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The Union Legislature : The Rajya Sabha and the Lok Sabha

II. Federal Government

In the Federal Government, there is dual administration and there is distribution of powers between the centre and the states in accordance with the constitution. Both the governments run their administrations independently and do not interfere unnecessarily in the affairs of one another.

The First Federal Government was established in the U.S.A. by the Constitution adopted on March 4, 1789.

Characteristics of a Federal Government

(i) In a Federal Government, there is a dual set of governments – Union Government and the State Government. The Union government runs the administration of the entire country and the State governments run the administration of the respective states. Both the governments are independent in their respective spheres.

(ii) The subjects are divided. The subjects of national importance are given to the central government, whereas subjects of local importance to the state governments and of common importance are kept in the concurrent list.

Government in India

Article 79 of the Constitution of India provides that, *"There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People."*

Organs of the Government – Legislature, Executive, Judiciary

The Union Parliament

It has Three Components/Constituents

- (a) The President of the Union
- (b) The Lok Sabha (*i.e.*, the Lower House) or the House of the People.
- (c) The Rajya Sabha (*i.e.*, the Upper House) or the Council of States, and

We have a Bicameral Legislature at the Centre, the Lower House, *i.e.*, the Lok Sabha, representing the people of India and the Upper House, *i.e.*, the Rajya Sabha, representing the 28 States and the Nine Union Territories of India, including National Capital Territory (Delhi).

Although, the President is not a member of either House of the Parliament, yet he is an integral part of it. As such, he addresses either House or both the Houses, and may send messages to the Parliament. Moreover, certain Bills (especially Money Bills) require the President's prior assent before their introduction into the House. No Bill passed by the Parliament can become a Law unless the President gives his assent to it. So he is an integral part of the Parliament.

✓ The Lok Sabha

The Lok Sabha or the *House of the People* is the *lower chamber* of the Union Parliament. As its name suggests, it gives representation to the people who elect its members directly.

Composition of the Lok Sabha

The Lok Sabha is composed of representatives of the people chosen by direct election on the basis of **adult suffrage**. The maximum strength of the House envisaged by the Constitution is about 552, 530 members to represent the States, 20 members to represent the Union Territories and not more than two members of the Anglo-Indian Community to be nominated by the President, if, in his opinion, that community is not adequately represented in the House. The total elected membership is distributed among the States roughly on population basis. At present, the strength of the House is 545 members.

Reservation of Seats

To provide equal political opportunity to all, some seats have been reserved. In a SC reserve constituency, only someone who belong to the scheduled caste is allowed to contest elections. Currently, in the Lok Sabha, 84 seats are reserved for the Scheduled Caste and 47 for the Scheduled Tribes.

Franchise and Election

The members of the Lok Sabha are directly elected on the basis of **universal adult franchise**, **secret ballot**, **proportional representation** and **single transferable vote**. A voter is registered at the age of 18 years without any discrimination of caste, creed, colour, religion or sex. In other words, a citizen of India who has attained the age of

18 years is entitled to vote provided he is not otherwise disqualified. This is called the **universal adult franchise**.

The **Secret ballot** is a system of voting where the voter's choice is not revealed. The whole country is divided into equal number of electoral areas which are called **constituencies**.

Qualifications for Membership

Qualifications needed for a person to be a member of the Lok Sabha are :

