses. The President may call a joint session of the two Houses to resolve the

deadlock. The Speaker or in his absence the Deputy Speaker presides over such joint sessions. The deadlock is dissolved by majority vote.

Finally, the bill is passed by both Houses and goes to the President for his assent. If the President assents to the bill, it becomes a law. But the President may return the bill for reconsideration. If the bill is sent back to the President with or without amendments, the President cannot withhold his assent. Such a complicated and time-consuming procedure is adopted to prevent hasty legislation.

## Private Member Bills:

If any member other than a minister introduces a bill, it is called a private member bill. The bill can be introduced by both ruling and opposition party MPs. Private member bill is a bill proposed by a member who is not a member of the cabinet and executive. The session for private member bill is held at alternative Fridays from 2 pm to 6 pm.


This bill needs a month of notice; this has no impact on the health of the government when the private member bill gets rejected. Till date, the parliament has passed fourteen private member bills; the last one was passed on 1970. Most of the bill passed by the private member is not even read or discussed and dismissed. Private members bills are accepted even those are constitutional amendment bills but not that those are money bills.



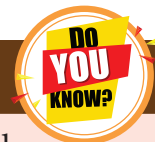


Private Member's Bills passed By parliament				Private member's bills introduced and discussed in last 3 LS		
Title	Mp's Name	House	Date of Assent		Introduced	Discussed
1 The Muslim Wakfs Bill, 1952	Syed Muchammed Ahmed Kasmi	Lok Sahha	21.05.1954			
2 The Indian Registration (Amendment) Bill, 1955	S C Samanta	Lok Sahha	06.04.1956			
3 The Parliamentary proceedings (protection of Publication) Bill, 1956	Feroze Gandhi	Lok Sahha	26.05.1956			
4 The code of criminal Procedure (Amendment) Bill, 1953	Raghunath Singh	Lok Sahha	01.09.1956			
5 The Women's and Children's Institution (Licensing) Bill, 1954	Kamledu Mati Shah	Lok Sahha	30.12.1956			
6 The Code of Criminal Procedure (Amendment) Bill, 1964	Subhadra Joshi	Lok Sahha	26.12.1960			
7 The Salary and Allowances of Members of Parliament (Amendment Bill), 1957	Raghunath Singh	Lok Sahha	29.09.1964			
8 The Hindu Marriage (Amendment) Bill, 1968	Diwan Chand Sharma	Lok Sahha	20.12.1964			
9 The Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Bill, 1968	Anand Narian Mullah	Lok Sahha	09.08.1970			
10 The Ancient and Historical Monuments and Archaeological Sites and Remains (Declaration of National Importance) Bill, 1954	Dr Raghunir Singh	Rajya Sabha	15.12.1956			
11 The Hindu Marriage (Amendment) Bill, 1956	Dr Seeta Parmanand	Rajya Sabha	20.12.1956			
12 The Orphanages and Other Charitable Homes (Supervision and Control) Bill, 1960	Kailash Bihari Lall	Rajya Sabha	09.04.1960			
13 The Marine Insurance Bill, 1960	MP Bhargava	Rajya Sabha	18.04.1963			
14 The Indian Penal Code (Amendment) Bill, 1963	Diwan Chaman Lall	Rajya Sabha	07.09.1969			

For the 16th LS till now, 206 private member's bills have been introduced; Only six have been discussed (not including today's)



## The Rights of Transgender Persons Bill, 2014



- ❖ In Lok Sabha, the last two and half hours of a sitting on every Friday, and in Rajya Sabha two and half hours, i.e., from 2.30 p.m. to 5.00 p.m. on every alternate Friday are allotted for transaction of "Private Members' Business", i.e., Private Members' Bills and Private Members' Resolutions.
- ❖ The last time a private member's Bill was passed by both Houses was in 1970.
- ❖ Till Now, only Fourteen Private Member's bill have been passed by the Parliament.

