

**Union Legislature – Part - I**

- The Parliament is the legislative organ of the Union government.
- It occupies a pre-eminent and central position in the Indian democratic political system due to adoption of the parliamentary form of government, also known as ‘Westminster’ model of government.
- **Articles 79 to 122 in Part V** of the Constitution deal with the organisation, composition, duration, officers, procedures, privileges, powers and so on of the Parliament.

**Organisation of Parliament (Article 79):**

- Under the Constitution, the Parliament of India consists of three parts viz, the President, the Council of States and the House of the People.
- In 1954, the Hindi names ‘Rajya Sabha’ and ‘Lok Sabha’ were adopted by the Council of States and the House of People respectively.
- The Rajya Sabha is the Upper House (Second Chamber or House of Elders) and the Lok Sabha is the Lower House (First Chamber or Popular House).
- The former represents the states and union territories of the Indian Union, while the latter represents the people of India as a whole.
- Though the President of India is not a member of either House of Parliament and does not sit in the Parliament to attend its meetings, he is an integral part of the Parliament.
- This is because a bill passed by both the Houses of Parliament cannot become law without the President’s assent.
- He also performs certain functions relating to the proceedings of the Parliament, for example, he summons and pro-rogues both the Houses, dissolves the Lok Sabha, addresses both the Houses, issues ordinances when they are not in session, and so on.
- In this respect, the framers of the Indian Constitution relied on the British pattern rather than the American pattern.
- In Britain, the Parliament consists of the Crown (King or Queen), the House of Lords (Upper House) and the House of Commons (Lower House).

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- By contrast, the American president is not an integral part of the legislature.
- In USA, the legislature, which is known as Congress, consists of the Senate (Upper House) and the House of Representatives (Lower House).
- The parliamentary form of government emphasises on the interdependence between the legislative and executive organs. Hence, we have the ‘President in-Parliament’ like the ‘Crown-in-Parliament’ in Britain.
- The presidential form of government, on the other hand, lays stress on the separation of legislative and executive organs.
- Hence, the American president is not regarded as a constituent part of the Congress.

**Composition of the Two Houses:**

**Composition of Rajya Sabha (Article 80:**

- The maximum strength of the Rajya Sabha is fixed at 250, out of which, 238 are to be the representatives of the states and union territories (elected indirectly) and 12 are nominated by the president.
- At present, the Rajya Sabha has 245 members.
- Of these, 225 members represent the states, 8 members represent the union territories and 12 members are nominated by the president.
- The Fourth Schedule of the Constitution deals with the allocation of seats in the Rajya Sabha to the states and union territories.

**Representation of States:**

- The representatives of states in the Rajya Sabha are elected by the elected members of state legislative assemblies.
- The election is held in accordance with the system of proportional representation by means of the single transferable vote.
- The seats are allotted to the states in the Rajya Sabha on the basis of population.
- Hence, the number of representatives varies from state to state.

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- For example, Uttar Pradesh has 31 members while Tripura has 1 member only.
- However, in USA, all states are given equal representation in the Senate irrespective of their population.
- USA has 50 states and the Senate has 100 members—2 from each state.

**Representation of Union Territories:**

- The representatives of each union territory in the Rajya Sabha are indirectly elected by members of an electoral college specially constituted for the purpose.
- This election is also held in accordance with the system of proportional representation by means of the single transferable vote.
- Out of the Eight union territories, only Three (Delhi, Puducherry and Jammu & Kashmir) have representation in Rajya Sabha.
- The populations of other five union territories are too small to have any representative in the Rajya Sabha.

**Nominated Members:**

- The president nominates 12 members to the Rajya Sabha from people who have special knowledge or practical experience in art, literature, science and social service.
- The rationale behind this principle of nomination is to provide eminent persons a place in the Rajya Sabha without going through the process of election.
- It should be noted here that the American Senate has no nominated members.

**Composition of Lok Sabha (Article 81):**

- The maximum strength of the Lok Sabha is fixed at 552(At Present, 550).
- Out of this, 530 members are to be the representatives of the states, 20 members are to be the representatives of the union territories and 2 members are to be nominated by the president from the Anglo-Indian

community (104<sup>th</sup> Constitutional Amendment Act – 2019 terminated the Anglo – Indian Reservation.

- At present Strength, the Lok Sabha has 543 members.
- Of these, 524 members represent the states, 19 members represent the union territories.

#### **Representation of States:**

- The representatives of states in the Lok Sabha are directly elected by the people from the territorial constituencies in the states.
- The election is based on the principle of universal adult franchise.
- Every Indian citizen who is above 18 years of age and who is not disqualified under the provisions of the Constitution or any law is eligible to vote at such election.
- The voting age was reduced from 21 to 18 years by the 61st Constitutional Amendment Act, 1988.

#### **Representation of Union Territories:**

- The Constitution has empowered the Parliament to prescribe the manner of choosing the representatives of the union territories in the Lok Sabha.
- Accordingly, the Parliament has enacted the Union Territories (Direct Election to the House of the People) Act, 1965, by which the members of Lok Sabha from the union territories are also chosen by direct election.

#### **Nominated Members:**

- The president can nominate two members from the Anglo-Indian community if the community is not adequately represented in the Lok Sabha.
- Originally, this provision was to operate till 1960 but has been extended till 2020 by the 95th Amendment Act, 2009.
- 104<sup>th</sup> Constitutional Amendment Act, 2019 Terminated Anglo – Indian Reservation.

### System of Elections to Lok Sabha:

The various aspects related to the system of elections to the Lok Sabha are as follows:

#### Territorial Constituencies:

- For the purpose of holding direct elections to the Lok Sabha, each state is divided into territorial constituencies.
- In this respect, the Constitution makes the following two provisions:
  - Each state is allotted a number of seats in the Lok Sabha in such a manner that the ratio between that number and its population is the same for all states.
  - This provision does not apply to a state having a population of less than six millions.
  - Each state is divided into territorial constituencies in such a manner that the ratio between the population of each constituency and the number of seats allotted to it is the same throughout the state.

**In brief, the Constitution ensures that there is uniformity of representation in two respects:**

- Between the different states, and
- Between the different constituencies in the same state.
- The expression 'population' means the population as ascertained at the preceding census of which the relevant figures have been published.

