

## 12th Political Science Lesson 2 Notes in English

### 2] Legislature

#### 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 also referred as **National Legislature**.
- The legislatures in **The State** and the **Union Territory** are called 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 nine states as well as **seven union territories**.
- **The Union Territories** are directly governed by **the Union Government**.

#### 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.

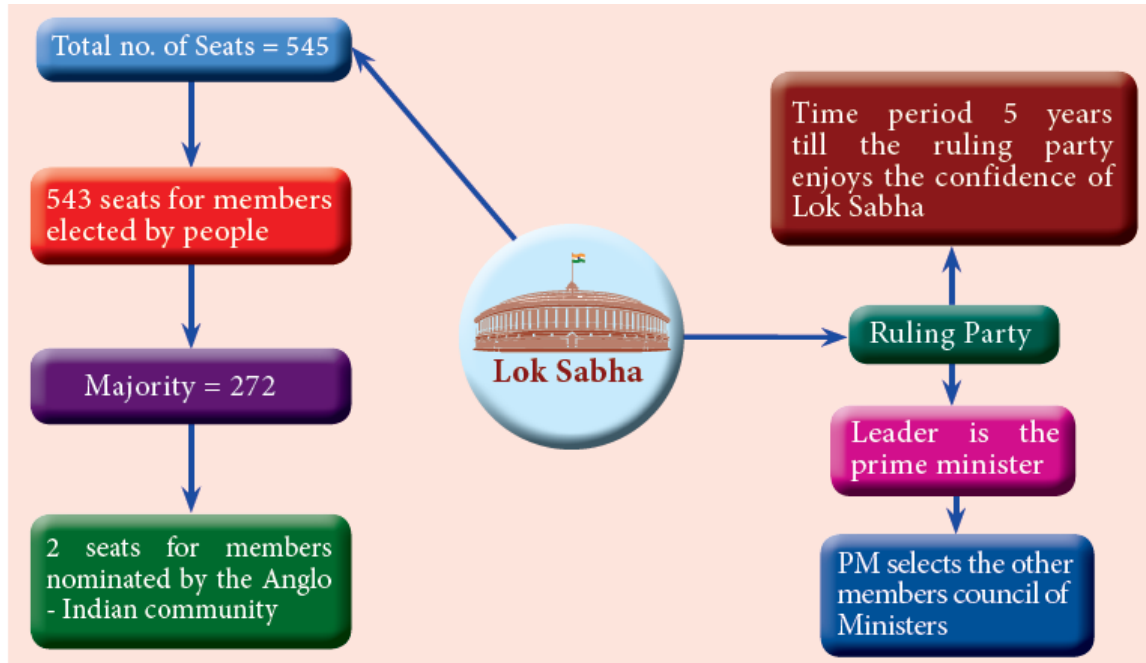
- When the Parliament meet for discussing various agenda and approving bills, motions with a scheduled meeting is called **Session**.

**The Parliament holds THREE sessions in a year.**

1. **Budget session** (February-May)
  2. **Monsoon Session** (July-August)
  3. **Winter Session** (November-December)
- 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 must have not less than two sessions in a year.
  - Every year, at 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 accountable and removable by the **Loksabha**.

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

- The parliament has two houses and both houses are carrying 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.



