

**RAJYA SABHA —
THE UPPER HOUSE OF INDIAN
PARLIAMENT**



**RAJYA SABHA SECRETARIAT
NEW DELHI**

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P R E F A C E

This booklet is part of the Rajya Sabha Practice and Procedure Series which seeks to describe briefly the functioning of Rajya Sabha, one of the two Houses of the Indian Parliament. Information contained in the booklet is not exhaustive. For full and authentic information, original sources such as the Constitution of India, the Rules of Procedure and Conduct of Business in Rajya Sabha, etc. may be referred to and relied upon.

New Delhi
February, 2005

DR. YOGENDRA NARAIN
Secretary-General

RAJYA SABHA—THE UPPER HOUSE OF INDIAN PARLIAMENT

Growth of Bicameralism

In India, a Second Chamber was envisaged for the first time under the Montague Chelmsford Reforms proposals. The Government of India Act, 1919 accordingly, provided that the Indian Legislature shall consist of the Governor-General and the two chambers, namely the Council of State and the House of Assembly. The term of the Council was fixed at five years. Under the Government of India Act, 1935, however, the Council of State was made a continuous body, not subject to dissolution. The members were to hold their seats for nine years and one-third of them retiring at the end of every three years. But the scheme envisaged for the Second Chamber under the Government of India Act, 1935, never materialised because the provisions pertaining to the federal structure under the Act were never put into operation. As a result, the Second Chamber set up under the Government of India Act, 1919 continued to function till 1947.

Composition of Parliament

Parliament of India consists of the President and two Houses—the Council of States (Rajya Sabha) and the

House of the People (Lok Sabha)*. Rajya Sabha, as its name suggests, represents the States although the States are not equally represented in this House.

Rajya Sabha consists of the representatives of the States and the Union territories and persons nominated by the President of India. Not more than two hundred and thirty-eight representatives of the States and the Union territories can be elected to Rajya Sabha. The allocation of seats to the States and the Union territories has broadly been made on the basis of population and the number of seats to be filled up by each of them has been specified in the Fourth Schedule to the Constitution.

The representatives of the States are elected by their respective Legislative Assemblies in accordance with the system of proportional representation by means of the single transferable vote and Parliament by law prescribes the mode of choosing the representatives of the Union territories.

*The first sitting of the Council of States, under the Constitution, was held on 13 May 1952. On 14 May 1954, the Speaker, Lok Sabha, Shri G.V. Mavalankar, announced that the House of the People would thereafter be known as 'Lok Sabha'. On 23 August 1954, the Chairman of the Council of States, Dr. S. Radhakrishnan made a similar announcement that the Council of States would be called 'Rajya Sabha'. The terms 'Lok Sabha' and 'Rajya Sabha' were, in fact, used for the first time in an amendment to the Delhi (Control of Building Operations) Bill, 1955.

Apart from elected members, Rajya Sabha has twelve members nominated by the President of India from amongst persons having special knowledge or practical experience in respect of such matters as literature, science, art and social service.

The present strength of Rajya Sabha is 245.

Duration

As per the provisions of the Constitution, Rajya Sabha is not subject to dissolution but one-third of its members retire every second year. The term of individual members is six years. Casual vacancies whenever occurring, are filled through bye-elections for the remaining term only.

Qualification for Membership

In order to be chosen a member of Rajya Sabha, a person (a) must be a citizen of India, (b) must not be less than 30 years of age. 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.

Disqualification for Membership

The following grounds could disqualify a person for being chosen and for being a member of Rajya Sabha—

- (a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament, by law, not to disqualify its holder;
- (b) if he is of unsound mind and stands so declared by a competent court;
- (c) if he is an undischarged insolvent;
- (d) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State; and
- (e) if he is so disqualified by or under any law made by Parliament.

The mere fact of a person being a Minister either of the Union or of any State does not amount to holding an office of profit. Pursuant to certain constitutional provisions, Parliament has enacted laws exempting holders of certain offices from being disqualified as members of Parliament.