#### Readjustment after each Census:

- After every census, a readjustment is to be made in (a) allocation of seats in the Lok Sabha to the states, and (b) division of each state into territorial constituencies.
- Parliament is empowered to determine the authority and the manner in which it is to be made.

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- Accordingly, the Parliament has enacted the Delimitation Commission Acts in 1952, 1962, 1972 and 2002 for this purpose.
- The 42nd Amendment Act of 1976 froze the allocation of seats in the Lok Sabha to the states and the division of each state into territorial constituencies till the year 2000 at the 1971 level.
- This ban on readjustment was extended for another 25 years (ie, upto year 2026) by the 84th Amendment Act of 2001, with the same objective of encouraging population limiting measures.
- The 84th Amendment Act of 2001 also empowered the government to undertake readjustment and rationalisation of territorial constituencies in the states on the basis of the population figures of 1991 census.
- Later, the 87th Amendment Act of 2003 provided for the delimitation of constituencies on the basis of 2001 census and not 1991 census.
- However, this can be done without altering the number of seats allotted to each state in the Lok Sabha.

**Reservation of Seats for SCs and STs (Article 330):**

- Though the Constitution has abandoned the system of communal representation, it provides for the reservation of seats for scheduled castes and scheduled tribes in the Lok Sabha on the basis of population ratios.
- Originally, this reservation was to operate for ten years (i.e., up to 1960), but it has been extended continuously since then by 10 years each time.
- Now, under the 95th Amendment Act of 2009, this reservation is to last until 2020.
- 104<sup>th</sup> Constitutional Amendment Act, 2019 Extended the Reservation to Another 10 years.
- Though seats are reserved for scheduled castes and scheduled tribes, they are elected by all the voters in a constituency, without any separate electorate.
- A member of scheduled castes and scheduled tribes is also not debarred from contesting a general (non-reserved) seat.

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- The 84th Amendment Act of 2001 provided for refixing of the reserved seats on the basis of the population figures of 1991 census as applied to rationalisation of the general seats.
- Later, the 87th Amendment Act of 2003 provided for the refixing of the reserved seats on the basis of 2001 census and not 1991 census.

**Reservation for Women:**

- 106<sup>th</sup> Constitutional Amendment Act 2023, provide 1/3 (or) 33% Seats in Lok Sabha and state legislative Assembly to Women.

**Proportional Representation not Adopted**

- Though the Constitution has adopted the system of proportional representation in the case of Rajya Sabha, it has not preferred the same system in the case of Lok Sabha.
- Instead, it has adopted the system of territorial representation for the election of members to the Lok Sabha.
- Under territorial representation, every member of the legislature represents a geographical area known as a constituency.
- From each constituency, only one representative is elected.
- Hence such a constituency is known as single member constituency.
- In this system, a candidate who secures majority of votes is declared elected.
- This simple majority system of representation does not represent the whole electorate.
- In other words, it does not secure due representation to minorities (small groups).
- The system of proportional representation aims at removing the defects of territorial representation.
- Under this system, all sections of the people get representation in proportion to their number.
- Even the smallest section of the population gets its due share of representation in the legislature.

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- There are two kinds of proportional representation, namely, single transferable vote system and list system.
- In India, the first kind is adopted for the election of members to the Rajya Sabha and state legislative council and for electing the President and the Vice-President.
- Though some members of the Constituent Assembly had advocated the system of proportional representation for the election of members to the Lok Sabha, the Constitution has not adopted the system due to two reasons.
  - Difficulty for the voters to understand the system (which is complicated) due to low literacy scale in the country.
  - Unsuitability to the parliamentary government due to the tendency of the system to multiply political parties leading to instability in government.

**Additionally, the system of proportional representation has the following demerits:**

- It is highly expensive.
- It does not give any scope for organising by-elections.
- It eliminates intimate contacts between voters and representatives.
- It promotes minority thinking and group interests.
- It increases the significance of party system and decreases that of voter.

**Duration of Two Houses (Article 83):**

**Duration of Rajya Sabha:**

- The Rajya Sabha (first constituted in 1952) is a continuing chamber, that is, it is a permanent body and not subject to dissolution.
- However, one-third of its members retire every second year.
- Their seats are filled up by fresh elections and presidential nominations at the beginning of every third year.
- The retiring members are eligible for re-election and renomination any number of times.

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- The Constitution has not fixed the term of office of members of the Rajya Sabha and left it to the Parliament.
- Accordingly, the Parliament in the Representation of the People Act (1951) provided that the term of office of a member of the Rajya Sabha shall be six years.
- The act also empowered the president of India to curtail the term of members chosen in the first Rajya Sabha.
- In the first batch, it was decided by lottery as to who should retire.
- Further, the act also authorised the President to make provisions to govern the order of retirement of the members of the Rajya Sabha.

**Duration of Lok Sabha:**

- Unlike the Rajya Sabha, the Lok Sabha is not a continuing chamber.
- Its normal term is five years from the date of its first meeting after the general elections, after which it automatically dissolves.
- However, the President is authorised to dissolve the Lok Sabha at any time even before the completion of five years and this cannot be challenged in a court of law.
- Further, the term of the Lok Sabha can be extended during the period of national emergency by a law of Parliament for one year at a time for any length of time.
- However, this extension cannot continue beyond a period of six months after the emergency has ceased to operate.

**Membership of Parliament:**

**Qualifications (Article 84):**

**The Constitution lays down the following qualifications for a person to be chosen a member of the Parliament:**

- He must be a citizen of India.
- He must make and subscribe to an oath or affirmation before the person authorised by the election commission for this purpose.