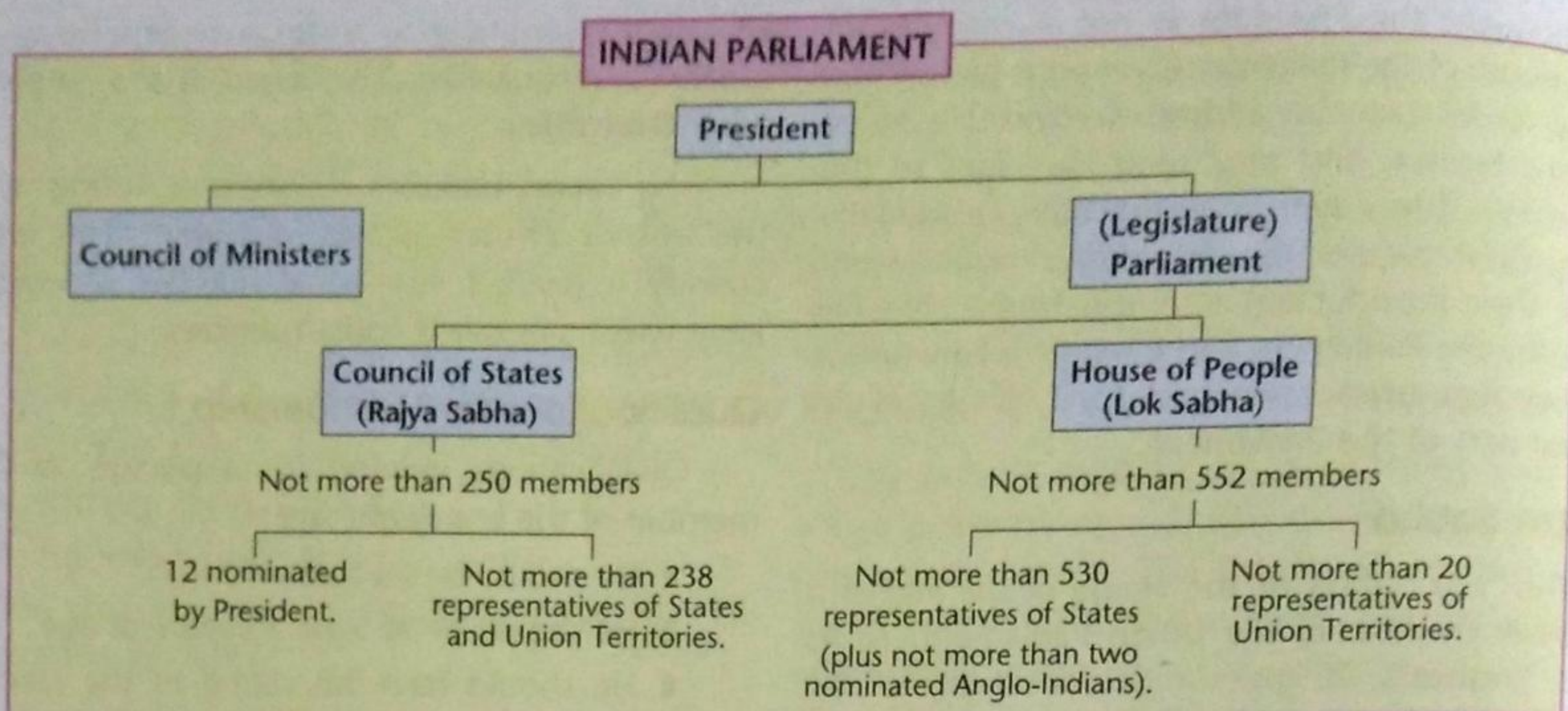
- He should be an Indian citizen.
- He should be at least 25 years of age.
- He should have his name in the electoral rolls in some part of the country.
- He should not be an insolvent, *i.e.*, he should not be in debt and should have the ability to meet his financial commitments.
- He should not hold any office of profit under the government.
- He should not be a proclaimed criminal.
- He should not be of unsound mind.

Electoral Constituency

In our country, we follow an area based system of representation. The country is divided into well-defined territorial areas for the purpose of election to parliament/state Legislature Assemblies. These areas are called **electoral constituencies**. The voters who live in an area elect one representative.