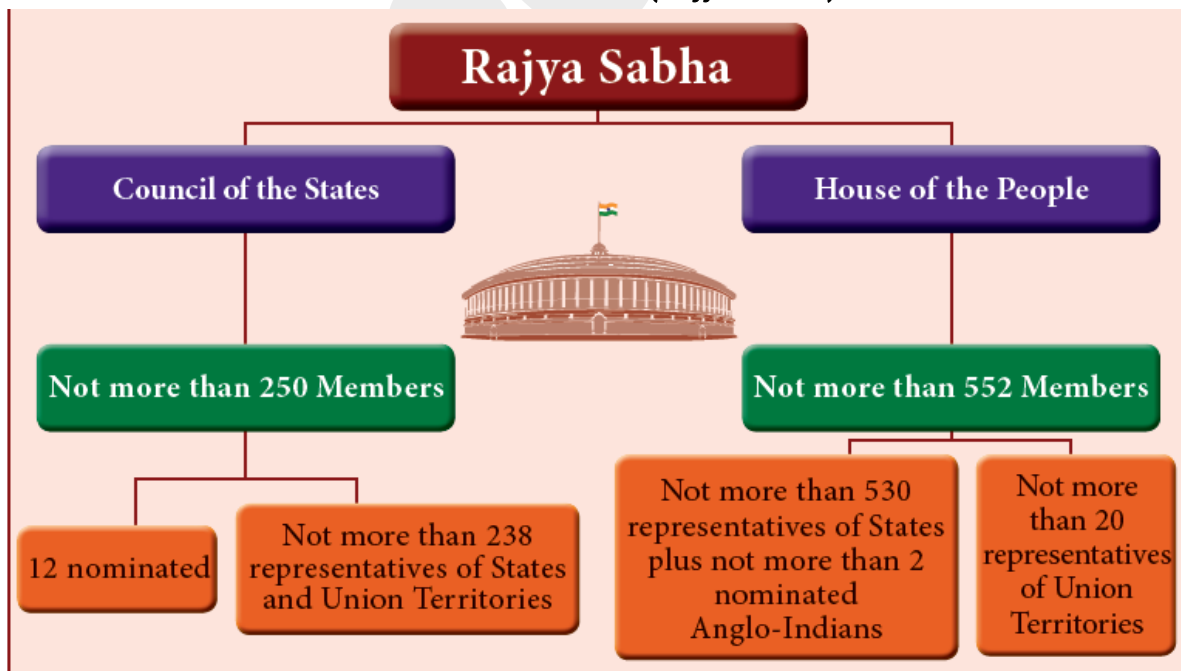
- The grand total number of members in the Lok Sabha 545, but the nominated members cannot decide the government when it proves majority on the floor of the House.
- The Lok Sabha is the highest forum for discussion, debate on public issues, interest and policies to cater the socio-economic needs of 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 and 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 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.
- 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.
- The speaker is the final authority to decide on the question of point of order.
- Under the constitution, 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 **52nd 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 **3rd 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**.

### 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. It has also provided that the election to fill a seat in Rajya Sabha shall be by open ballot.

- 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.

### 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.

### Parliament: Lok Sabha, Rajya Sabha



### Powers of the Lok Sabha



1. The of 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 **nations' policies and 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. I 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 delay the law for 14 days only and if Rajya Sabha suggests any changes regarding the law, it is upto the Lok Sabha to accept or reject it.
5. The one of the privileges of the Lok Sabha is preparing and presenting **the budget and financial statement** which is an explicit expression of peoples control over 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.

### Law making Process

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

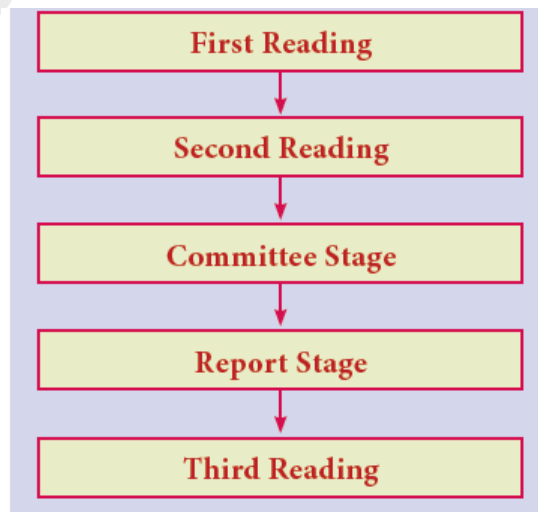


- **An ordinary bill** has to pass through different stages before becoming an Act.
- The procedures prescribed in the Constitution for passing the bills are of two different categories. These are as follows:
  - An ordinary bill under consideration has to go through following stages has to pass through both houses with discussions, suggestions and approval.
  - An ordinary bill may be introduced in either **House of the Parliament**.
  - 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.
- 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.
- **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.,4th 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.

