CERTIFICATE PROGRAMME IN INDIAN CONSTITUTION AND POLITY

Comparative Democracy

Course IV

SURYA KUMAR BHUYAN SCHOOL OF SOCIAL SCIENCES

KRISHNA KANTA HANDIQUI STATE OPEN UNIVERSITY

Subject Experts

Professor Dhruba PratimSharma, Gauhati University
Professor Jyotiraj Pathak, Kumar Bhaskar Varma Sanskrit and Ancient Studies University
Dr. Shantanu Chakravorty (rtd) , Cotton University

Course Coordinator : Dr. Jahnabi Devi, KKHSOU

SLM Preparation Team

UNITS	CONTRIBUTORS
1	Mr. Gaurav Sharma, Gauhati High Court
2 & 12	Barasha Das, J.B Law College, Guwahati
3, 4 & 10	Dr. Lohit Sardar, BRM Law College, Guwahati
5, 7 ,8 & 9	Dr. Jupitara Devi, Tezpur Law College, Sonitpur
6	Smita Barua , Tezpur Law College, Sonitpur
11	Dr. Kishore Dere, Indian Society for International Law, New Delhi
13 & 14	Ms. Jharna Morang , Tezpur law College, Sonitpur

Editorial Team

Content : Professor Jayanta Krishna sarmah G.U. (units 1, 2, 3, 4, 5)
Dr. Kishore Dere, Indian Society for International Law, New Delhi (units 11, 12, 13 14)
Mr Debajit Das, Gauhati High Court (units 6,7,8,9,10)

Language : Dr. Jahnabi Devi, KKHSOU

Structure, Format & Graphics: Dr. Jahnabi Devi, KKHSOU

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City Office : Resham Nagar, Khanapara, Guwahati-781022; Website: www.kkhsou.ac.in

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COURSE INTRODUCTION

This is the fourth course of the Certificate Prgram in Indian Constitution and Polity. The fourth course or paper of this Certificate Programme is titled "Comparative Democracy". The course is designed to provide a basic understanding of the parliamentary system of India and provides some basic knowledge about the structure and functioning of some very important political systems of the world, those are - India, Great Britan and the United States of America. As citizen of a democratic counrty we should have knowledge about the governance system of our country. Accorgingly this Course is designed to provide some basic knowledge abou our constitutional and governance system.

The first unit discusses the evolution of parliamentary democracy in India right from the colonial period to present time. The second unit deals with the origin of state and nature of Indian state. This unit focusses on various theories regarding the origin of states and examine the nature of the Indian state from various perspectives. The third unit deals with some important Acts enacted during the colonial period. Some of the Acts discussed in this unit are the Government of India Act, 1919, 1935 and the Indian Independence Act of 1947. All of these Acts had laid the foundation of parliamentary democracy in India. The fourth unit discusses the parliamenatry system of India in post independent period. This unit ficuses on the srtucture and functions and powers of the legislature both at the central and state levels. The fifth unit deals with the historical background of Assam legislature.

This Course also helps the learners to have a basic understanding rule and procedure of the Parliament and state legislature, particularly of the Assam Legislative Assembly. In India at the central level the Parliament is the main law-making organ of the government and at the state level this task is performed by the state legislature. The legislature has to keep a check on the functioning of the government. The fulfillment of this mandate is dependent upon the effective participation of Members of Parliament (MPs) in its proceedings. For effective participation in parliamentary proceedings, advance preparation and an understanding of these rules is important. Accordingly the sixth unit discusses the Rules of Procedure and Conduct of Business of the Indian Parliament and Assam Legislature. There are certain techniques through which the executive is held responsible to the legislatuer in India. The seventh unit focuses on some of this techniques, such as- Motion on Adjournment, Motion of No-Confidence, Call Attention, Zero Hour, Half An Hour Motion, Question Hour etc. This unit also discusses the roles of Members, Governor's Address and Messages to the state legislature. The eighth unit discusses the legislation process of the Parliament. It also highlights on the concept of parliamentary privileges. The Parliament of India has constituted a number of committees for different functions.

Committees of the Parliament undertake such functions which the House as a whole sitting in session may not be able to undertake and execute. There are two types of parliamentary committees- Standing Committees and Adhoc Committees. In the nineth unit we shall discuss the committee system of the Parliament. In the present time delegated legislation has become inevitable. In a modern welfare State, the bulk of the business of the legislature has increased. It does not have sufficient time to discuss and look into details of the business of the legislatures. As a result it has to recommend the executive or administrative authority to make subordinate legislation to supplement the legislation made by the legislature. Therefore delegated legislation has become a sublect of prime importance. The tenth unit dicusses delegated legislation in the Parliament and state legislature.

Political systems are shaped by the societies in which they function. Functioning of the political system of any country reflects the nature of that particular country. In the present time countries like India, Great Britain and the United States of America are considered as the most democratic countries where people can enjoy all kinds of rights and liberty. Therefore this course has also discussed the structure and functiong of the political systems of these three countries. The eleventh unit discusses the political systems of India, Great Britain and the United States of America and presents a comparative analysis of these three political systems. The government operates through its three basic organs which are the Executive, Legislature and the Judiciary. The legislature formulates the laws, executive implements the laws and the judiciary interprets the laws made by the legislature and implemented by the executive besides adjudicating the disputes. The twelveth unit of the course discusses the executive, legislature and judiciary of India, Great Britain and the United States of America. Political parties are indispensable to the working of democratic governments. They constitute the backbone of democracy. Accordingly the thirteenth unit focusses on the party system of India, Great Britain and the United States of America. Committees are inalienable part of a political system and it regulates different functions. Committees play a vital role in the works of the different governments. Committees of the legislature undertake such functions which the House as a whole sitting in session may not be able to undertake and execute. The committee system of India, Great Britain and US has been working smoothly from its formation and has been improving. Accordingly the fourteenth unit present a comparative analysis of the committee system of India, Great Britain and the United States of America.

While going through the units, you will find that unit is further divided into certain sections and sub-sections, wherever necessary, for your better understanding. Again, the units carry certain *activities* after a particular section where needed. These “ACTIVITIES” will provide you the opportunity to practically apply your own thoughts based on the knowledge gained from reading the text in a particular section. Besides, in order to give you additional information on certain relevant topics, you will find a category called “LET US KNOW” after the sections in each unit. Another category that has been included at the end of each section of a particular unit is “CHECK YOUR PROGRESS”. The purpose of this

category is to help you to asses for yourself as to how thoroughly you have understood a particular section. You may then match your answers with “ANSWERS TO CHECK YOUR PROGRESS” given at the end of each unit. The section “FURTHER READING” in each unit contains the names of a few books which you might want to consult if you are intereted in learning more elaborately about the concepts discussed in a particular unit. Furthermore, the category called “MODEL QUESTIONS” is intended to give you a hint of the type of questions you are likely to get in the examination.

UNIT 1: EVOLUTION OF PARLIAMENTARY DEMOCRACY

UNIT STRUCTURE

1.1 Learning Objectives

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1.3 Evolution of Parliamentary Democracy in India

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1.5 Parliamentary form of Government: England and India

1.6 Let Us Sum Up

1.7 Further Reading

1.8 Answers to Check Your Progress

1.9 Model Questions

1.1 LEARNING OBJECTIVES

After going through this unit you will be able to:

- describe the evolution of parliamentary form of government in India
- examine the constitutional provisions regarding parliamentary form of government in India
- present an analysis of parliamentary form of government in India and Great Britain.

1.2 INTRODUCTION

The Parliamentary form of Government is the correlative of democratic form of government and it can be considered as the miniature of the democratic set up of the country representing the diverse population of the country at the central, state and UT(Union Territory) level. The form of government in which the executive is selected from among the members of the legislature and is responsible to the legislature is called Parliamentary government. A Parliamentary government is also known as the cabinet form of government because the cabinet is the real executive in it. It is also called responsible government, since the cabinet always remains responsible to the legislature for its activities. India has adopted the Parliamentary form of Government from Great Britain. But unlike Great Britain, Parliament is not supreme in India. Rather it is the Constitution which is supreme in India. The Constitution of

India establishes the Parliamentary form of Government consisting of the President, Council of States (Rajya Sabha) and House of People (Lok Sabha). The essence of the Parliamentary form of the Government is that the President is the Constitutional head of the state. The real executive powers are vested in the Council of Ministers headed by the Prime Minister.

1.3 EVOLUTION OF PARLIAMENTARY DEMOCRACY IN INDIA

The Indian Parliamentary system as it exists today has got its shape and structure through various struggles forming a part of the Indian struggle for independence against 200 years of British Rule. The struggle has led to extensive political and legislative developments which gradually led towards the establishment of the present day parliamentary system of democracy in India. These developments have ultimately led to the enactment and adaptation of the Constitution of India. The Constitution declares India to be a parliamentary form of government and the composition, powers, functions and the procedure of the Parliament are well defined in the Constitution. The pre-constitutional developments with regard to the evolution of the Parliamentary form of democracy in India are very significant from academic point of view. Following can be regarded as the pre-constitutional stages towards the development and evolution of the present day parliamentary system of India.

- **The Regulating Act, 1773:** Until this Act the territory of India was divided into 3 presidencies, namely, Bombay, Madras and Bengal. This Act started the process of territorial integration and administrative Centralization in India. The Regulating Act, 1773 marked the beginning of legislative control by the British Government over the East India Company and improvement in overall functions of the government including, legislative, executive and judicial. It clearly declared the British Parliament had every right to pass laws and instructions in that regard.
- **The Charter Act, 1833:** This Act marked the beginning of demands for other representative bodies in the line of the British Parliamentary institution. It established one Legislative Council for all the British territories in India. In order to effectuate the day to day administration of the country the supreme authority in India was delegated to the Governor General's Council. The Governor General became the real ruler of the country under the ultimate supervision, control and direction of the British Government. The Act however attempted to demarcate between the executive and legislative functions of the

Governor-General's Council which led to the addition of a 'legislative member' and Lord Macaulay was appointed to hold that position.

- **The Charter Act, 1853:** This Act led to the demarcation between the legislative and executive functions of the government paving the way for separate legislative body which would be centralized in nature. This Act made important changes in the Governor General's Council. The Council was enlarged with six additional members to be known as the Legislative Councilors and the 'legislative member' was given the right to sit and vote at executive meetings. These were done with the intention to strengthen the legislature as a separate law making body.
- **The Indian Council Act, 1861:** The Act reconstituted the Governor General's Council. It was to constitute five ordinary members and the Governor General was authorized to nominate to the Council additional members which further strengthened the machinery of legislature and the law making no more remained exclusive to the executive.
- **The Indian Council Act, 1892:** Under this Act the Legislative Council of Governor General was further enlarged with increased number of additional members, not less than ten and not more than sixteen. The members of the legislative council were given added privileges to ask questions to the government members, which marked a significant step towards progress of the institution of Parliamentary institution.
- **The Indian Council Act, 1909:** This Act was enacted in order to give effect to the Morley Minto Reform Proposal of 1908 to have greater and more effective representation in the affairs of the country. The Act made changes in the functions of Indian Legislature i.e. the then Legislative Council. But the Act suffers from a major defect that it provided representation and reservation of seats for certain special community namely Muslim, Chamber of commerce, Zaminder, etc. which gave greater impetus to the British policy of divide and rule.
- **The Government of India Act, 1919:** The Government of India Act, 1919 brought very significant change in the history of Indian Legislature, it replaced the Indian Legislative Council at the centre by a bicameral system of legislature consisting of a Council of State (Upper House) and a Legislative Assembly (lower house). Each of the house consisted of members elected directly either on the basis of qualification of property and tax or education. However, the said Dyarchy system of legislature under the British Government was not sovereign and was powerless being subject to the ultimate authority of the British Parliament. The Governor General's Council was responsible only

to the Secretary of State for India and through him to the British Parliament. The Act was criticised by many as it failed to meet the popular demand of a representative and responsible government.

- **The Simon Commission, 1927:** The Simon Commission was appointed in November, 1927 with a view to look into the functions of the government, the growth of education and the development of representative institutions in British India and for other connected matters and reporting the same in order to establish a responsible government.
- **The Government of India Act, 1935:** The Act proposed for establishing a federal structure of Government in the country with the Federation of India consisting of the individual provinces that were to join the Federation voluntarily by signing the Instrument of Accession, with provincial autonomy at the provinces and subjects being divided between the provinces and the federation. The Governor General was to have a Council of Ministers and the Governor General was to discharge his functions on the aid and advice of these Ministers. The Indian Council of the Secretary of State was abolished. The Act further introduced the Federal Courts in India but the Constitution of 1935 was rigid as only the British Government had the power to amend the Constitution.
- **The Indian Independence Act, 1947:** The Indian Independence Act, 1947 modified the Government of India Act, 1935 and was adopted by the Governor General as the provisional Constitution of the Dominion until the Constitution of India was enacted for the country by the Constituent Assembly. The legislative power of the Governor General was removed and the same was vested with the Constituent Assembly, which marked the beginning of the functioning of the parliamentary system of democracy of India with sovereign powers with regard to legislative functions. However, a distinction was drawn between the Constitution making power and the ordinary legislative powers, with regard to which the Assembly was to function as a sovereign independent body. Governor General became a mere constitutional head of the country with sole legislative power to promulgate only in case of emergency.

CHECK YOUR PROGRESS

Q. 1: Why did India adopt Parliamentary form of government?

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Q. 2: Britain follows Parliamentary supremacy unlike India where …… is supreme. (Fill in the blank)

Q. 3: Who was appointed as the first legislative member under the Charter Act, 1833?

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Q. 4: Write a short note on the Government of India Act, 1935.

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1.4 EVOLUTION OF PARLIAMENTARY DEMOCRACY AND THE CONSTITUTION OF INDIA

The evolution of parliamentary democracy in India is primarily related to the evolution of the Constitution, which is the embodiment of the entire system of governance of the country and the authority of all the constitutional bodies and institutions framed under the Constitution of India including the Parliament. The task of framing the Constitution by a sovereign democratic country is performed by a body of elected representatives known as the Constituent Assembly which marks the genesis of the parliamentary system in India.

- **The Constituent Assembly**

The right to have a Constitution to enumerate all their rights and duties is an inherent right of nationals of every country which has very well been jurisprudentially defined by Rousseau through his famous doctrine of social contract theory. The Government of India Act, 1919 and the grant of dyarchy in the province could not subserve the demand of the Indians for a Constitution of their own. However, the first reference to the Constituent Assembly was made by Mahatma Gandhi while explaining the meaning of Swaraj in 1922 when he indicated that the Constitution of India would be drafted by Indians.

The British Government accepted the demand of Indians for Complete Independence (Purna Swaraj) in 1940 and declared that it is the responsibility of the Indians to frame their own Constitution in the light of the social, economic and political structure of Indian life. The Cripps Proposal of March 1942, and the members of the Cabinet Mission along with the then Viceroy

and Governor General of India, Lord Wavell gave a strong impetus for establishment of a machinery for framing the Constitution of India.

On 9 December 1946, the Constituent Assembly (representatives of the people) met in the Constitution Hall, New Delhi for the first time to deliberate upon the framing of a Constitution for the country. The Constituent Assembly became a fully sovereign body. The Objective Resolution was moved in the Constituent Assembly by Nehru on 13 December, 1946. As already discussed above the Constituent Assembly performed dual function, namely drafting the Constitution of India and the ordinary legislative function. Dr. Rajendra Prasad chaired as president of the Constituent Assembly when it was performing constituent functions and Dr. G.V. Mavlankar used to chair the assembly when it was performing ordinary legislative functions. The Mavalankar Committee in its report on 29 August 1947, recommended for a provision for the election of a Speaker to preside over the Assembly while functioning its legislative function.

- **Framing of the Constitution by the Constituent Assembly**

On 29 August 1947, a Drafting Committee of seven members namely, Jawahar Lal Nehru, Sardar Vallabh Bhai Patel, Rajendra Prasad, Maulana Abul Kalam Azad, Acharya J.B. Kriplani, T.T. Krishnamachari and Dr. B.R. Ambedkar was set up to draft the Constitution of India. Dr. Ambedkar was elected as the Chairman of the Committee. Dr. Sachchidan and Sinha was elected as temporary President and later Dr. Rajendra Prasad became the permanent President of the Constituent Assembly. Shri B.N. Rau was appointed as legal Advisor to the Constituent Assembly. Sardar Vallabh Bhai Patel was the Chairman of the most important Committees namely Committee on Fundamental Right, Committee on minority states, etc and thus made significant contribution.

The Drafting Committee examined the Draft Constitution and submitted its report to the President of the Assembly on 3, November, 1949. Ultimately the Constitution of India was adopted by the people of the country on 26 November, 1949 when it was signed by Rajendra Prasad as the President of the Constituent Assembly. The final session of the Constituent Assembly was held on 24th January, 1950 wherein Rajendra Prasad was unanimously elected as the first President of the Republic of India. The Constitution of India came into force on 26th January, 1950. The Constituent Assembly remained as the provisional Parliament of the country and functioned as such until the full-fledged institutional framework of parliament was instituted after the first General Election based on the adult franchise.

- **Institutionalisation of the Parliamentary form of Government**

The Parliament as is seen today received its authority and is constituted under the Constitution of India which declared India as a republican state with parliamentary form of government with constitutional supremacy. The first general elections under the Constitution was held in the year 1951-52. The Parliament with the Rajya Sabha and the Lok Sabha thus came into being with its elected members in May, 1952. The Rajya Sabha since then has been continuing without any dissolution. The Lok Sabha continues for a period five years from the commencement of the first session. However, it can be dissolved even earlier by the President or be extended in case of emergency.

CHECK YOUR PROGRESS

Q. 5: When was the Drafting Committee set up?

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Q. 6: The Constitution of India came into force on …… (fill in the blank)

Q. 7: Mention two main functions of the Constituent Assembly.

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1.5 PARLIAMENTARY FORM OF GOVERNMENT: ENGLAND AND INDIA

India has adopted the Parliamentary form of government from Britain, the reason being that Indians have been accustomed to the Parliamentary form of government since the British rule. However, in the India, the Constitution is regarded as the Supreme, unlike in England where it is the Parliamentary supremacy which prevails. The Parliament in England enjoys absolute sovereignty and supremacy. It means that:

- Parliament can make, amend or repeal any statute
- Parliament possesses unlimited constituent power

- No judicial review of the law passed by the parliament, whether Constitutional or statutory, by the courts.

Thus no law made by the Parliament can be set aside or held to be unconstitutional by any courts or any other judicial form in England. Also there is no question of the law made by the Parliament to become inconsistent or repugnant to the Constitution as there is no written Constitution in England. But England has a responsible government with an elected House of Common which reflects the contemporary public opinion, social morality or consciousness, which receives consensus by majority of the population. However, there is no established principle of morality or consciousness to guide the Parliament in the process of legislation. Moreover the concept of rule of law as promulgated by A. V. Dicey, the British Jurist seems to be contrary to the Parliamentary sovereignty or supremacy as existing in England.

There are some differences between the parliamentary system of India and Great Britain. The powers of the British Parliament is undefined and unfettered but is not so in case of India. India has a written Constitution and the powers and functions of the Parliament are defined in the Constitution and are subject to restraint. By Article 245(1) of the Constitution of India, the legislative power of Parliament has been specifically made 'subject to the provisions of the Constitution'. A law made by the Parliament must therefore conform in all respects to the Constitution. Parliament is no doubt the source of all central legislations but any repugnancy or inconsistency of any legislation or any part thereof shall be checked by the Courts in terms of their constitutional validity, in order to uphold the supremacy of the Constitution. Moreover the Parliamentary system of government as existing in India is based on the principle of collective responsibility. The Ministers are responsible to the Lok Sabha for their actions and policies. They assume responsibility also for the officials working under them in the respective Ministries. Thus the legislature exercises control over the executive, whether directly or indirectly. Thus it can be inferred that though India has not adopted the Parliamentary form of government from England in total, it has been incorporated in the Indian democratic set up in order to meet the social, political, cultural and demographic needs of the country.

CHECK YOUR PROGRESS

Q. 8: The Parliament in England enjoys absolute sovereignty and supremacy. What does it mean?

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Q. 9: How is Indian model of Parliamentary form of Government different from that of England? Explain.

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……..

1.6 LET US SUM UP

- The Parliamentary form of Government is the correlative of democratic form of government and it can be considered as the miniature of the democratic setup of the country representing the diverse population of the country at the central, state and UT(union territory) level. India has adopted the Parliamentary form of Government from Britain.
- Unlike Great Britain, Parliament is not supreme in India. In India the Constitution is Supreme.
- India's struggle for independence against the British rule has led to extensive political and legislative and developments through separation of the legislature from the executive towards the establishment of the present day parliamentary system of democracy.
- The Regulating Act, 1773 marked the beginning of legislative control by the British Government over the East India Company and improvement in overall functions of the government including, legislative, executive and judicial.
- The Charter Act, 1833 made the Governor General the real ruler of the country under the ultimate supervision, control and direction of the British Government.
- The Indian Council Act, 1909 provided representation and reservation of seats for certain special community namely Muslim, Chamber of commerce, Zaminder, etc. in the Indian Legislature i.e. the then Legislative Council which gave greater impetus to the British policy of divide and rule.

- The Government of India Act, 1919 established a bicameral system of legislature consisting of a Council of State(Upper House) and a Legislative Assembly(lower house)
- The Government of India Act, 1935 proposed for establishing a federal structure of Government in the country with the Federation of India consisting of the individual provinces that were to join the Federation voluntarily by signing the Instrument of Accession, with provincial autonomy at the provinces and subjects being divided between the provinces and the federation.
- On 9 December 1946, the Constituent Assembly (representatives of the people) met in the Constitution Hall, New Delhi for the first time to deliberate upon the framing of a Constitution for the country.
- The Constituent Assembly performed dual function, framing of the Constitution and the ordinary legislative function.
- The powers of the British Parliament is undefined and unfettered but is not so in case of India. India has a written Constitution and the powers and functions of the Parliament are defined in the Constitution and are subject to restraint.

1.7 FURTHER READING

1) Subhash C. Kashyap. (1991). *History of Parliamentary Democracy*. New Delhi: Shipra Publications.

2) V. BhaskarRao, B. Venketeshwarlu (1987). *Parliamentary Democracy in India.* New Delhi: Mittal Publications.

1.8 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: India adopted Parliamentary form of government because the system was already there in India and Indians were well acquainted with it.

Ans to Q No 2: Constitution

Ans to Q No 3: Lord Macaulay

Ans to Q No 4: The Government of India Act, 1935: The Act proposed for establishing a federal structure of Government in the country with the Federation of India consisting of the individual provinces that were to join the Federation voluntarily by signing the Instrument of Accession, with provincial autonomy at the provinces and subjects being divided between the provinces

and the federation. The Governor General was to have a Council of Ministers and the Governor General was to discharge his functions on the aid and advice of these Ministers. The Indian Council of the Secretary of State was abolished. The Act further introduced the Federal Courts in India but the Constitution of 1935 was rigid as only the British Government had the power to amend the Constitution.

Ans to Q No 5: On 29 August 1947

Ans to Q No 6: 26th January, 1950

Ans to Q No 7: Drafting the Constitution of India and the ordinary legislative function

Ans to Q No 8: The Parliament in England enjoys absolute sovereignty and supremacy. It means that:

(i) Parliament can make, amend or repeal any statute.

(ii) Parliament possesses unlimited constituent power.

(iii) No judicial review of the law passed by the parliament, whether Constitutional or statutory, by the courts.

Ans to Q No 9: The powers of the British Parliament is undefined and unfettered but is not so in case of India. India has a written Constitution and the powers and functions of the Parliament are defined in the Constitution and are subject to restraint. Any repugnancy or inconsistency of any legislation or any part thereof shall be checked by the Courts in terms of their constitutional validity, in order to uphold the supremacy of the Constitution.

1.9 MODEL QUESTIONS

A) Very Short Questions

Q 1: Why did India adopted Parliamentary form of government?

Q 2: Who was appointed as the first legislative member under the Charter Act, 1833?

Q 3: When was the Drafting Committee set up?

Q 5: Which provision of the Constitution of India subjects the Parliament to the Constitution of India?

B) Short Questions (Answer each question in about 150 words)

Q 1: Write a short note on the Constituent Assembly

Q 2: Write briefly about parliamentary sovereignty in Great Britain.

C) Long Questions (Answer each question in about 300-500 words)

Q1: How is Indian model of Parliamentary form of Government different from that of England? Explain.

Q2: Describe the pre-constitutional stages towards the development of parliamentary form of democracy in India.