- In his oath or affirmation, he swears
  - To bear true faith and allegiance to the Constitution of India
  - To uphold the sovereignty and integrity of India
- He must be not less than 30 years of age in the case of the Rajya Sabha and not less than 25 years of age in the case of the Lok Sabha.
- He must possess other qualifications prescribed by Parliament.
- The Parliament has laid down the following additional qualifications in the Representation of People Act (1951).
  - He must be registered as an elector for a parliamentary constituency.
  - This is same in the case of both, the Rajya Sabha and the Lok Sabha.
  - The requirement that a candidate contesting an election to the Rajya Sabha from a particular state should be an elector in that particular state was dispensed with in 2003.
  - In 2006, the Supreme Court upheld the constitutional validity of this change.
  - He must be a member of a scheduled caste or scheduled tribe in any state or union territory, if he wants to contest a seat reserved for them.
  - However, a member of scheduled castes or scheduled tribes can also contest a seat not reserved for them.

### **Disqualifications (Article 102):**

Under the Constitution, a person shall be disqualified for being elected as a member of Parliament:

- If he holds any office of profit under the Union or state government (except that of a minister or any other office exempted by Parliament).
- If he is of unsound mind and stands so declared by a court.
- If he is an undischarged insolvent.
- If he is not a citizen of India or has voluntarily acquired the citizenship of a foreign state or is under any acknowledgement of allegiance to a foreign state; and
- If he is so disqualified under any law made by Parliament.

**The Parliament has laid down the following additional disqualifications in the Representation of People Act (1951):**

- He must not have been found guilty of certain election offences or corrupt practices in the elections.
- He must not have been convicted for any offence resulting in imprisonment for two or more years. But, the detention of a person under a preventive detention law is not a disqualification.
- He must not have failed to lodge an account of his election expenses within the time.
- He must not have any interest in government contracts, works or services.
- He must not be a director or managing agent nor hold an office of profit in a corporation in which the government has at least 25 per cent share.
- He must not have been dismissed from government service for corruption or disloyalty to the State.
- He must not have been convicted for promoting enmity between different groups or for the offence of bribery.
- He must not have been punished for preaching and practising social crimes such as untouchability, dowry and sati.
- On the question whether a member is subject to any of the above disqualifications, the president's decision is final. However, he should obtain the opinion of the election commission and act accordingly.

**Disqualification on Ground of Defection (under 10<sup>th</sup> scheduled of Indian Constitution):**

- The Constitution also lays down that a person shall be disqualified from being a member of Parliament if he is so disqualified on the ground of defection under the provisions of the Tenth Schedule.
- A member incurs disqualification under the defection law:
  - If he voluntarily gives up the membership of the political party on whose ticket he is elected to the House;

- If he votes or abstains from voting in the House contrary to any direction given by his political party;
- If any independently elected member joins any political party; and
- If any nominated member joins any political party after the expiry of six months.
- The question of disqualification under the Tenth Schedule is decided by the Chairman in the case of Rajya Sabha and Speaker in the case of Lok Sabha (and not by the president of India).
- In 1992, the Supreme Court ruled that the decision of the Chairman/Speaker in this regard is subject to judicial review (In *kihoto Collahan case Judgment*).

#### Vacating of Seats (Article 101):

- In the following cases, a Member of Parliament vacates his seat.
  - **Double Membership** A person cannot be a member of both Houses of Parliament at the same time.
  - Thus, the Representation of People Act (1951) provides for the following:
    - If a person is elected to both the Houses of Parliament, he must intimate within 10 days in which House he desires to serve.
    - In default of such intimation, his seat in the Rajya Sabha becomes vacant.
    - If a sitting member of one House is also elected to the other House, his seat in the first House becomes vacant.
    - If a person is elected to two seats in a House, he should exercise his option for one.
    - Otherwise, both seats become vacant.
- Similarly, a person cannot be a member of both the Parliament and the state legislature at the same time.
- If a person is so elected, his seat in Parliament becomes vacant if he does not resign his seat in the state legislature within 14 days.
- **Disqualification** If a member of Parliament becomes subject to any of the disqualifications specified in the Constitution, his seat becomes vacant.

- Here, the list of disqualifications also includes the disqualification on the grounds of defection under the provisions of the Tenth Schedule of the Constitution.
- **Resignation** A member may resign his seat by writing to the Chairman of Rajya Sabha or Speaker of Lok Sabha, as the case may be.
- The seat falls vacant when the resignation is accepted.
- However, the Chairman/Speaker may not accept the resignation if he is satisfied that it is not voluntary or genuine.
- **Absence** A House can declare the seat of a member vacant if he is absent from all its meetings for a period of sixty days without its permission.
- In computing the period of sixty days, no account shall be taken of any period during which the House is prorogued or adjourned for more than four consecutive days.
- **Other cases** A member has to vacate his seat in the Parliament:
  - if his election is declared void by the court;
  - if he is expelled by the House;
  - if he is elected to the office of President or Vice-President; and
  - if he is appointed to the office of governor of a state.
- If a disqualified person is elected to the Parliament, the Constitution lays down no procedure to declare the election void.
- This matter is dealt by the Representation of the People Act (1951), which enables the high court to declare an election void if a disqualified candidate is elected.
- The aggrieved party can appeal to the Supreme Court against the order of the high court in this regard.

#### **Oath or Affirmation (Article 99):**

- Every member of either House of Parliament, before taking his seat in the House, has to make and subscribe to an oath or affirmation before the President or some person appointed by him for this purpose.
- In his oath or affirmation, a Member of Parliament swears:

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- To bear true faith and allegiance to the Constitution of India;
- To uphold the sovereignty and integrity of India; and
- To faithfully discharge the duty upon which he is about to enter.
- Unless a member takes the oath, he cannot vote and participate in the proceedings of the House and does not become eligible to parliamentary privileges and immunities.

**A person is liable to a penalty of Rs 500 for each day he sits or votes as a member in a House in the following conditions:**

- Before taking and subscribing to the prescribed oath or affirmation; or
- When he knows that he is not qualified or that he is disqualified for its membership; or
- When he knows that he is prohibited from sitting or voting in the House by virtue of any parliamentary law

**Salaries and Allowances (Article 106):**

- Members of either House of Parliament are entitled to receive such salaries and allowances as may be determined by Parliament, and there is no provision of pension in the Constitution.
- However, Parliament has provided pension to the members.
- In 1954, the Parliament enacted the Salaries, Allowances and Pension of Members of Parliament Act.
- In 2010, the Parliament increased the salary of members from 16,000 to 50,000 per month, the constituency allowance from 20,000 to 45,000 per month, the daily allowance from 1,000 to 2,000 (for each day of residence on duty) and office expenses allowance from 20,000 to 45,000 per month.
- From 1976, the members are also entitled to a pension on a graduated scale for each five-year-term as members of either House of Parliament.
- Besides, they are provided with travelling facilities, free accommodation, telephone, vehicle advance, medical facilities and so on.