Disqualifications of membership : A person shall be disqualified for being chosen as, or for being, a member of the Lok Sabha or Rajya Sabha of a State :

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



Tenure or Duration of the House : The normal tenure of the Lok Sabha is **five years** which can be extended for another year during **emergency**, but fresh elections to the Lok Sabha must be held within six months of the revocation of emergency. Moreover, the President can dissolve the Lok Sabha even before the expiry of its term if a motion expressing the **No-Confidence** is moved and passed in the Parliament. It can also be dissolved on the *advice of the Prime Minister*.

Sessions of the House and the Maximum Gap between the Two Sessions : The session means a period during which the House meets to conduct its business. The sessions of each House of Parliament are summoned by the President. The President convenes the session on the advice of the Council of Ministers at any time but a period of more than **six months** must not lapse between two sessions of the Lok Sabha. The Parliament should hold at least two sessions in a year. Normally, *three sessions* are held in a year (i) **Summer session (Feb-May)**, (ii) **Monsoon session (July-Sept)** and (iii) **Winter session (Nov-Dec)**.

Quorum

A Quorum is the minimum number of members required to be present before a meeting is allowed to begin. One-tenth (at least 55 members) of the total members of the Lok Sabha must be present at the beginning of a sitting of

the Lok Sabha, including the Speaker or any other Presiding Officer in order to make the quorum. The speaker may adjourn the House or suspend the meeting until there is requisite quorum. The House cannot conduct the proceedings and pass bills and resolutions.

Salary and Allowances

A Member of the Parliament gets a salary of ₹ 50,000/- per month, an allowance of ₹ 2,000/- per day and other benefits. He/She also gets a pension of ₹ 8,000 per month. Under the Local Area Development Scheme, each Member of Parliament (MP) may suggest to the District Collector works to the tune of ₹ 5 crore per year to be taken up in his constituency. The salary of the Members is determined by the Parliament and is drawn from the Consolidated Fund of India.

Language to be used in the Lok Sabha

Business in the Parliament is transacted in Hindi or English. The Speaker or the Chairman may permit a member to speak in his/her mother tongue, if he has some difficulty to speak in Hindi or English.