*** ***** ***

UNIT 2: NATURE, ORIGIN AND DEVELOPMENT OF STATES IN INDIA

UNIT STRUCTURE

2.1 Learning Objectives

2.2 Introduction

2.3 Theories Regarding Origin of State

2.4 Development of States in India

2.5 Nature of State in India

2.6 Let Us Sum Up

2.7 Further Reading

2.8 Answers to Check Your Progress

2.9 Model Questions

2.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- define the theories of the origin of states
- explain the development and nature of the states in India
- explain the modern states of India.

2.2 INTRODUCTION

The State is the most universal and powerful of all social institutions. State must be distinguished from other associations of human beings linked by some real or supposed ethnological kinship. According to Garner the essential elements or characteristics of a state are Population, Territory, Government and Sovereignty. In this unit we will discuss origin of state and nature state in India.

2.3 THEORIES REGARDING ORIGIN OF STATE

Origin of the State seems to have been surrounded with mystery. It is difficult to say whether the State had a singular origin or it evolved as a continuous process. The history of human civilization reveals that man as social being tended to live in larger groups under a common authority for the purpose of regulating their interests inter-se as also for the adjustment of relations between it and similar other groups. The war also led to the growth of a social organisational form of larger group called the state for the sake of protection and self-preservation of its people[2]. Different political thinkers have propounded various theories regarding the origin and development of the state. There are five main theories which can explain the origin and development of the state. They are –

- **Divine Origin Theory**

  According to this theory, the state is the creation of the God. It is the oldest theory of the origin of state. This theory is based on faith in religion. This theory was developed in Europe because of the influence of Christianity which regarded king as the representative of God having divine right to rule. The state is created and governed by God. God delegates his power or authority to the king. The king is the mouth piece of God, who has no responsibility to earthly people. To disobey the king is like to disobey God.

- **Natural Theory**

  Aristotle is the ardent supporter of this theory and therefore, it is also known as the Aristotle's theory of origin of state. He argued that the interests of the individual and the state were identical and man could not live outside the state. The purpose of the state, according to this theory was to promote general welfare of its people. It believes that state is not an artificial creation but its origin is entirely due to the unconscious result of man's social nature and for survival. However, this theory fails to explain the various influential phenomena which actually led to the formation of the state.

- **Theory of Force**

  The chief exponents of this theory are Oppenheimer, Jenks, and Bernhard. It is a speculative theory regarding the origin of the state. The main objective of this theory is to justify the power and authority of the state by the proposition that 'might is right'. According to this theory, the state originated as a result of the conquest of the weak by the strong. Force was the determining factor in the establishment of the authority of a tribal chieftain or king. The main purpose of the force theory was to

serve their own end. In the middle ages the church fathers supported this theory to prove the superiority of the church over the state. The individualists also advocated this theory to prove the survival of the fittest.

- **Patriarchal Theory**

The prominent exponent of this theory is Henry Maine. The Patriarchal theory advocates that the state is the enlargement of the oldest and smallest social unit, i.e. family. In the primitive period man, wife or wives and children constituted the family. This theory firmly holds that the family during that time was patriarchal. Father was the head of the family. He possessed supreme and complete authority and control over other members of the family like the way a king had control over his subjects. Gradual expansion of the family took place when children married themselves in different families. However the authority of the father of the family was acknowledged throughout his life time by all the descendants. At that time patriarchal family could be considered as a government in miniature. In such a family the father looked after most of the affairs of the family like that of the government which looks after the affairs of the state. With the passage of time family gradually expanded and it assumed the form of a clan; the clan in due course of time led to the formation of a tribe. To protect their interest and face outside aggression many tribes united themselves and they felt the need of a common authority whose orders were to be obeyed by all the members. In this way the state comes into existence. With the formation of the state what was originally the father's authority later expanded into the king's supreme power in the state. So we can say that emergence of the patriarchal family marked the beginning of the state.

- **Social Contract Theory**

The social contract theory is regarded as an important theory and as an explanation of the origin and formation of the state. The theory pre-supposes that the State is a creation of agreement by the people. The people pay loyalty to the authority of the state because they have agreed to do so. This theory was propounded by Hobbes, Locke and Rousseau.

British political philosopher, Thomas Hobbes, in his book, "Leviathan" (1651) discussed the origin of the state. According to him prior to the emergence of the state people lived in the state of nature. In the state of nature human being by nature was poor, nasty, brutal and selfish. Principles of law, justice and tolerance were absent and fraud and force were the basic principles in the state of nature. However with the passage of time, to get rid of such a type of miserable life in the state of nature people themselves entered into a contract by surrendering their natural rights, except the right to self preservation, to a person or group of persons who remained as

sovereign. The sovereign was not a party to the contract and was not subject to any conditions and possessed unlimited power. The sovereign was responsible for the protection of the lives and rights of the people. And since the people had voluntarily entered into the contract, they had no right to break the terms of the contract and had no right to revolt against the sovereign. Thus, Hobbes was of the view that a contract among people led to the establishment of a state and sovereign authority. British political philosopher, John Locke, another exponent of the social contract theory. In his book, "Two Treatises on Civil Government" (1690) Locke explained about the emergence of the state. Locke was also of the view that people lived in the state of nature prior to the emergence of the state. According to Locke, people lived in peace without any fear of warfare in the state of nature. They enjoyed equal rights and liberties. There was the presence of natural laws and mutual cooperation and understanding among the people. But during that time there was no law court or judge to interpret the laws. As a result people interpreted laws in their own way which ultimately fulfilled their self interest. To get rid of this problematic situation people entered into two contracts- one is the civil contract and the other is the governmental contract. The state came into existence as a result of these two contracts. During the creation of these contracts at the first step people formed the civil society by surrendering some of their natural rights among themselves. After that they entered into another contract with a King or a sovereign authority. People put condition on the sovereign that he would have to protect their lives and property, otherwise they would have the right to remove him from power. Thus according to Locke the sovereign authority was not absolute and he was responsible for the protection of people.

French political philosopher, Jean Jacques Rousseau, another prominent advocate of the social contract theory, through his book "The Social Contract" discussed about the origin of the state. Rousseau also held that prior to the formation of the state people lived in the state of nature peacefully with unlimited liberties. Concept of personal property or rights and wrong were absent in such state of nature. However with the passage of time, population in the state of nature increased and the idea of private property also came into existence. This led to disputes and conflicts in the state of nature. To get rid of such miserable condition of state of nature people entered into contract among them. They surrendered all their natural rights to themselves and not to other higher person or group of persons as sovereign authority. So the people themselves remained sovereign. Thus, according to Rousseau, sovereign authority remained with the community or the common people.

- **Historical or Evolutionary Theory**

The exponents of this theory believes that the state is the result of evolution. It did not emerge all of a sudden but to us in its present form came only after passing through many stages. The main factors which have contributed in this direction are -- social instinct, kinship, religion, force, political consciences and economic factors.

1) Social instinct: Social Instinct of man is an important factor that contributed in the evolution of state. Aristotle said, “Man is by nature a social animal”. In this context we can say that this social instinct of man encouraged people to live together. This instinct led to the formation of society and gradually to the formation of state.
2) Kinship: Kinship or the blood relation was the most important factor which forged unity and helped in the formation of state in the early ages. The earliest society and human organisation was based on kinship. In fact kinship was the only bond which united individual and society. Every member who had no kinship with the tribe was considered its enemy.
3) Religion: Religion has also played an important role in the evolution of state. Religion helped in strengthening the ties of oneness in families, clans, tribes and kingdom. During primitive and middle ages religion brought people to a common platform and inculcated feeling of unity among them. From the very primitive period, people due to their ignorance followed religious norms superstitiously. By taking advantage about the ignorance of the people the magician kings appeared in the subsequent ages and established their authority by claiming that they can propitiate evil spirits. With the passage of time, the magician kings were replaced by the priest kings who enjoyed power and authority till the end of the middle age, for instance Pope dominated the Christian world. So we can say that religion from the very primitive age united people which eventually led to the formation of state.
4) Force: Force is also an important element which contributed in the evolution of state. During primitive period force or might was the determining factor in every aspect. Infact during that time the physically strongest only survived. A stronger group of people could overthrow the weaker group and establish its domination. Historical evidence also shows that number of warriors established their domination by occupying some portion of territory with the help of their force. The factor force has also led to the establishment of many modern states. From the very ancient period war has been a major factor that has contributed in the establishment of states.
5) Political Consciousness: Rise of political consciousness also contributed in the evolution of state. With the passage of time people wanted to live a better and settled social, moral and intellectual life. Moreover, the importance of maintaining peace and order was also realized by the people and along with this, political consciousness

also appeared among people. People came to realize that they could make progress only through some sort of political organizations. This political consciousness brought a kind of cooperation among people to fulfill their needs and aspirations. This political consciousness of people gradually led to the formation of state in due course of time.

6) Economic Factor: From the very dawn of human civilization men have number of economic needs and aspirations and for fulfilling these needs and aspirations men have to depend on each other and as a result of this dependency economic relation grew among the people. In such economic relationship disputes arose among people and there came the need of state authority to regulate, by enacting laws, economic relations among people.

- **Marxian Theory**

The Marxian theory regarding the origin of the state holds that the state is not a natural institution; on the other hand it is an instrument of exploitation in the hands of the rich. The Marxian theory regarding the origin of state finds its fullest exposition in Engels book '*The Origin of The Family, Private Property and the State* 'published in 1884.

The basic features of the Marxian theory of state can be summed up as followed:

1. According to the Marxists, the state is not a natural institution. It was set up by the propertied classes to protect their own interest.
2. The state is a class-structure and an instrument of exploitation of one class by another class. The present state is a capitalist state. It is used as a means of exploitation. It exploits and oppresses the proletariat.
3. The state is based on force. The dominant class uses all types of instruments to exploit and suppress the dependent classes.
4. The state is a temporary institution and shall wither away after the proletariat has completely demolished the capitalist structure and a classless society makes its appearance.

CHECK YOUR PROGRESS

Q.1: Who is the author of the book "Two Treatises on Civil Government"?

.....

Q.2: Mention name of one advocate of the Patriarchal theory.

.....

Q.3: Write briefly about social instinct as an important factor that has contributed in the evolution of the state.

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2.4 DEVELOPMENT OF STATES IN INDIA

While discussing the development of Indian State, we have to refer to the ancient period to modern time which reflects how Indian state has changed with the passage of time to adapt itself to changing social, economic, cultural and political context. During the ancient period, idea of state and kingship were associated with the concept of Dharma. During that period the concept of state was developed to maintain order in the society and ensure protection and welfare of the subject. The King was the head of the state who was assisted by the ministers as explained in the Arthashastra. During mediaeval period, Indian state became more centralised with the advent of the Mughal Empire. After that with the establishment of colonial rule in India, development of Indian state took new dimensions. Political development in India took more concrete form with the colonial rule in India. Services of modern states like bureaucracy, police, judiciary were introduced in modern form. However, during this period India was not a sovereign state. After a prolonged freedom struggle, India attained independence in 1947 and the Constitution of India established India as sovereign, socialist, secular and democratic republic. The framers of the Constitution of India attempted to establish a modern Indian state whose primary goals would be development of the country and welfare of the citizens. However, the nature of the Indian state has kept changing to adapt with the changing context which could be particularly observed during 1990s. Liberalised and globalised economy have changed the role of the Indian state as a regulating and facilitating agency. In the contemporary time the Indian state has put much importance on the aspects of digital and good governance and inclusive and sustainable development. So the development of the Indian state is a continuous process and it keeps on changing with the changing time and requirement of time and people.

2.5 NATURE OF STATE IN INDIA

The Constitution of India establishes a democratic state with a modern institutional framework on the one hand while the critics on the other hand say that the Indian state is centralized in nature, bureaucratic in form and capitalist in context.

The main characteristics of the Indian states are following which highlights the nature of the state itself-

1. **Liberal-democratic state:** The model of a liberal– democratic state signifies a political system in which democracy or 'the rule of the people' prevails to make the regime 'legitimate' in the real sense of the term. The machinery of government is run by the chosen representatives of the people who are accountable to them for their policies and actions. Freedom of speech, discussion and expression of views, universal adult franchise and free and fair periodic elections etc, all entail a continuous test of the legitimacy of this government. The liberal democratic state is based on the assumptions that the authority of the government is not absolute but limited by the laws, the competition for power is open, periodic elections based on universal adult franchise etc.

   All this brings is to the point that India is one which stands for the preservation of the entire paraphernalia of a liberal democratic state. The constitution facilitates for adult franchise, periodic elections, representative and responsible government, independent functionary, rule of law and separation of powers. The limited government and competitive party system are cardinal features of the Indian model of state.

2. **Centralized State:** While Gandhi talked about decentralized state in the Indian context but the fact is that centralized state has emerged in the process of development. All the powers of economic development and social change are vested in the state; the state has been given vast powers in the fields of agricultural and industrial development, the state in India is running the public sectors, provides safety of citizens and enforces law and order. It also looks after trade, commerce and industry. It also sets up law courts and ministers justice. However, the enactment of the 73rd and 74th Amendment Acts has led to decentralisation of power in India.

3. **Bureaucratic State:** Bureaucracy is an essential instrument of a modern state, yet in India the nature of the state itself is bureaucratic. It is important to remember that the development process in India started within the framework of a well-developed administrative structure. This has had an enduring legacy for subsequent development. All the more important programs – industrialization, community development, education, agricultural production, even local self-government have been approached in a framework that is essentially administrative and bureaucratic. The structure of an administration is an important determinant of its capabilities at the lower runs of the bureaucracy; formalism has served to stifle bureaucratic initiative and imagination.

4. **Welfare State:** The concept of welfare state represents a happy blending of the two verities of states liberal democratic on the one hand and communist totalitarian on the other. It borrows the element of freedom from a liberal democratic state and mixes it with the emphasis on public welfare of a totalitarian state and in this way, presents the model of a new state and in this way, presents of model of a new state that embraces the virtuous aspects of both democracy and socialism.

The framers of the Indian Constitution incorporated many provisions designed to make India a welfare state. The basic aim of a welfare state was clearly foreshadowed in the Preamble to the Constitution, and in virtually all of Part IV of the Constitution, containing the Directive Principles of State Policy. Article 36 of the Indian Constitution states; "the state shall strive to promote the welfare of the people by securing and protecting as effectively as may be a social order in which justice social, economic and political, shall inform all the institutions of national life".

5. **A Bourgeois State:** The Constitution by guarantying property rights acquired the decisive character of a bourgeois constitution. And the state elaborated in harmony with the basic principle of the Constitution logically became a bourgeois state.

6. **Interventionist State**: The Indian State is highly interventionist and whether are approves of this or deplores it, it is an important organizational feature in contemporary India that is not likely to change soon. An interventionist state at low levels of economic development, moreover, is a feature that Indian shares with many third world countries. The state is not only an agent of political order in India; it is also responsible for promoting socio-economic development. Those dual responsibilities have led to a highly interventionist Indian state.

7. **Secular State:** By adding the word 'Secular' to be existing description of the country as a 'sovereign democratic republic' in the Preamble the commitment to the goal of secularism has been spelled out in clear terms. A secular state treats its citizens equally. Accordingly India does not have any state religion. No discrimination can be made on the basis of religion, faith, caste, colour and sex. Every citizen is equal before law. It guarantees to religious minorities the right to maintain their own language and to establish educational institutions of their choice.

8. **A Federal State with Unitary nature**: The Constitution of India establishes a federal polity which has been created by dividing the country into states and allocating them function as specified in the Constitution. Like all other federations, India has a written Constitution. In India there is two sets of government, government at the Centre and government at the states. Some other federal features are- supremacy of the Constitution, presence of bi-cameral legislature, division of power between the Central

government and the state governments, presence of independent and impartial government, rigid amendment procedure of the Constitution etc.

However India has some unitary features too. Central government is more powerful that the state governments. For instance, after distribution the legislative power in their lists; residual subjects are left with the union. Even in matters in the concurrent lists, the union government has the final say. Unlike other federations Parliament in India has a right to change a boundary of the states. The heads of the state, i.e. the governors are appointed by the President. The centre can at any time declare emergency in the state and with that declaration can take over the administration of the state in its own control. The presence of these features has made India a federal state with unitary nature.

9. **Elitist State**: In a country like India we find that there was as halo of the national struggle in the beginning. People at various state of society took part in the national struggle. But leadership by and large, could come from those who were better off educationally, economically and socially strong. The poorest of men could not and did not in the nature of things come to occupy leadership positions. The first Parliament was very elitist consisting of very rich people or educated people with a background of foreign education at oxford and Cambridge, barristers and so on. May be, people felt these MPs were elitists, they represented only some interests, they were educated in prestigious and expensive institutions abroad, their life style was western.

CHECK YOUR PROGRESS

Q.4: Mention any two federal features of the Indian state.

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Q.5: Write briefly about India as a secular state.

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2.6 LET US SUM UP

- The State is the most universal and powerful of all social institutions. State must be distinguished from other association of human beings linked by some real or supposed ethnological kinship.
- There are different theories regarding the origin of the state. Some of these theories are- the divine origin theory, the natural theory, the force theory, the patriarchal theory, the social contract theory, the historical or evolutionary theory and the Marxian theory.
- The constitution of India establishes a democratic state with a modern institutional framework on the one hand while the critics on the other hand say that the Indian state is centralized in nature, bureaucratic in form and capitalist in context.

2.7 FURTHER READING

1. Kothari. Rajni. (2006). *Politics In India*. New Delhi: Orient Black Swan Publication.
2. Srivastava. L.N & Mukhi H.R. (2000). *Political Science: Theory*. SBD publishers Distributers.

2.8 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: John Locke

Ans to Q No 2: Henry Maine

Ans to Q No 3: Social Instinct of man is an important factor that contributed in the evolution of state. Aristotle said, “Man is by nature a social animal”. In this context we can say that this social instinct of man encouraged people to live together. This instinct led to the formation of society and gradually to the formation of state.

Ans to Q No 4: (i) Supremacy of the Constitution.
(ii) Division of power between the Central government and the state governments.

Ans to Q No 5: By adding the word ‘Secular’ to be existing description of the country as a ‘sovereign democratic republic’ in the Preamble the commitment to the goal of secularism has been spelled out in clear terms. A secular state treats its citizens equally.

Accordingly India does not have any state religion. No discrimination can be made on the basis of religion, faith, caste, colour and sex. Every citizen is equal before law. It guarantees to religious minorities the right to maintain their own language and to establish educational institutions of their choice.

2.9 MODELQUESTIONS

A) Very Short Questions

Q 1: Who is the author of the book “Leviathan”?

Q 2: Mention any two basic assumption of liberal democratic state.

Q 3: Mention one unitary feature of the Indian state.

B) Short Questions (Answer each question in about 150 words)

Q 1: Write a short note on the welfare nature of the Indian state.

Q 2: Write briefly Marxian theory regarding the origin of the state.

Q 3: Explain the Patriarchal theory regarding the origin of the state.

Q 4: Explain the development of Indian state.

C) Long Questions (Answer each question in about 300-500 words)

Q 1: Discuss the nature of the Indian state.

Q 2: Discuss the historical theory regarding the origin of the state.

Q 3: Discuss the social contract theory regarding the origin of the state.

UNIT 3: AN OVERVIEW OF IMPORTANT ACTS: A BRIEF SUMMARY OF THE GOVERNMENT OF INDIA ACT 1919, GOVERNMENT OF INDIA ACT, 1935 AND THE INDIAN INDEPENDENCE ACT 1947

UNIT STRUCTURE

3.1 Learning Objectives

3.2 Introduction

3.3 Government of India Act, 1919

3.4 Government of India Act, 1935

3.5 Indian Independence Act, 1947

3.5.1 Landmark events which necessitate the passing of Indian Independence Act, 1947

3.5.2 Salient Features of the Indian Independence Act, 1947

3.6 Let Us Sum Up

3.7 Further Reading

3.8 Answers to Check Your Progress

3.9 Model Questions

3.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- discuss the important provisions of the Government of India Act, 1919
- describe the merits and demerits of the Government of India Act ,1919
- describe the Salient Features of the Government of India Act, 1935
- discuss landmark events which necessitated the passing of the Indian Independence Act 1947
- explain the salient features of the Indian Independence Act , 1947.

3.2 INTRODUCTION

This unit introduces you to the concept of the Government of India Act 1919, Government of India Act 1935 and the Indian Independence Act, 1947. The British came to India in 1600 as traders in the form of the East India Company. The company secured for it a Charter from Queen Elizabeth in December, 1600, which settled its constitutions, powers and privileges. The Company's rule lasted till the year 1858, when, after the Indian rebellion of 1857, it was abolished. Under the Government of India Act, 1858, the administration of the government of India was directly assumed by the Crown acting through a Secretary of State. After the Government of India Act, 1958, the Government of India Act, 1919 was a great landmark in the constitutional history of India. It marks the beginning of a responsible Government in the country. It also brought about many remarkable changes in the administrative set up of the Indian Government. The provincial autonomy, the system of diarchy, the bicameral system of legislature at Centre, the enlargement of Provincial Legislatures, the consolidation of separate electorates, the special powers of the Governors and Governor-General, the divisions of subjects under two lists, and the creation of a Chamber of Principles were some of the notable features related to the Provincial as well as the Central Government in India.

The Government of India Act, 1935, laid down a federal form of Government for India. Prior to this Act, the constitutional structure of the Government was unitary wherein the Provincial Governments, derived their powers by devolution from the Central Government and discharged their functions subject to the authority of their respective Legislatures under the superintendence, direction and control of the Governor-General-in-Council and ultimately of the Secretary of State for India. The basic features of the Act were- All India Federation, Dyarchy in the Centre, Provincial autonomy, and Safeguards provided in the Constitution to the responsible Government in India.

After the Government of India Act, 1935, arrangements having been made for the transfer of power in accordance with the scheme laid down in the Mounbatten's Plan. A draft of the Indian Independence Bill was prepared and introduced in the British Parliament on July 5, 1947 which finally became an Act on July 18 to be operative on August 15,1947. The Act proposed for the partition of India and establishment of two independent Dominions- India and Pakistan from August 15, 1947.

3.3 GOVERNMENT OF INDIA ACT,1919

A major landmark in the constitutional history of India was the Montagu-Chelmsford Report which led to the enactment of the Government of India Act, 1919. It marks the beginning of a responsible Government in the country. The Morley-Minto Reforms or the Indian Councils Act of 1909 failed to satisfy the aspirations of the Indians as they did not establish Parliamentary system of Government in the country. Indian National Congress became very active during the time of the 1st World War and demanded for reforms. In response to this popular demand the British Government made a declaration on August 20, 1917, that the future policy of His Majesty's Government was that of "increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions with a view to progressive realization of responsible Government in British India as an integral part of the British Empire". No doubt this was the step which paved the path for Independence of India.

The Government of India Act, 1919 in its preamble contained the whole part of the Declaration made by His Majesty's Government in the British Parliament in August, 1917. Sir Tej Bhadur Sapru analysed it as follows:-

(i) British India was to remain an integral part of the British Empire;

(ii) Responsible Government in India was the objective of the declared policy of Parliament.

(iii) The responsible Government was capable of progressive realization only; and

(iv) In order to achieve responsible Government it was necessary to provide for two things, namely, the increasing association of Indians in every branch of administration and gradual development of self-governing institution.

Main features of the Government of India Act, 1919:

- **Dyarchy in the Provinces:** The Act introduced a system of Dyarchy in the Provinces. Dyarchy has been derived form the Greek word 'di-arche', means double rule. The object of the Dyarchy was to train the natives in the act of self-Government. In matter of legislation subjects were divided into Central and Provincial. The provincial subjects were divided into 'reserved' and 'transferred'. Jail, Police, Justice, Finance and Irrigation, comparatively more important subjects, were the 'reserved' subjects and they were to be governed by the Governor and his Executive Council without any responsibility to the Legislature, Education, Agriculture, Local Self-Government, etc., subjects of lesser importance were transferred to the Indian Ministers and the Governors. The Governor

could override both the Ministers and the Executive Council. The Provincial Legislative Council was empowered to legislate in respect of provincial matters only.

- **Central Government:** The principle of responsible government was not introduced in the Centre. The Central Government remained answerable to the British Parliament through the Secretary of State. The Central Legislature was to have a bicameral legislature. The Council of State (Upper House) consisted of sixty members of whom thirty-four were elected and the Legislative Assembly (Lower House) consisted of 144 members of whom 104 were elected and the rest being nominated. Among the nominated members about 26 were officials. The powers of both the Houses were equal except that the power to veto a Bill was given exclusively to the Lower House. In respect of financial Bills both the Houses had equal powers. The Central Legislature retained the power to legislate for the whole of India relating to any subject.