- The salaries and allowances of the Speaker of Lok Sabha and the Chairman of Rajya Sabha are also determined by Parliament.
- They are charged on the Consolidated Fund of India and thus are not subject to the annual vote of Parliament.
- In 1953, the Parliament enacted the Salaries and Allowances of Officers of Parliament Act.
- Under this Act (as amended), the salary of the Chairman of Rajya Sabha has been fixed at 1.25 lakh per month.
- Similarly, other Officers of Parliament (i.e., the Speaker and the Deputy Speaker of the Lok Sabha and the Deputy Chairman of the Rajya Sabha) are entitled to receive a salary per month at the same rates as are payable to the Members of Parliament.
- Further, each Officer of Parliament (including the Chairman of the Rajya Sabha) is entitled to receive a daily allowance (for each day during the whole of his term) at the same rates as is payable to the Members of Parliament.
- Also, each Officer of Parliament (other than the Chairman of the Rajya Sabha) is entitled to receive a constituency allowance at the same rate as is payable to the Members of Parliament.
- According to the same Act, the sumptuary allowance is paid to the Speaker of the Lok Sabha at the same rate as is payable to a cabinet minister (i.e., 2,000 per month).
- Likewise, the sumptuary allowance is paid to the Deputy Speaker of the Lok Sabha and the Deputy Chairman of the Rajya Sabha at the same rate as is payable to a Minister of State (i.e., 1000 per month).

#### **Presiding Officers of Parliament:**

- Each House of Parliament has its own presiding officer.
- There is a Speaker and a Deputy Speaker for the Lok Sabha and a Chairman and a Deputy Chairman for the Rajya Sabha.

- A panel of chairpersons for the Lok Sabha and a panel of vice-chairpersons for the Rajya Sabha is also appointed.

### **Speaker of Lok Sabha (Article 93):**

#### **Election and Tenure:**

- The Speaker is elected by the Lok Sabha from amongst its members (as soon as may be, after its first sitting).
- Whenever the office of the Speaker falls vacant, the Lok Sabha elects another member to fill the vacancy.
- The date of election of the Speaker is fixed by the President.
- Usually, the Speaker remains in office during the life of the Lok Sabha.
- However, he has to vacate his office earlier in any of the following three cases:
  - If he ceases to be a member of the Lok Sabha;
  - If he resigns by writing to the Deputy Speaker; and
  - If he is removed by a resolution passed by a majority of all the members of the Lok Sabha.
- Such a resolution can be moved only after giving 14 days' advance notice.
- When a resolution for the removal of the Speaker is under consideration of the House, he cannot preside at the sitting of the House, though he may be present.
- However, he can speak and take part in the proceedings of the House at such a time and vote in the first instance, though not in the case of an equality of votes.
- It should be noted here that, whenever the Lok Sabha is dissolved, the Speaker does not vacate his office and continues till the newly-elected Lok Sabha meets.

#### **Role, Powers and Functions:**

- The Speaker is the head of the Lok Sabha, and its representative.

- He is the guardian of powers and privileges of the members, the House as a whole and its committees.
- He is the principal spokesman of the House, and his decision in all Parliamentary matters is final.
- He is thus much more than merely the presiding officer of the Lok Sabha.
- In these capacities, he is vested with vast, varied and vital responsibilities and enjoys great honour, high dignity and supreme authority within the House.
- The Speaker of the Lok Sabha derives his powers and duties from three sources, that is, the Constitution of India, the Rules of Procedure and Conduct of Business of Lok Sabha, and Parliamentary Conventions (residuary powers that are unwritten or unspecified in the Rules).

**Altogether, he has the following powers and duties:**

- He maintains order and decorum in the House for conducting its business and regulating its proceedings.
- This is his primary responsibility and he has final power in this regard.
- He is the final interpreter of the provisions of (a) the Constitution of India, (b) the Rules of Procedure and Conduct of Business of Lok Sabha, and (c) the parliamentary precedents, within the House.
- He adjourns the House or suspends the meeting in absence of a quorum.
- The quorum to constitute a meeting of the House is one-tenth of the total strength of the House.
- He does not vote in the first instance. But he can exercise a casting vote in the case of a tie.
- In other words, only when the House is divided equally on any question, the Speaker is entitled to vote.
- Such vote is called casting vote, and its purpose is to resolve a deadlock.
- He presides over a joint sitting of the two Houses of Parliament.
- Such a sitting is summoned by the President to settle a deadlock between the two Houses on a bill.

- He can allow a 'secret' sitting of the House at the request of the Leader of the House.
- When the House sits in secret, no stranger can be present in the chamber, lobby or galleries except with the permission of the Speaker.
- He decides whether a bill is a money bill or not and his decision on this question is final.
- When a money bill is transmitted to the Rajya Sabha for recommendation and presented to the President for assent, the Speaker endorses on the bill his certificate that it is a money bill.
- He decides the questions of disqualification of a member of the Lok Sabha, arising on the ground of defection under the provisions of the Tenth Schedule.
- In 1992, the Supreme Court ruled that the decision of the Speaker in this regard is subject to judicial review.
- He acts as the ex-officio chairman of the Indian Parliamentary Group which acts as a link between the Parliament of India and the various parliaments of the world.
- He also acts as the ex-officio chairman of the conference of presiding officers of legislative bodies in the country.
- He appoints the chairman of all the parliamentary committees of the Lok Sabha and supervises their functioning.
- He himself is the chairman of the Business Advisory Committee, the Rules Committee and the General-Purpose Committee.

### **Independence and Impartiality:**

- As the office of the Speaker is vested with great prestige, position and authority, independence and impartiality become its sine qua non
- The following provisions ensure the independence and impartiality of the office of the Speaker:
  - He is provided with a security of tenure.