Leader of the House

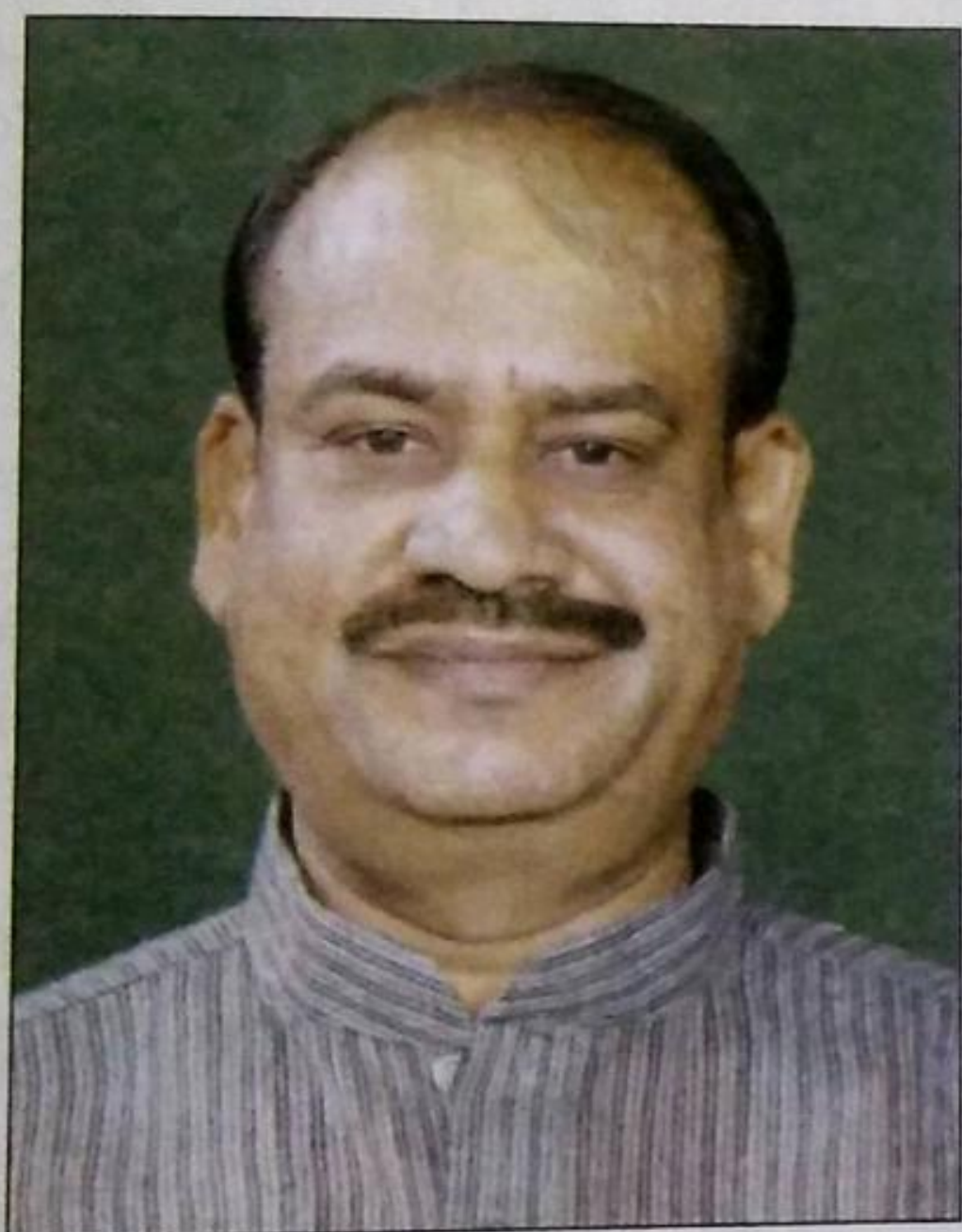
The **Prime Minister** is the **leader** of the House. He is the last person to wind up a debate and to reply to all the points raised in a discussion before voting takes place on any motion.

✓ Leader of the Opposition

The leader of the second largest political party in the House is recognized as the Leader of the Opposition, provided the Party has at least 1/10th of the total membership of the House. Under the **Leaders of the Opposition Act, 1977 A.D.**, he/she enjoys the same status and facilities as are enjoyed by a Cabinet Minister.

Speaker of the Lok Sabha

As the Presiding Officer of a directly elected House of the People, the Lok Sabha Speaker is one of the highest constitutional functionaries in India's Parliamentary system. The sustenance of people's faith in the democratic institution depends a great deal on the finesse and effectiveness with which the Speaker conducts the proceedings of the Lower House of Parliament.



Om Birla - Speaker of the Lok Sabha

In the Lok Sabha, the lower House of the Indian Parliament, both Presiding Officers—the Speaker and the Deputy Speaker (who performs the duties of the Speaker when the former is absent or while the office of the Speaker is Vacant)—are elected from among its members by a simple majority of members present and voting in the House. As such, no specific qualifications are prescribed for being elected the Speaker. The Constitution only requires that he should be a member of the House.

Method of Election : After General Elections, when a new Lok Sabha is constituted, the Speaker is elected by the members of the Lok Sabha in their first meeting. The Speaker is mostly elected unanimously. The leader of the majority party, after consulting the leaders of the opposition, proposes the name of the candidate for the office of Speaker. The leader of the opposition seconds the name so proposed. The election to the office of the Speaker takes place only when the majority party and other parties disagree over the issue. Sh. G.V. Mavlankar was the first Speaker of the first Lok Sabha.

Speaker Protem (Temporary Speaker) : The first sitting of a newly elected Lok Sabha after the General Election is presided over by the Speaker *protem*. This becomes necessary because the office of the Speaker becomes vacant immediately before the first meeting of a new Lok Sabha.