  The Governor-General had overriding powers in respect of legislature. Firstly, his prior sanction was required to introduce Bills relating to certain matters. Secondly, he had the power to veto or reserve for consideration of the Crown any Bill passed by the Indian Legislature. Thirdly, he had the power of certifying any Bill and sign it as a permanent law despite Legislature's opposition to it, in which case it would have the same effect as if it was passed or made by the Legislature. Fourthly, he could make Ordinances having the force of law for a temporary period in cases of emergency.
- **Structure of Government to remain unitary:** The Central Legislature had power to legislate on any matter. So, it was not possible to challenge the validity of the Central Laws. In case of controversy it was the Governor-General and not the Courts, who had the authority to decide whether a particular subject was a Central or Provincial subject. Thus, the Government of India remained a unitary and centralized Government with the Governor-General-in-Council as the key-stone of the whole constitutional edifice.

Shortcoming of the Government of India Act, 1919:

The Act of 1919 had three major defects from the nationalist point of view: absence of responsible government at the center, separate electorates for different communities and introduction of diarchy in the province. The Reforms of Government of India Act, 1919, however, failed to fulfill aspirations of the people of India, which led to an agitation by the Congress for 'Swaraj' or 'self-Government' to be attained through non-co-operation. It's reasons were:-

- **Non-fulfillment of the demand for responsible government:** Though this Act gave a substantial measure of power to the Provinces, yet the structure of the Central Government remained unitary and centralized.
- **The failure of Dyarchy:** The greatest difficulty came from the working of the system of Dyarchy in the Provinces. In a large measure the Governor came to dominate the ministerial policy by means of his overriding powers and the control over the official members in the Legislatures. There was no provision for collective responsibility of the ministers to the Provincial Legislature.

CHECK YOUR PROGRESS

Q. 1: When did the Indian Independence Act, 1947, came into force?
……..

Q. 2: Under the Government of India Act, 1919 Legislative Assembly (Lower House) was composed of ……..(Fill in the blank)

Q. 3: On the basis of which Report Government of India Act, 1919 was enacted?
…….

Q. 4: Write a short note on the shortcoming of the Government of India Act, 1919.
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……..

3.4 GOVERNMENT OF INDIA ACT, 1935

The Government of India Act, 1935, is regarded as the second milestone on the highway leading to a full responsible Government. It was put into operation in April 1937 despite strong protests against its enforcement from Muslim League. It was a lengthy document, detailed and complicated having 321 sections with 10 Schedules. The basic features of the Act were, the

introduction of partial responsibility at the Center, Provincial autonomy and an All India Federation.

- **The All India Federation:** The Act provided for the establishment of an All India Federation comprising of the British India Provinces and such Indian State who would desire to come into Federation. While under all the previous Government of India Acts, the Government of India was unitary, the Act of 1935 proposed a Federation taking the Provinces and the Indian States as one unit. But the accession of the States to the Federation was optional. It could not be established until the States had given their consent to join the Federation. At the time of joining it, each ruler of the State was required to sign an Instrument of Accession mentioning therein the extent to which it consented to surrender its authority to the Federal Government. The Rulers of Indian States never gave their consent and thus the Federation envisaged by the Act never came into being.
- **Dyarchy at the Centre:** The Act of 1935 abolished Dyarchy at the Provincial level and introduced it at the Centre. The Executive authority of the Centre was vested in the Governor-General. The Federal subjects were divided into two categories – the 'reserved' and the 'transferred'.

  The administration of 'reserved subjects' like defence, external affairs, ecclesiastical affairs and tribal areas, were to be made by the Governor- General in his discretion with the help of Councillors appointed by him who were not responsible to the Legislature. The 'transferred' subjects, on the other hand, were to be administered by the Governor-General who was to act on the advice of the Council of Ministers who were responsible to the Legislature.
- **Provincial Autonomy:** The important feature of the new Act was that it marked the beginning of Provincial Autonomy. It was definitely an advance on the Act of 1919. The Act divided Legislative power between the Provincial and Central Legislatures, and within its defined sphere the Provinces were no longer delegates of the Central Government but were autonomous units of administration. To this extent the Government of India assumed the role of a Federal Government vis-à-vis the Provincial Governments, though the Indian States did not join the complete scheme of Federation. The executive authority of a Province was also exercised by a Governor on behalf of the Crown and not as subordinate of the Governor-General. The Governor was required to act with the advice of ministers responsible to the Legislature.

But notwithstanding the Provincial Autonomy, the Act of 1935, retained the control of the Central Government over the Provinces in certain spheres requiring the Governor to act in his discretion or in the exercise of his individual judgment in certain matters. In such matters, the Governor was to act without ministerial advice and under the control and directions of the Governor-General and through him of the Secretary of State.

- **Federal Legislature:** The Federal Legislature was to consist of two Houses, the Council of States and the Legislative Assembly. The Legislative Assembly (Lower House) was to consist of 375 members, 250 of British Indian Provinces and 125 representing the Indian States. Its tenure was, unless dissolved earlier, five years. The Council of States (Upper House) was to consist of 260 members, out of which 156 members were to represent British India, 6 representatives to be nominated by the Governor-General and the rest elected directly. One hundred and four members were to be nominated by the Princes of the Indian States. The powers of the Federal Legislature were extremely limited. They had in general equal powers but demands of supply of votes and financial Bills were to originate in the Lower House. If there was any difference between the two Houses, the Act provided for a joint session of the two Houses for solving the deadlock.
- **Provincial Government:** The Provincial Executive was to consist of the Governor and a Council of Ministers to advise him. The Governor was the head of the Executive. Three types of powers were given to the Governor: i. Discretanioery; ii. Powers exercised in his individual judgment; iii. Powers to be exercised on the advice of the ministers. But in regard to matters involving his special responsibility he had right to override the advice given by the ministers.
- **Provincial Legislatures:** After this Act, the Legislatures of Bombay, Bengal, Madras, Bihar, Assam and the United Provinces were made bicameral (i.e. two houses) and in other five Provinces unicameral. The composition of the Provincial Assembly varied from Province to province. The voting qualifications for the membership of the Council were not the same in all Provinces. The principle of communal electorate was preserved in the election of the members of the Assembly. The normal duration of the Assembly was of five years. The Provincial Legislature had power to make laws on the subjects given in the Provincial List. They could also make laws on the subjects in the concurrent List.
- **Distribution of Legislative power between the Centre and the Provinces:** The Act made a three-fold division of power between the Centre and the Provinces, i.e. Federal List, Provincial List and Concurrent List. The Federal Legislature had exclusive power of

legislation over the subjects mentioned in the Federal List. The Federal List consisted of 59 subjects. These subjects were subjects of national importance and essential and vital for the existence of the Federation. The most important of them were external affairs, currency and coinage, naval, military and air force, census, etc. The Provincial Legislature had exclusive jurisdiction to make laws on subject mentioned in the Provincial List. The main amongst them were, police, provincial public services, education, etc. The Federal and Provincial Legislatures were to have concurrent powers to legislate on subjects mentioned in the Concurrent List. The subjects in the Concurrent List were essentially of a provincial and local nature but required a uniform policy throughout India. It contained 26 subjects: Criminal Law, criminal procedure, civil procedure, marriage and divorce, arbitration, etc., were most important subjects amongst them.

- **The Federal Court:** The Act established a Federal Court. The Federal Court had one Chief Justice and not more than six other Judges. The age of retirement for these judges was sixty-five years. The necessary qualifications for the Judges were also given in the Act. The Judges were appointed by the Crown. The Federal Court had three kinds of jurisdiction, i.e., original, appellate and advisory. The Court had exclusive original jurisdiction in any dispute between the Federation and its units or the units inter se. The appellate jurisdiction of the Federal Court extended to appeals from the judgement of any High Court in India to the Federal Court. An appeal could go to the Privy Council from decisions of the Federal Court. The Federal Court had also advisory jurisdiction.

Criticism of the Government of India Act, 1935: The Government of India Act, 1935, was greatly criticized by almost all the parties of India. The Act came into force in regard to the Provinces in April, 1937, but the Central Government continued to be governed in accordance with the provisions of the Government of India Act, 1919, with minor amendments. The elections took place and popular ministers came into office in the Provinces but they lasted only for two years.

In 1939 the 2nd World War broke out in Europe. The British Government declared India as a belligerent country at war with Germany. This was done without consulting Indian leaders and the Indian Legislatures. Consequently, the Congress ministers resigned from office on the issue of participation of India in the War.

CHECK YOUR PROGRESS

Q. 5: The structure of Government under the Government of India Act, 1935 was Federal. (True/False)

……

Q. 6: How many Sections does the Government of India Act, 1935 contain?

……

Q. 7: The Federal Court had one Chief Justice and not more than …… other Judges. (Fill in the Blank)

Q. 8: Mention any two salient features of the Government of India Act, 1935.

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3.5 INDIAN INDEPENDENCE ACT, 1947

3.5.1 Landmark events which necessitate the passing of Indian Independence Act, 1947

The landmarks events which led to the passing of the Indian Independence Act, 1947 are discussed below:

- **The Cripps Mission:** In the year 1942 the British Government realized that it was difficult to remain indifferent towards the Indian problems any longer. Therefore on March 22, 1942 the British Government sent Sir Stafford Cripps to negotiate with Indian leaders and secure their co-operation in the prosecution of War. The Cripps Mission suggested the following proposals for the settlement of the Indian problems-

- Immediately after the end of the war steps shall be taken to set up in India an elected body for framing a new Constitution of India.
- Provision shall be made for participation of Indian States in the Constitution making body.
- The Constitution making body shall consist of persons elected by Provincial Legislatures and nominated by the Indian Princes.

- The British Government assured to accept and implement the Constitution so framed.
- His Majesty's Government must bear the responsibility for and retain the control and direction of defence of India.

Indians were not satisfied with the above proposals and, therefore rejected it. The Labour Party came into power in England. The Labour Government was more sympathetic towards India and wanted to solve the Indian problem. With this end in view, the Cabinet Mission was sent to India.

- **The Cabinet Mission, 1946:** The Cabinet Mission came to India on 4th March, 1946. It consisted of three British Cabinet Ministers – Lord Pethick Lawrence, Sir Stafford Cripps and Mr. Alexander. The mission recommended the following proposals:-
    - There should be a Union of India consisting both British India and the States and with the exception of certain reserved subjects, all subjects were to be retained by the States.
    - The paramountacy of Crown was to lapse.
    - For the purpose of framing a new Constitution a Constitution Assembly was to be elected.
    - An interim Government was to be set up having the support of major political parties.

  The proposals of Cabinet Mission were accepted and in July 1946 elections to Constituent Assembly took place.

- **The Mountbatten Plan June 3, 1947 :** Mr. Attlee, the Prime Minister of England appointed Lord Mountbatten as a Viceroy of India with the task of transferring to Indians the responsibility for the Government of British Indian in a manner that would best ensure the future happiness and prosperity of India. The main features of the scheme of partition as contemplated by the Mountbatten Plan are –
    - India was to be divided into two Dominions, namely India and Pakistan and the transference of power was to take place on August 15, 1947 instead of June 1948.
    - The Constitution Assemblies of the Dominion of Hindustan and Pakistan would be free to decide in due course whether to remain within the British Commonwealth or to leave it.

3.5.2 Salient Features of the Indian Independence Act, 1947

Arrangements having been made for the transfer of power in accordance with the scheme laid down in the Mounbatten's Plan, the British Government lost no time in implementing the Plan. A Draft of the Indian Independence Bill was prepared and circulated to the leaders of the Congress and the Muslim League for their consideration. The Bill was then introduced in the British Parliament on July 5, 1947 which finally became an Act on July 18 to be operative on August 15, 1947. The life of the Act was till such time as Constituent Assembly for each of the Dominions does not supersede it by its own legislation. It gave unlimited powers to the Constituent Assemblies to adopt any form of the Constitution. In short, the object was to transfer power in shortest possible time. The provisions of the Act were as follows:-

1. **Creation of two Dominions – India and Pakistan:** The Indian Independence Act, 1947 provided for the partition of India and establishment of two independent Dominions - India and Pakistan from 15th August, 1947. The word "independent" signified the absence of any external restraint. Clause 2 of the Act defined the territories of the two new Dominions and Clauses 3 and 4 provided for the partition of Bengal, Punjab and Assam keeping in view the aspirations of the people of these territories and fixing of the boundaries of these divided Provinces by the Boundary Commission.

2. **Legislative Supremacy of the Freedom from British Rule:** The most epoch-making effect of the Act was that India no longer remained dependant on British Empire. After August 15, 1947 the British Government was not to control the Dominion or the Provinces. Thus, the British period in India came to an end after nearly three and half centuries of trading, two centuries of political power and 130 years of general supremacy.

3. **Dominions of India and Pakistan:** The Act provided for the legislative supremacy of the two Dominions. Each Dominion was to have a Governor-General who was to be appointed by the King. The Act provided that until a new Constitution was framed for each of the Dominions, the Constituent Assemblies were to act as Dominion Legislatures and were to exercise all powers which were formerly exercised by the Central Legislature.

4. **Continuance of the Government of India Act, 1935:** The Indian Independence Act, 1947 specifically laid down that until the new Constitutions were framed, each of the Dominions and the Provinces were to be governed by the Government of India Act, 1935.

5. **Office of the Secretary of State for India abolished:** The Government of India was transferred from East India Company to the Crown by the Government of India Act, 1958. By this Act British Parliament became the direct guardian of India and office of the Secretary of State for India was created for the administration of Indian affairs. The Secretary of State was responsible to the Parliament while the Governor-General and the Provincial Governors remained under the direct control of the Secretary of State until the Indian Independence Act of 1947. The post of Secretary of the State for India and his advisers was abolished by the Indian Independence Act, 1947.

6. **Termination of the Crown's Paramountcy :** With the transfer of power to the Dominions of India and Pakistan in accordance with the Indian Independence Act, 1947 the paramountcy and suzerainty of the British Crown over the Indian over the Indian State came to an end. Consequently, all treaties and agreements between His Majesty and the rulers of the Indian States and all functions exercisable by His Majesty with regard to Indian States and their rulers, and all powers, grants, rights, authority or jurisdiction of His Majesty over Indian States lapsed from August 15, 1947.

7. **The Governor-General for each Dominion and his powers :** The Indian Independence Act, 1947 provided that each of the two Dominions of India and Pakistan was to have a Governor-General appointed by the King for the purpose of the Government of the Dominion. Accordingly, Lord Mountbatten was appointed as the first Governor-General for the Dominions of India and Pakistan, both. However, after the Pakistan Constituent Assembly came into existence, Mr. Jinnah the leader of Muslim League was elected as Governor-General of Pakistan. The main responsibility of the Governor-General was to set out the machinery for bringing the Indian Independence Act, 1947 into operation.

The Indian Independence Act, 1947, came into force on August 15, 1947, when the British rule in India came to an end.

CHECK YOUR PROGRESS

Q. 9: Mention any two proposals given by the Cabinet Mission, 1946 for the settlement of the Indian problems.

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Q. 10: The Cabinet Mission came to India on …….. March, 1946. (Fill in the Blank)

Q. 11: Explain the proposals given by the Cripps Mission for the settlement of the Indian problems. (within 50 words).

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3.6 LET US SUM UP

- The Britishers came to India in 1600 as traders in the form of the East India Company. The company secured for it a Charter from Queen Elizabeth in December, 1600, which settled its constitutions, powers and privileges.
- The Company's rule lasted until 1858, when, after the Indian rebellion of 1857, it was abolished.
- Under the Government of India Act, 1858, the administration of the government of India was directly assumed by the Crown acting through a Secretary of State.
- The Government of India Act, 1919 was a great landmark in the constitutional history of India. It marks the beginning of a responsible Government in the country. It also brought about many remarkable changes in the administrative set up of the Indian Government.
- The provincial autonomy, the system of diarchy, the bicameral system of legislature at Centre, the enlargement of Provincial Legislatures, the consolidation of separate electorates, the special powers of the Governors and Governor-General, the divisions of subjects under two lists, and the creation of a Chamber of Principles were some of the notable features related to the Provincial as well as the Central Government in India.
- The Government of India Act, 1935, laid down a federal form of Government for India. Prior to this Act, the constitutional structure of the Government was unitary wherein the

Provincial Governments, derived their powers by devolution from the Central Government and discharged their functions subject to the authority of their respective Legislatures under the superintendence, direction and control of the Governor-General-in-Council and ultimately of the Secretary of State for India.

- The basis features of the Act were- All India Federation, Dyarchy in the Centre, Provincial autonomy, and Safeguards provided in the Constitution to the responsible Government in India.
- The Indian Independence Act, 1947 provided for the partition of India and establishment of two independent Dominions - India and Pakistan from 15th August, 1947.
- The Constituent Assemblies of both Dominions were empowered to frame laws for their respective territories till the new Constitution came into force.
- After August 15, 1947 the British Government was not to control the Dominion or the Provinces.
- For the time being, till the new Constitutions were framed, each of the Dominions and the Provinces were to be governed by the Government of India Act, 1935.
- The post of Secretary of the State for India was to be abolished and was taken over by Secretary of the Commonwealth of Nations.
- The Act proclaimed lapse of British paramountacy over Indian States.

3.7 FURTHER READING

1) Pandey, J.N. (2012). *Constitutional Law of India*. Allahabad : Central Law Agency.

2) Paranjape, N.V. (2005). *Indian Legal and Constitutional History*. Allahabad : Central Law Agency.

3) Kulshreshtha, V.D. (2006) : *Landmarks in Indian Legal and Constitutional History* (8*th edition).* Lucknow: Eastern Book Company.

3.8 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: on August 15, 1947.

Ans to Q No 2: 144 members

Ans to Q No 3: Montagu-Chelmsford Report

Ans to Q No 4: The shortcoming of the Government of India Act, 1919 were:

(i) The Act failed to fulfill the demand for responsible Government and the Act gave a substantial measure of power to the Provinces, yet the structure of the Central Government remained unitary and centralized.

(ii) The greatest difficulty came from the working of the system of Dyarchy in the Provinces.

(iii) The principle of responsible Government was not introduced in the Centre. The Central Government remained responsible to the British Parliament through the Secretary of State.

(iv) The Governor-General had overriding powers in respect of legislature.

(v) The Central Legislature had power to legislate on any matter. So, it was not possible to challenge the validity of the Central Laws.

Ans to Q No 5: True

Ans to Q No 6: 321 sections

Ans to Q No 7: Chief Justice and not more than six other Judges

Ans to Q No 8: (i) The Act provided for the establishment of an All India Federation comprising of the British India Provinces and such Indian State who would desire to come into Federation. While under all the previous Government of India Acts, the Government of India was unitary.

(ii) The Act of 1935 abolished Dyarchy at the Provincial level and introduced it at the Centre.

Ans to Q No 9: (i) There should be a Union of India consisting both British India and the States and with the exception of certain reserved subjects, all subjects were to be retained by the States.

(ii) The paramountacy of Crown was to lapse.

Ans to Q No 10: 4th March

Ans to Q No 11: The Cripps Mission suggested the following proposals for the settlement of the Indian problems-

(i) Immediately after the end of the war steps shall be taken to set up in India an elected body for framing a new Constitution of India.

(ii) Provision shall be made for participation of Indian States in the Constitution making body.

(iii) The Constitution making body shall be composed of persons elected by Provincial Legislatures and nominated by the Indian Princes.

(iv) The British Government undertake to accept and implement the Constitution so framed.

(v) His Majesty's Government must bear the responsibility for and retain the control and direction of defence of India.

3.9 MODEL QUESTIONS

A) Very Short Questions

Q 1: Who was the first Governor-General for the Dominions of India and Pakistan?

Q 2: What are the structures of Central Legislature under the Government of India Act, 1919?

Q 3: Mention any two features of the Government of India Act, 1919.

Q 4: Mention the structure of Government under the Government of India Act, 1919.

B) Short Questions (Answer each question in about 150 words)

Q 1: Write a brief note on the Dyarchy system.

Q 2: Write short notes on (a) Mountbatten Plan June 3, 1947 (b) Cabinet Mission, 1946

Q 3: Explain any four features of the Government of India Act, 1935.

Q 4: Examine the demerits of the Government of India Act, 1935

C) Long Questions (Answer each question in about 300-500 words)

Q1: Discuss the structure of Government under the Government of India Act, 1935.

Q2: Discuss the salient features of the Indian Independence Act, 1947.

UNIT 4: PARLIAMENTARY SYSTEM IN INDIA IN THE POST-INDEPENDENT PERIOD

UNIT STRUCTURE

4.1 Learning Objectives
4.2 Introduction
4.3 Origin and Growth of Parliamentary System in India
4.4 Structure and Functions of the Parliament and its position
4.5 Structure and Functions of State Legislature and its position
4.6 The first Parliament to present Lok Sabha
4.7 Let Us Sum Up
4.8 Further Reading
4.9 Answers to Check Your Progress
4.10 Model Questions

4.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- describe the origin and growth of Parliamentary system in India
- explain the parliamentary system in India in the post-independent period
- explain the structure of the Parliament and its position
- discuss the functions of the Parliament
- explain the structure and functions of State Legislature and its position
- explain the structure of First Lok Sabha to the Present Lok Sabha.

4.2 INTRODUCTION

The Constitution of India demarcated the power of the Government into three different independent organs of the Government i.e. Legislature, Executive and Judiciary. Again, the Constitution of India established a parliamentary form of government at the Union as well as State levels.

The legislative authority of the Union of India is vested in the Parliament. The Parliament of India consists of the President and the two Houses, the Rajya Sabha (Council of States) and the Lok Sabha (House of the People). In this unit we will discuss the structure and functions of the Union legislature and state legislatures.

4.3 ORIGIN AND GROWTH OF PARLIAMENTARY SYSTEM IN INDIA

India has borrowed parliamentary form of government from Britain. India's struggle for independence had a number of landmarks events which eventually led to the growth of parliamentary system in India.

The first faint beginnings of a Central Legislature for India are to be found in the Charter Act of 1833 which introduced important changes in the system of Indian administration and also in the legislative powers of the Indian Government. It established one Legislative Council for all the British territories in India. For the first time the Governor-General's Government was known as the 'Government of India' and his Council as the 'India Council'.

The Indian Council Act of 1861 sought to make better provision for the constitution of the 'Council of the Governor-General' and "for the local Government of the several Presidencies and Provinces". The Act was said to be the "prime charter of the Indian Legislature" inaugurating the "system of legislative devolution in India." The Act introduced important changes in the machinery for legislation, both at the central and provincial levels.

In the year 1985, Indian National Congress was formed and it initiated the process of gradual relaxation of imperial control and the evolution of responsible government in India. As a result of it the Indian Council Act, 1909 was passed and it made important changes in the constitution and functions of the Indian legislatures. The maximum number of members of the Indian Council was raised from 16 to 60 and the size of the Legislative Councils in the Presidencies/Provinces was also more than doubled.

Again under the Government of India Act, 1919, at the Centre, the Indian Legislative Council was replaced by a bicameral Legislature consisting of a Council of State (Upper House) and a Legislative Assembly (Lower House), each with an elected majority. Though the Act introduced a partially responsible government in the provinces but it did not introduce any element of responsibility at the Centre and the Governor-General-in-Council continued to remain responsible only to the Secretary of State for India and through him to the British Parliament.

The Government of India Act, 1935 aimed at providing a federal structure. The Governor-General was to have a Council of Ministers, not exceeding ten in number, "to aid and advise"

him in the exercise of his functions. The Federal Legislature was to consist of His Majesty, represented by the Governor-General, and two Chambers to be known respectively as the Council of State (the Upper Chamber) and the House of Assembly (the Lower Chamber. The Council of State was to consist of 156 representatives of British India and not more than 104 representatives of the Indian States while the Assembly was to consist of 250 representatives of British India and not more than 125 representatives of the Indian States. The Council of State was to be a permanent body not subject to dissolution, but one-third of its members were to retire every third year. Every Federal Assembly, unless sooner dissolved by the Governor-General in his "discretion", was to continue for five years.

The Federal part of the 1935 Act, however, never came into operation as the Princely States could not be persuaded to accede to the Federation. As a result, the Constitution of the Central Government in India remained the same as it was under the Act of 1919. Thus, no Council of Ministers, responsible to the Legislature, was appointed at the Centre and the powers and functions of the Central Legislature, as provided in the 1919 Act, remained unchanged until the Indian Independence Act, 1947.

The First Sovereign Legislature : In pursuance of the Indian Independence Act, the Government of India Act, 1935 was modified and adapted by the Governor-General to make it the provisional Constitution of the Dominion, until some other provision was made by the Constituent Assembly. The Indian Independence Act, 1947, declared the Constituent Assembly of India to be a fully sovereign body and on the midnight of 14-15 August 1947, the Assembly assumed full powers of the governance of the country. Section 8 of the Act conferred on the Constituent Assembly full legislative power.