### 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.

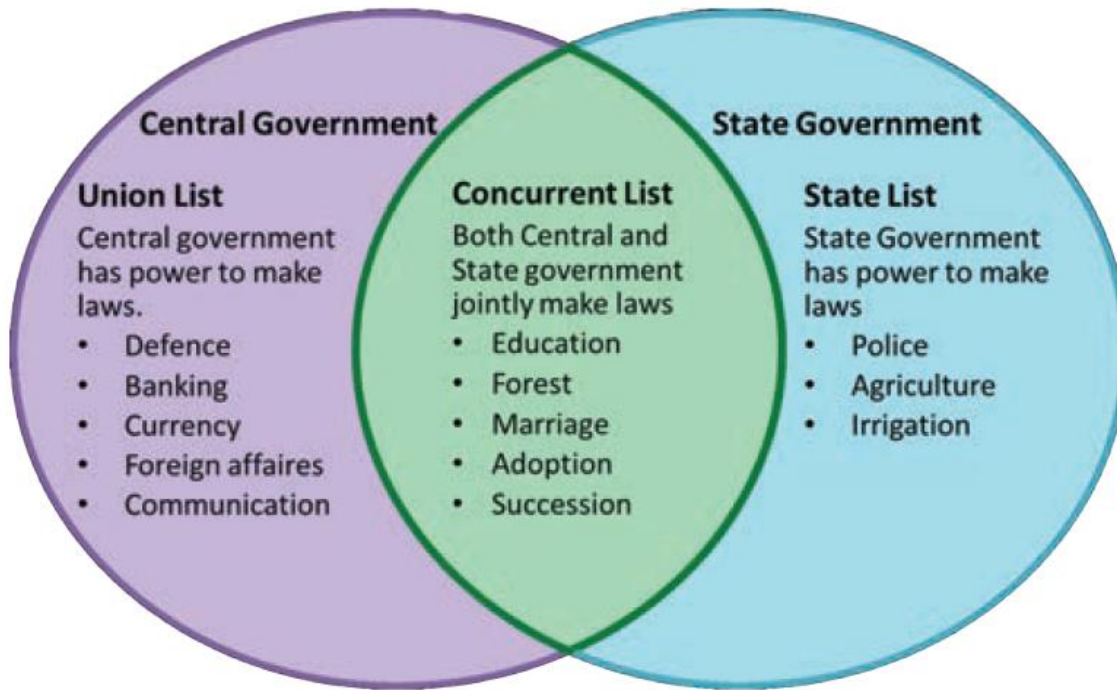
### Structure, Powers and Functions of Legislature

- 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.
- The Constitution has classified the subjects for which the legislation made to perform the **duties** and **responsibilities** with **specific powers** for division of powers to avoid the seventh schedule of the constitution 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 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				

### 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:
- 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.
- **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.
- The bill must be passed in each house by a **special majority** that is, majority by more than **50 per cent 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.
- 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 Amendments

- **Article 368** provides for **two types of amendments**, that is, by a special majority of parliament and also through the ratification of half of the states by a simple majority.
- But, some other **articles** provide for the amendment of certain provisions of the constitution by a **simple majority** of parliament, that is, a majority of the members of each house present and voting, similar to the ordinary legislative process.
- Therefore, 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 schedule areas and scheduled tribes
- **Sixth schedule** – administration of tribal areas.