Term of Office

The Speaker holds office from the date of his election till immediately before the first meeting of the Lok Sabha after the dissolution of the one to which he was elected. He is eligible for re-election. On the dissolution of the Lok Sabha, although the Speaker ceases to be a member of the House, he does not vacate his office. He vacates it immediately before the first meeting of the newly constituted House. The Speaker may, at any time, resign from office by writing to the Deputy Speaker. The Speaker can be removed from office only on a resolution of the House passed by a majority of all the members of the House.

For moving a resolution a notice of at least 14 days has to be given.

Role, Powers and Functions of the Speaker

1. Regulating the Business of the House :

- (i) He/She **presides** over the meetings of the House and conducts its proceedings. He/She recognizes member on the floor of the House and allots them time to speak. He/She can order a member to yield the floor (to stop speaking) to another member of the House.

- (ii) He/She decides the admissibility of a Question, resolutions and motion of Adjournment.
- (iii) If a Bill is pending before the House, it is the Speaker who decides whether he/she should allow amendments to be moved to various clauses of the Bill or not.
- (iv) He/She is the **guardian** of the rights and privileges of the House, its Committees and members.
- (v) He/She certifies whether a Bill is a Money Bill or an Ordinary Bill.
- (vi) Generally, the speaker does not participate in the discussions of the House and does not take part in the voting but in case of a tie, he/she exercises his/her *casting vote*.
- (vii) He/She interprets the rules of procedure of the House and gives ruling on points of order.

2. Disciplinary Functions :

- (i) The speaker maintains order in the house. He/She may name a member for suspension for a specified period, if the member disregards the authority of the Chair. In case of grave disorder, he/she may adjourn the House.
- (ii) If a word or words used in the debate are indecent or unparliamentary, he/she may remove such words from the proceedings of the House.
- (iii) The Speaker decides whether there is a Prima facie case regarding breach of privilege or contempt of the House.
- (iv) Under the **Anti-Defection Act of 1985**, the Speaker is vested with the power relating to the disqualification of a member of the Lok Sabha who is debarred from holding any public office till elected again.

Anti-Defection Law :

Under Anti-Defection Law a member of House belonging to any political party shall be disqualified.

- If he/she voluntarily gives up his membership of such political party.
- If he/she votes or abstains from voting in the House contrary to direction of the party.

3. Administrative Functions :

- (i) The Speaker receives all petitions and documents addressed to the House;

- (ii) He/She communicates the decisions of the House to the concerned authorities and requests them to comply with such decisions;
- (iii) He/She allows the admission of visitors and press correspondents to the galleries of the House.

4. Supervisory Control over Parliamentary Committees :

- (i) The Committees of the House function under the overall direction of the Speaker. All such Committees are constituted by the speaker or by the House.
- (ii) The Chairmen of all Parliamentary Committees are nominated by the speaker.
- (iii) Any procedural problems in the functioning of the committees are referred to the speaker for directions. *e.g.*, whether a particular document is to be kept secret or produced before the committee.
- (iv) Committees like the Business Advisory Committee, the General Purposes Committee and the Rules Committee work directly under his/her Chairmanship. (Ex.-officio chairman)

5. Other Powers and Functions :

- (i) The Speaker presides over the joint sitting of both Houses of Parliament.
- (ii) The Speaker nominates, in consultation with the Chairman of the Rajya Sabha, personnel for Parliamentary Delegations to various countries.
- (iii) The Speaker presides over the Conference of Presiding Officers of legislative bodies in India.
- (iv) The Speaker is the Chief spokesman of the House and works as a channel of communication between the President and the House.

Advantages of Lok Sabha

1. House of the People : The Lok Sabha is rightly named as the **House of the People** as it gives representation to the people who elect its members directly. It is considered as Mini-India representing all regions, castes and religions of India. It is the mirror and voice of nation.