The Constituent Assembly accepted the principle of the parliamentary executive collectively responsible to the popular House of the Parliament. While introducing the Draft Constitution and recommending the parliamentary system in the Constituent Assembly on 4th November 1948, B.R. Ambedkar, Chairman of the Drafting Committee said that, "The Draft Constitution in recommending the parliamentary system of executive has preferred more responsibility to more stability."

With the commencement of the Constitution of independent India on 26th January 1950, a full-fledged parliamentary system of government was established. The Constituent Assembly became the Provisional Parliament of India and functioned as such until after the first General Elections based on adult franchise. The Parliament was constituted under the provisions of the new Constitution.

The first general elections under the new Constitution were held during the year 1951-52, the first elected Parliament with the two houses – the Rajya Sabha and the Lok Sabha – came into being in may 1952.

CHECK YOUR PROGRESS

Q. 1: The first general elections under the new Constitution were held during the year 1951-52. (True/ False)

……

Q. 2: What is the composition of Parliament in India?

………

Q. 3: Discuss the composition of Federal Legislature under the Government of India Act, 1935. ……

Q. 4: Which Section of the Indian Independence Act, 1947 conferred on the Constituent Assembly full legislative power?

……

4.4 STRUCTURE AND FUNCTIONS OF PARLIAMENT AND ITS POSITION

The Parliament of India consists of three organs. The President and the two Houses – the Rajya Sabha (Council of States) and the Lok Sabha (House of the People). The President summons the two Houses of Parliament to meet from time to time. He/she can prorogue the two Houses of Parliament and dissolve the Lok Sabha. President's assent is essential for a Bill passed by both Houses to become a Law. Not only that, when both the Houses of Parliament are not in session and he is satisfied that circumstances exist which render it necessary for him to take immediate action, the President can promulgate Ordinance having the same force and effect as a law passed by the Parliament. At the commencement of the first session after each general election to Lok Sabha and at the commencement of the first session of each year, the President addresses both Houses of Parliament assembled together.

Rajya Sabha: The Rajya Sabha or the Council of States is the Upper House of the Union Parliament. The maximum membership of the Rajya Sabha is fixed at 250 of whom 12 shall be nominated by the President, and the remainder, i.e,. 238 shall be representatives of States and the Union Territories. The representatives of States are elected by the members of the Legislative Assemblies in accordance with the system of proportional representation by means

of the single transferable vote. The number of representatives from each State in the Rajya Sabha depends largely on its population.

Unlike the Lok Sabha, which has a fixed term but can be dissolved by the President at any time, the Rajya Sabha is a permanent body and is not subject to dissolution. While the term of an individual member of the Rajya Sabha is six years, as nearly as possible, one-third of its members retire at the expiration of every second year in accordance with the provision made in that behalf by Parliament by law.

Chairman and Deputy Chairman of Rajya Sabha: The Vice President of India is the ex officio Chairman of the Rajya Sabha. The Rajya Sabha also elects a member of the House to be a Deputy Chairman. When the office of Chairman is vacant or he is acting as the Vice-President or discharging the function of President, his duties shall be performed by the Deputy Chairman. If the office of the Deputy Chairman is also vacant the duties shall be performed by such member of the Rajya Sabha as the President may appoint for that purpose. The Chairman presides over the sittings of the House and in the absence the Deputy Chairman presides.

The Lok Sabha: The Lok Sabha is also known as the House of the people. It represents the people of the country in general. The maximum strength of the Lok Sabha has been decided to be 552 by the Constitution. In 2020 the provision of nomination of 2 members from the Anglo Indian community by the President of India has been abolished through 104th Constitution Amendment Act and thus the maximum strength has been reduced to 550 members. At present it consists of 543 elected members.

Qualification for membership of Parliament: A person for being chosen as a member for Parliament must be (a) a citizen of India, (b) not less than 30 years of age in the case of the Council of States and not less than 25 years of age in the case of House of the people, (c) possessing such other qualification as may be prescribed by Parliament, (d) taken an oath before some person authorized in that behalf by the Election Commission according to form set out for the purpose in Third Schedule.

Tenure of Lok Sabha: The Lok Sabha shall continue for five years from the commencement of its first session. The President may, however, dissolve it even earlier. But while a proclamation of emergency is in operation the life of the House of People may be extended by law of Parliament for one year at a time.

The power to dissolve the Lok Sabha is vested in the President. But in this respect also he acts on the advice of the Prime Minister. So long as the Prime Minister and his Cabinet

enjoys the confidence of the Lok Sabha the President is bound to dissolve the House when advised by the Prime Minister.

Speaker and Deputy Speaker of Lok Sabha: The Lok Sabha elected two of its members as Speaker and Deputy Speaker. When the Office of Speaker is vacant the Deputy Speaker performs the duties of the Speaker's office. The Speaker and Deputy Speaker remain in office so long as they are members of the House. The Speaker and Deputy Speaker may resign their offices or they may be removed from their offices by a resolution of the House of the People passed by a majority of all the then members of the House.

The office of the Speaker is one of great responsibility. The Speaker presides over its sittings and control its working. He/she upholds the dignity and privileges of the House. Once elected, he/she must rise above party interest. The Constitution of India contains certain provisions for maintaining independence and impartiality of the Speaker.

Functions of the Parliament:

The most important function of the Parliament is the making of the laws. The legislative procedure is initiated in the form of a Bill.

Ordinary Bill: An ordinary Bill, i.e., Bill other than Money Bill and financial Bills may originate in either House of the Parliament. The Bill must be passed by both the Houses of Parliament and then only it can be sent for President's assent. It becomes a law when it is assented to by the President. According to the procedure of a House a Bill has to pass through three stages commonly known as Readings : First Readings, Second Readings and Third Readings. At first stage the Bill is introduced in the House and at this stage no discussion takes place. The Second is the consideration stage when the Bill is discussed clause by clause. At this stage amendments may be moved. At the third reading stage a brief general discussion of the Bill takes place and the Bill is finally passed. When the Bill is passed by one House it is sent to the other House, where a similar procedure is repeated.

Joint Session of House: According to Article 108 when a Bill passed by one House and sent to other House –i. is rejected by the House; or ii. The House disagrees as the amendment to be made in the Bill; or iii. The other House does not pass the Bill and more

than six months have passed the President may summon a joint session of both the Houses.

This provision is not applicable to Money Bill. The Lok Sabha has exclusive power over Money Bills. The Rajya Sabha has no power to amend, modify or reject a Money Bill passed by the Lok Sabha. The Money Bill can become law without the concurrence of the Rajya Sabha.

Money Bill: Article 110(1) defines that a Money Bill is a Bill which contains only provisions with respect to all or any of the matters mentioned in this Article. If any question arises whether a Bill is a Money Bill or not the decision of the Speaker of the Lok Sabha shall be final. A Money Bill can only be introduced in the Lok Sabha. It cannot be introduced in Rajya Sabha. A Money Bill can only be introduced with the recommendation of the President. If a Money Bill passed by the Lok Sabha and sent to the Rajya Sabha for its recommendations is not returned to the Lok Sabha within 14 days, the Bill shall be deemed to have been passed by both Houses at the expiration of the said 14 days period in the form in which it was passed by the Lok Sabha.

Parliamentary Control over Financial matters: In financial matters Parliament has effective control. The Annual Budget is presented to Parliament and passed by it. According to Article 112 of the Constitution of India the President shall in respect of every financial year cause to be laid before both the Houses of Parliament an annual financial statement commonly known as the Budget. This statement gives out the estimated income and expenditure for that year. The appropriation Bill and the Finance Bill is also passed by Parliament. Unless the appropriation Bill is passed no money can be withdrawn by the government from the consolidated fund of India. It also exercise control over financial matters through the Public Accounts Committee and the Estimate Committee.

Parliamentary Committee: The Constitution of India does not make any specific provision in regard to Parliamentary Committees, but these are mentioned in several articles. To have effective control over the governmental activity on a regular and continuing basis various Parliamentary Committee are established so that grants for various ministers are scrutinized by the elected representatives. There are two types of Parliamentary Committees in India, viz. (1) Standing Committees and (2) ad hoc Committees. Standing Committees are those which are elected by the House or nominated by the Speaker/ Chairman every year or from time to time, as the case may be, and are permanent in nature, whereas ad hoc Committees

are those constituted by the House or by the Speaker/Chairman, to consider and report on specific matters.

CHECK YOUR PROGRESS

Q. 5: The maximum membership of the Rajya Sabha is fixed at…….(Fill in the blank.)

……..

Q. 6: Mention any two essential qualifications required to become a member of Parliament.

……

……

……..

Q. 7: When President may summon a joint session of both the Houses of Parliament?

……

……..

4.5 STRUCTURE AND FUNCTIONS OF STATE LEGISLATURE AND ITS POSITION

The Constitution of India provides for a Legislature for every State in the Union. The Legislature of every State consists of the Governor and Houses or Houses. The Legislature in the State are either bicameral (consisting of two Houses) or unicameral (consisting of one House). The Legislatures in Bihar, Maharashtra, Karnataka, Uttar Pradesh, Andhra Pradesh, Telangana, Jammu & Kashmir is bicameral. In the remaining States the Legislature is unicameral consisting of only one House, i.e., the Legislative Assembly. Under Article 169 Parliament may, by law provide for the abolition of the legislative Council in a State where it already exists and also for the creation of such a Council in a State.

Legislative Assembly (Vidhan Sabha): According to the Constitution, a Legislative Assembly cannot have more than 500 members and less than 60 members. The members are elected directly by the people. Some seats in the Legislative Assembly are reserved for Scheduled Castes and Scheduled Tribes. The Governor can nominate one member from the Anglo-Indian community if no member is elected from that Community to the House.

The members of the Legislative Assembly are elected for a term of five years. But the Governor can dissolve the house before the expiry of five years and can call for fresh elections

To be a member of the Legislative Assembly one must be a citizen of India and should have attained 25 years of age. He or she cannot be a member of both houses of the State legislature or a member of the Union Parliament at the same time.

The meetings of the Assembly are presided over by the Speaker who is elected from among the members of the Assembly. In his or her absence, the Deputy Speaker conducts its meetings.

LET US KNOW

When State Emergency is declared under Article 356 of the Constitution in a State, the Legislative Assembly is kept either “suspended” or is dissolved.

Legislative Council (Vidhan Parishad): The Constitution provides that the total strength of the Legislative Council must not be less than 40 and not more than 1/3 of the total strength of the Legislative Assembly of the State.

The members of the Legislative Council are elected indirectly. One third of its members are elected by the local government bodies like the Zila Parishad and Municipalities. Another one third are elected by the members of the Legislative Assembly. One twelfth are elected by the graduates of the constituency and another one twelfth by the teachers of secondary schools, colleges and universities. One sixth of the members of the Legislative Council are nominated by the Governor of the State.

The Legislative Council is a continuing house. The Governor cannot dissolve this house. One-third of its members retire after every two years and elections are held to fill the vacant seats. The members are elected for a term of six years.

To be a member of the Legislative Council, one must be a citizen of India. He or she must attain 30 years of age. He or she cannot be a member of the Legislative Assembly or either of the houses of the Parliament.

The Chairman is the presiding officer of the Legislative Council. In his or her absence, the Deputy Chairman presides over its meetings. They are elected from among the members of that house.

Sessions of the State Legislature: According to Article 174 the Governor shall from time to time summon a House of the Legislature to meet at such time and place as he/she thinks fit. But six months should not intervene between its last sitting in one session and the date appointed for its sitting in the next session. This means that the Assembly must meet at least twice a year and not more than six months must elapse between two sessions.

The Governor may from time to time prorogue the House, or either Houses. But where there is a prorogation of the House, the new session must be called within six months. It is not necessary for the Governor to summon or prorogue the two Houses of the Legislature together.

CHECK YOUR PROGRESS

Q. 8: Discuss the composition of the Legislative Council of a State.

……

Q.9: When Parliament can extend the life of the Legislative Assembly of a State?

……..

Q. 10: Who is the ex-officio Chairman of the Rajya Sabha?

.....……

4.6 THE FIRST PARLIAMENT TO PRESENT LOK SABHA

The First Parliament: The Constituent Assembly, consisted of indirectly elected representatives and was set up for the purpose of drafting a constitution for India. It remained in being for almost three years, acting as the first parliament of India after independence in 1947. This was the Provisional Parliament. The first General Elections under the Constitution were held in 1951-52 and the bicameral Parliament with its two Houses – the Lok Sabha and the Rajya Sabha was duly constituted.

The first Lok Sabha (1952-57): The first Lok Sabha (1952-57) was constituted on 17 April 1952 after the first general election. Elections were held for 489 seats. The Indian National Congress (INC) won 364. Only two other parties won double digit seats. The CPI with 16 seats

and the Socialist Party with 12 seats. Independents won the second highest number of seats after Congress. Jawaharlal Nehru was elected the as the first Prime Minister of independent India. The Speaker of the first Lok Sabha was Shri G.V. Mavalankar.

The Second Lok Sabha (1957-62): In the second Lok Sabha election held in the year 1957, out of 494 seats, the Indian National Congress (INC) won 371. Only two other parties CPI got 27 seats and the Praja Socialist Party (PSP) got 19 seats. Once again, the Independents won the second highest number of seats after Congress. Jawaharlal Nehru was again elected the as the Prime Minister. There was no official Leader of Opposition during the second Lok Sabha.

The Third Lok Sabha (1962-67): In the third Lok Sabha election out of 494 seats, the Indian National Congress (INC) won 361 seats. In this elections, four other parties won double digit seats (CPI, Jan Sangh, Swatantra Party and PSP). Again Jawaharlal Nehru was elected as the Prime Minister. But after he passed away in 1964, Gulzari Lal Nanda was made the interim Prime Minister who was succeeded by Lal Bahadur Shastri and after his death Indira Gandhi took over the charge of Prime Minister in 1966.

The Fourth Lok Sabha (1967-70): The Congress party under the leadership of Indira Gandhi won a fourth successive term to office by winning 283 out of 520 seats. Indira Gandhi became the Prime Minister for the second time. Due to differences among the Congress party she was expelled from the party on November 12, 1969 and the Congress party was splited into two factions. But Indira Gandhi continued to head a minority government with support from the CPI(M) till the fifth general election. She called for a mid-term election to the Lok Sabha a full one year ahead of schedule.

The Fifth Lok Sabha (1971-77): In the fifth Lok Sabha election held in the year 1971 Congress party under the leadership of Indira Gandhi won a whopping 352 seats out of 518 with the other faction of Congress under Morarji Desai winning only 16 seats. Indira Gandhi became the Prime Minister for the third time. On June 12, 1975, the Allahabad High Court invalidated her election on the grounds of electoral malpractices. After the verdict of the High Court, instead of resigning, she declared an emergency under Article 352 on the ground of “internal disturbance” which had a huge impact on the politics of India thereafter.

The Sixth Lok Sabha (1977-79): The proclamation of emergency declared by Indira Gandhi was the core issue in the 1977 elections. Fundamental rights were suspended during the national emergency from 25 June 1975 to 21 March 1977. In the sixth Lok Sabha election the Congress party lost the majority for the first time in independent India and Janata (an alliance party) party won 298 seats. Morarji Desai became India's first non-Congress Prime Minister, but had to step down in 1979 after couple of parties in the Janata alliance pulled out. He was succeeded by Charan Singh.

The Seventh Lok Sabha (1980-84): In the seventh Lok Sabha election Congress(I) under the leadership of Indira Gandhi bounced back to power wining a handsome 353 out of 529 seats. Again Indira Gandhi became the Prime Minister of India and there was no Leader of Opposition in the House.

The Eight Lok Sabha (1984-89): After Indira Gandhi was assassinated by her Sikh bodyguards, the anti-Sikh riots broke out in 1984. Riding on the wave of sympathy, the Congress party under Rajiv Gandhi's leadership came to power in a landslide victory. The Congress won 404 seats out of 514 seats. The Bharatiya Janata Party(BJP) made its electoral debut wining two seats. Rajiv Gandhi became the Prime Minister.

The Ninth Lok Sabha (1989-91): In the Ninth Lok Sabha election, the Bofors scandal, LTTE and other issues worked against the Congress. There was a hung house for the first time with no party getting a majority. The Congress won 197, Janata Dal 143 and the BJP 85 out of 529 seats. The Janata Dal formed the National Front government with outside support from BJP and the left parties. Vishwanath Pratap Singh became the Prime Minister. His rival in the Janata Dal, Chandra Shekhar broke away in 1990 and formed the Samajwadi Janata Party. As a result, VP Singh had to step down. Chandra Shekhar then became the Prime Minister in 1990 with the external support of Congress and lasted only for a short while forcing general elections in just 2 years.

The Tenth Lok Sabha (1991-96): During the Tenth Lok Sabha election, former prime minister Rajiv Gandhi was assassinated by the LTTE while campaigning at Sriperembudur. In this election a hung parliament with the Congress emerging as the largest party with 232 seats, while the BJP was second with 120 seats. On June 21, PV Narasimha Rao of the Congress was sworn in as the Prime Minister of India.

The Eleventh Lok Sabha (1996-98): In the Eleventh Lok Sabha election a hung House was formed, the BJP won 161 seats, Congress 140, Janata Dal 46 and the regional parties won 129 seats. The President invited BJP leader AB Vajpayee to form the government, as he was the chief of the single largest party in parliament. But he could not get the support from regional parties in parliament and had to resigned 13 days later. Janata Dal leader HD Deve Gowda formed a United Front coalition government and it lasted for 18 months only. After his resignation IK Gujral became the Prime Minister with the outside support from the Congress party.

The Twelfth Lok Sabha (1998-99): In this election BJP emerged as the single largest party with 182 seats out of 543. The BJP formed the National Democratic Alliance (NDA) with other regional parties. Atal Bihari Vajpayee became the prime Minister for the second time. But he has to resign after 13 months when its alliance AIADMK withdrew support from the government. The nuclear test at Pokhran, the Kargil war were some of the important incidents in this term.

The Thirteenth Lok Sabha (1999-2004): In this election the BJP again emerged as the single largest party with 182 seats. The BJP was able to form a more stable NDA this time and lasted a full five year term. Atal Bihari Vajpayee became the prime Minister for the third time.

The Fourteenth Lok Sabha (2004-2009): In this election the BJP conceded defeat (win only 138 seats) and the Congress (win only 145 seats) then formed the United Progressive Alliance(UPA) with support from other parties and outside support from the left parties. Sonia Gandhi refused to become the Prime Minister amidst the controversy about her foreign origin. Dr. Manmohan Singh was chosen as the Prime Minister.

The Fifteenth Lok Sabha (2009-2014): The Congress led UPA implemented a lot of its promises including the enactment of Right to Information and the National Rural Employment Guarantee Scheme (NREGS). It also waived off farm loans in 2008. In this election Congress won 206 seats. Again Dr. Manmohan Singh was sworn in as the Prime Minister for the second time.

The Sixteenth Lok Sabha (2014 -2019): The second term of the UPA proved to be a disaster with numerous allegations of corruption and scams. In this election the BJP won majority on its own with 282 seats while the Congress recorded its worst ever performance with just 44 seats.

This was the first time since 1984 that a party won a majority on its own. NDA formed government and Narendra Modi becomes the Prime Minister of India.

The Seventeenth Lok Sabha (2019-2024): In 2019 general elections, the BJP won majority and NDA formed the Government at the centre and Narendra Modi became Prime Minister of India for the second term. The political parties which were part of NDA in 2019 are- BJP, Janata Dal (United), Shiv Shena etc.

The Eighteenth Lok Sabha (2024 to Present): The 18th Lok Sabha was constituted after the general election of 2024. For the third consecutive time the NDA for the government at the Centre with BJP as the largest party which won 240 seats.

4.7 LET US SUM UP

- The Constitution of India was adopted by the Constituent Assembly on 26th November, 1949 and signed by the Chairman of the Constituent Assembly Dr. Rajendra Prasad and came into force on 26th January, 1950
- The first general elections under the new Constitution were held during the year 1951-52, the first elected Parliament with the two houses – the Rajya Sabha and the Lok Sabha – came into being in may 1952.
- The main functions of the Parliament is to make laws for the whole territory of India.
- The Parliament of India consists of the President and the two Houses, the Rajya Sabha (Council of States) and the Lok Sabha (House of the People).
- The Lok Sabha is a popular House. Its members are directly elected by the people. The maximum number of its membership is fixed at 550 out of whom, (a) not more than 530 are elected by the votes in the States, (b) not more than 20 to represent the Union territories.
- The Lok Sabha elected two of its members as Speaker and Deputy Speaker.
- The Rajya Sabha or the Council of States is the Upper House of the Union Parliament. The maximum membership of the Rajya Sabha is fixed at 250 of whom 12 shall be nominated by the President, and the remainder, i.e,. 238 shall be representatives of States and the Union Territories.
- The Lok Sabha shall continue for five years from the commencement of its first session. The President may, however, dissolve it even earlier.

- The Legislature of every State consists of the Governor and Houses or Houses. The Legislature in the State are either bicameral (consisting of two Houses, those are Legislative Assembly and Legislative Council) or unicameral (consisting of one House, i.e.- Legislative Assembly).
- The Speaker is the Chief Presiding Officer of the Legislative Assembly of a State. He/she is elected by the members of the Assembly from their own members. The Assembly elects its Deputy Speaker also from its own members.
- The Legislative Council of each State elects its Chairman and Deputy Chairman from among its own members.

4.8 FURTHER READING

1. Jain, M.P. (2015). *Indian Constitutional Law*. Nagpur: LexisNexis Butterworths Wadha .
2. Kashyap, Subhas. (2014). *Our Parliament*. New Delhi: Director, National Book Trust, India.
3. Kulshreshtha, V.D. (2006). L*andmarks in Indian Legal and Constitutional History*. Eastern Book Company.
4. Myneni, S.R.(2013). *Political Science. Delhi*: Allahabad Law Agency.
5. Pandey, J.N. (2014). *Constitutional Law of India.* Allahabad: Central Law Agency.

4.9 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No1: True

Ans to Q No 2: The Parliament of India consists of the President and the two Houses- the Rajya Sabha (Council of States) and the Lok Sabha (House of the People).

Ans to Q No 3: The Federal Legislature was to consist of His Majesty, represented by the Governor-General, and two Chambers to be known respectively as the Council of State (the Upper Chamber) and the House of Assembly (the Lower Chamber. The Council of State was to consist of 156 representatives of British India and not more than 104 representatives of the Indian States while the Assembly was to consist of 250 representatives of British India and not more than 125 representatives of the Indian States.

Ans to Q No 4: Section 8

Ans to Q No 5: 250

Ans to Q No 6: (a) The person must be a citizen of India.

(b) He/she must not be not less than 30 years of age in the case of the Council of States and not less than 25 years of age in the case of House of the people.

Ans to Q No 7: According to Article 108 when a Bill passed by one House and sent to other House –i. is rejected by the House; or ii. the House disagrees as the amendment to be made in the Bill; or iii. the other House does not pass the Bill and more than six months have passed the President may summon a joint session of both the Houses.

Ans to Q No 8: The Constitution provides that the total strength of the Legislative Council must not be less than 40 and not more than 1/3 of the total strength of the Legislative Assembly of the State. The members of the Legislative Council are elected indirectly. One third of its members are elected by the local government bodies like the Zila Parishad and Municipalities. Another one third are elected by the members of the Legislative Assembly. One twelfth are elected by the graduates of the constituency and another one twelfth by the teachers of secondary schools, colleges and universities. One sixth of the members of the Legislative Council are nominated by the Governor of the State.

Ans to Q No 9: During the proclamation of emergency the life of the Assembly may be extended by an Act of Parliament for a period of one year at a time but in no case beyond a period of six months after the proclamation has ceased to operate.

Ans to Q No 10: Vice-President of India.

4.10 MODEL QUESTIONS

A) Very Short Questions

Q 1: Who was the Chairman of the Constituent Assembly of India?

Q 2: Who was the first Prime Minister of India?

Q 3: Who was the first Speaker of the Lok Sabha?

B) Short Questions (Answer each question in about 150 words)

Q 1: Write a brief note on Money Bill.

Q 2: Write short notes on (a) Governor (b) Parliamentary Committee.

Q 3: Examine the role of Speaker in Indian Parliamentary system.

Q 4: Explain the role of President in Indian Parliamentary system.

C) Long Questions (Answer each question in about 300-500 words)

Q1: Discuss the various types of power and functions of the Parliament of India.

Q2: Discuss the procedure of passing a Bill in the Parliament of India.