The President of India is the final authority to decide if a member has become subject to any of the disqualifications. Before giving his decision, however, the President obtains the opinion of the Election Commission of India and acts according to such opinion.

Besides, the Constitution provides for disqualification of the members on ground of defection. As per the provisions contained in the Tenth Schedule to the Constitution a person shall be disqualified for being a member :

- (i) if he has voluntarily given up the membership of his political party; and
- (ii) if he votes or abstains from voting in the House contrary to any direction issued by the political party to which he belongs, unless such voting or abstention has been condoned by the political party within fifteen days.

An elected member who has been returned to the House as an Independent candidate shall incur disqualification if he joins any political party after such election.

A nominated member of the House shall be disqualified from the membership of the House if he joins any political party after the expiry of six months from the date of his taking seat in the House.

However, disqualification on ground of defection does not apply in case of merger of political parties under the provisions contained in the Tenth Schedule to the Constitution. It may be mentioned that the Constitution (Ninety-first Amendment) Act, 2003 sought, *inter alia*, an amendment to the Tenth Schedule by omitting paragraph 3 pertaining to the exemption from disqualification in case of split in a legislature party.

The provisions of disqualification, under the Tenth Schedule, do not apply to a member who on his election as the Speaker or the Deputy Speaker of Lok Sabha or the Deputy Chairman of Rajya Sabha, or the Chairman or the Deputy Chairman of the Legislative Council of a State or the Speaker or the Deputy Speaker of the Legislative Assembly voluntarily gives up his membership of the political party to which he belonged immediately before his election or rejoins such political party after he ceases to hold such office.

The Chairman or, as the case may be, the Speaker has been given the final authority to decide questions of disqualification of a member of a House under the provisions of the Tenth Schedule to the Constitution.

Presiding Officers of Rajya Sabha

Chairman

The Vice-President of India is *ex-officio* Chairman of Rajya Sabha. While the office of the Chairman is vacant,

or during any period when he acts or discharges the functions of President, the Deputy Chairman of Rajya Sabha performs the duties of the office of the Chairman. If the office of the Deputy Chairman is also vacant, the President appoints a member of the House to perform the duties of the office.

The Chairman presides over Rajya Sabha and regulates its proceedings. He maintains order in the House. He also has the power to adjourn Rajya Sabha and suspend its meeting if there is no quorum. He is the channel of communication between the House and any other outside person or authority. He has to decide under constitutional provisions whether a member of Rajya Sabha has tendered his resignation voluntarily. He has also to decide under the constitutional provisions, question of disqualification on grounds of defection. Under the Rules of Procedure and Conduct of Business in Rajya Sabha, the Chairman admits notices of Questions, Motions, Resolutions, etc.

While presiding over Rajya Sabha, the Chairman has only a casting vote. When a resolution for his removal is under consideration he is neither entitled to preside over the House nor to vote on such a resolution but has a right to speak in or otherwise to take part in such proceedings.

Deputy Chairman

Rajya Sabha elects a Deputy Chairman to perform the functions of the Chairman in case of a vacancy in

the office of the Chairman or when the Vice-President is acting as or discharging the functions of the President. He may be removed from office by a resolution of Rajya Sabha moved after fourteen days notice of the intention to move the resolution and passed by a majority of all the then members of the House.

Panel of Vice-Chairmen

There is also a panel of six Vice-Chairmen formed by the Chairman, and in case both the Chairman and the Deputy Chairman are absent, a person from the panel presides. If none of the empanelled members is available, the House elects a person from amongst its members to preside over its sittings.

Quorum

One tenth of the total number of members of Rajya Sabha constitutes the quorum for a meeting of the House.

Voting

All questions are decided by majority vote. The Chairman or person acting as such, has no vote in the first instance, but has a casting vote in the case of an equality of votes. A Minister is entitled to vote only if he is a member of the House.