- ❖ **The Rights of Transgender Persons Bill, 2014:** The Rights of Transgender Persons Bill, 2014 is a private member bill introduced by Trichy Shiva M.P. of Tamil Nadu, which seeks to end the discrimination faced by transgender people in India. The Bill was passed by the upper house Rajya Sabha on 24 April 2015. It was introduced in the lower house Lok Sabha on 26 February 2016. The Bill is considered historic as for being the first private member's bill to be passed by any house in 36 years and by Rajya Sabha in 45 years.



## 2.4 Distribution of powers of the legislature

The legislative powers and functions of the Union and the States are clearly demarcated in seventh schedule of the Constitution of India. The powers on which both union and the states can legislate is clearly defined. The Constitution has classified the subjects for which the legislation can be made to perform the duties and responsibilities with specific powers for division of powers to avoid the seventh schedule of the constitution which provides for trifurcation of legislative powers;

1. The Union List
2. The State List and
3. The Concurrent List

The Union List includes the subjects over which the parliament has exclusive authority to make laws and change the existing laws. The State Legislature has exclusive authority over subjects mentioned in the state list. In the subjects enumerated in the 'Concurrent List' both the Union and the States can legislate. In the event of contradictions between the Union and States, the Union's authority will prevail. The residuary power is vested in the Centre.

**Table Representing difference between Ordinary Bill and Money Bill**

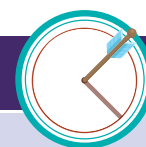
S.No.	Ordinary Bill	Money Bill
1	It can be introduced either in the Lok Sabha or the Rajya Sabha	It can be introduced only in the Lok Sabha and not in the Rajya Sabha.
2	It can be introduced either by a minister or by a private member.	It can be introduced only by a minister.
3	It is introduced without the recommendation of the President.	It can be introduced only on the recommendation of the President.
4	It can be amended or rejected by the Rajya Sabha	It cannot be amended or rejected by the Rajya Sabha. The Rajya Sabha should return the bill with or without recommendations, which may be accepted or rejected by the Lok Sabha.
5	It can be detained by the Rajya Sabha for a maximum period of six months.	It can be detained by the Rajya Sabha for a maximum period of 14 days only.
6	It does not require the certification of the Speaker when transmitted to the Rajya Sabha (if it has originated in the Lok Sabha).	It is requires the certification of the Speaker when transmitted to the Rajya Sabha.
7	It is sent for the President's assent only after being approved by both the Houses. In case of the deadlock due to disagreement between the two Houses, a joint sitting of both the houses can be summoned by the President to resolve the deadlock.	It is sent for the President's assent even if it is approved by only Lok Sabha. There is no chance of any disagreement between the two Houses and hence, there is no provision of joint sitting of both the Houses in this regard.



8	Its defeat in the Lok Sabha may lead to the resignation of the government (if it introduced by a minister).	Its defeat in the Lok Sabha leads to the resignation of the government.
9	It can be rejected, approved or returned for reconsideration by the President.	It can be rejected or approved but cannot be returned for reconsideration by the President.

Lists of Powers					
Union		State		Concurrent	
1.	Defence	1.	Agriculture	1.	Education
2.	Atomic Energy	2.	Police	2.	Transfer of Property other than Agricultural land
3.	Foreign Affairs	3.	Prison	3.	Forests
4.	War and Peace	4.	Local Government	4.	Trade Unions
5.	Banking	5.	Public Health	5.	Adulteration
6.	Railways	6.	Land	6.	Adoption and Succession
7.	Post and Telegraph	7.	Liquor		
8.	Airways	8.	Trade and Commerce		
9.	Ports	9.	Livestock and Animal Husbandry		
10.	Foreign Trade	10.	State Public Services		
11.	Currency & Coinage				

## Activity - Critical Debate



### MPs paid well, but show less productivity: citizens' report

- ❖ 'In 2010-12, Lok Sabha worked for average of less than four hours a day during 227 sittings in 852 hours'
- ❖ India's parliamentarians are one of the best paid legislators across the world but they lag when it comes to performing legislative business, says the National Social Watch's "Citizens' Report on Governance and Development 2013."
- ❖ "In terms of absolute amount, the value of Indian MPs' pay and perks is higher than [that of] their counterparts in Singapore, Japan and Italy. It is four and a half times higher than that of Pakistan; and is about 68 times higher than the per capita income of the country"
- ❖ Highlighting the low productivity of parliamentarians, the report points out that the nine sessions during 2010-12 saw the Lok Sabha working for an average of less than four hours of work a day during its 227 sittings in 852 hours, which is less than two-thirds of scheduled six hours per day. In the process, about 577 hours have been lost in disruptions and forced adjournments.