- He can be removed only by a resolution passed by the Lok Sabha by an absolute majority (ie, a majority of the total members of the House) and not by an ordinary majority (ie, a majority of the members present and voting in the House).
- This motion of removal can be considered and discussed only when it has the support of at least 50 members.
- His salaries and allowances are fixed by Parliament.
- They are charged on the Consolidated Fund of India and thus are not subject to the annual vote of Parliament.
- His work and conduct cannot be discussed and criticised in the Lok Sabha except on a substantive motion.
- His powers of regulating procedure or conducting business or maintaining order in the House are not subject to the jurisdiction of any Court.
- He cannot vote in the first instance.
- He can only exercise a casting vote in the event of a tie.
- This makes the position of Speaker impartial.
- He is given a very high position in the order of precedence.
- He is placed at seventh rank, along with the Chief Justice of India.
- This means, he has a higher rank than all cabinet ministers, except the Prime Minister or Deputy Prime Minister.
- In Britain, the Speaker is strictly a non-party man.
- There is a convention that the Speaker has to resign from his party and remain politically neutral.
- This healthy convention is not fully established in India where the Speaker does not resign from the membership of his party on his election to the exalted office.

#### **Deputy Speaker of Lok Sabha (Article 93):**

- Like the Speaker, the Deputy Speaker is also elected by the Lok Sabha itself from amongst its members.

- He is elected after the election of the Speaker has taken place.
- The date of election of the Deputy Speaker is fixed by the Speaker.
- Whenever the office of the Deputy Speaker falls vacant, the Lok Sabha elects another member to fill the vacancy.
- Like the Speaker, the Deputy Speaker remains in office usually during the life of the Lok Sabha.
- However, he may vacate his office earlier in any of the following three cases:
  - If he ceases to be a member of the Lok Sabha;
  - If he resigns by writing to the Speaker; and
  - If he is removed by a resolution passed by a majority of all the members of the Lok Sabha.
  - Such a resolution can be moved only after giving 14 days' advance notice.
- The Deputy Speaker performs the duties of the Speaker's office when it is vacant.
- He also acts as the Speaker when the latter is absent from the sitting of the House.
- In both the cases, he assumes all the powers of the Speaker.
- He also presides over the joint sitting of both the Houses of Parliament, in case the Speaker is absent from such a sitting.
- It should be noted here that the Deputy Speaker is not subordinate to the Speaker. He is directly responsible to the House.
- The Deputy Speaker has one special privilege, that is, whenever he is appointed as a member of a parliamentary committee, he automatically becomes its chairman.
- Like the Speaker, the Deputy Speaker, while presiding over the House, cannot vote in the first instance; he can only exercise a casting vote in the case of a tie.
- Further, when a resolution for the removal of the Deputy Speaker is under consideration of the House, he cannot preside at the sitting of the House, though he may be present.

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- When the Speaker presides over the House, the Deputy Speaker is like any other ordinary member of the House.
- He can speak in the House, participate in its proceedings and vote on any question before the House.
- The Deputy Speaker is entitled to a regular salary and allowance fixed by Parliament, and charged on the Consolidated Fund of India.
- Up to the 10th Lok Sabha, both the Speaker and the Deputy Speaker were usually from the ruling party.
- Since the 11th Lok Sabha, there has been a consensus that the Speaker comes from the ruling party (or ruling alliance) and the post of Deputy Speaker goes to the main opposition party.
- The Speaker and the Deputy Speaker, while assuming their offices, do not make and subscribe any separate oath or affirmation.
- The institutions of Speaker and Deputy Speaker originated in India in 1921 under the provisions of the Government of India Act of 1919 (Montague–Chelmsford Reforms).
- At that time, the Speaker and the Deputy Speaker were called the President and Deputy President respectively and the same nomenclature continued till 1947. Before 1921, the Governor-General of India used to preside over the meetings of the Central Legislative Council.
- In 1921, the Frederick Whyte and Sachidanand Sinha were appointed by the Governor-General of India as the first Speaker and the first Deputy Speaker (respectively) of the central legislative assembly.
- In 1925, Vithalbhai J. Patel became the first Indian and the first elected Speaker of the central legislative assembly.
- The Government of India Act of 1935 changed the nomenclatures of President and Deputy President of the Central Legislative Assembly to the Speaker and Deputy Speaker respectively.
- However, the old nomenclature continued till 1947 as the federal part of the 1935 Act was not implemented. G V Mavalankar and Ananthasayanam Ayyangar had the distinction of being the first Speaker and the first Deputy

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Speaker (respectively) of the Lok Sabha. G V Mavalankar also held the post of Speaker in the Constituent Assembly (Legislative) as well as the provisional Parliament.

- He held the post of Speaker of Lok Sabha continuously for one decade from 1946 to 1956.

**Panel of Chairpersons of Lok Sabha:**

- Under the Rules of Lok Sabha, the Speaker nominates from amongst the members a panel of not more than ten chairpersons.
- Any of them can preside over the House in the absence of the Speaker or the Deputy Speaker.
- He has the same powers as the Speaker when so presiding.
- He holds office until a new panel of chairpersons is nominated.
- When a member of the panel of chairpersons is also not present, any other person as determined by House acts as the Speaker.
- It must be emphasised here that a member of the panel of chairpersons cannot preside over the House, when the office of the Speaker or the Deputy Speaker is vacant.
- During such time, the Speaker's duties are to be performed by such member of the House as the President may appoint for the purpose.
- The elections are held, as soon as possible, to fill the vacant posts.

**Speaker Pro Term:**

- As provided by the Constitution, the Speaker of the last Lok Sabha vacates his office immediately before the first meeting of the newly-elected Lok Sabha.
- Therefore, the President appoints a member of the Lok Sabha as the Speaker Pro Tem. Usually, the senior most member is selected for this.
- The President himself administers oath to the Speaker Pro Tem.
- The Speaker Pro Tem has all the powers of the Speaker.
- He presides over the first sitting of the newly-elected Lok Sabha.