UNIT 5: HISTORY OF ASSAM LEGISLATURE

UNIT STRUCTURE

5.1 Learning Objectives
5.2 Introduction
5.3 Historical Background of Assam Legislative Assembly
5.4 Honourable Members of Assam Legislative Assembly since 1937-1952 and 1952-2011
5.5 Let Us Sum Up
5.6 Further Reading
5.7 Answers to Check Your Progress
5.8 Model Questions

5.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- discuss the historical background of Assam Legislative Assembly
- examine the role of the Speaker of the Legislative Assembly during the Assam Movement
- have a brief idea about the honourable members of Assam Legislative Assembly since 1937-1952 and 1952-2011

5.2 INTRODUCTION

In the previous unit we have discussed the parliamentary system of India. The Constitution of India has provided for separate legislature for Union and for states. At the Union we have Parliament consisting of the President and the two Houses, i.e- Rajya Sabha and Lok Sabha. The Constitution of India also provides for a Legislature for every State in the Union. The Legislature of every State consists of the Governor and Houses or Houses. The Legislature in the State are either bicameral (consisting of two Houses) or unicameral (consisting of one House). The Legislatures in Bihar, Maharashtra, Karnataka, Uttar Pradesh, Andhra Pradesh, Telangana, Jammu & Kashmir is bicameral. In the remaining States the Legislature is unicameral consisting of only one House, i.e., the Legislative Assembly. Assam also has

unicameral legislature, i.e. Legislative Assembly. In this unit we will discuss the historical background and role of the Assam Legislative Assembly.

5.3 HISTORICAL BACKGROUND OF ASSAM LEGISLATIVE ASSEMBLY

In 1905 when Bengal was partitioned, Assam, together with the eastern half of Bengal was converted into one Lieutenant Governorship, known as Eastern Bengal tined Assam. In 1911 the partition of Bengal was annulled and again Assam became a Chief-Commissioner's province. The Governors of the ''residencies were higher in status and enjoyed mote powers than the lieutenant Governors or the Chief Commissioners. The former were appointed by His Majesty's Government on the Advice of the Secretary of state whereas the latter were appointed on the recommendation of the Governor-General. The Chief Commissioners were mere delegates of the Governor-General, exercising administrative powers delegated and as such, the Chief Commissioners did not possess executive councils to advise them. The Reforms Act of 1919 removed the distinction between the two types of provinces and all provinces came to be known as the Governors' provinces. However, the old differences in the authority of appointment remained as before. The Government of India Act, 1858, empowered the Governor-General to appoint Lieutenant Governors. Assam was known as a Non-Regulation Province like the Punjab as distinguished from the old Regulation Provinces of Bengal, Madras and Bombay. By the time of the introduction of the Montford reforms the distinction disappeared except for some differences in the titles of the officers. For instance, in the Non-Regulation Provinces, the collector was designated as the Extra Assistant Commissioner. The total strength of the legislative council of Assam under the Regulations of 1912 was 25. Like almost all the provinces of India, Assam was not formed into a homogeneous provinces on the basis of ethnological, linguistic or cultural factors. Political, military and administrative exigencies shaped the political map of Assam. The Indian Councils Act 1861 provided for the creation of provincial legislatures for the first time in India. The time of formation of the legislative councils varied from province to province and in Assam it was constituted in 1905 when the province of East Bengal and Assam was created. The seat for the council was at Dacca and Assam was represented by four members including one European belonging to the planting community. The legislative council also included the Advocate-General as an additional member. Half of the members were to be non-officials, nominated by the Chief Commissioner. The legislative council exercised extremely restricted powers. Before the introduction of provincial Governor-General in Council was a necessary pre-requisite and all Acts had approved by the Governor General. Besides this, some avenues like taxation, currency, post and telegraph etc. were outside the legislative

jurisdiction of the legislative council. In spite of the limitations, the beginning of the parliamentary structure was Inaugurated in Assam . The Morley-Minto Reforms Act was passed with the aim of associating more Indians with the work of administration. Consequently all the provincial legislative councils were enlarged in size and in accordance with the provisions of the Act, the majority of the members were non-officials, although for all practical purposes, the officials managed to have a working majority with the nominated members. The strength of the council was fixed at thirty. However, the legislative council of Assam, like those of other provinces, consisted of four types of members, i.e. ex-officio members, nominated officials, nominated non-officials and the elected members. Though this Act introduced the system of indirect election for the first time, the electorate was indeed very small and easily manageable. Moreover, women were denied the franchise. The system of indirect voting widened the rule between the legislators and the electors and the legislators generally failed to appreciate the needs of the people. Moreover, provision was made for separate electorates and thus communal feelings vitiated the very essence of election. The Muslims were to elect their own representatives from separate constituencies and they enjoyed weight age. Special constituencies were provided only for the Muslims, land-holders and Chamber of Commerce. The traditional policy of 'divide and rule' was cunningly pursued by the British Government, so that the division in representation would increase the cleavage between the Hindus and Muslims. This situation was fraught with grave dangers to the unity of the nation. The legislative council of Assam had strength of 50 members of whom I1 were nominated and 11 were elected members, of the nominated members 10 were officials and the rest were non officials. As for the elected seats, 2 seats were reserved for the Muslims, 3 for the representatives of the planter community and the rest were general seats. The Chief Commissioner was the ex officio president of the council. The Council could move resolutions on the budget In the form of recommendations. The elected members of the Council also could play a direct role in the framing of a limited portion of the budget. The councillors enjoyed the right of putting questions on matters of public importance. They had to give prior notice before putting questions. Thus they exercised some measure of Influence over administrative and financial matters. The reformed system as provided by the Indian councils of 1909, did not embody any new policy and it was just an extension of the existing system of administration. The system of election as desired could not impart political education to the common people. The representatives of the different groups and interests could not take a united stand on any matter of public importance in view of the very composition of the council. The deliberations in the House, moving of the resolutions or putting questions and supplementary questions were hedged with many limitations. The members could record an

adverse vote against the Government. But this had little effect on a Government which was not 'responsible'. Similarly, criticism of the Government by the members of the legislature had also no adverse effect on the working of the Government. Despite these shortcomings, the Act heralded an era of parliamentary Government in an otherwise totally bureaucratic system. Much of the present legislative usages were the product of this Act. The principle of indirect election was formally introduced. The right of voting on some items of the budget, the right of asking questions and supplementary questions and the right of moving resolutions as conceded to the members of the Council proved to be of substantial importance later on in the period of real self-government. It was one of the provinces of India to have introduced dyarchieal form of Government on an experimental basis. The Government of India Act 1919 which contained over 150 clauses and five schedules conferred administrative responsibility of certain subjects on the provinces under the Devolution Rules. These subjects of administration were divided Into two divisions and they were administered by the two halves of the Government. It was a novel experiment for India, though it was also tried in Malta and was nicknamed ’diarchy. The legislature was triennial and the statutory number of members was fixed at fifty three in Assam, The idea of provincial autonomy was indicated by the Government of India. The Wontford Report recommended decentralisation of administrative power so that popular control over provincial sphere could be effective. Accordingly, the Government of India Act, 1919, provided for delegation and devolution of administrative authority although the Constitution remained unitary. The word 'dyarchy' did not appear in the Govt, of India \ct 1919 nor in the Montford Report. Its first use was made by Mommsen to describe the dual system of Government, between the Emperor and the Senate in the Roman Provinces. It goes without saying that the system was halting and the power exercised by the representatives of the people was extremely limited. The Act of 1919 gave more powers to the provincial legislatures and broadened the electorate on the basis of the draft formula prepared by Mr Montagu, the then Secretary of State for India. This was put in its final form by Lord Curzon.

One of the Important features of the Assam Legislative Council of 1921 was that all communities of Assam were represented in it, vis., the Tea Planters, businessmen of both British and Indian communities, landlords, agriculturists, lawyers, educationists, workers in local bodies; further the following interests were represented : a non-official member of the Medical profession, an Indian Christian clergyman and a retired Indian officer o f the Assam Rifles, a representative of the Goalpara Zamindars, a representative of the domiciled community of Bengalese and two members of Ahom race including a prince of the Royal Bouse and a representative of the Fill areas. There was no female member In the Assam Legislative Council.

Though the Council represented different interests and communities, the legislative records of that time show that in the matters of public importance all the members could unite and very often resolutions were passed unanimously.

According to the provision of India Act 1935, a bicameral legislature of Assam province came into existence in 1937. After this Act was passed, it paved the way for the formation of Assam Legislative Assembly , and became a bicameral legislature .The strength of the House was 108, where all the members were elected. The Legislative Council (Upper House) was not less than 21 and not more than 22 members. The first sitting of its lower house, the Assam Legislative Assembly, took place on 7 April 1937 in the Assembly Chamber at Shillong was the capital of the composite State of Assam. It had strength of 108 members.

However, the strength of the Assembly was reduced to 71 after the partition of India. After Indian independence in 1947, the Assam Legislative Council was abolished and the Assam Legislative Assembly became unicameral.

In the years that followed, Assam was truncated to several smaller states. And over the years, with the changing geographical boundaries and increase in population, the strength of members has changed from 108 in 1952-57 to 114 in 1967-72 (the third Assembly) and by 1972-78 (the fifth Assembly) it had a strength of 126 members.

Assam under the provisions of India Council Act, 1861 did not have its own democratic institution but was tagged with East Bengal in 1905 and the Institution was then called "Legislative Council of Eastern Bengal and Assam", which started functioning from December 18, 1906. In 1909, the Council had a strength of 40 members and out of 40 seats, Assam was allotted 5 seats. In 1912 Assam was reconstituted into a Chief Commissioners' province. In the year 1913, after Assam was granted a Legislative Council under the Government of India Act. 1909, the Assam Legislative Council came into being with a strength of 34 members of which 13 were nominated by the Chief Commissioner and 21 were elected by the people. The Legislative Council of Assam first met on 6th January, 1913 at 11 a.m. at Shillong, which was presided over by Sir Archdale Easle, the Chief Commissioner of Assam. Under the Government of India Act. 1919, the strength of the Legislative Council was raised to 53 members with effect from 1st April, 1921 of which 41 were elected members and the remaining 12 were nominated.

The Government of India Act, 1935 was adopted by the British Parliament on 2nd August, 1935 and was implemented in 1937. The Government of India Act 1935 made provisions for a Legislative Assembly in each province and as a result the Legislature in Assam became

bicameral. The Assam Legislative Assembly had the strength of 108 members and all of them were elected members. the strength of the Legislative Council (Upper House) was not less than 21 and not more than 22 members.

After the partition of India, Sylhet district of Assam was transferred to the then East Pakistan by a referendum and the strength of the Assembly was reduced to 71. However, after Independence, the strength of members were again raised to 108. The bicameral Assam Legislative Assembly became unicameral with the abolition of the Assam Legislative Council in 1947. In the years that followed, Assam was truncated to several smaller states. In 1963, Nagaland came into being as a separate State. With the passing of North Eastern (Reorganization Areas) Act in 1971 by the Parliament, Meghalaya became a full-fledged state. Subsequently, Mizoram and Arunachal Pradesh also followed suit. After the creation of Meghalaya as a separate state, Shillong continued to be the joint capital of both Assam and Meghalaya. However, in 1972, the Government of Assam decided to shift the Capital to Dispur, Guwahati. Accordingly, the first sitting of the Budget Session of the Assam Legislative Assembly was held at the temporary capital at Dispur on the 16th March, 1973.

With the changing geographical boundaries together with the shifts in the population graph of Assam, the strength of members of the Assam Legislative Assembly has fluctuated during the last fifty odd years. In 1952-57 it was 108, reaching still lower to 105 in 1957-62 (the Second Assembly) and then to 114 in 1967-72 (the third Assembly) until it reached a strength of 126 members in 1972-78 (the fifth Assembly) and it has continued to maintain that figure till the 11th Assembly.

Although the Article 172 provides the duration of State Legislative Assembly as 5 years due to the imposition of National Emergency in 1975 the fifth Assam Assembly lasted for 6 years. Late Babu Basanta Kumar Das was the first Speaker of the Assam Legislative Assembly.

CHECK YOUR PROGRESS

Q.1: What was the total strength of the legislative council of Assam under the Regulations of 1912 ?

.....

Q.2: Who was the first Speaker of the Assam Legislative Assembly?

……..

Q.3: Mention one provision of the the Indian Councils Act .

…….

5.4 HONOURABLE MEMBERS OF THE ASSAM LEGISLATIVE ASSEMBLY SINCE 1937-1952 AND 1952-2011

Assam has had a glorious history of her own. Popularly known as ethnological museum of India, Assam has been described as mini India having a rich cultural heritage with diverse race, religion and culture. Assam under the provision of Indian Council Act, 1861 did not have her own democratic institution but she was tagged with the Eastern Bengal in 1905 and the name of the Institution was Legislative Council of Eastern Bengal and Assam. In 1909, the council had a strength of 40 seats and Assam was allotted 5 seats. However, after a good deal of pressures in 1913 Assam was granted a Legislative Council under the Government of India Act 1909 with 34 members of which 13 were nominated by the Chief Commissioner and 21 were elected by the people. The Legislative Council of Assam first met on 6th January, 1913 at 11.00 AM at Shillong, the then capital of Assam. Under the Government of India Act, 1919 the strength of the Legislative Council was raised to 53 members with effect from 1st April, 1921. The majority of the members were elected, 41 seats were distributed community wise as follows :

1. Labour 1, 2. Backward Area 1, 3. Non Mohammediam Urban 13, 4. Non Mohammediam Rural 21, 5. Commerce & Industry 41, 6. Official 7, 7. Non Official 53. The Government of India Act of 1935 made provisions for Legislative Assembly in each province and as a result the Legislature in Assam became bicameral. The Assam Legislative Assembly had the strength of 108 members and all the members of the Assembly were elected members. Seats were distributed as under : 1. General 47, 2. Muslim 34, 3. Planting Group 9, 4. Commerce 2, 5. Plain Tribes 4, 6. Hill Tribes 5, 7. Labour 4, 8. Women 1, 9. European 1, 10. Indian Christan 108.

The Legislative Council was a permanent body but as near as one third of its membership being renewed every third years. The strength of the council was not less than 21 but not more than 22. Seats distributed as under : 1. General 10, 2. Mohammedian 6, 3. European 2, 4. Nominated 4 . After the partition of India in 1947, Sylhet district of Assam was transferred to the then East Pakistan now Bangladesh by a referendum and the strength of the Assembly was reduced to 71, but raised to 108 again after independence of India. During that period the term of the Assembly was 6 years. After independence of India, the term of the Assembly has been reduced to 5 years from 6 years. Accordingly the first election of Assam was held in 1952 to elect the members for 1st Assam Legislative Assembly. The number of members of Assembly remained same i.e. 108 members. The next election was held in the year, 1957 to elect 108 members for the 2nd Assam Legislative Assembly. The third Assam Legislative Assembly was held in the year 1962 to elect 108 members. 109 In 1963 the Delimitation Commission fixed the strength of Assam Legislative Assembly at 126 on the basis of the census figure of 1961. From 4th Assam Legislative Assembly to 13th Assam Legislative Assembly, the members of Assam Legislative Assembly were as follows : 4th Assam Legislative Assembly 1967-1972 - 126 members. 5th Assam Legislative Assembly 1972-1978 - 126 members. 6th Assam Legislative Assembly 1978-1983 - 126 members. 7th Assam Legislative Assembly 1983-1985 - 126 members. 8th Assam Legislative Assembly 1985-1991 - 126 members. 9th Assam Legislative Assembly 1991-1996 - 126 members. 10th Assam Legislative Assembly 1996-2001 - 126 members. 11th Assam Legislative Assembly 2001-2006 - 126 members. 12th Assam Legislative Assembly 2006-2011 - 126 members. 13th Assam Legislative Assembly 2011-2016 - 126 members. 14th Assam Assembly election was held in 2016. 15th Assam Assembly elections was held in the year 2021.

Activity 5.1

Try to find out the name of the present Speaker of the Assam Legislative Assembly.

……

……..

CHECK YOURPROGRESS

Q.4: In which year the Legislative Council of Assam met for the first time?

……

Q.5: At present what is the total number of members of the Assam Legislative Assembly?

……

5.5 LET US SUM UP

- In 1905 when Bengal was partitioned, Assam, together with the eastern half of Bengal was converted into one Lieutenant Governorship, known as Eastern Bengal tined Assam. In 1911 the partition of Bengal was annulled and again Assam became a Chief-Commissioner's province.
- One of the Important features of the Assam Legislative Council of 1921 was that all communities of Assam were represented in it, vis., the Tea Planters, businessmen of both British and Indian communities, landlords, agriculturists, lawyers, educationists, workers in local bodies; further the following interests were represented : a non-official member of the Medical profession, an Indian Christian clergyman and a retired Indian officer o f the Assam Rifles, a representative of the Goalpara Zamindars, a representative of the domiciled community of Bengalese and two members of Ahom race including a prince of the Royal Bouse and a representative of the Fill areas.
- Now the Assam Legislative Assembly is the unicameral legislature of the Indian state of Assam. It is housed in Dispur, the capital of Assam, geographically situated in present Western Assam region. The Legislative Assembly comprises 126 Members of Legislative Assembly, directly elected from single-seat constituencies. Its term is five years, unless sooner dissolved.

5.6 FURTHER READING

1. Official Documents and Reports Assam Legislative Assembly Debates, 1940 – 1960.
Assam Legislative Assembly Proceedings, 1940 – 1960.
2. Indian Parliamentary Debates and Lok Sabha Debates, Relevant and available volumes.
Census of India, Relevant Volumes on Assam, ASA, Dispur.
3. Political History of Assam Records, State Archives, Dispur. Report on the Administration of Assam for the year 1921 – 1922.
4. A Note on Assam's Stand vis-a-vis British Government Statement of 6th November, 1946, Publicity Department of APCC. The Politico – Criminal Who's Who of Assam 1936, Part I, II and III, Compiled by the Intelligence Branch, Assam.
5. Medhi, Bishnuram (1955). Assam's Role in Freedom Movement. In Krishnaswami, V., ed. , Souvenir – Indian National Congress, (60th Session). Avadi, Madras, pp. 150 – 154.

5.7 ANSWERS TO CHECK YOUR PROGRESS

Ans To Q. No 1: 25

Ans To Q. No 2: Late Babu Basanta Kumar Das

Ans To Q. No 3: The Indian Councils Act 1861 provided for the creation of provincial legislatures for the first time in India.

Ans To Q. No 4: on 6th January, 1913

Ans To Q. No 5: 126

5.8 MODEL QUESTIONS

A) Very Short Questions

Q 1: What is the total strength of the Assam Legislative Assembly at present?

Q 2: Mention one provision of the Reforms Act of 1919.

B) Short Questions (Answer each question in about 150 words)

Q 1: Write a short note on the a) Speaker of Legislative Assembly.

Q 2: Write briefly about Assam Legislative Council of 1921.

C) Long Questions (Answer each question in about 300-500 words)

Q1: Discuss historical background of Assam Legislative Assembly.

Q 2: Make an assessment of the members of Assam Legislative Assembly till this date.

UNIT 6: RULES OF PROCEDURE AND CONDUCT OF BUSINESS OF THE INDIAN PARLIAMENT AND ASSAM LEGISLATURE

UNIT STRUCTURE

6.1 Learning Objectives
6.2 Introduction
6.3 Indian Parliament and Assam Legislature
6.4 Rules of Procedure and Conduct of Business of the Indian Parliament
6.5 Rules of Procedure and Conduct of Business of Assam Legislature
6.6 Let Us Sum Up
6.7 Further Reading
6.8 Answers to Check Your Progress
6.9 Model Questions

6.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- examine the rules of procedure of the Indian Parliament and Assam Legislature
- explain the conduct of business of the Indian Parliament and Assam Legislature.

6.2 INTRODUCTION

In India Parliament, which is a bi-cameral legislature, is the law-making organ of the government at the central level. Both the Houses of the Parliament have detailed rules of procedure which regulate their functioning. Besides law-making the Parliament has to keep a check on the functioning of the government. As a representative institution, it also highlights important issues being faced by the people. The fulfillment of this mandate is dependent upon the effective participation of Members of Parliament (MPs) in its proceedings. For effective participation in parliamentary proceedings, advance preparation and an understanding of these rules is important. In this unit we shall discuss rules of procedure and conduct of business of the Indian Parliament and Assam legislature.

6.3 INDIAN PARLIAMENT AND ASSAM LEGISLATURE

Indian Parliament

Parliament is the supreme legislative body of India. The Indian Parliament comprises of the President and the two Houses - Rajya Sabha (Council of States) and Lok Sabha (House of the People). The President has the power to summon and prorogue either House of Parliament or to dissolve Lok Sabha. The first general elections were held during the year 1951-52 and the first elected Parliament came into existence in April, 1952.

Assam Legislature

The Assam Legislature is a unicameral legislature. It consists of the Governor and the Assam Legislative Assembly. The Assam Legislative Assembly comprises 126 , directly elected from single-seat constituencies. Its term is five years, unless sooner dissolved.

CHECK YOUR PROGRESS

Q.1: The Indian Parliament consist of …… (fill in the blank)

Q.2: The Representation of House of People is based on …….. (fill in the blank)

Q.3: What is total strength of members in Assam Legislative Assembly?

……..

6.4 RULES OF PROCEDURE AND CONDUCT OF BUSINESS OF THE INDIAN PARLIAMENT

As we know that the Indian Parliament consists of the President, Rajya Sabha and Lok Sabha. Rajya Sabha and Lok Sabha have their own rules and procedure to conduct the business. Article 118(1) of the Indian Constitution empowers each House of Parliament to make rules for regulating its procedure and the conduct of its business. Under its rule of procedure and conduct of business, each House has instituted an elaborate committee system with a view to better organize its work and discharge its functions effectively. The committee system helps in conserving the time of the House, increasing expertise and enables the House to exert some control over the executive.

Under this provision of the Constitution, Rajya Sabha adopted rules for regulating its

procedure and the conduct of its business on June 2, 1964. The rules were brought into force with effect from July 1, 1964. Rajya Sabha's proceedings are presided over by the Chairman of the House. The proceedings are guided by the rules of procedure, which are implemented by the Chairman. The rules give the Chairman discretion in some matters to ensure smooth functioning of the House. For example, the discretion to allow an MP to raise a matter of public importance rests with the Chairman. In the Chairman's absence, the Deputy Chair or the Panel of Chairmen presides over the House. Participation in the proceedings of the House often requires advance planning. Rules require that MPs give prior information to the Secretariat/Chairman for asking questions, raising issues, and initiating or participating in debates. This is called "giving notice". For example, to ask a question in the House, a notice of fifteen days is required. There is some flexibility in the Rules to allow for debates without giving prior notice. This is left at the discretion of the Chairman.

In case of Lok Sabha, the Constituent Assembly (Legislative) Rules of Procedure and Conduct of Business in force immediately before the commencement of the Constitution of India were modified and adopted by the Speaker of Lok Sabha in exercise of the powers conferred on the Speaker by article 118(2) of the Constitution and published under the title "Rules of Procedure and Conduct of Business in the House of the People" in the Gazette of India Extraordinary dated the 17th April, 1952.

The Procedure of The House (Lok Sabha):

- National Anthem
- Oath of Speaker
- Oath of parliamentarians
- Statement from members of House
- Discussion Hours
- Question Hour
- Zero Hour
- Introduction of the Bills
- Reading of the bill (3 Reading consisting of discussion and amendments)
- Voting (Simple Majority)
- Declaration of bill as passed or rejected
- Statement of Speaker
- National Song

Oath or Affirmation:

The Speaker will take up the procedure of the House in the order in which it is printed in the list of procedure or may take oath collectively. A newly elected member of the House is required to make an Oath or affirmation at the commencement of a sitting of the House.

Statements from the House

After establishing quorum, the Speaker will ask for statements from the members. A total of 8 members (4 each from government and opposition) are given time on the floor to make statements. The leader of the House is the default first speaker and the leader of opposition is the default last speaker. However they may pass on their chance to speak to whoever they wish to. The other 6 speakers are chosen by the discretion of the chair when the MPs are asked for statements. The maximum time allowed to make statements is two minutes. Agendas for discussion hour (explained in the next section) are allowed to be sent once first two speakers have given their statements.