Courtesy : The Hindu – 23.12.2013.

**Task : In this connection list out the different parameters to assess the performance on MP?**

## 2.5. Amendment Process and Procedure

The Constitution of India has a unique provision to make the Constitution relevant to changing conditions and needs but without changing the basic structure. Article 368 deals with the amendment of the Constitution. As per this article, the Parliament has the supreme power to initiate the amendment process. The procedures for amendment of the constitution are as follows:

1. Parliament may amend the constitution through by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article.
2. An amendment of this Constitution may be initiated through the introduction of a Bill in either House of Parliament, and when the Bill is passed in each House by 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, it shall be presented to the President who shall give his assent to the Bill.
3. The bill must be passed in each house by a special majority, that is, majority by more than 50 percent of the total membership of the house and a majority of two-thirds of the members of the house present and voting. Each house must pass the bill separately. In case of a disagreement between the two houses, on issues concerning amendment there is

no provision for holding a joint-sitting of the two houses. If the bill seeks to amend the federal provisions of the constitution, it must also be ratified by the legislatures of half of the states by a simple majority, that is, a majority of the members present and voting in such legislatures.

4. After duly passed by both the houses of parliament and ratified by the state legislatures wherever necessary, the bill is forwarded to the President for assent. The President must give his assent to the bill. He can neither withhold his assent to the bill nor return the bill for reconsideration of the Parliament. After President's assent, the bill becomes an Act (i.e., A Constitutional Amendment Act) and the constitution stands amended in accordance with the terms of the Act.

### Types of Amendment

The constitution can be amended in three ways:

1. Simple majority of the parliament,
2. Special majority of the parliament, and
3. Special majority of the parliament and the ratification of half of the state legislatures.

#### 1. Simple Majority of Parliament:

According to Article 368 a number of provisions in the constitution can be amended by a simple majority of the two houses of parliament. These provisions include





- ❖ Admission or establishment of new states, formation of new States and alteration of areas, boundaries, or names of existing states.
- ❖ Abolition or creation of legislative councils in states.
- ❖ Second schedule - emoluments, allowances, privileges and so on of the President, the Governors, the Speakers, judges, etc.
- ❖ Quorum in parliament.
- ❖ Salaries and allowances of the members of parliament.
- ❖ Rules of procedure in parliament.
- ❖ Privileges of the parliament, its members and its members and its Committees.
- ❖ Use of English language in parliament.
- ❖ Number of judges in the Supreme Court.
- ❖ Conformant more jurisdiction on the Supreme Court.
- ❖ Use of official languages.
- ❖ Citizenship - acquisition and termination.
- ❖ Elections to parliament and state legislatures.
- ❖ Delimitation of constituencies.
- ❖ Union territories.
- ❖ Fifth schedule - administration of scheduled areas and scheduled tribes
- ❖ Sixth schedule - administration of tribal areas.

### **By Special Majority of Parliament**

The majority of the provisions in the constitution need to be amended by a special majority of the parliament, that is, a majority (i.e., more than 50 per cent) of the total membership of each

house and a majority of two-thirds of the members of each house present and voting. The expression total membership of the house is irrespective of fact whether there are vacancies or absentees. The special majority is required only for voting at the third reading stage of the bill. The constitution's clauses which can be amended in this way include:

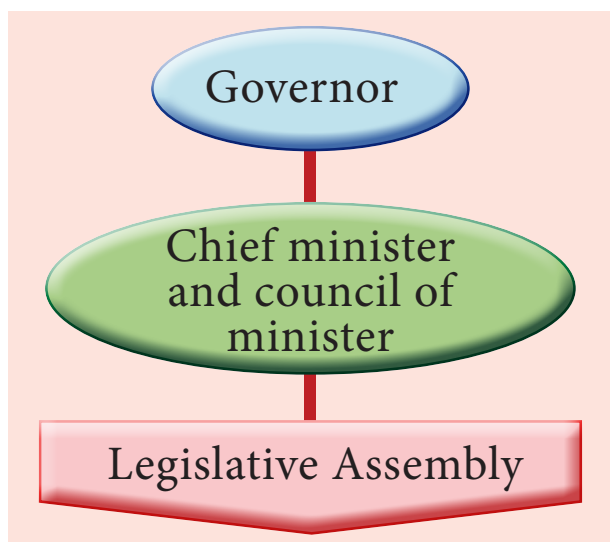
(i) fundamental rights (ii) directive principles of state policy: and (iii) all other provisions which are not covered by the first and third categories.

### **Amendments by Special Majority of Parliament and Consent of States**

The basic structures of the constitution which are related to the federal structure of the polity can be amended by a special majority of the parliament and also with the consent of half of the state legislatures by a simple majority. There is no time limit within which the states should give their consent to the bill. The following provisions can be amended in this way:

- ❖ Election of the President and its manner.
- ❖ Extent of the executive power of the union and the states.
- ❖ Supreme Court and high courts.
- ❖ Distribution of legislative powers between the union and the states.
- ❖ Any of the list in the seventh schedule.
- ❖ Representation of states in parliament.
- ❖ Power of parliament to amend the constitution and its procedure (Article 368).

## 2.6. State Legislature: Structure, Powers and Functions



### Structure of State Legislature

The state is the second stratum of the federal structure of the Constitution. The provisions for the governance of all the state is dealt in the Part VI of the Constitution except Jammu & Kashmir because it has separate Constitution for its state government. The articles from 152 to 237 deals thoroughly on the subjects of the state legislature. The state legislature which has only Legislative Assembly as House of People is called as Unicameral. Most of the powers and functions are shared by the state legislature is almost like the same as the Union legislature. In a Bicameral system of legislature, the state legislature consists of the Legislative Assembly and Legislative Council.

### The Governor

There shall be a Governor as the Constitutional Head of the State executive, and executive power of the state vested with the Governor and all executive actions of the state has to be taken in the name of the Governor. The Governor of the

State shall be appointed by the President. The Governor is appointed for a term of five years or can hold the office during the pleasure of the President or until his successor enters upon his office. The eligibility of appointment of the Governor is that he/she must be the citizen of India, shall not hold any office of the profit and should have completed thirty five years of age. The Governor can be appointed more than once and can hold office for more than one state two states in an exigency or as a transitional arrangement.

## 2.7 Council of Ministers headed by the Chief Minister

### Position of the Chief Minister

The Chief Minister is the head of the cabinet and the council of ministers. In practice, he is the real executive head of the state. As per Article 164(1) of the Constitution of India, the Chief Minister of a state shall be appointed by the Governor of the State.

### Powers and functions of the Chief Minister

As the real executive head of the state, the Chief Minister enjoys wide powers and performs a number of functions. The important powers and functions of the Chief Minister are:

- i) As the head of the council of ministers, the Chief Minister has more powers in ministry-making. He can recommend appointment of ministers and designate them as cabinet ministers or ministers of state or deputy ministers. He can change the portfolios of the ministers. He can even recommend the removal of ministers.



- ii) He presides over the meetings of the cabinet and makes major policy decisions of the Government.
- iii) He acts as the sole channel of communication between the council of ministers and the Governor. He communicates to the Governor all the decisions of the cabinet relating to administrative and legislative proposals.
- iv) He scrutinizes all papers, bills, resolutions, etc. that are to be placed before the legislature.
- v) Though, in theory, all major appointments are made by the Governor, in practice, all such appointments are actually made on the advice of the Chief Minister.