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- His main duty is to administer oath to the new members. He also enables the House to elect the new Speaker.
- When the new Speaker is elected by the House, the office of the Speaker Pro Tem ceases to exist.
- Hence, this office is a temporary office, existing for a few days

**Chairman of Rajya Sabha (Article 89):**

- The presiding officer of the Rajya Sabha is known as the Chairman.
- The vice-president of India is the ex-officio Chairman of the Rajya Sabha.
- During any period when the Vice-President acts as President or discharges the functions of the President, he does not perform the duties of the office of the Chairman of Rajya Sabha.
- The Chairman of the Rajya Sabha can be removed from his office only if he is removed from the office of the Vice-President.
- As a presiding officer, the powers and functions of the Chairman in the Rajya Sabha are similar to those of the Speaker in the Lok Sabha.
- **However, the Speaker has two special powers which are not enjoyed by the Chairman:**
  - The Speaker decides whether a bill is a money bill or not and his decision on this question is final.
  - The Speaker presides over a joint sitting of two Houses of Parliament.
- Unlike the Speaker (who is a member of the House), the Chairman is not a member of the House.
- But like the Speaker, the Chairman also cannot vote in the first instance.
- He too can cast a vote in the case of an equality of votes.
- The Vice-President cannot preside over a sitting of the Rajya Sabha as its Chairman when a resolution for his removal is under consideration.
- However, he can be present and speak in the House and can take part in its proceedings, without voting, even at such a time (while the Speaker can vote in the first instance when a resolution for his removal is under consideration of the Lok Sabha).

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- As in case of the Speaker, the salaries and allowances of the Chairman are also fixed by the Parliament.
- They are charged on the Consolidated Fund of India and thus are not subject to the annual vote of Parliament.
- During any period when the Vice-President acts as President or discharges the functions of the President, he is not entitled to any salary or allowance payable to the Chairman of the Rajya Sabha.
- But he is paid the salary and allowance of the President during such a time.

**Deputy Chairman of Rajya Sabha (Article 89):**

- The Deputy Chairman is elected by the Rajya Sabha itself from amongst its members. Whenever the office of the Deputy Chairman falls vacant, the Rajya Sabha elects another member to fill the vacancy.
- The Deputy Chairman vacates his office in any of the following three cases:
  - If he ceases to be a member of the Rajya Sabha;
  - If he resigns by writing to the Chairman; and
  - If he is removed by a resolution passed by a majority of all the members of the Rajya Sabha.
  - Such a resolution can be moved only after giving 14 days' advance notice.
- The Deputy Chairman performs the duties of the Chairman's office when it is vacant or when the Vice-President acts as President or discharges the functions of the President.
- He also acts as the Chairman when the latter is absent from the sitting of the House.
- In both the cases, he has all the powers of the Chairman.
- It should be emphasised here that the Deputy Chairman is not subordinate to the Chair-man.
- He is directly responsible to the Rajya Sabha.
- Like the Chairman, the Deputy Chairman, while presiding over the House, cannot vote in the first instance;

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- he can only exercise a casting vote in the case of a tie.
- Further, when a resolution for the removal of the Deputy Chairman is under consideration of the House, he cannot preside over a sitting of the House, though he may be present.
- When the Chairman presides over the House, the Deputy Chairman is like any other ordinary member of the House.
- He can speak in the House, participate in its proceedings and vote on any question before the House.
- Like the Chairman, the Deputy Chairman is also entitled to a regular salary and allowance.
- They are fixed by Parliament and are charged on the Consolidated Fund of India.

**Panel of Vice-Chairpersons of Rajya Sabha:**

- Under the Rules of Rajya Sabha, the Chairman nominates from amongst the members a panel of vice-chairpersons.
- Any one of them can preside over the House in the absence of the Chairman or the Deputy Chairman.
- He has the same powers as the Chairman when so presiding.
- He holds office until a new panel of vice-chairpersons is nominated.
- When a member of the panel of vice-chairpersons is also not present, any other person as determined by the House acts as the Chairman.
- It must be emphasised here that a member of the panel of vice-chairpersons cannot preside over the House, when the office of the Chairman or the Deputy Chairman is vacant.
- During such time, the Chairman's duties are to be performed by such member of the House as the president may appoint for the purpose.
- The elections are held, as soon as possible, to fill the vacant posts.

### Secretariat of Parliament (Article 98):

- Each House of Parliament has separate secretarial staff of its own, though there can be some posts common to both the Houses.
- Their recruitment and service conditions are regulated by Parliament.
- The secretariat of each House is headed by a secretary-general.
- He is a permanent officer and is appointed by the presiding officer of the House.

### Leaders in Parliament:

#### Leader of the House:

- Under the Rules of Lok Sabha, the 'Leader of the House' means the prime minister, if he is a member of the Lok Sabha, or a minister who is a member of the Lok Sabha and is nominated by the prime minister to function as the Leader of the House.
- There is also a 'Leader of the House' in the Rajya Sabha.
- He is a minister and a member of the Rajya Sabha and is nominated by the prime minister to function as such.
- The leader of the house in either House is an important functionary and exercises direct influence on the conduct of business.
- He can also nominate a deputy leader of the House.
- The same functionary in USA is known as the 'majority leader'.

#### Leader of the Opposition:

- In each House of Parliament, there is the 'Leader of the Opposition'.
- The leader of the largest Opposition party having not less than one-tenth seats of the total strength of the House is recognised as the leader of the Opposition in that House.
- In a parliamentary system of government, the leader of the opposition has a significant role to play.
- His main functions are to provide a constructive criticism of the policies of the government and to provide an alternative government.

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- Therefore, the leader of Opposition in the Lok Sabha and the Rajya Sabha were accorded statutory recognition in 1977.
- They are also entitled to the salary, allowances and other facilities equivalent to that of a cabinet minister.
- It was in 1969 that an official leader of the opposition was recognised for the first time.
- The same functionary in USA is known as the ‘minority leader’.
- The British political system has an unique institution called the ‘Shadow Cabinet’.
- It is formed by the Opposition party to balance the ruling cabinet and to prepare its members for future ministerial offices.
- In this shadow cabinet, almost every member in the ruling cabinet is ‘shadowed’ by a corresponding member in the opposition cabinet.
- This shadow cabinet serves as the ‘alternate cabinet’ if there is change of government.
- That is why Ivor Jennings described the leader of Opposition as the ‘alternative Prime Minister’.
- He enjoys the status of a minister and is paid by the government.