Powers, Privileges and Immunities of the House and Members

Parliamentary privileges in India are not codified. Some of the privileges and immunities of the Houses of Parliament, the members and committees thereof are specified in the Constitution, certain statutes and the Rules of Procedure of the Houses, while others continue to be based on precedents of the British House of Commons, and on conventions which have grown over the years.

A few important privileges and immunities are :

- (i) 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.
- (ii) Immunity to a person from proceedings in any court in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.
- (iii) Prohibition on the courts to inquire into proceedings of Parliament.
- (iv) Immunity to a person from any court proceedings 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.

- (v) 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.
- (vi) Exemption of a member from service of legal process and arrest within the precincts of the House.

Functions

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.

Legislative Functions

The Constitution has classified the subjects for legislation into three Lists, namely (1) the Union List, (2) the State List and (3) the Concurrent List. The Union List includes those subjects over which Parliament has exclusive authority to make laws, while the Concurrent List enumerates those subjects over which it has authority along with the States. It has been provided that if the Legislature of a State makes a law in respect of a matter enumerated in the Concurrent List which contains any provision repugnant to the provisions of a law made by Parliament with respect to that matter,

then the law so made by the Legislature of such State will, if it has been reserved for the consideration of the President and has received his assent, prevail in that State but at the same time Parliament has the power to enact any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State. The residuary power is vested in the Centre.

Even in regard to the State List, over which the States have exclusive jurisdiction, Parliament can assume authority, if (1) Rajya Sabha declares by a resolution supported by not less than two-thirds of the members present and voting that such legislation is in national interest, or (2) two or more States mutually agree that Parliament may do so, or (3) it is necessary to implement treaties or international conventions. Further, when a Proclamation of Emergency is in operation, Parliament is competent to legislate on matters included in the State List.

A Bill can be introduced in either House of Parliament. A Bill introduced by the Minister is known as Government Bill and a Bill introduced by a private member is known as Private Member's Bill. The procedure for the passage of the Bills is similar in both the cases.

A Bill has to pass through three stages in each House of Parliament and receive Presidential assent before it becomes an Act of Parliament.

In the event of a deadlock between the two Houses on a Bill other than a Money Bill or a Constitution Amendment Bill, the issue is resolved at a joint sitting of the two Houses.

Financial Functions

Under the Constitution, financial legislation has been divided into two categories - Money Bills and Financial Bills. The former contains only and exclusively money clauses and the latter, apart from money clauses also contains other matters. Neither type of Bill can be introduced in Rajya Sabha. A Bill which, if enacted and brought into operation would involve expenditure from the Consolidated Fund of India is also called a Financial Bill. Such a Bill, however, can be introduced in Rajya Sabha. It cannot be passed by either House of Parliament unless the President has recommended to that House the consideration of the Bill. With respect to Money Bills, Rajya Sabha is empowered to make only recommendations. If a Money Bill which is transmitted to Rajya Sabha for its recommendations is not returned to Lok Sabha within fourteen days, it is deemed to have been passed by both Houses at the expiration of the said period in the form it was passed by Lok Sabha. However, in case of Financial Bills, Rajya Sabha has full powers like an ordinary piece of legislation.

The Annual Budget of the Government is laid before Rajya Sabha also, although the Budget speech is made

in Lok Sabha only. Rajya Sabha has no powers to vote on the Demands for Grants of the Ministries/Departments which is the exclusive domain of Lok Sabha. However, the twenty-four Department-related Parliamentary Standing Committees which have thirty-one members, ten from Rajya Sabha and twenty-one from Lok Sabha, examine the Demands for Grants of the respective Ministries/Departments of the Government of India.

Deliberative Functions

One of the important functions of Rajya Sabha is to focus public attention on major problems affecting policies of the Government and administration and to provide a forum for ventilation of public grievances. This responsibility is discharged through deliberations on General Budget, Railway Budget, Motion of Thanks on the President's Address, Five-Year Plans and working of various Ministries/Departments and on various policy statements made by the Government. Rajya Sabha also places its views on various international issues.