Discussion Hour

A discussion hour is the time allotted (maximum 40 minutes) for the discussion on a sub-agenda which the members feel should be discussed in front of the House. The total time of all the discussion shall be an hour. All agendas for discussion hour are supposed to be sent prior the commencement of discussion hour. Agendas for discussion hour are allowed to be sent once first two speakers have given their opening statements. The process of putting up agendas for a discussion is in writing and follows the given format: Name of the constituency, Topic of the discussion, Total Duration (not to exceed 40 minutes), Individual Speaker Time (not to exceed 90 seconds). The speaker shall keep the agendas in chronological order and first put the agenda to vote which is received first by the board. The chairperson may withdraw any agenda he/she feels has no relation to the agenda. However he/she has to notify the particular MP of the same on which the MP is allowed to send a chit explaining why the agenda should not be withdrawn. On receiving the agenda, the speaker will ask for seconds and oppositions, if no seconds, the motion fails and in case of seconds but no oppositions the agenda clearly passes. On receiving both seconds and oppositions the chairperson will put the agenda to vote and the result is decided by a simple majority of placard vote. An extension to a discussion hour may be obtained if the total time does not exceed 40 minutes or otherwise on the discretion of the chair.

Question Hour

It is the one hour after the discussion hour where the members of the House are free to ask questions to each other on matters pertaining to agenda or on a national emergency provided that such a question is sent in writing to the said member via the speaker and with his/her due approval before the commencement of question hour. The question has been defined as an instrument by which a member can elicit information on any matter of public importance. There are two types of questions- Starred Questions- meant for oral answers, Unstarred Questions- meant for written answers.

Zero Hour

It starts immediately after the Question Hour. During the Zero Hour any question pertaining to agenda or a national emergency can be raised by a member without any prior written request. The Zero Hour can extend to any period of time depending upon the Speaker's direction. The Government is not obliged to answer any of the questions raised in the Zero Hour. However in the context of the debate it is highly expected from them to answer all the questions. The chairperson shall choose the MPs on his/her discretion.

- **Legislative Business** [Reading of the bill (3 Reading consisting of discussion and amendments), Voting (Simple Majority), Declaration of bill as passed or rejected, Statement of Speaker]

  All legislative proposals are brought in the form of Bills before the Parliament. No Bill can become a law unless it has been passed by the parliament and has received assent of the President. The proposal is given the shape of a Bill and introduced in Parliament. Bills are either Government Bills which are sponsored by Ministers, or private members' bills which are sponsored by individual members other than ministers. Each Bill undergoes three Readings. These are:

  (a) First Reading

  The First Reading means a motion for permission to introduce a Bill. On the adoption of the motion the Bill is introduced.

  (b) The Second Reading

  There are two stages in the Second Reading of the bill. In the first stage, the motion that the Bill be taken into consideration is adopted. (This is followed by discussion on the principles of the bill.) In the second stage, clause-by-clause

consideration of the Bill is taken up. Notices of amendment are given any time after the introduction of a Bill. An amendment is admissible if it is within the scope of the bill. After the introduction of the bill, the minister concerned formally moves that the bill be taken up for consideration. The Minister then makes a brief introductory speech outlining of the importance of the Bill.

After this the Speaker formally places the motion before the house with the announcement that "The motion is that the ..... Bill to be taken into consideration." This is followed by a discussion in which the members from either side can take part after giving prior notice of their intention to the secretary-general. It may be noted that the discussion should be held on the general principles and provisions of the Bill. The Speaker asks members from both the Treasury and the Opposition benches to speak on the bill. After the discussion, the Minister concerned makes a closing speech and winds up the discussion. The motion for consideration is then put to the house. After it has been adopted, clause-by-clause discussion of the bill takes place. Amendments, if any, are permitted and voted upon.

(c) The Third Reading

In the Third Reading the Minster concerned moves that the bill be passed. The Speaker then puts the question before the House. Those in favor will say "Aye, those against will be 'No.' after taking the voice vote, he/she declares thrice that Ayes (or Noes) have it. He will then say that 'the Bill is passed (not passed)", as the case may be. It may be noted that for passing an ordinary Bill a simple majority is required and for Bills pertaining to Constitutional Amendments two-thirds majority is necessary.

CHECK YOUR PROGRESS

Q.4: Write short notes on Zero Hour. (within 50 words)

……

……

……
……..

Q.5: What is the difference between question hour and discussion hour?

……..

……..

Q.6: How many readings are required in each Bill?

……

Q.7: Which Article of the Indian Constitution empowers each House of Parliament to make rules for regulating its Procedure and the Conduct of its business?

……..

6.5 RULES OF PROCEDURE AND CONDUCT OF BUSINESS OF ASSAM LEGISLATURE

The Assam Legislative Assembly adopted a Resolution on 5th July, 1957 for examining the Rules of Procedure then in force and to bring them at par with the Rules of Procedure and Conduct of Business in Lok Sabha. The Rules Committee, Assam Legislative Assembly, headed by the then Hon'ble Speaker presented its final Report to the Assembly which was adopted by the House on 12th December, 1957.

In pursuance of the provision of Rule 310 and other Rules of Procedure and Conduct of Business in Assam Legislative Assembly, the Speaker, Assam Legislative Assembly has been issuing directions from time to time for regulating subject to the provisions of the rules, certain matters not specifically provided for in the rules and certain matters relating to detailed working of the rules. Some provisions of the rules are:

1. Oath or Affirmation
2. Rules to be observed by Members
3. General Procedure for giving notice
4. Method for participation in Debates by Members
5. Point of order
6. Precincts of the House and Assembly Premises

7. Maintenance of order within The Assembly Premises
8. Statement by Minister
9. Study tour of Legislature Committees
10. Recognition of and Facilities to Legislature Parties and Groups
11. Statutory Resolution
12. Entry into the Assembly Premises
13. Questions
14. Zero Hour
15. Committee on Petitions

- **Rules to be observed by Members of Assam Legislative Assembly**

While the House is sitting, a member should observe some rules. Some of the important rules are as follows:

1. Shall not read any book, newspaper or letter except in connection with the business of the House.
2. Shall not interrupt any member while speaking by improper expression or noises or any other improper manner.
3. Shall not leave the House while Speaker is addressing the House.
4. Shall maintain silence when not speaking in the House.
5. Members should be present in the House a few minutes before the schedule time as provided under rule 11.
6. Members should not sit back to the chair not bring any mobile phones to the Chamber with their switch on.
7. No member should raise in the House the subject matter of a notice or a communication not sent by him to the Speaker, unless he has been specifically permitted by the Speaker to do so. If no intimation has been received by the member, he should presume that the matter is under the active consideration of the Speaker.
8. Every member should resume his/her seat as soon as the Speaker rises to speak, or calls out “order”, and also when any other member is in possession of the floor (i.e. speaking with the permission of the Chair).
9. Members should not leave the House immediately after they finish their speeches. Courtesy to the House requires that after finishing their speeches they resume their seats and leave the House only afterwards, if necessary.

10. When any member offers a criticism of another member or Minister, the latter is entitled to expect that the critic should be present in the House to hear his/her reply.

- **General Procedure for Giving Notices**

The general procedure for giving notices is as follows -

1. Every notice required by the rules should be given in writing addressed to the Secretary, and signed eligibly by Member giving notice, and has to be delivered to Secretary or notice Office during office hours except on Government holidays.
2. The writings in the notice should be clear and easily readable. Each communication should deal with one matter only.
3. Prescribed forms for various purposes are kept in the notice Office. Members may collect the forms required by them from there.
4. It is open to member to give notices before making and subscribing an oath or affirmation and taking seat in the House, but he/she cannot exercise any of his/her functions as a member in the House, that is to say, he/she cannot ask a question or move a motion or resolutions etc. unless he/she has made and subscribed the oath or affirmation and taken his/her seat in the House.

- **Method for Participation in Debates by Members**

1. Any one of the following three methods may be adopted by members who desire to notify the Speaker of their intention to take part in a debate or discussion -
    a. The names of members who wish to participate in a particular debate or discussion may be supplied to the Speaker by the Legislature Parties or Groups.
    b. A member who prefers to write direct to the Speaker may do so without having to go through the machinery of Legislature Party or Group.
    c. A member who may not like to give his/her name to the Speaker through his/her Party or to write direct to the Speaker but wishes to adopt the well-known parliamentary practice of catching the Speaker's eye may stand in his/her seat whenever he/she wishes to take part in a debate.
2. Unless a member rises in his/her seat and catches the Speaker's eye, he/she shall not be called upon by the Speaker's to speak, irrespective of whether he/she has send his/her name through his/her Party or Group or written direct to the Speaker.

3. The Speaker shall not be bound by the lists or order in which names have been given by the Parties or Groups or individuals directly. The lists shall be for his/her guidance only and it shall always be open to him/her to make changes whenever necessary in order that the debates are regulated in accordance with the general principles laid down by the Speaker from time to time.
4. If a member speaks without being called by the Speaker to speak or continues to speak despite the directions to conclude the speech forthwith the Speaker may direct that such speech or portions thereof, as the case may be shall not form part of the proceedings of the House.

- **Point of Order**

  A member can raise a point of order under rule 300 only during the interval between the termination of one item of business and the commencement of another item. A point of order shall not be raised during Question Hour.

- **Supplementary Questions**

  Any member with the permission of the Speaker may put Supplementary Questions to a Starred Question after it is called by the Speaker for the purposes of further elucidating any matter of fact regarding which any answer has been given. But not more than 5 minutes shall be devoted for putting supplementaries to a particular question.

- **Zero Hour**

  Unless the Speaker otherwise directs no matter of public importance shall be allowed to be raised during Zero Hour which occurred three days before the day on which it is proposed to be raised. The member desiring to raise such matter shall give notice his/her intention to the Speaker and the Secretary along with a copy of the notice of to the concerning minister at least one hour before the commencement of the Session. The Speaker in his/her discretion may allow the member to raise the matter and the concerned Minister may give a reply if required information and other materials are available with him, otherwise the replies shall be given by the Minister according to his/her convenience and the matter shall be treated as “raised”. Provided that not more than three such matters shall be allowed to be raised on any particular day.

CHECK YOUR PROGRESS

Q.8: A Members of the Assam Legislative Assembly should not sit back to the chair not bring any mobile phones to the Chamber with their switch on. (True/False)

……..

Q.9: Define Supplementary Question.

……..
……

Q.10: How many methods may be adopted by members who desire to notify the Speaker of their intention to take part in a debate or discussion?

……..

6.6 LET US SUM UP

- Both Houses of Parliament have detailed Rules of Procedure which regulate their functioning. For effective participation in parliamentary proceedings, advance preparation and an understanding of the Rules is important.
- Article 118(1) of the Indian Constitution empowers each House of Parliament to make rules for regulating its Procedure and the Conduct of its business. Under its rule of procedure and conduct of business, each house has instituted an elaborate committee system with a view to better organize its work and discharge its functions effectively. The Committee system helps in conserving the time of the House, increasing expertise and enables the House to exert some control the government.
- Rajya Sabha's proceedings are presided over by the Chairman of the House. The proceedings are guided by the Rules of Procedure, which are implemented by the Chairman. The Rules give the Chairman discretion in some matters to ensure smooth functioning of the House. For example, the discretion to allow an MP to

raise a matter of public importance rests with the Chairman. In the Chairman's absence, the Deputy Chair or the Panel of Chairmen presides over the House.

- In case of Lok Sabha, the Constituent Assembly (Legislative) Rules of Procedure and Conduct of Business in force immediately before the commencement of the Constitution of India were modified and adopted by the Speaker of Lok Sabha in exercise of the powers conferred on the Speaker by article 118(2) of the Constitution and published under the title "Rules of Procedure and Conduct of Business in the House of the People" in the Gazette of India Extraordinary dated the 17th April, 1952.
- Assam Legislative Assembly also has rules of procedure and conduct of business for its smooth functioning.

6.7 FURTHER READING

1) Jain, M.P, (2007). *Indian Constitutional Law (5th edn).* New Delhi: Wadhwa and Company.
2) Pandey, J.N, (2004). *Constitutional Law of India (41st edn).* Allahabad: Central Law Agency.
3) *Rules of Procedure and conduct of Business in Assam Legislative Assembly,(2011): 11th edn,* Guwahati, Assam Legislative Assembly Secretariat Dispur.

6.8 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q. No 1: the President and the two Houses - Rajya Sabha (Council of States) and Lok Sabha (House of the People).

Ans to Q. No 2: universal adult suffrage.

Ans to Q. No 3: 126

Ans to Q. No 4: Zero Hour starts immediately after the Question Hour. During the Zero Hour any question pertaining to agenda or a national emergency can be raised by a member without any prior written request. The Zero Hour can extend to any period of time depending upon the Speaker's direction. The Government is not obliged to answer any of the questions raised in the

Zero Hour. However in the context of the debate it is highly expected from them to answer all the questions.

Ans to Q. No 5: Question is the one hour after the discussion hour where the members of the House are free to ask questions to each other on matters pertaining to agenda or on a national emergency provided that such a question is sent in writing to the said member via the speaker and with his/her due approval before the commencement of question hour. While a discussion hour is the time allotted (maximum 40 minutes) for the discussion on a sub- agenda which the members feel should be discussed in front of the house. The total time of all the discussion shall be an hour.

Ans to Q. No 6: Three Readings are required in each Bill.

Ans to Q. No 7: Article 118(1)

Ans to Q. No 8: True

Ans to Q. No 9: Any member with the permission of the Speaker may put Supplementary Questions to a Starred Question after it is called by the Speaker for the purposes of further elucidating any matter of fact regarding which any answer has been given. But not more than 5 minutes shall be devoted for putting supplementaries to a particular question.

Ans to Q. No 10: Three methods

6.9 MODEL QUESTIONS

A) Very Short Questions

Q. 1: What are the two Houses of the Indian Parliament?

Q.2: Assam's legislature is a unicameral legislature. (True/ False)

Q.3: Who has the power to summon and prorogue either House of the Parliament or to dissolve Lok Sabha?

B) Short Questions (Answer each question in about 150 words)

Q. 1: Examine the role of Speaker in the Lok Sabha.

Q.2: Explain any four rules to be observed by Members of the Assam Legislative Assembly.

C) Long Questions (Answer each question in about 300-500 words)

Q1. Discuss the rules of procedure of Indian Parliament.

Q2. Discuss the rules of procedure of Assam Legislative Assembly.

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UNIT 7: GOVERNOR'S ADDRESS AND MOTIONS

UNIT STRUCTUR

7.1 Learning Objectives
7.2 Introduction
7.3 Role of Members
7.4 Governor's Address to the State Legislature
7.5 Motions on Adjournment
    7.5.1 Motion on Adjournment
    7.5.2 Motion of No-Confidence
    7.5.3 Calling Attention
    7.5.4 Zero Hour
    7.5.5 Half An Hour Motion
    7.5.6 Question Hour
7.6 Let Us Sum Up
7.7 Further Reading
7.8 Answers to Check Your Progress
7.9 Model Questions

7.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- discuss the role of the members of the legislature in India
- analyse the Governor's address and messages to the State Legislatures
- examine some important motions through which the executive are held accountable to the legislature, such as- motion on adjournment, motion of no-confidence etc.
- analyse some other techniques of the legislature, such as- calling attention, zero hour, half an hour motion, question hour etc.

7.2 INTRODUCTION

In India the Parliament at the Centre and the state legislature at the state levels have the power of law-making. In the previous unit we have discussed the rules if procedure and conduct of business of the Parliament and Assam Legislature. In this unit we shall discuss what are the

roles of the members of the Parliament and the state legislature. Besides this the unit will also deals with some important techniques through this the executive is held responsible and accountable to the legislature.

7.3 ROLE OF MEMBERS

Although the exact roles and responsibilities of an MP are not codified in the Constitution of India, Section 3 of Article 105, which discusses the powers and privileges of MPs and of committees, lays the responsibility of defining the responsibilities of an MP and committees of the Parliament. It says: *"..the powers, of each House of Parliament, and of the members and the committees of each House, shall be defined by Parliament by law from time to time."*

However, through various laws and otherwise, an MP is required to perform various responsibilities in the Parliament and outside, which can be broadly classified into the following: (An MP's major role is the legislative role and over the years some executive functions have been assigned).

1) Legislative Role:

a) Making laws for governance of our country (on subjects enumerated in the Union list and the residuary subjects): An MP participates in the discussion of a bill and suggests amendments to a Government bill. Separately, any MP who is a non-Minister can also propose legislative changes to the government, through Private Members' Bills. An MP also participates in voting for amending the Constitution of India (subject to the basic structure.) Legislative matters on issues such as creation of state legislative councils; to increase or decrease area or boundaries of a state, change the name of a state and Union territories; regulation of the organization and jurisdiction of the Supreme Court and High Courts and allot one High Court to two or more states etc. are also discussed by the MPs in their respective Houses. An MP also participates in the process for impeachment of the President; removal of the Vice-president, and judges of the High Court and Supreme Court.

b) Delegated legislation: Once a bill is signed into law, the powers to make detailed rules and regulations within its framework rest with the executive. An MP's role is to keep a check on the executive overreach and ensure that the powers of delegated legislation are not abused by the government. E.g.: RS MP, P. Rajeeve raised objections to the IT rules drafted by the government in 2011.

2) Supervisory Role:

a) The MPs exercise control over the executive through Parliamentary interventions such as Question Hour, Zero Hour, Calling Attention Motion, Adjournment Motion, No-confidence Motion, Censure Motion and other discussions.

b) MPs also supervise the executive by participating in committees like Public accounts, estimates, Public undertakings and various other department related standing and ad-hoc committees.

3) Electoral Role:

a) An MP participates in the election of the President and the Vice-President.

b) On one hand, a Lok Sabha MP elects the Speaker of the House and the Deputy Speaker. On the other hand, a Rajya Sabha MP elects the Vice-Chairman of the Rajya Sabha.

4) Power of the Purse:

No tax can be levied and no expenditure incurred by the government except with the approval of the Parliament. The Budget is therefore presented to the Parliament. Parliamentary control over executive in matters of Finance are:

a) Budgetary control

b) Post-budgetary control

5) Representative Responsibility:

Every MP is the voice for his/her constituency. Every MP has to raise issues of his or her constituency in the Parliament through questions, debates etc. An MP can also play a role in implementing projects in his/her constituency by following up on projects at the level of the district administration or at the State government and Central government level.

7.4 GOVERNOR'S ADDRESS TO THE STATE LEGISLATURE

Article 176(1) of the Constitution of India states that the Governor shall address both the Houses of the state legislature assembled together at the commencement of the first session after each general election to the Assembly and at the commencement of the first session of each year and inform the Legislature of the causes of its summons. The address of the Governor contains a review of the activities and achievements of the Government during the

previous year and their policies with regard to important internal problems as well as a brief account of the programme of Government Business for the session.

On the first day on which the discussion on the address of the Governor begins, a copy of the Address of the Governor is laid on the table of the House. The Speaker, in consultation with the Business Advisory Committee, allots time for discussions of the matters referred to in the Governor's Address. A motion is moved by a member and seconded by another member thanking the Governor for the Address. The occasion is provided for General Discussion in respect of any aspect of administration and also the matters referred to in the address. Members may move Amendments to the Motion of Thanks in such form as may be considered appropriate by the Speaker.

The Chief Minister or any other Minister has the right to explain the position of the Government at the end of the discussion. A copy of the address as adopted by the House is communicated to the Governor's reply for the address if any is reported to the Assembly by the Speaker as soon as he received it.

7.5 MOTIONS

In this section we shall discuss various motions introduced in the legislature to ensure the responsibility and accountability of the members.

7.5.1 Motion on Adjournment

The primary object of an adjournment motion is to draw the attention of Lok Sabha to a recent matter of urgent public importance having serious consequences and in regard to which a motion or a resolution with proper notice will be too late.

Adjournment motion is allowed only in Lok Sabha (or in state legislative assembly) and not in Rajya Sabha (or in state legislative council) because it has an element of censure against the government.

Essential Conditions- There are few conditions of adjournment motion in Lok Sabha which are as follows:

Such a motion needs support of at least 50 members. It should be introduced on a matter of definite and urgent public importance. However, it should not cover more than one matter and be restricted to that matter only. The subject matter should not be the same which has already been discussed in the same session. A question of privilege or any other questions which can be raised via other distinct motion cannot be raised in adjournment motion. Since adjournment

motion disrupts the normal business of the house so, this is regarded as an extraordinary tool in parliament. The discussion on adjournment motion needs to last for at least 2.5 hours.

Calling Attention versus Adjournment Motion- Since Rajya Sabha is not permitted to make use of the adjournment motion, there is a similar tool in Rajya Sabha which is called “Calling Attention”. The notable difference between the two is that while adjournment motion has an element of censure against the Government, Calling Attention has no such elements.

Adjournment Motion is the procedure for adjournment of the business of the House for the purpose of discussing a definite matter of urgent public importance, which can be moved with the consent of the Speaker.

The Adjournment Motion, if admitted, leads to the setting aside of the normal business of the House for discussing the matter mentioned in the motion.

To be in order, an Adjournment Motion must raise a matter of sufficient public importance to warrant interruption of normal business of the House and the question of public importance is decided on merit in each individual case.

The purpose of an Adjournment Motion is to take the Government to task for a recent act of omission or commission having serious consequences. Its adoption is regarded as a sort of censure of the Government.

7.5.2 Motion of No-Confidence

A motion of no-confidence (alternatively vote of no confidence, no-confidence motion, or (unsuccessful) confidence motion) is a statement or vote which states that a person(s) in a position of responsibility (government, managerial, etc.) is no longer deemed fit to hold that position, perhaps because they are inadequate in some respect, are failing to carry out obligations, or are making decisions that other members feel are detrimental. As a parliamentary motion, it demonstrates to the head of state that the elected parliament no longer has confidence in (one or more members of) the appointed government.

A censure motion is different from a no-confidence motion. Depending on the constitution of the body concerned, "No-Confidence" may lead to compulsory resignation of the council of ministers or other position-holder(s), whereas "Censure" is meant to show disapproval and does not result in the resignation of ministers. The censure motion can be against an individual minister or a group of ministers, but the no-confidence motion is directed against the entire cabinet. Again, depending on the applicable rules, censure motions may need to state the reasons for the motion while no-confidence motion may not require reasons to be specified. In many parliamentary democracies, strict time limits exist as to the proposal of a no -

confidence motion, with a vote only allowed once every three, four or six months. Thus, the timing of a motion of no confidence is a matter of political judgement; using a motion of no-confidence on a relatively trivial matter may prove counterproductive if a more important issue suddenly arises which warrants a motion of no-confidence, because a motion cannot be proposed if one had been voted on recently. Sometimes, the government will choose to declare that one of its bills is a "motion of confidence" in order to prevent dissident members of parliament from voting against it. In India, a Motion of No-Confidence can be introduced only in the Lok Sabha (the lower house of the Parliament of India). The motion is admitted for discussion when a minimum of 50 members of the House supports the motion. If the motion carries, the House debates and votes on the motion. If a majority of the members of the house vote in favour of the motion, the motion is passed and the Government is bound to vacate the office. Acharya Kripalani moved the first-ever no-confidence motion on the floor of the Lok Sabha in August 1963, immediately after the disastrous India-China War. With the anti-defection law, Vote of no-confidence has no relevance left in case the ruling party has an absolute majority in the House. If the majority party (with an absolute majority in the House) issues whip to vote party members in favor of the Government, then it is impossible to remove the Government by no-confidence motion. Hence the no-confidence exercise of House merely becomes the no-confidence exercise of the Party.

CHECK YOUR PROGRESS

Q.1: Which Article of the India Constitution discusses the powers and privileges of the MPs?

……

Q.2: What is the primary object of an adjournment motion?

……

……

Q.3: Who for the first time moved the no-confidence motion on the floor of the Lok Sabha?

7.5.3 Calling Attention

The concept of ‘Calling Attention’ is of Indian origin. It is an innovation in the modern parliamentary procedure and combines the asking of a question for answer with supplementaries and short comments in which different points of view are expressed concisely and precisely, and the Government has adequate opportunity to state its case. It gives members an opportunity to bring to the surface the failure or inadequate action of Government

on a matter of urgent public importance. This procedural device is analogous to an adjournment motion without its censure aspect.

Provisions in the Rajya Sabha Rules:

Rule 180 of the Rules of Procedure and Conduct of Business which deals with the calling attention to matters of urgent public importance, reads :

(1) A member may, with the previous permission of the Chairman, call the attention of a Minister to any matter of urgent public importance and the Minister may make a brief statement or ask for time to make a statement at a later hour or date, provided that no member shall give more than two such notices for any one sitting.
(2) There shall be no debate on such statement at the time it is made.
(3) Not more than one such matter shall be raised at the same sitting.
(4) In the event of more than one matter being presented for the same day, priority shall be given to the matter which is, in the opinion of the Chairman, more urgent and important.
(5) The proposed matter shall be raised after the questions and the laying of papers, if any, on the table and before any other item in the list of business is taken up and at no other time during the sitting of the Council.