2. Maker of the Government : Government is formed by the members of the Lok Sabha on the invitation of the President. The President appoints the leader of the majority party or the coalition of

The Rajya Sabha

The Rajya Sabha is the Upper House of the Parliament. It is also called the *Council of States*.

Composition

The strength of the Rajya Sabha is fixed at **250 members**. There are two categories of members : First, the *elected members*; and second, the *nominated members*.

Elected Members

There are **238 elected members**, who represent the 29 States and the 7 Union Territories, including the National Capital Territory, Delhi. Seats are allotted to them on the basis of their population. For example, Uttar Pradesh, with a population of nearly 16 crores is represented in the Rajya Sabha by 31 members, which is the largest.

Goa, Manipur, Meghalaya, Mizoram, Nagaland Sikkim, Tripura send only one member each to the Rajya Sabha.

Nominated Members

The President nominates **12 members** to the Rajya Sabha. These are eminent persons from the fields of Literature, Science, Art and Social Service. They are **nominated** for **six years**, with a provision that one-third (*i.e.*, 4 out of 12) shall retire after every two years. These nominations are made by the President on the advice and recommendations of the Prime Minister.

Election to the Rajya Sabha

The members of the Rajya Sabha from each State are elected by the elected members of the Legislative Assembly (*i.e.*, the Lower House) of that State by means of *proportional representation* through *Single Transferable Vote System* and *open ballot*. The representatives of the Union Territories are chosen in such a manner as may be decided or prescribed by the Parliament from time to time. The Parliament did away with the *domicile criterion*.

The Rajya Sabha, at present actually consists of 245 members, of whom 233 are elected and 12 are nominated by the President.

Qualifications for the Rajya Sabha Members

In order to become a member of the Rajya Sabha, a candidate must possess the following qualifications :

- (a) be a citizen of India,
- (b) be of 30 years of age or above,
- (c) have such other qualifications as may be prescribed by law from time to time.

At the same time, a candidate shall be deemed to be disqualified if :

- (a) he/she holds an office of profit at the Centre or State ;
- (b) if he/she is of unsound mind ;
- (c) if he/she is an undischarged insolvent ;
- (d) if he/she is an alien ;
- (e) if he/she is disqualified under any law of the Parliament.

Term/Tenure of the Rajya Sabha

The Rajya Sabha is a *Permanent House*. It is not subject to dissolution by the President. Each member has a term of six years. One-third of its total members retire at the end of every two years, and the equal number of new members are elected or nominated to fill the vacancies caused by the retirement of 1/3 members. Thus, the Rajya Sabha continues to exist, though its members retire when they complete their six-year tenure. They can also be re-elected or renominated.

The Presiding Officer

The Vice-President of India is the Ex-officio Chairman of the Rajya Sabha. He/She presides over its meetings. But he/she has no right to vote on any issue discussed in the House. He/She can, however, exercise a casting vote in case of a tie. When the Vice-President acts as the President, the Deputy Chairman of the Rajya Sabha, performs the functions of the Chairman of the Rajya Sabha. The Deputy Chairman is elected from amongst the members of the Rajya Sabha. He/She presides over the sittings of the House in the absence of the Chairman.

Working Pattern of the Rajya Sabha

The session of the Rajya Sabha is called by the President twice in a year with a gap of not more

than **six months** between the two sessions. The President can also call a special session of the Rajya Sabha. It functions through a parliamentary procedure and a number of Committees, singly or jointly with the Lok Sabha.

Quorum of the Rajya Sabha

A minimum number of members required to be present to conduct a meeting of the Rajya Sabha is known as the **quorum**. The quorum of the Rajya Sabha is one-tenth of its members, *i.e.*, 25. If at any time during the meeting there is no quorum, the Presiding Officer had to adjourn the House or suspend the meeting until there is a quorum.