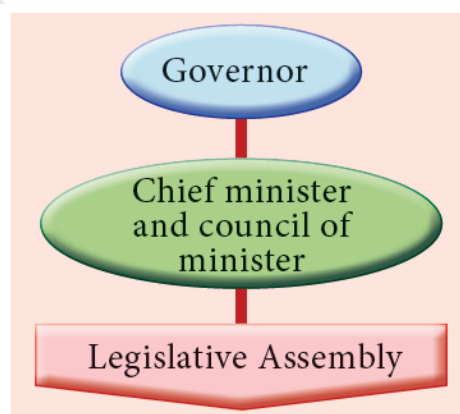
#### By Special Majority of Parliament

- **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** 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:
  1. **Fundamental rights**
  2. **Directive principles of state policy:** and
  3. **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).

#### 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.

### Powers and Functions of the Governor

- The Governor of a state have the powers like the President such as **Executive, Legislative, Judicial** and **Emergency Powers**.
- **The executive powers of the Governor** are appointing the council of ministers, **Advocate General** and the **Members of the State Public Service Commission**.
- **The Governor** has the power to nominate members of the **Anglo-Indian Community** to the **legislative Assembly of the state**.
- The Governor has the power to appoint people with special knowledge in the field of literature, science, art, cooperative movement as members in the legislative council wherever it exists.
- The governor also can nominate **1/6 of the total members** of the council.
- The governor also has powers '**in his discretion**' to exercise special constitutional responsibilities, he can discharge his special responsibility, in accordance with the direction given by the president from time to time.
- On certain extraordinary situations, the governor can act without ministerial advice. The governor also plays the role of medium between the state and the centre.
- The Governor keeps the President Constantly informed of the developments in the state.
- The Governor is part and parcel of **the State legislature**.

- **The legislative powers of the Governor** include the right to address and sending messages, and summoning, proroguing and dissolving the state legislature.
- **Governor's assent is required** for any bill to become an Act. The veto powers of the governor as follows:
  1. **May withhold his assent**, in which case it fails to become the law.
  2. **Other than the Money Bill**, The governor may return any bill for reconsideration by the state legislature. His/her veto power cannot be used again and has no alternative than to assent to it when the state legislature passes the bill again with or without amendments.
  3. **The governor may reserve a bill** for the consideration of the president, if he thinks it fit.
- **The Judicial Powers of the Governor** is to have the power to grant pardon, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the state extends.
- However, the Governor has no power to appoint **judges of the State High Court** but he is entitled to be consulted by the President in this matter.
- The appointment of Judges of High Court and Supreme Court comes under the purview of the Judiciary and the President of India.
- The governor does not enjoy **the Emergency Powers** like that of the president.
- But the governor can make a report to the president and advising him to assume the office whenever there is a **constitutional breakdown** or crisis in the state that may result in the imposing of **the President rule**.
- In such a situation, the governor acts as an agent of the president as and assumes the functions of the state government through invocation of **Act 356**.

### Functions and Powers of the Chief Minister

- **The Chief Minister** is appointed by **the Governor** as the head of the **government, administration and council of Ministers**.
- **The council of Ministers** are appointed by the governor on the advice of the Chief Minister.
- In view of the **democratic principle of Constitution**, a person who is not a member of either house can be appointed as **the Chief Minister**, but within a six months from the date of appointment he/she should become member of any house.

### 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 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 existed 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:

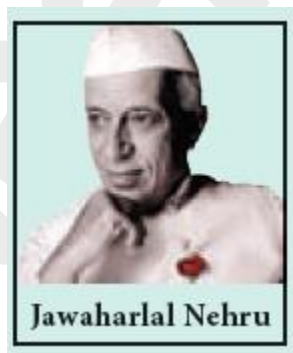
- **The important functions of the Committee** are to scrutinise the **Appropriation Accounts of the State and the Report of the Comptroller and Auditor-General of India (Civil)**.
- Also looks into the **Revenue receipts** and the disbursement of money shown in the accounts applicable to the services 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.

#### **MORE TO KNOW:**

##### **Jawaharlal Nehru**



- 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".

#### **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).

### 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.