In pursuance of certain decisions taken at the meetings of Rules Committee, General Purposes Committee and leaders of the parties/groups in Rajya Sabha, the following procedure and practice regarding Calling Attention, has been adopted:
(i) All Calling Attention notices received for a day during a week in which that day falls are kept alive during the whole of that week and placed before the Chairman for his consideration from day to day along with notices received up to 10.30 a.m. on the day on which the notices are put up to him.
(ii) On the last day of the week on which the House sits, the notices received upto 10.30 a.m. on that day are considered and notices which are not selected are regarded as lapse and no intimation about this is given to the members.
(iii) Notices received after 10.30 a.m. on the last day of the week on which the House sits are deemed to have been received for the day on which the next sitting of the House is to be held and these are valid for the following week.
(iv) Not more than two notices of Calling Attention may be given by a member for one sitting.

(v) A member who initiates a Calling Attention may not take more than 7 minutes and other members who are called by the Chairman should not take more than 5 minutes each and should restrict themselves strictly of seeking clarifications on the Calling Attention.

(vi) Where a Calling Attention notice stands in the name of a number of members, in choosing members who desire to seek clarifications the first principle adopted is party/group. After exhausting the parties/groups, whose members have given the notice by calling one member from each party/group, the Chairman may call members belonging to the parties/groups not included in the list.

(vii) A member whose Calling Attention notice has not been selected during a week may renew the same for subsequent week(s). In such a case, the date and priority of the notice is taken as the date and time at which the renewal notice is received in the Secretariat from the member concerned and no consideration is given to the previously lapsed notice of Calling Attention on the same subject.

(viii) The normal time to be spent on a Calling Attention is about an hour so that it should conclude at 1.00 p.m.

Calling Attention procedure in actual practice:

A member who intends to call the attention of a Minister to a matter of urgent public importance has to give notice thereof in writing in the prescribed form available in the Notice Office. All notices received from members up to 10.30 a.m. are placed before the Chairperson everyday for his or her consideration by the Secretary-General. The Chairman decides the admissibility of the Calling Attention notice. The concerned Minister and the members in whose name the Calling Attention notice is admitted are informed accordingly.

An item of the admitted Calling Attention is included in the list of business in the names of all those members whose notices on that subject are alive and the inter se priority of members is determined according to the time of receipt of all those notices.

It is not necessary for the Chairman to admit Calling Attention notice for every sitting of the House. Admission of notice is subject to the rules and ultimately to the decision of the Chairman that the matter sought to be raised does call for an early statement from the Minister.

Generally, the ‘Calling Attention’ is taken up immediately after the Question Hour and laying of papers, if any, but sometimes the Calling Attention may be taken up later in the day, subject to the direction of the Chair and the consensus arrived at in the House.

The member whose name is first in the list of business rises in his seat when called upon and calls the attention of the Minister by reading out the item from the list of business. At that time he does not make any statement.

Thereafter, the Minister makes a statement in response to the Calling Attention. Copies of the proposed statement of the Minister are made available to members just before the Minister commences his statement. Under the rules, no debate is permitted on such statement at the time it is made. However, members are permitted to seek clarifications on the statement. For this purpose, the Chairman calls the members in party-wise *i.e*., one member from each party/group. In other words, members are not called in the order in which their names appear in the list of business. It is also not obligatory on the Chairman to call all those whose names appear in the list of business. After the members to whom the Chairman has permitted to seek for clarifications, the Minister replies.

Ordinarily, the Calling Attention is concluded before lunch-break, but there have been occasions in the past when the discussion on a Calling Attention had gone beyond lunch-break or took the whole day or even next day depending on the importance of the subject and desire of the House. There were occasions also in the past when after a Minister had made a statement, members were permitted to seek clarifications thereon the next or the subsequent day.

7.5.4 Zero Hour

Generally, the first hour of a sitting of Lok Sabha (11 am to 12 noon) is devoted to Questions and that hour is called the Question Hour.

It is during the Question Hour that the members can ask questions on every aspect of administration and Governmental activity. The member give notice in writing addressed to the Secretary-General of the Lok Sabha, intimating his intention to ask a question. Besides the text of the question, the notice states clearly then official designation of the Minister to whom the question is addressed as also the date on which the question is desired to be placed on the list of questions for answer as also the order of preference.

The normal period of notice of a question is not more than twenty-one and not less than ten clear days. A short notice question can be asked with a notice shorter than ten days, but the member has to state briefly the reasons for asking the question at short notice.

Zero Hour denotes the time immediately following the Question Hour in both the Houses of Parliament. This is about 12 noon which is why it is called Zero Hour. During this hour members can raise matters of great importance without prior 10 days notice. However, the

duration of the Zero Hour has varied over the years. It is not possible to predict what kind of matters might be raised during Zero Hour as there is no mention of any Zero Hour in the rules of the Parliament. It began as an informal practice in 1962. The idea behind zero hour is that there are certain matters of urgent public importance which cannot wait for 10 days notice.

Whenever Presiding Officers of the Houses give directions to the Government or the Minister/Minister of State for Parliamentary Affairs gives assurances on certain issues raised during 'Zero Hour' in the two Houses, the important extracts from the proceedings of the Houses relating to such matters are sent by the Minister of Parliamentary Affairs to the Minister concerned on the same day for such action as may be deemed necessary by the department. Ministry of Parliamentary Affairs also sends relevant extracts from the proceedings relating to the matters raised during Zero Hour in the two Houses on which no directions or assurances are given, to the department concerned for information and such action as may be deemed necessary. The department may examine such matters and, if deemed necessary, send replies to the members under intimation to the Ministry of Parliamentary Affairs.

7.5.5 Half-An-Hour Motion

The Chairperson shall allot half-an-hour from 5 p.m. to 5.30 p.m. on any day for raising discussion on a matter of sufficient public importance which has been the subject of a recent question in the Council, and the answer to which needs elucidation on a matter of fact, provided that if the other business set down for the day is concluded before 5 p.m. the period of half-an-hour shall commence from the time such other business is concluded. The Chairman may vary the time of commencement of such discussion if such a course is, in his opinion, necessary or convenient.

A member wishing to raise a matter shall give notice in writing to the Secretary-General three days in advance of the day on which the matter is desired to be raised, and shall shortly specify the point or points that he wishes to raise:

(a) Provided that the notice shall be accompanied by an explanatory note stating the reasons for raising discussion on the matter in question.

(b) Provided further that the notice shall be supported by the signatures of at least two other members.

(c) Provided further that the Chairman may with the consent of the Minister concerned waive the requirement concerning the period of notice.

The Chairman shall decide whether the matter is of sufficient public importance to be put down for discussion. If more than two notices have been received and admitted by the Chairman, the Secretary-General shall draw by lot two notices and the notices shall be put down in the order in which they were received in point of time, provided that if any matter put down for discussion on a particular day is not disposed of on that day it shall not be set down for any other day, unless the member so desires, in which case it shall be included in the draw of lot for the next available day.

There shall be no formal motion before the Council nor voting. The member who has given notice may make a short statement and the Minister concerned shall reply shortly. Any member who has previously intimated to the Chairman may be permitted to put a question for the purpose of further elucidating any matter of fact, provided that if the member who has given notice is absent, any member who has supported the notice may, with the permission of the Chairman, initiate the discussion.

7.5.6 Question Hour

Question Hour is the first hour of a sitting session of India's Lok Sabha devoted to questions that Members of Parliament raise about any aspect of administrative activity. The concerned Minister is obliged to answer to the Parliament, either orally or in writing, depending on the type of question raised. Questions are one of the ways Parliament can hold the Executive accountable.

There are two main types of questions—Starred and non-starred. Starred questions are those for which an oral answer is expected. The member is allowed to ask a supplementary question, with the permission of the Speaker, after the reply is obtained from the Minister concerned. Non-starred questions are those for which a written reply is expected. After the reply has been provided, no supplementary question can be asked. A notice period is to be given to the minister to reply to a question. However, if a Member seeks to ask a question urgently and cannot wait for the duration of the notice period, then the member can do so provided it is accepted by the Speaker. Such questions are called supplementary questions.

CHECK YOUR PROGRESS

Q.4: What is starred questions?

……

……

Q.5: Write briefly about the Calling Attention motion.

……

……

……

……

Q.6: What is Question Hour?

……

……

7.6 LET US SUM UP

- Although the exact roles and responsibilities of an MP are not codified in the Constitution of India, Section 3 of Article 105, which discusses the powers and privileges of MPs and of committees, lays the responsibility of defining the responsibilities of an MP and committees on Parliament.
- Participation in law-making procedure is the most important function of the members of the Parliament.
- MPs also supervise the executive by participating in committees like Public accounts, estimates, Public undertakings and various other department related standing and ad-hoc committees.
- Article 176(1) of the Constitution of India enjoins that the Governor shall address both the Houses assembled together at the commencement of the first Session after each general election to the Assembly and at the commencement of the first session of each year and inform the Legislature of the causes of its summons.
- The primary object of an adjournment motion is to draw the attention of Lok Sabha to a recent matter of urgent public importance having serious consequences and in regard to which a motion or a resolution with proper notice will be too late.
- The concept of 'Calling Attention' is of Indian origin. It is an innovation in the modern parliamentary procedure and combines the asking of a question for answer with

supplementaries and short comments in which different points of view are expressed concisely and precisely, and the Government has adequate opportunity to state its case.

- A motion of no-confidence (alternatively vote of no confidence, no-confidence motion, or (unsuccessful) confidence motion) is a statement or vote which states that a person(s) in a position of responsibility (government, managerial, etc.) is no longer deemed fit to hold that position, perhaps because they are inadequate in some respect, are failing to carry out obligations, or are making decisions that other members feel are detrimental. As a parliamentary motion, it demonstrates to the head of state that the elected parliament no longer has confidence in (one or more members of) the appointed government.
- Zero Hour denotes the time immediately following the Question Hour in both the Houses of Parliament. This is about 12 noon which is why it is called Zero Hour. During this hour members can raise matters of great importance without prior 10 days notice.

7.7 FURTHER READING

1. Fadia, Dr. B.L. & Fadia, Dr. Kuldeep. (2018). *Indian Government and Politics*. New Delhi: Sahitya Bhawan, Publication.
2. Kashyap, Subhash. (2015). *Our Parliament*. New Delhi: National Book Trust .
3. Pandey, J. N. (2017). *The Constitution of India.* New Delhi : Central Law Agency.
4. Shoutrie, Arun. (2007).The Parliamentary System. New Delhi:Rupa & Co.

7.8 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q. No 1: Article 105

Ans to Q. No 2: The primary object of an adjournment motion is to draw the attention of Lok Sabha to a recent matter of urgent public importance having serious consequences and in regard to which a motion or a resolution with proper notice will be too late.

Ans to Q. No 3: Acharya Kripalani

Ans to Q. No 4: Starred questions are those for which an oral answer is expected in the Parliament.

Ans to Q. No 5: The concept of 'Calling Attention' is of Indian origin. It is an innovation in the modern parliamentary procedure and combines the asking of a question for answer with supplementaries and short comments in which different points of view are expressed concisely

and precisely, and the Government has adequate opportunity to state its case. It gives members an opportunity to bring to the surface the failure or inadequate action of Government on a matter of urgent public importance.

Ans to Q. No 6: The first hour of a sitting of Lok Sabha (11 am to 12 noon) is devoted to Questions and that hour is called the Question Hour.

7.9 MODEL QUESTIONS

A) Very Short Questions

Q 1: Mention one supervisory function of the Member of Parliament.

Q 2: What is Zero Hour?

Q 3: What are the primary object of an adjournment motion ?

B) Short Questions (Answer each question in about 150 words)

Q 1: Write a short note on the Half-an-Hour motion.

Q 2: Explain briefly the role of the Governor in the state legislature.

Q 3: Write briefly about the meaning of motion of no-confidence.

C) Long Questions (Answer within 300-500 words)

Q 1: Explain the roles of the members of the Parliament.

Q 2: Discuss the various techniques through which the Parliament exercise control over the executive.

UNIT 8: LEGISLATION: LAW MAKING PROCEDURE IN THE PARLIAMENT AND ASSAM LEGISLATURE

UNIT STRUCTURE

8.1 Learning Objectives
8.2 Introduction
8.3 Legislation
    8.3.1 Publication of Bills
    8.3.2 Motions After Introduction of Bills and Passing of Bills
    8.3.3 Debate, Correction, Withdrawal, Amendments
    8.3.4 Resolutions
8.4 Procedure in Financial Matters
8.5 Parliamentary Privileges
8.6 Let Us Sum Up
8.7 Further Reading
8.8 Answers to Check Your Progress
8.9 Model Questions

8.1 LEARNING OBJECTIVES

After going through this unit, you will be able to –

- describe the various stages of the legislative procedure of the Indian Parliament
- explain the legislative procedure in financial matters
- examine the privileges of the members of the Parliament and state legislature.

8.2 INTRODUCTION

In India there are three organs of the government. These are- legislature, executive and judiciary. The legislature formulates the laws, executive implements these laws and the judiciary interprets the laws of the legislature and actions of the executive. India has bicameral legislature at the centre and at the state level 7 states have bicameral legislature and other remaining states have unicameral legislature. At the center the legislature is known as the Parliament consisting of the President, the Rajya Sabha (Upper House) and the Lok Sabha (Lower House). Making or formulation of laws is the most important task of the Parliament. In this unit we shall

discuss the process of legislation of the Parliament both in case of ordinary matters and financial matters. We shall also discuss privileges of the members of the Parliament and state legislature.

8.3 LEGISLATION

A legislature is a deliberative assembly with the authority to make laws for a political entity such as a country or city. Legislatures form important parts of most of the governments. Laws enacted by the legislatures are known as legislation. Legislatures observe and steer governing actions and usually have exclusive authority to amend the budget or budgets involved in the process.

The members of a legislature are called legislators. In a democracy, legislators are most commonly elected by the people; although indirect election and appointment by the executive are also used, particularly for bicameral legislatures featuring an upper chamber. In the following sections we shall discuss the various stages of legislation in the Indian Parliament.

8.3.1 Publication of Bills

A Bill is the draft of a legislative proposal. It has to pass through various stages before it becomes an Act of Parliament. The legislative process starts with the introduction of a Bill in either House of Parliament—Lok Sabha or Rajya Sabha. A Bill (other than money bill) can be introduced either by a Minister or by a private member. In the former case, it is known as a Government Bill and in the latter case, it is known as a Private Member's Bill.

It is necessary for a member-in-charge of the Bill to ask for leave to introduce the Bill. If leave is granted by the House, the Bill is introduced. This stage is known as the First Reading of the Bill. If the motion for leave to introduce a Bill is opposed, the Speaker may, in his discretion, allow brief explanatory statement to be made by the member who opposes the motion and the member-in-charge who moved the motion. Where a motion for leave to introduce a Bill is opposed on the ground that the Bill initiates legislation outside the legislative competence of the House, the Speaker may permit a full discussion thereon. Thereafter, the question is put to the vote of the House. However, the motion for leave to introduce a Finance Bill or an Appropriation Bill is forthwith put to the vote of the House.

After a Bill has been introduced, it is published in the Official Gazette. Even before introduction, a Bill might, with the permission of the Speaker, be published in the Gazette.

8.3.2 Motions After Introduction of Bills and Passing of Bills

Law-making is the main function of the Parliament. It is true that law is made joint by the legislature and executive, but the role of legislature in law-making deserves a mention.

Law-making involves several steps. First, a bill is introduced in the Parliament. Secondly, the bill is passed by the Parliament. Thirdly, the bill, after being passed by the Parliament is sent to the President for his/her consent. When the bill is adopted in the Parliament, it becomes an Act. When an Act gets the assent of the Parliament, it becomes the law of the land.

A Bill is a technical name given to the draft of the proposal which is moved in the Parliament. Non-Money Bills can be introduced either in the Lok Sabha or in the Rajya Sabha. But the Money Bills can be introduced only in the Lok Sabha. A Money Bill, before it is introduced in the Lower House, has to receive the approval of the President.

A Bill is the draft of a legislative proposal. It has to pass through various stages before it becomes an Act of Parliament.

First Reading:

The legislative process starts with the introduction of a Bill in either House of Parliament—Lok Sabha or Rajya Sabha. A Bill can be introduced either by a Minister or by a private member. In the former case it is known as a Government Bill and in the latter case it is known as a Private Member's Bill.

It is necessary for a member-in-charge of the Bill to ask for leave to introduce the Bill. If leave is granted by the House, the Bill is introduced. This stage is known as the First Reading of the Bill. If the motion for leave to introduce a Bill is opposed, the Speaker may, in his discretion, allow brief explanatory statement to be made by the member who opposes the motion and the member-in-charge who moved the motion. Where a motion for leave to introduce a Bill is opposed on the ground that the Bill initiates legislation outside the legislative competence of the House, the Speaker may permit a full discussion thereon. Thereafter, the question is put to the vote of the House. However, the motion for leave to introduce a Finance Bill or an Appropriation Bill is forthwith put to the vote of the House.

Publication in Gazette:

After a Bill has been introduced, it is published in the Official Gazette. Even before introduction, a Bill might, with the permission of the Speaker, be published in the Gazette.

In such cases, leave to introduce the Bill in the House is not asked for and the Bill is straightaway introduced.

Reference of Bill to Standing Committee:

After a Bill has been introduced, Presiding Officer of the concerned House can refer the Bill to the concerned Standing Committee for examination and make report thereon. If a Bill is referred to the Standing Committee, the Committee shall consider the general principles and clauses of the Bill referred to them and make report thereon. The Committee can also take expert opinion or the public opinion who are interested in the measure. After the Bill has thus been considered, the Committee submits its report to the House. The report of the Committee, if found persuasive shall be treated according to the recommendations given by the Committees.

Second Reading:

The Second Reading consists of consideration of the Bill which is in two stages.

First Stage: The first stage consists of general discussion on the Bill as a whole when the principle underlying the Bill is discussed. At this stage, it is open to the House to refer the Bill to a Select Committee of the House or a Joint Committee of the two Houses or to circulate it for the purpose of eliciting opinion thereon or to straightaway take it into consideration.

If a Bill is referred to a Select/Joint Committee, the Committee considers the Bill clause-by-clause just as the House does. Amendments can be moved to the various clauses by members of the Committee. The Committee can also take evidence of associations, public bodies or experts who are interested in the measure. After the Bill has thus been considered, the Committee submits its report to the House which considers the Bill again as reported by the Committee. If a Bill is circulated for the purpose of eliciting public opinion thereon, such opinions are obtained through the Governments of the States and Union Territories. Opinions so received are laid on the Table of the House and the next motion in regard to the Bill must be for its reference to a Select/Joint Committee. It is not ordinarily permissible at this stage to move the motion for consideration of the Bill.

Second Stage: The second stage of the Second Reading consists of clause-by-clause consideration of the Bill as introduced or as reported by Select/Joint Committee. Discussion takes place on each clause of the Bill and amendments to clauses can be moved at this stage. Amendments to a clause that have been moved but not withdrawn are put to the vote of the House before the relevant clause is disposed of by the House. The amendments become part of

the Bill if they are accepted by a majority of members present and participate in voting. After the clauses, the Schedules if any, clause 1, the Enacting Formula and the Long Title of the Bill have been adopted by the House, the Second Reading is deemed to be over.

Third Reading:

Thereafter, the member-in-charge can move the Bill. This stage is known as the Third Reading of the Bill. At this stage the debate is confined to arguments either in support or opposition of the Bill without referring to the details thereof more than that are absolutely necessary. Only formal, verbal or consequential amendments are allowed to be moved at this stage. In passing an ordinary Bill, a simple majority of members present and voting is necessary. But in the case of a Bill to amend the Constitution, a majority of the total membership of the House and a majority of not less than two-third of the members present and voting is required in each House of Parliament.

Bill in the other House:

After the Bill is passed by one House, it is sent to the other House for concurrence with a message to that effect, and there also it goes through the stages described above except the introduction stage.

Money Bills: Bills which exclusively contain provisions for imposition and abolition of taxes, for appropriation of money out of the Consolidated Fund, etc., are certified as Money Bills. Money Bills can be introduced only in the Lok Sabha. Rajya Sabha cannot make amendments in a Money Bill passed by Lok Sabha and transmitted to it. It can, however, recommend amendments in a Money Bill, but must return all Money Bills to Lok Sabha within fourteen days from the date of their receipt. It is open to Lok Sabha to accept or reject any or all of the recommendations of Rajya Sabha with regard to a Money Bill. If Lok Sabha accepts any of the recommendations of Rajya Sabha, the Money Bill is deemed to have been passed by both Houses with amendments recommended by Rajya Sabha and accepted by Lok Sabha and if Lok Sabha does not accept any of the recommendations of Rajya Sabha, Money Bill is deemed to have been passed by both Houses in the form in which it was passed by Lok Sabha without any of the amendments recommended by Rajya Sabha. If a Money Bill passed by Lok Sabha and transmitted to Rajya Sabha for its recommendations is not returned to Lok Sabha within the said period of fourteen days, it is deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by Lok Sabha and then it will go to the

President for his/her assent. After receiving the assent of the President, the Bill becomes an Act.

8.3.3 Debate, Correction, Withdrawal, Amendments

- **Amendments to Bills**

  Insertion of new clause: When an amendment for the insertion of a new clause in a Bill is adopted by the House, the Speaker shall put the question thus: 'The question is: That clause (quoting the number of the new clause) be added to the Bill.

- **Corrections in Bills**

Procedure for corrections in Bills: No alteration shall be made in a Bill as introduced or in a Bill as reported by a Select/Joint Committee except by way of an amendment adopted in the House, provided that (a) the Speaker shall correct any obvious printing or clerical error at any stage of the Bill by issue of a corrigendum to the Bill, (b) in the case of a secret Bill printed by the Ministry concerned before introduction, such a correction in the Bill, as introduced, shall not relate to an error affecting taxation.

- **Indication in Debates regarding Correction of Patent Errors in Bills:**

  Incorporation of corrections in Debates-

(i) Where an amendment to a clause has been moved and adopted by the House and subsequently the Official Draftsman, while scrutinizing the Bill, as passed, has suggested any correction which has been accepted by the Speaker as a patent error, such a correction shall be incorporated in the body of the amendment itself without any foot-note in the printed debate.

(2) Where the Speaker has accepted a correction suggested by the Official Draftsman relating to a clause and not to an amendment to a clause which has been adopted by the House, such a correction shall be indicated with an appropriate foot-note, in the printed debates as indicated below:--

"In views of the amendment to clause..... part ( ) of sub-clause ( ) of clause..... (as the case may be) adopted by the House the words '.....' occurring in clause...../part () of sub-clause ( ) of clause..... (as the case may be) were omitted or inserted as patent errors under the direction of the Speaker".

- **Bills as Passed**

Scrutiny, change of year and authentication-

(1) Where a Bill, as passed by the Houses, is in possession of the Lok Sabha, a copy thereof shall be sent to the Draftsman, Ministry of Law for scrutiny before it is presented to the President under rule 128.

(2) If in the opinion of the Draftsman the Bill is not likely to be assented to in the same year in which the Bill is passed and he makes a suggestion that the year in the title clause be changed, the Speaker may accept the suggestion and make the consequential change in clause 1 and other clauses of the Bill wherever necessary.

(3) In such a case, the Bill shall be authenticated in the same year in which it is likely to be assented to.

Laying of Bills after assent-

Every Bill passed by the Houses of Parliament and assented to by the President under article 111 of the Constitution shall be laid by the Secretary-General on the Table, provided that in the case of a Bill on which assent is obtained by the Rajya Sabha Secretariat, the Bill, as assented to by the President, shall be duly authenticated by the Secretary-General of Rajya Sabha before being laid on the Table.

➢ Withdrawal and Removal of Bills

Advance circulations of reasons for withdrawal of Government Bills-

When a Bill pending in Lok Sabha is sought to be withdrawn by the Government, a statement containing the reasons for which the Bill is being withdrawn shall be circulated to members by the Ministry concerned sufficiently in advance of the date on which the motion for withdrawal is sought to be made.

Removal of pending Bill from Register of Bills-

Where a pending Bill seeks to amend an Act which is subsequently repealed, it shall be removed from the Register of Bills pending in the House.

The Petition addressed to the Council of States (Rajya Sabha) may either be forwarded to the Secretary-General, Rajya Sabha, Parliament House, New Delhi or may be got countersigned by a Member of Parliament (Rajya Sabha) who may then present it before the Rajya Sabha on the petitioner's behalf. The Committee on Petitions will examine every petition referred to it. The recommendations of the Committee on the Petition will be presented in the form of a Report to the Rajya Sabha, where after the recommendations will receive the consideration of the appropriate Ministry of the Government of India. This process will be monitored by the Committee on Petitions.