Powers and Functions of the Rajya Sabha

The Rajya Sabha performs the following functions, as per its Powers in relation to the Lok Sabha :

1. Legislative Powers : All bills, except Money Bills, can originate in the Rajya Sabha. No **bill** can become a **law**, unless it is agreed to by both the Houses of the Parliament. The Rajya Sabha can at the most delay an ordinary bill for six months. In case of a deadlock between both the Houses, a joint sitting is convened by the President. The joint sitting is presided over by the Speaker of the Lok Sabha. At the joint sitting, questions are decided by a majority vote.

2. Financial Powers : In the financial sphere, as compared to the Lok Sabha, the position of the Rajya Sabha is quite weak because the money bills have to be introduced in the Lok Sabha. The Rajya Sabha has to give its approval to the money bill passed by the Lok Sabha within 14 days. If the Rajya Sabha fails to approve the bill within 14 days or makes some changes in it, the Lok Sabha is not bound to accept these changes. The bill is considered to have been approved by the Parliament after 14 days. Thus, it is clear that the Rajya Sabha has only a delaying power of 14 days over a money bill.

3. Administrative Powers (Control over the Executive) : According to the Indian Constitution, the Council of Ministers is responsible only to the Lok Sabha. Although the Rajya Sabha cannot remove the Council of Ministers from office, yet the members of the Rajya Sabha can make the Council of Ministers

responsible by seeking information from them regarding administration, criticising the policies adopted by them, asking questions, through debates and discussions, by moving the adjournment motion, etc. Thus, they keep the ministers alert. Ministers may be appointed from its members. The constitution permits a Minister, who is not the member of the Rajya Sabha, to take part in the proceedings. However, the minister has no right to vote.

4. Judicial Powers

(i) The Rajya Sabha can impeach the President on the charge of violating the Constitution.

(ii) It can pass a special address to remove a judge of the Supreme Court or High Courts.

(iii) The charges against the Vice-President can be levelled in the Rajya Sabha only.

(iv) Along with the Lok Sabha, the Rajya Sabha can pass resolutions for the removal of some high officers like the Attorney General of India, Comptroller and Auditor General, Chief Election Commissioner etc. When such a resolution is passed, the President can remove these officers from office.

5. Electoral Powers : The Rajya Sabha has the following electoral powers :

(i) The elected members of the Rajya Sabha take part in the election of the President.

(ii) The members of the Rajya Sabha take part in the election of the Vice-President.

(iii) They elect the Deputy Chairman of the Rajya Sabha from amongst its members.

6. Constitutional Powers : A bill to amend the Constitution can be introduced in any of the two houses of the Parliament. If it originates in the Rajya Sabha, it must be approved by the Lok Sabha and if introduced in the Lok Sabha then the Rajya Sabha must approve it. It means that no constitutional amendment can be made without the approval of the Rajya Sabha.

7. Miscellaneous Powers

1. (i) Approval to the ordinances issued by the President.

2. (ii) Ratification of the Proclamation of Emergency.

(iii) Amendment of the jurisdiction of the Supreme Court and High Courts.

(iv) Changes in the qualifications for the membership of the Lok Sabha and the Rajya Sabha.

8. Special Powers of the Rajya Sabha : (Role in federal setup) *Exclusive*

Some powers are exclusively exercised by the Rajya Sabha; such as :

(i) Under Article 249, it can declare a state subject of national importance and empower the Union Parliament to legislate on it by passing a resolution to this effect by 2/3rd majority.

(ii) The Rajya Sabha can establish All India Services by passing a resolution to this effect by 2/3rd majority.

(iii) The Rajya Sabha is a permanent House whose 1/3rd members retire every two years.

ANSWER THE FOLLOWING:

1. Regarding the powers and functions of the Speaker of the Lok Sabha, discuss:

- a) Regulatory functions.
- b) Disciplinary functions.
- c) Supervisory functions.

2. 'The Rajya Sabha is the Upper House of the Parliament'-
In this context, answer the following:

- a) The Presiding Officer.
- b) Working Pattern of the House.
- c) Special powers of the Rajya Sabha.