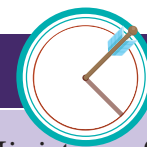
## State Council of Ministers

### Introduction

Article 163(1) of the Constitution of India provides that there shall be a council of ministers headed by the Chief Minister to aid and advise the Governor in the exercise of his functions except when he is required by the Constitution to act in his discretion.

The state council of ministers is formed in the same manner as the union council of ministers is formed. The leader of the majority party or coalition of parties in the legislative assembly is appointed as the Chief Minister by the Governor. The other ministers in the council of ministers are appointed by the Governor on the advice of the Chief Minister.

### Activity



- ❖ Make a list of the Chief Ministers of Tamil Nadu.
- ❖ Bring out the welfare schemes introduced by them.
- ❖ Write a few sentences of your favourite Chief Minister.
- ❖ Make a collage of the welfare schemes which were introduced especially for women in your state.

### Term of office of the council of ministers

As per the constitution, the council of ministers hold office during the pleasure of the Governor. But, in reality, the council of ministers hold office during the pleasure of the Chief Minister, because the Governor acts on the advice of the Chief Minister. The council of ministers are individually responsible to the Chief Minister. The council of ministers are collectively responsible to the legislative assembly of the state. That means, the council of ministers shall speak in one voice.

### The State Cabinet

The council of ministers consists of cabinet ministers, ministers of state and deputy ministers. Of the council of ministers, the cabinet ministers constitute the state cabinet. The cabinet ministers of the state cabinet are, generally, the prominent ministers of the council of ministers. It is headed by the Chief Minister. The cabinet takes decisions on behalf of the council of ministers, and so, all the ministers are bound by the decisions of the cabinet.

## 2.7 Officials and Committees in State Legislative Assembly

### Speaker of the State Legislative Assembly:

The Speaker is elected by the Members of Legislative Assembly itself, and is the Presiding Officer of the Assembly. The Speaker has the responsibilities and powers of conducting business of the assembly in orderly manner, maintaining decorum and regulating its procedure in terms of allowing the members to question, speak on matters of importance, budget and grants. The Speaker is the interpreter of the provisions of the Constitution, rules of procedure in the assembly proceedings, rules of procedure and legislative precedents within the Assembly. The Speaker has the power to adjourn, suspend and resume the sessions and suspend the members from participating in the session when there is a violation of rules, procedures and regulations of the assembly.

The Speaker has to generally maintain neutrality and impartiality while conducting the business of the house. The Speaker's vote becomes more important when there is a tie on any issue regarding passing of bill, motion and resolutions. The Speaker's decision is final in regulating the conduct of members and in matters of procedure or maintaining order in the house. And in such matters the Speaker is not to be subjected to judicial intervention. The Speaker appoints the Chairmen of all the Committees and supervises their functioning.

### The Deputy Speaker

The Deputy Speaker is also elected by the members of the Assembly from amongst themselves. He performs the duties and responsibilities of the Speaker as his absence and presides over the Assembly in the absence of the Speaker. The deputy Speaker has also powers on par with the Speaker within the House. Any member existing in a panel can preside over the House in case of absence of Speaker and the deputy Speaker.

### Committees of the Parliament

Broadly, parliamentary Committees are of two kinds - Standing Committee and Ad Hoc Committees. The former are permanent (constituted every year or periodically) and work on a continuous basis, while the latter are temporary and cease to exist on completion of the task assigned to them.

### Standing Committees

On the basis of the nature of functions performed by them, standing Committees can be classified into the following six categories:

#### 1. Financial Committees

- a) Public Accounts Committee
- b) Estimates Committee
- c) Committee on Public Undertakings

#### 2. Departmental Standing Committees (24)

#### 3. Committees to Inquire

- a) Committee on Petitions
- b) Committee of Privileges
- c) Ethics Committee



#### 4. Committees to Scrutinise and Control

- a) Committee on Government Assurances
- b) Committee on Subordinate Legislation
- c) Committee on Papers Laid on the Table
- d) Committee on Welfare of SC's and ST's
- e) Committee on Empowerment of Women
- f) Joint Committee on Offices of Profit

#### 5. Committees Relating to the Day-to-Day Business of the House

- a) Business Advisory Committee
- b) Committee on Private Members' Bills and Resolutions
- c) Rules Committee
- d) Committee on Absence of Members from Sitzings of the House

#### 6. House-Keeping Committees or Service Committees (i.e. Committee concerned with the Provision of Facilities and Service to Members):

- a) General Purposes Committee
- b) House Committee
- c) Library Committee
- d) Joint Committee on Salaries and Allowances of Members.