Federal Functions

Rajya Sabha enjoys certain special powers under the Constitution. Rajya Sabha may pass a resolution, by a majority of not less than two-thirds of the members present and voting, to the effect that it is necessary or expedient in the national interest that Parliament should make a law with respect to any matter enumerated in the State List. Then, Parliament becomes empowered

to make a law on the subject specified in the resolution for the whole or any part of the territory of India. Such a resolution remains in force for a maximum period of one year but this period can be extended by one year at a time by passing a further resolution.

If Rajya Sabha passes a resolution by a majority of not less than two-thirds of the members present and voting declaring that it is necessary or expedient in the national interest to create one or more All India Services common to the Union and the States, Parliament may then by law provide for the creation of such service or services.

Under the Constitution, the President is empowered to issue Proclamations in the event of national emergency, in the event of failure of constitutional machinery in a State, or in the case of financial emergency. Normally, every such Proclamation has to be approved by both Houses of Parliament within a stipulated period. Under certain circumstances, however, Rajya Sabha enjoys special powers in this regard. If a Proclamation is issued at a time when Lok Sabha has been dissolved or the dissolution of Lok Sabha takes place within the period allowed for its approval, then the Proclamation can remain effective if, a resolution approving it is passed by Rajya Sabha.

The committee system in Rajya Sabha

Parliamentary Committees are of two types - *ad hoc*

Committees and Standing Committees. An *ad hoc* Committee is created for a specific purpose and when it has completed its assigned task and has submitted its report, it becomes *functus officio*. Commonly known examples of such *ad hoc* committees are the Select and joint Committees on Bills.

Rajya Sabha has the following Standing Committees, members of which are nominated by the Chairman of Rajya Sabha.

Committee of Privileges : It examines questions involving breach of privileges of the House or of the members or any of its committees referred to it by the House or by the Chairman.

Committee on Petitions: It examines petitions on Bills and matters of general public interest and also entertains representations on matters concerning central subjects.

Committee on Government Assurances: It scrutinises the assurances given by Ministers in the House and reports to the House regarding their implementation.

Committee on Subordinate Legislation: It scrutinises and reports to the House whether the powers to make regulations, rules, sub-rules, bye-laws, etc., conferred by the Constitution or Acts, are being properly exercised by the Executive within the scope of such delegation.

Committee on Papers Laid on the Table: It examines the Papers laid on the Table of the House by Ministers

to see whether there has been compliance of the provisions of the Constitution, Act, rules or regulations under which the Paper has been laid.

Business Advisory Committee: It recommends the time that should be allotted for discussion of legislative and other business which is to be brought before the House.

Rules Committee: It considers matters of procedure and conduct of business in the House and recommends amendments to the rules that are considered necessary.

General Purposes Committee: It considers and advises the Chairman on matters concerning the affairs of the House, which do not appropriately fall within the purview of any other committee.

House Committee: It deals with the residential accommodation and other amenities for members.

Committee on Ethics: It oversees the ethical and moral conduct of the members of Rajya Sabha and also examines cases referred to it with reference to ethical and other misconduct of members.

Committee on Provision of Computers to Members of Rajya Sabha: It deals with matters relating to supply of computers to members and also reviews the hardware and software requirements of members.

Committee on Members of Parliament Local Area Development Scheme : This Committee monitors the implementation of the Member of Parliament Local Area Development (MPLAD) Scheme.

Members of Rajya Sabha are also associated with some of the important Committees of Lok Sabha like the Committee on Public Accounts, Committee on Public Undertakings and Committee on the Welfare of Scheduled Castes and Scheduled Tribes.