**Whip:**

- Though the offices of the leader of the House and the leader of the Opposition are not mentioned in the Constitution of India, they are mentioned in the Rules of the House and Parliamentary Statute respectively.
- The office of ‘whip’, on the other hand, is mentioned neither in the Constitution of India nor in the Rules of the House nor in a Parliamentary Statute.
- It is based on the conventions of the parliamentary government.
- Every political party, whether ruling or Opposition has its own whip in the Parliament.
- He is appointed by the political party to serve as an assistant floor leader.

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- He is charged with the responsibility of ensuring the attendance of his party members in large numbers and securing their support in favour of or against a particular issue.
- He regulates and monitors their behaviour in the Parliament.
- The members are supposed to follow the directives given by the whip.
- Otherwise, disciplinary action can be taken.

**Sessions of Parliament (Article 85):**

**Summoning:**

- The president from time-to-time summons each House of Parliament to meet.
- But, the maximum gap between two sessions of Parliament cannot be more than six months.
- In other words, the Parliament should meet at least twice a year.
- There are usually three sessions in a year, viz,
  - The Budget Session (February to May);
  - The Monsoon Session (July to September); and
  - The Winter Session (November to December).
- A 'session' of Parliament is the period spanning between the first sitting of a House and its prorogation (or dissolution in the case of the Lok Sabha).
- During a session, the House meets every day to transact business.
- The period spanning between the prorogation of a House and its reassembly in a new session is called 'recess'.

**Adjournment:**

- A session of Parliament consists of many meetings. Each meeting of a day consists of two sittings, that is, a morning sitting from 11 am to 1 pm and post-lunch sitting from 2 pm to 6 pm.
- A sitting of Parliament can be terminated by adjournment or adjournment sine die or prorogation or dissolution (in the case of the Lok Sabha).

- An adjournment suspends the work in a sitting for a specified time, which may be hours, days or weeks.

### **Adjournment Sine Die:**

- Adjournment sine die means terminating a sitting of Parliament for an indefinite period.
- In other words, when the House is adjourned without naming a day for reassembly, it is called adjournment sine die.
- The power of adjournment as well as adjournment sine die lies with the presiding officer of the House.
- He can also call a sitting of the House before the date or time to which it has been adjourned or at any time after the House has been adjourned sine die.

### **Prorogation:**

- The presiding officer (Speaker or Chairman) declares the House adjourned sine die, when the business of a session is completed.
- Within the next few days, the President issues a notification for prorogation of the session.
- However, the President can also prorogue the House while in session.

### **Dissolution:**

- Rajya Sabha, being a permanent House, is not subject to dissolution.
- Only the Lok Sabha is subject to dissolution.
- Unlike a prorogation, a dissolution ends the very life of the existing House, and a new House is constituted after general elections are held.
- The dissolution of the Lok Sabha may take place in either of two ways:
  - Automatic dissolution, that is, on the expiry of its tenure of five years or the terms as extended during a national emergency; or
  - Whenever the President decides to dissolve the House, which he is authorised to do. Once the Lok Sabha is dissolved before the completion of its normal tenure, the dissolution is irrevocable.

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- When the Lok Sabha is dissolved, all business including bills, motions, resolutions, notices, petitions and so on pending before it or its committees lapse.
- They (to be pursued further) must be reintroduced in the newly constituted Lok Sabha.
- However, some pending bills and all pending assurances that are to be examined by the Committee on Government Assurances do not lapse on the dissolution of the Lok Sabha.
- The position with respect to lapsing of bills is as follows:
  - A bill pending in the Lok Sabha lapses (whether originating in the Lok Sabha or transmitted to it by the Rajya Sabha).
  - A bill passed by the Lok Sabha but pending in the Rajya Sabha lapses.
  - A bill not passed by the two Houses due to disagreement and if the president has notified the holding of a joint sitting before the dissolution of Lok Sabha, does not lapse.
  - A bill pending in the Rajya Sabha but not passed by the Lok Sabha does not lapse.
  - A bill passed by both Houses but pending assent of the president does not lapse.
  - A bill passed by both Houses but returned by the president for reconsideration of Houses does not lapse.

**Quorum:**

- Quorum is the minimum number of members required to be present in the House before it can transact any business.
- It is one-tenth of the total number of members in each House including the presiding officer.
- It means that there must be at least 55 members present in the Lok Sabha and 25 members present in the Rajya Sabha, if any business is to be conducted.

- If there is no quorum during a meeting of the House, it is the duty of the presiding officer either to adjourn the House or to suspend the meeting until there is a quorum.

### Voting in House:

- All matters at any sitting of either House or joint sitting of both the Houses are decided by a majority of votes of the members present and voting, excluding the presiding officer.
- Only a few matters, which are specifically mentioned in the Constitution like impeachment of the President, amendment of the Constitution, removal of the presiding officers of the Parliament and so on, require special majority, not ordinary majority.
- The presiding officer of a House does not vote in the first instance, but exercises a casting vote in the case of an equality of votes.
- The proceedings of a House are to be valid irrespective of any unauthorised voting or participation or any vacancy in its membership.

### The following points can be noted with respect to the voting procedure in the Lok Sabha:

- On the conclusion of a debate, the Speaker shall put the question and invite those who are in favour of the motion to say 'Aye' and those against the motion to say 'No'.
- **The Speaker shall then say:** 'I think the Ayes (or the Noes, as the case may be) have it.'
- If the opinion of the Speaker as to the decision of a question is not challenged, **he shall say twice:** The Ayes (or the Noes, as the case may be) have it' and the question before the House shall be determined accordingly.
- If the opinion of the Speaker as to the decision of a question is challenged, he shall order that the Lobby be cleared.

- After the lapse of three minutes and thirty seconds, he shall put the question a second time and declare whether in his opinion the ‘Ayes’ or the ‘Noes’ have it.
- If the opinion so declared is again challenged, he shall direct that the votes be recorded either by operating the automatic vote recorder or by using ‘Aye’ and ‘No’ Slips in the House or by the Members going into the Lobbies.
- If in the opinion of the Speaker, the Division is unnecessarily claimed, he may ask the members who are for ‘Aye’ and those for ‘No’ respectively to rise in their places and, on a count being taken, he may declare the determination of the House.
- In such a case, the names of the voters shall not be recorded.