#### Ad Hoc Committee

Ad Hoc Committees can be divided into two categories, that is, Inquiry Committees and Advisory Committees.

**Committee on Estimates:** The major responsibility of the Committee is to suggest the examiner, estimator and recommendation on matters related to economic related policy issues and alternative policies, administrative reform, undertaking the tours and visits within and outside the state to study various schemes under execution in regard to the estimates under examination.

**Committee on Public Accounts:** The important functions of the Committee are to scrutinise the Appropriation Accounts of the State and the Report of the Comptroller and Auditor-General of India (Civil). Also looks into the Revenue receipts and the disbursement of money shown in the accounts applicable to the services or purposes to which they had been applied and charged.

**Committee on Public Undertakings:** This Committee is to examine the Audit reports and accounts of Public Undertaking from time to time. The Committee also examines the autonomy and efficiency of the Public Undertakings. This Committee is also taking note on the affairs of the Public Undertakings are being managed in accordance with sound business principles and prudent commercial practices. The Committee also examines the Reports of the Comptroller and Auditor General of India on the Public Undertakings. The Committee examines the working of the Undertakings under its purview, hears officials or takes evidence connected with such undertakings and makes recommendations to the House.

## Glossary



- ❖ **Unicameral:** The state legislature which has only Legislative Assembly as House of People is called as Unicameral.
- ❖ **Bicameral:** The system of legislature which consists of the Legislative Assembly and Legislative Council is called as Bicameral system.
- ❖ **Quorum of the House:** One tenth of the total number of members of Lok Sabha / Rajya Sabha constitutes the quorum for a meeting of the House.
- ❖ **Bill:** The law is primarily introduced in the Parliament in the form of 'bill' as proposed legislation under consideration by a legislature.
- ❖ **Amendment:** The constitution of India has a unique provision to make the Constitution contemporarily relevant for changing conditions and needs but without changing the basic structure of the doctrine.
- ❖ **Impeachment:** The Parliament has judicial function on the matters of the proposals for the removal of the President, Vice – President, Judges of the Supreme Court and High Courts. This process of removal is called 'impeachment'.
- ❖ **Immunity of the Member:** Exemption of a member from service of legal process and arrest within the precincts of the House.
- ❖ **Joint Session:** When there is a special occasion or event of disagreement between the two houses on certain legislative measures, the Speaker of the House of the people presides the joint sessions of the parliament to resolve the disagreement.
- ❖ **Sessions:** When the Parliament meet for discussing various agenda and approving bills, motions with a scheduled meeting is called Session.
- ❖ **No Confidence Motion:** This is the procedure to acquire the support of majority of the members in The Lok Sabha / Legislative Assembly and their confidence to lead the government by a Prime Minister/The Chief Minister. If the Prime Minister or the Chief Minister lose the confidence of the Lok Sabha/Legislative Assembly, then the entire government has to quit and face the election.
- ❖ **Question Hour :** The first hour of a sitting of the House allotted for asking and answering of questions.
- ❖ **Quorum :** The minimum number of members required to be present at a sitting of the House or a Committee for valid transaction of its business. The quorum to constitute a sitting of the House is one-tenth of the total number of members of the House.