Department-related Parliamentary Standing Committees

With a view to further strengthening the Committee System, the two Houses of Parliament gave unanimous approval on 29 March 1993, for the setting up of the seventeen Department-related Standing Committees. The Department-related Parliamentary Committee System was inaugurated on 31 March 1993 and the new Committees started functioning from 8 April 1993. Members of both Houses serve on these Committees. Six of the seventeen Department related Parliamentary Standing Committees set up initially, viz., the Committee on Commerce; the Committee on Home Affairs; the Committee on Human Resource Development; the Committee on Industry; the Committee on Science and Technology, Environment and Forests; and the Committee on Transport, Tourism and Culture are under the administrative control of the Chairman of Rajya Sabha. It may be mentioned that in July 2004, the number of

these Committees has been increased to twenty four with a view to streamlining the committee system and broadening the Parliamentary scrutiny of the executive. Out of these twenty four committees, eight function under the control and direction of the Chairman, Rajya Sabha. The two new Committees which function under the administrative control of Chairman of Rajya Sabha are the Committee on Health and Family Welfare, and the Committee on Personnel, Public Grievances, Law and Justice.

These Committees encompass for scrutiny purpose all Ministries and Departments of the Government within their ambit. The Department-related Committees are entrusted with the following functions :

- (a) to consider the Demands for Grants of the related Ministries/Departments and report thereon. The report shall not suggest anything of the nature of cut motions;
- (b) to examine Bills, pertaining to the related Ministries/Departments, referred to the Committee by the Chairman or the Speaker, as the case may be, and report thereon;
- (c) to consider the annual reports of the Ministries/Departments and report thereon; and
- (d) to consider national basic long term policy documents presented to the Houses, if referred to the Committee by the Chairman or the Speaker, as the case may be, and report thereon.

These Standing Committees are not to consider matters of day-to-day administration of the related Ministries/Departments.

Secretary-General and the Secretariat

Rajya Sabha has a Secretariat of its own headed by the Secretary-General, who is a permanent official working under the overall control of the Chairman of Rajya Sabha. The duties of the Secretary-General are to advise the Chairman and Members of Parliament on the law and the Rules of Procedure which regulate parliamentary business, to sign orders of the House, and to endorse and sign Bills sent to the President for signature in the absence of the Chairman.

The Secretary-General sits at the Table during the sittings of the House, takes brief notes of the proceedings and also acts as an accounting officer for the votes of the House when there is a division.

The Secretary-General is also responsible for the working of the Secretariat, which serves the House by doing the administrative work, printing of Bills and List of Business, servicing Committees, and keeping the records of the House.

Parliament House

The Parliament House, one of the massive structures which can rightly be described as 'romance in red stone' is a circular edifice about 171 metres (560 feet) in

diameter and 0.54 kilometer (one-third of a mile) in circumference.

Along the entire circumference on the first floor of the building runs a deep verandah flanked by a colonnade of 144 massive sandstone columns. Each of these columns are 8.23 metres high.

A circular edifice known as the Central Hall is located in the centre of the Parliament House. Around this hall are located three chambers at three symmetrical points. In between the chambers are the garden courts. In two of these chambers are housed Lok Sabha and Rajya Sabha. A ring of Committee rooms and office rooms lies between the outer verandah and the chambers.

Inside the semi-circular chambers of Lok Sabha and Rajya Sabha, the general layout is almost similar. The total number of seats in the Lok Sabha Chamber is 550 and in the Rajya Sabha Chamber 250.

Rajya Sabha Chamber

The Rajya Sabha Chamber is of a horse-shoe shape and its pattern is similar to that of the Lok Sabha Chamber. It is, however, smaller in size and has a seating capacity for 250 members. Originally, the Rajya Sabha Chamber had a seating capacity for 82 members only. In 1957, when the Automatic Vote Recording Equipment was installed there, the number of seats was increased to 250 keeping in view any possible expansion of the

House in future. The Rajya Sabha Chamber is air-conditioned and has modern acoustic system. The recently installed light-system enables television cameras to electronically record the proceedings of the House, which is telecast by the official television called 'Doordarshan'.