#### **Language in Parliament (Article 120):**

- The Constitution has declared Hindi and English to be the languages for transacting business in the Parliament.
- However, the presiding officer can permit a member to address the House in his mother-tongue.
- In both the Houses, arrangements are made for simultaneous translation.
- Though English was to be discontinued as a floor language after the expiration of fifteen years from the commencement of the Constitution (that is, in 1965), the Official Languages Act (1963) allowed English to be continued along with Hindi.

#### **Rights of Ministers and Attorney General – Article – 88:**

- In addition to the members of a House, every minister and the attorney general of India have the right to speak and take part in the proceedings of either House, any joint sitting of both the Houses and any committee of Parliament of which he is a member, without being entitled to vote.
- There are two reasons underlying this constitutional provision:
  - A minister can participate in the proceedings of a House, of which he is not a member.

- In other words, a minister belonging to the Lok Sabha can participate in the proceedings of the Rajya Sabha and vice-versa.
- A minister, who is not a member of either House, can participate in the proceedings of both the Houses.
- It should be noted here that a person can remain a minister for six months, without being a member of either House of Parliament.

### Lame-duck Session

- It refers to the last session of the existing Lok Sabha, after a new Lok Sabha has been elected.
- Those members of the existing Lok Sabha who could not get re-elected to the new Lok Sabha are called lame-ducks.

### Question Hour

- The first hour of every parliamentary sitting is slotted for this.
- During this time, the members ask questions and the ministers usually give answers.
- The questions are of three kinds, namely, starred, unstarred and short notice.
- A **starred question** (distinguished by an asterisk) requires an oral answer and hence supplementary questions can follow.
- An **unstarred question**, on the other hand, requires a written answer and hence, supplementary questions cannot follow.
- A **short notice question** is one that is asked by giving a notice of less than ten days. It is answered orally.
- In addition to the ministers, the questions can also be asked to the private members.
- Thus, a question may be addressed to a private member if the subject matter of the question relates to some Bill, resolution or other matter connected with the business of the House for which that member is responsible.

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- The procedure in regard to such question is the same as that followed in the case of questions addressed to a minister.
- The list of starred, unstarred, short notice questions and questions to private members are printed in green, white, light pink and yellow colour, respectively, to distinguish them from one another.

### **Zero Hour**

- Unlike the question hour, the zero hour is not mentioned in the Rules of Procedure.
- Thus, it is an informal device available to the members of the Parliament to raise matters without any prior notice.
- The zero hour starts immediately after the question hour and lasts until the agenda for the day (ie, regular business of the House) is taken up.
- In other words, the time gap between the question hour and the agenda is known as zero hour.
- It is an Indian innovation in the field of parliamentary procedures and has been in existence since 1962.

### **Motions**

- No discussion on a matter of general public importance can take place except on a motion made with the consent of the presiding officer.
- The House expresses its decisions or opinions on various issues through the adoption or rejection of motions moved by either ministers or private members.

**The motions moved by the members to raise discussions on various matters fall into three principal categories:**

- **Substantive Motion:** It is a self-contained independent proposal dealing with a very important matter like impeachment of the President or removal of Chief Election Commissioner.

- **Substitute Motion:** It is a motion that is moved in substitution of an original motion and proposes an alternative to it. If adopted by the House, it supersedes the original motion.
- **Subsidiary Motion:** It is a motion that, by itself, has no meaning and cannot state the decision of the House without reference to the original motion or proceedings of the House. It is divided into three sub-categories:
  - **Ancillary Motion:** It is used as the regular way of proceeding with various kinds of business.
  - **Superseding Motion:** It is moved in the course of debate on another issue and seeks to supersede that issue.
  - **Amendment:** It seeks to modify or substitute only a part of the original motion.

#### Closure Motion:

- It is a motion moved by a member to cut short the debate on a matter before the House.
- If the motion is approved by the House, debate is stopped forthwith and the matter is put to vote.
- There are four kinds of closure motions:
  - **Simple Closure:** It is one when a member moves that the ‘matter having been sufficiently discussed be now put to vote’.
  - **Closure by Compartments:** In this case, the clauses of a bill or a lengthy resolution are grouped into parts before the commencement of the debate.
    - The debate covers the part as a whole and the entire part is put to vote.
  - **Kangaroo Closure:** Under this type, only important clauses are taken up for debate and voting and the intervening clauses are skipped over and taken as passed.
  - **Guillotine Closure:** It is one when the undiscussed clauses of a bill or a resolution are also put to vote along with the discussed ones due to want of time (as the time allotted for the discussion is over).

### Privilege Motion

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

### Calling Attention Motion

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

### Adjournment Motion

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

- It should be restricted to a specific matter of recent occurrence and should not be framed in general terms;
- It should not raise a question of privilege;
- It should not revive discussion on a matter that has been discussed in the same session;
- It should not deal with any matter that is under adjudication by court; and
- It should not raise any question that can be raised on a distinct motion.

### No-Confidence Motion

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

### Motion of Thanks

- The first session after each general election and the first session of every fiscal year is addressed by the president.
- In this address, the president outlines the policies and programmes of the government in the preceding year and ensuing year.
- This address of the president, which corresponds to the ‘speech from the Throne in Britain’, is discussed in both the Houses of Parliament on a motion called the ‘Motion of Thanks’.
- At the end of the discussion, the motion is put to vote. This motion must be passed in the House.
- Otherwise, it amounts to the defeat of the government.

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- This inaugural speech of the president is an occasion available to the members of Parliament to raise discussions and debates to examine and criticise the government and administration for its lapses and failures.

**No-Day-Yet-Named Motion**

- It is a motion that has been admitted by the Speaker but no date has been fixed for its discussion.
- The Speaker, after considering the state of business in the House and in consultation with the leader of the House or on the recommendation of the Business Advisory Committee, allots a day or days or part of a day for the discussion of such a motion.