## Evaluation

### I. Choose the correct answer:

1. Legislature is \_\_\_\_\_
  - a. The highest law-making body
  - b. The High Court
  - c. Parliament
  - d. Law Commission
2. National legislature is called \_\_\_\_\_
  - a. The Supreme Court
  - b. The High Court
  - c. Parliament
  - d. Legislative Assembly
3. The Parliament in India consists of
  - a. The President and the Prime Minister
  - b. The President and Rajya Sabha
  - c. The President and Lok Sabha
  - d. The President, Lok Sabha and Rajya Sabha
4. Members of Lok Sabha is directly elected by the \_\_\_\_\_
  - a. People of the Parliamentary Constituency
  - b. MLAs of the State Assembly
  - c. Nominated by the President
  - d. None of the above
5. The process of removal of Judges of the Supreme Court and High Courts is called \_\_\_\_\_
  - a. Impeachment
  - b. Dismiss
  - c. Suspension
  - d. Resignation
6. Who is the Head of the Lok Sabha?
  - a. Speaker
  - b. The Prime Minister
  - c. The President
  - d. The Vice-President
7. The Head of the Government is \_\_\_\_\_
  - a. The President
  - b. The Prime Minister
  - c. Speaker
  - d. The Vice-President
8. The Head of the State is \_\_\_\_\_
  - a. The President
  - b. The Prime Minister
  - c. Speaker
  - d. The Vice-President
9. The Rajya Sabha is an institution to protect the rights and interests of \_\_\_\_\_
  - a. The Members of the Parliament
  - b. The President
  - c. The states
  - d. The Vice-President
10. The members of the Rajya Sabha is elected by \_\_\_\_\_
  - a. People
  - b. MLAs of the respective state
  - c. Nominated by the parties
  - d. Nominated by the President
11. Who is the ex-officio Chairman of the Rajya Sabha?
  - a. The President of India
  - b. The Vice-President of India
  - c. The Prime Minister of India
  - d. The Speaker





12. Which house of the Parliament is known as Permanent House of the Parliament that never gets fully dissolved?
- The Lok Sabha
  - The Rajya Sabha
  - The Ministerial Cabinet
  - The Group of Ministers
13. Which house of the parliament has the power to pass the money bill?
- The Lok Sabha
  - The Rajya Sabha
  - The Ministerial Cabinet
  - The Group of Ministers
14. What is the minimum age of the Member of Parliament in Lok Sabha?
- 25 years
  - 30 years
  - 40 years
  - 50 years
15. Indian Legislature system is called as
- Unicameral
  - Bicameral
  - Monarchy
  - None of them
16. The Governor of the state is \_\_\_\_\_
- Constitutional Head of the state
  - Head of the Government
  - Head of the Cabinet
  - Head of the party
17. The Chief Minister of the state is \_\_\_\_\_
- Head of the state
  - Head of the Government
  - Head of the Cabinet
  - Head of the party
18. The Executive power of the state is vested with
- The Chief Minister
  - The Chief Secretary
  - The Governor
  - The Chief Justice of High Court
19. The Governor of the State shall be appointed by
- The Chief Minister
  - The President
  - The Chief Justice of High Court
  - The Prime Minister

## II Answer the following questions very shortly:

- What is called bicameral system?
- What are the types of bills passed in the Parliament?
- Define: Quorum of the House
- Define: Money Bill
- Define: Private Member Bill
- What are the condition for call for Joint Session?

## III Answer the following questions shortly:

- What are the list of powers prescribed in the Constitution?
- Write down the types of Amendments
- What are the qualification to become member of loksabha?
- What is the role of the Speaker in the Assembly?



#### IV Answer the following questions in detail:

1. Describe the roles and responsibilities of the union legislature
2. What are the powers of the Lok Sabha
3. Write an essay on the stages of Law making process in the parliament
4. Explain the process and procedure of the Amendment
5. What are the powers and functions of the chief minister?

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#### ICT Corner

### Legislature-Amendments

Through this app you will  
learn more about  
legislature- amendments



#### Procedure:

**Step - 1** Open Play store and type CONSTITUTION OF INDIA WITH MCQ (or) Scan the QR Code.

**Step - 2** Click any topic you will get Article (Eg. Amendments)

**Step - 3** Click any Amendments you will get the details of Articles.(101)

#### URL:

<https://play.google.com/store/apps/details?id=com.philoid.coi>

\*Pictures are indicative