The Chair of the Chairman of Rajya Sabha stands on a raised platform in the centre of the straightline connecting the two ends of the horse-shoe. Above the Chair are two galleries, which are not used at present. Starting from the left of the Chair are situated the Public Gallery, the Chairman's Gallery, the Diplomatic and the Distinguished Visitor's Galleries, the Press Gallery and the Lok Sabha Gallery. In the pit of the Chamber just below the Chairman's Chair is the table of the Secretary-General. In front of the table of the Secretary-General, a large table is placed which is known as the Table of the House on which papers are formally laid by the Ministers.

Parliament House Annexe

To cope with the growing demand of Parliamentary work, the Parliament House Annexe (Sansadiya Soudha), PHA for short, was constructed. It was inaugurated by the former Prime Minister of India, Shrimati Indira Gandhi, on 24 October 1975. The Annexe building is located in a plot of 3.84 hectares with total floor area of 35000 sq. mtrs. The basement houses a

Reception Centre, Post Office, a Committee Room and a Medical Centre equipped with modern facilities.

On the ground floor is the main Committee Room with a seating capacity of 157. There are also four smaller Committee Rooms located on the ground floor and one small Committee room on the basement. The ground floor also houses an Auditorium, Exhibition Area, Private Dining Room, the State Bank of India and the Banquet Hall.

Office accommodation for the Prime Minister, Chairman of Rajya Sabha and Speaker of Lok Sabha, Minister for Parliamentary Affairs and the Secretaries-General of Rajya Sabha and Lok Sabha has been provided in the First Floor. This floor also has a meeting Hall and some office accommodation. The other floors are having rooms for committees, officers and staff of the Secretariats of the two Houses of Parliament.

Parliament Library Building

Till May 2002, the Parliament Library was functioning from the Parliament House. It was felt, for long, that the space available to the Parliament Library and its allied services in the Parliament House was too limited to cope with the volume of literature being acquired by it. Besides, there had been an increasing demand for making available to the members of Parliament a more effective, efficient and modern Library and Reference,

Research, Documentation and Information Service known as LARRDIS.

The new Parliament Library Building named *Sansadiya Gyanpeeth*, was formally inaugurated on 7 May 2002 by the then President of India, Shri K.R. Narayanan. The new Library is a modular, utilitarian and centrally air-conditioned building with provision for all the facilities of a modern Library. The main entrance of the Library is directly linked to one of the gates of Parliament House.

The Parliament Library is located in the 'A' Block of the Parliament Library Building. With its present holding of about 1.25 million volumes of books, reports, governmental publications, U.N. Reports, debates, Gazettes and other documents, including periodicals, newspapers and publications brought by the Lok Sabha and Rajya Sabha Secretariats, it is one of the finest and richest repositories in the country. As many as 132 Indian and foreign newspapers and 560 periodicals in Hindi, English and other Indian languages are being received regularly in the Library.

Apart from the Library and Reference, Research, Documentation and Information Service (LARRDIS) the building accommodates the Bureau of Parliamentary Studies and Training (BPST) and the Parliamentary Museum and Archives (PMA). It also has an auditorium with a seating capacity of 1,075 persons; a Media Centre

equipped with the latest telecommunication facilities as part of the Press and Public Relations Wing; an Audio-Visual Unit; a Microfilm Reader Room; a small Auditorium with facilities for multi-media presentations; and Library committee Rooms and Conference Rooms. It has optic fibre-based Local Area Network (LAN) with high speed Wide Area Network (WAN) connectivity to provide linkage with State Legislatures, foreign Parliaments and other international organizations. Audio-visual aids form a substantial part of the services. Television sets are provided at vantage points for viewing live the proceedings of both the Houses of Parliament. A large number of cubicles are fully equipped with audio and video facilities and computers. Besides, multimedia facilities have been provided at the reading tables in the Reading Rooms for members of Parliament.