8.3.4 Resolutions

In law, resolution is a written motion adopted by a deliberative body. The substance of the resolution can be anything that can normally be proposed as a motion. For long or important motions, though, it is often better to have them written out so that discussion is easier or so that it can be distributed outside the body after its adoption. An alternate term for a resolution is a *resolve*.

Resolutions are commonly used in corporations and Houses of legislature. Resolution is a self-contained independent proposal submitted for the approval of the House and drafted in such away as to be capable of expressing a decision of the House. A resolution may be in the form

(i) of declaration of opinion; or
(ii) of a recommendation; or
(iii) so as to record either approval or disapproval by the House of an act or policy of Government; or
(iv) convey a message; or
(v) command, urge or request an action; or
(vi) call attention to a matter or situation for consideration by government; or
(vii) in such other form as the Speaker may consider appropriate.

Example of a resolution –

In case of a natural disaster like the floods that occurred in Jammu & Kashmir, the House can pass a resolution recommending the immediate measures to be taken by the Government for relief and rehabilitation of the victims.

CHECK YOUR PROGRESS

Q.1: An ordinary bill can be introduced in both Houses of the Parliament. (True/False)

……

Q.2: Write briefly about second reading of Bill.

……

……

……

……

Q.3: Mention any two forms of Resolution.

……

8.4 PROCEDURE IN FINANCIAL MATTERS

The Budget-

(1) The Annual Financial Statement or the Statement of the estimated receipts and expenditure of the Government of India in respect of each financial year (herein after referred to as "the Budget") shall be presented to the Council on such day as the President may direct.
(2) There shall be no discussion on the Budget on the day on which it is presented to the Council.

General Discussion on the Budget:

(1) On a day to be appointed by the Chairman subsequent to the day on which the Budget is presented and for such time as the Chairman may allot for this purpose, the Council shall be at liberty to discuss the Budget as a whole or any question of principle involved therein, but no motion shall be moved nor shall the Budget be submitted to the vote of the Council.
(2) The Finance Minister shall have a general right of reply at the end of the discussion.
(3) The Chairman may, if he thinks fit, prescribe a time limit for speeches.

Presentation of the Budget in parts:

Nothing herein before contained shall be deemed to prevent the presentation of the Budget to the Council in two or more parts and when such presentation takes place, each part shall be dealt with in accordance with these rules, as if it were the Budget.

Business that can be taken up on a day allotted for financial business:

Notwithstanding that a day has been allotted for financial business, a motion or motions for leave to introduce a Bill or Bills may be made and a Bill or Bills may be introduced on such day before the Council enters on the business for which the day has been allotted.
Explanation---Financial business includes any business which the Chairman holds as coming within this category under the Constitution.

Provisions regarding Financial Bills referred to in Article 117(1) of the Constitution:

(1) If notice of motion for leave to introduce a Bill making provision for any of the matters specified in clause (1) of Article 117 of the Constitution is received, the Chairman may direct that it should not be included in the list of business.

(2) On a Bill being put down for introduction, a member may at that stage or at any subsequent stage take objection that the Bill is a financial Bill within the meaning of clause (1) or Article 117 of the Constitution and should not be introduced in the Council.
(3) If the Chairman holds that the Bill is a financial Bill within the meaning of clause (1) of Article 117 of the Constitution, he/she shall terminate discussion on the Bill forthwith and direct that it be struck off from the list of business and be removed from the register of Bills pending in the Council and should not be introduced in the Council.
(4) If the Chairman has any doubt in regard to the validity of the objection, he/she shall refer the matter to the Speaker and if these is no agreement between the Speaker and the Chairman, the Chairman shall report the matter to the Council and take the sense of the Council as to whether it wishes to proceed further with the Bill.

Money Bills:
(1) A Money Bill passed by the House and transmitted to the Council shall, as soon as may be, be laid on the Table.
(2) The Chairman in consultation with the Leader of the Council shall within two days of the Bill being so laid on the Table allot a day or days or part of a day for the completion of all or any of the stages involved in the consideration and return of the Bill by the Council including the consideration and passing of amendments, if any, to the Bill.
(3) When such an allotment has been made, the Chairman shall at the appointed hour on the allotted day or the last of the allotted days, as the case may be, forthwith put all the questions necessary to dispose of the outstanding matters in connection with the stage or stages for which a day or days or part of a day has been allotted.
(4) After the motion that the Bill be taken into consideration has been carried, the Bill shall be taken up clause by clause. At this stage, amendments to be recommended to the House may be moved to the Bill and the provisions of the rules of the Council regarding consideration of amendments to Bills shall apply.
(5) After the Bill has been considered clause by clause and the amendments, if any, have been disposed of, the member in charge of the Bill shall move that the Bill should be returned.
(6) When the motion that the Bill be returned has been carried, the Bill shall be returned to the House in the case where the Council does not make any recommendations, with a message that the Council has no recommendations to make to the House in regard to the Bill and in the case, where any amendments have been recommended by the Council, with a message intimating to the House the amendments so recommended.

(7) On a Bill being introduced in the Council or at subsequent stage if an objection is taken that a Bill is a Money Bill within the meaning of Article 110 and should not be proceeded within the Council, if the Chairman holds the objection valid he shall direct further proceedings in connection with the Bill be terminated.

(8) If the Chairman has any doubt in regard to the validity of the objection, he shall refer the matter to the Speaker whose decision on the question shall be final in accordance with clause (3) of Article 110 of the Constitution.

Law Making in the Assam Legislature:

Since Assam has unicameral legislature all Bills including ordinary bill and money bill are introduced in the Assam Legislative Assembly. However, a Money Bill can be introduced only by a Minister. All the processes are same like in Lok Sabha in case of legislation in Assam assembly. After introduction of the Bill, it has to go through three readings and after that if the bill is passed, then it is sent to the Governor for his or her assent. The Governor may give assent and thus a bill becomes an Act. Or the Governor may withhold the Bill and return the Bill for reconsideration. However, the Governor cannot return a money bill. In case of ordinary bill the Governor may also reserve the Bill for consideration of the President of India. In this case the President may his assent or withhold the Bill. So the law making procedure of the Assam Legislative Assembly follows the same provision as that of the Parliament of India.

8.5 PARLIAMENTARY PRIVILEGES

Article 105 and 194 of the Indian Constitution deal with the power privileges and immunities of the Parliament and its members and of their state legislature and its members respectively.

- **Article 105: Powers, privileges, etc. of the Houses of Parliament and of the members and committees thereof.-**

(1) Subject to the provisions of this constitution and the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament.

(2) No Member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.

(3) In other respects, power, privileges and immunities of each House of Parliament, and of the members and the committees of each House, shall be such that it may be defined from time to time by the Parliament with the help of law, and, until so defined shall be those of that House and of its members and committees immediately before the coming into force of Section 15 of the Constitution (Forty-fourth Amendment) Act, 1978.

(4) The provisions of clauses (1), (2) and (3) shall apply in relation to persons who by virtue of this constitution have the right to speak in, and otherwise to take part in the proceedings of, a House of Parliament or any committee thereof as they apply in relation to members of Parliament.

- **Article 194: Powers, privileges, etc., of the House of Legislature and of the members and committees thereof.-**

(1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of the Legislature, there shall be freedom of speech in the Legislature of every State.

(2) No member of the Legislature of a State shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a House of such a Legislature of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of a House of the Legislature of a State, and of the members and the committees of a House of such Legislature, shall be such as may from time to time be defined by the Legislature by law, and, until so defined, shall be those of that House and of its members and committees immediately before the coming into force of Section 26 of the Constitution (forty-fourth Amendment) Act, 1978.

(4) The provisions of clauses (1), (2) and (3) shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise to take part in the proceedings of a House of the Legislature of a State or any committee thereof as they apply in relation to members of that Legislature.

Hence from the above two different Articles of Indian constitution it can be inferred that the position of State Legislature is same as those of Houses of Parliament. Both articles expressly mentioned two privileges namely- freedom of speech and freedom of publication of proceedings.

CHECK YOUR PROGRESS

Q.4: Money Bill can be introduced only in the …… (fill in the blank)

Q.5: Which Article of the Indian Constitution deals with the privileges of the members of the Parliament?

……

8.6 LET US SUM UP

- A legislature is a deliberative assembly with the authority to make laws for a political entity such as a country or city.
- A Bill is the draft of a legislative proposal. It has to pass through various stages before it becomes an Act of Parliament. The legislative process starts with the introduction of a Bill in either House of Parliament—Lok Sabha or Rajya Sabha.
- Lawmaking involves several steps. First, a bill is introduced in the Parliament. Secondly the bill is passed by the Parliament. Third, the bill, after getting passed by the Parliament is sent to the President for his assent. When the bill is adopted in the Parliament, it bee an Act. When an Act gets the assent of the Parliament, it becomes the law of the land.
- No alteration shall be made in a Bill as introduced or in a Bill as reported by a Select/Joint Committee except by way of an amendment adopted in the House.
- Money Bill can be introduced only in the Lok Sabha.
- The Constitution of India has provided some privileges to the members of the Parliament and state legislatures.

8.7 FURTHER READING

1. Fadia, Dr. B.L. & Fadia, Dr. Kuldeep. (2018). *Indian Government and Politics*. New Delhi: Sahitya Bhawan, Publication.
2. Kashyap, Subhash. (2015). *Our Parliament*. New Delhi: National Book Trust .
3. Pandey, J. N. (2017). *The Constitution of India.* New Delhi : Central Law Agency.
4. Shoutrie, Arun. (2007).The Parliamentary System. New Delhi:Rupa & Co.

8.8 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q. No 1: True

Ans to Q. No 2: The Second Reading consists of consideration of the Bill which is in two stages.

First Stage: The first stage consists of general discussion on the Bill as a whole when the principle underlying the Bill is discussed. At this stage, it is open to the House to refer the Bill to a Select Committee of the House or a Joint Committee of the two Houses or to circulate it for the purpose of eliciting opinion thereon or to straightaway take it into consideration.

If a Bill is referred to a Select/Joint Committee, the Committee considers the Bill clause-by-clause just as the House does. Amendments can be moved to the various clauses by members of the Committee. The Committee can also take evidence of associations, public bodies or experts who are interested in the measure. After the Bill has thus been considered, the Committee submits its report to the House which considers the Bill again as reported by the Committee. If a Bill is circulated for the purpose of eliciting public opinion thereon, such opinions are obtained through the Governments of the States and Union Territories. Opinions so received are laid on the Table of the House and the next motion in regard to the Bill must be for its reference to a Select/Joint Committee. It is not ordinarily permissible at this stage to move the motion for consideration of the Bill.

Second Stage: The second stage of the Second Reading consists of clause-by-clause consideration of the Bill as introduced or as reported by Select/Joint Committee. Discussion takes place on each clause of the Bill and amendments to clauses can be moved at this stage. Amendments to a clause that have been moved but not withdrawn are put to the vote of the House before the relevant clause is disposed of by the House. The amendments become part of the Bill if they are accepted by a majority of members present and participate in voting. After the clauses, the Schedules if any, clause 1, the Enacting Formula and the Long Title of the Bill have been adopted by the House, the Second Reading is deemed to be over.

Ans to Q. No 3: (i) declaration of opinion; (ii) a recommendation

Ans to Q. No 4: Lok Sabha

Ans to Q. No 5: Article 105

8.9 MODEL QUESTIONS

A) Very Short Questions

Q 1: Mention one privilege of the Members of the Parliament.

Q 2: In which House of the Parliament Money Bill can be introduced?

Q 3: Which Article of the Indian Constitution deals with the privileges of the members of the state legislature?

B) Short Questions (Answer each question in about 150 words)

Q 1: Write a short note on Resolution.

Q 2: How a bill can be published ?

Q 3: How motions are conducted after introduction of bills ?

C) Long Questions (Answer within 300-500 words)

Q 1: What is meant by Parliamentary Privileges ? Discuss in detail in the light of the provisions under the Constitution of India.

Q 2: Write a note on Money bill.

Q 3: Discuss the legislative procedure of the Indian Parliament.

UNIT 9: VARIOUS COMMITTEES OF THE PARLIAMENT

UNIT STRUCTURE

9.1 Learning Objectives
9.2 Introduction
9.3 Types of Parliamentary Committees
    9.3.1 Standing Committees
    9.3.2 Adhoc Committees
9.4 Let Us Sum Up
9.5 Further Reading
9.6 Answers to Check Your Progress
9.7 Model Questions

9.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- discuss the various Standing Committees of the Parliament and their functions
- describe the various Adhoc Committees of the Parliament and their functions.

9.2 INTRODUCTION

Committees of the Parliament undertake such functions which the House as a whole sitting in session may not be able to undertake and execute. Executive oversight, mainly review and monitoring of operations and activities of government programmes and policies, taking a variety of forms and utilization of various techniques etc. are some of the common programmes undertaken by such committees. Oversight inquiries range from specialized investigations by select committees to annual appropriations hearings, supported by a variety of authorities in the form of the Constitution and related laws, Court rulings, chamber and committee rules.

These are Committees designated according to government portfolios to examine the expenditure, administration and policy of governmental departments and other matters falling under their jurisdiction. Most of the works of the Parliament is carried out by and generated in Portfolio Committees. Portfolio Committees are expected to table at least one report per session in Parliament covering their activities. Portfolio Committees perform both a pre-audit and post-audit function. In this unit we shall discuss various types of Committees of the Parliament and their functions.

9.3 TYPES OF PARLIAMENTARY COMMITTEES

The Parliamentary Committees are of two types

1. Standing Committees
2. Adhoc Committees

The Standing Committees are permanent in nature, whereas the Adhoc Committees are constituted for a particular function and get dissolved automatically after the completion of the works.

9.3.1 Standing Committees

Among the Standing Committees the three functional Committees of the Parliament, namely Public Accounts Committee, Estimates Committee and Committee on Public Undertakings, are very important. Some of the important Standing Committees are discussed below:

1. The Public Account Committee: The oldest Financial Committee, the Public Account Committees (PAC) was first created in 1923. It consists of 22 members (15 from Lok Sabha and 7 from Rajya Sabha). The members from the Rajya Sabha are co-members and do not enjoy voting rights in the Committee. A member of the council of ministers cannot be elected as member of this Committee. As a matter of practice, since 1967, a member of opposition is being appointed as the Chairman of the Committee. The term of office of the Committee is one year. The Public Account Committee performs the following functions:

(i) It examines the public account of the Government of India and the report of the Comptroller and Auditor General of India.

(ii) It examines the accounts to ascertain whether the money has been spent as authorised by Parliament and for the purpose for which it was sanctioned. Apart from technical irregularities, it brings out any evidence of waste, corruption, inefficiency or operational deficiency in the conduct of financial affairs.

(iii) However, the Committee is not concerned with policy making though they try to ensure that financial transactions are carried out within the ambit of the policies laid down by the Parliament.

2. The Estimates Committee: This Committee was first created at the Centre in 1950. The Estimates Committee consists of thirty members, all from the House of the People (Lok Sabha). The members of the Estimates Committee are elected by the Lok Sabha from amongst its members by the method of single transferable vote system of proportional representation for a term of one year. One of the members of the Committee is appointed as Chairman by the Speaker of the Lok Sabha. However, if the Deputy Speaker of the Lok Sabha

is also a member of the Committee, he/she automatically becomes the Chairman of the Committee. This Committee performs the following functions:

(i) It reports on as to what economies, improvement in organization, efficiency of administration, consistent with the policy underlying the estimate may be effected.

(ii) It examines whether the money is well laid out within the limit of the policy implied in the estimate.

(iii) The Committee also suggests the alternative policies in order to bring about efficiency and economy in administration.

(iv) It suggests the form in which the estimates shall be presented to Parliament.

3. The Committee on Public Undertaking: The Committee on Public Undertaking was first created in November 1963 by a resolution of the Lok Sabha on the recommendation of the Krishna Menon Committee. It consists of 22 members out of which 15 are elected from the Lok Sabha and the 7 members are elected from the Rajya Sabha. The members are elected by the method of single transferable vote system of proportional representation. Every year, one-fifth members of the Committee are retired and new members are elected in their place. The Chairman of the Committee is appointed by the Speaker from among the members of the Committee drawn from the Lok Sabha. The Committee performs the following functions:

(i) It examines the reports and accounts of the public undertakings specified in the rules of procedures.

(ii) It also considers the report of the Comptroller and Auditor General on the functioning and financial affairs of the public undertakings. It examines whether the affairs of the public undertakings are managed in accordance with sound business principles and public commercial practices.

4. **The Business Advisory Committee:** This Committee is constituted in both the Houses of Parliament. In the Lok Sabha the Committee consists of 15 members including the Speaker who is the ex-officio chairman of the Committee. The Speaker nominates the members of the Committee which continues in office till the new Committee is reconstituted. Its functions include-

(i) It recommends the time that should be allocated for the transaction of Legislative and other business, initiated by the Government. The leader of the House is consulted in such allocation of business.

(ii) The Committee is empowered to indicate in the time schedule of business as to when different steps of a Bill or other business should be completed.

(iii) It also performs such other functions which are entrusted to it by the Speaker or the Chairman as the case may be.

The recommendations of the Committee are presented to the House in the form of a report. The House may accept or reject such a report with or without modification by passing a motion to that effect.

5. The Committee on Private Members' Bills and Resolutions: This Committee of the House of the People consists of 15 members nominated by the Speaker and chaired by the Deputy Speaker. Its term of office is one year. The Committee performs the following functions:

(i) It examines the private members' Bills seeking to amend the Constitution before their introduction in the Lok Sabha.

(ii) It also examines the private members' Bills after their introduction to the House but before the discussion in the House on such Bill and categorises these in terms of their nature, importance and urgency.

(iii) It allots time for the discussion on the private members' Bills after introduced in the House.

(iv) It examines such Bills of private members where the Legislative competence of the House is challenged.

(v) It recommends the time limit for the discussion of the private members' resolutions and other ancillary matters brought before the House.

(vi) It performs other functions related to the private matters resolutions and the functions entrusted by the Speaker from time to time.

It should be noted that there is no such Committee in the Rajya Sabha.

6. **The Select Committee on Bills:** These are Adhoc Committees and are constituted to consider and report on particular Bills. The Committees are constituted by a motion of the Bill that is to be considered by a Select Committee. As soon as it completes its entrusted works, the Committee gets dissolved.

This Committee submits its report to the House within the time limit decided by the House. If the time limit is not fixed by the House, the Committee submits its report within a period of three months from the date on which the motion was adopted to entrust a particular Bill for the consideration by the Select Committee.

7. The Committee on Petitions: The Committee consists of 15 members nominated by the Speaker. A Minister is not nominated to this Committee. The right of submitting petition to the Lok Sabha is an inherent right of the people, which enables them to ventilate their grievances and put forth suggestions before the supreme body elected by them whether relating to any Bill or any other matter. This Committee examines the merits of these petitions

and recommends action thereon. The Committee also examines representation of individual grievances received from the public. This Committee considers and reports on petitions presented to the house. It also considers representations from various individuals, Associations etc not covered by the rules relating to petitions and gives directions for their disposal.

8. The Committee on the Papers laid on the Table: It consists of 15 members nominated by the Speaker for a term not exceeding one year. The Chairman of the Committee is appointed by the Speaker from amongst the members of the Committee. Its function is to examine all papers laid on the Table of the House by Ministers (other than those which fall within the purview of the Committee on Subordinate Legislation or any other Parliamentary Committee) and to report to the House- (a) whether there has been compliance of the provisions of the Constitution, Act, rule or regulation under which the paper has been laid, (b) whether there has been any unreasonable delay in laying the paper, (c) if there has been such delay, whether a statement explaining the reasons for delay has been laid on the Table of the House and whether those reasons are satisfactory, (d) whether both the Hindi and English versions of the paper have been laid on the Table, (e) whether a statement explaining the reasons for not laying the Hindi version has been given and whether such reasons are satisfactory, (f) such other functions in respect of the papers laid on the Table as may be assigned to it by the Speaker from time to time. The reports of the Committee are presented to the House from time to time. A member who desires to raise any of the matters which pertain to the functions of the Committee should refer it to the Committee and not raise it in the House.

9. The Committee of Privileges: This Committee consists of 15 members nominated by the Speaker. Its function is to examine every question involving breach of privilege of the House or of the members of any Committee thereof referred to it by the House or by the Speaker. It determines with reference to the facts of each case whether a breach of privilege is involved and makes suitable recommendations in its report. It also states the procedure to be followed by the House in giving effect to the recommendations made by it. When a question of privilege is referred to the Committee by the House, the report of the Committee is presented to the House by the Chairman or, in his absence, by any member of the Committee. Where a question of privilege is referred to the Committee by the Speaker under rule 227, the report of the Committee is presented to the Speaker who may pass final orders thereon or direct that it be laid on the Table of the House. With the coming into force w.e.f. 18.3.1986 of the Members of Lok Sabha (Disqualification on ground of Defection) Rules, 1985, made by the Speaker under paragraph 8 of the Tenth Schedule to the Constitution, an

additional function has been assigned to the Committee. The Speaker may refer to the Committee any petition regarding disqualification of a member on ground of defection for making a preliminary inquiry and submitting a report to him. The procedure to be followed by the Committee in these cases is so far as may be same as in applicable to questions of breach of privilege.

10. Committee on Subordinate Legislation (Lok Sabha): The Committee consists of 15 members nominated by the Speaker. A Minister is not nominated to this Committee. The Committee scrutinizes and reports to the House whether the powers to make regulations, rules, sub-rules, by-laws etc. conferred by the Constitution or delegated by Parliament are being properly exercised by the executive within the scope of such delegation.

The function of the Committee is to examine matters of subordinated Legislation and report to the House whether the powers of the executive to make such rules, regulations or bye-laws delegated by the Parliament have been properly exercised or not. A minister cannot become a member of the Committee.

11. Committee on Government Assurances (Lok Sabha): This Committee consists of 15 members nominated by the Speaker. A Minister is not nominated to this Committee. While replying to questions in the House or during discussions on Bills, Resolutions, Motions etc., Ministers at times give assurances or undertakings either to consider a matter or to take action or to furnish the House further information later. The functions of this Committee are to scrutinize the assurances, promises, undertakings etc. given by Ministers from time to time and to report to Lok Sabha on the extent to which such assurances etc. have been implemented and to see whether such implementation has taken place within the minimum time necessary for the purpose.

12. Committee on Absence of Members from the Sittings of the House (Lok Sabha): The Committee consists of 15 members who hold office for one year. The members are nominated by the Speaker. This Committee considers all applications from members for leave of absence from the sittings of the House and examines every case where a member has been absent for a period of 60 days or more, without permission, from the sittings of the House. In its report it makes recommendations with respect to each case as to whether the absence should be condoned or leave applied granted or whether the circumstances of the case justify that the House should declare the seat of the member vacant.

13. Rules Committee (Lok Sabha): The Rules Committee consists of 15 members including the Speaker who is the *ex-officio* Chairperson of the Committee. The members are

nominated by the Speaker. The Committee considers matters of procedure and conduct of business in the House and recommends any amendments or additions to the Rules of Procedure and Conduct of Business in Lok Sabha that are considered necessary.

14. The Committee on the Welfare of Scheduled Castes and Scheduled Tribes:

The Committee on the Welfare of Scheduled Castes and Scheduled Tribes consists of 30 Members; 20 members are elected by Lok Sabha from amongst its Members in accordance with the System of proportional representation by means of single transferable vote and 10 members are nominated by Rajya Sabha from amongst its Members. The Chairman of the Committee is appointed by the Speaker from amongst the Members of the Committee. A Minister is not eligible for election to the Committee. If a Member after his election to the Committee is appointed a Minister he ceases to be a Member of the Committee from the date of such appointment. The term of the Committee does not exceed one year. The functions of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes are:

(a) to consider the reports submitted by the National Commission for Scheduled Castes and Scheduled Tribes under article 338(5) of the Constitution and to report as to the measures that should be taken by the Union Government in respect of matters within the purview of the Union Government including the Administration of the Union Territories;

(b) to report on the action taken by the Union Government and the Administration of the Union Territories on the measures proposed by the Committee;

(c) to examine the measures taken by the Union Government to secure due representation of the Scheduled Castes and Scheduled Tribes in services and posts under its control (including appointments in the Public Sector Undertakings, Nationalised Banks, Statutory and Semi-Government Bodies and in the Union Territories) having regard to the provisions of article 335;

(d) to report on the working of the welfare programmes for the Scheduled Castes and Scheduled Tribes in the Union Territories; and (e) to examine such other matters as may deem fit to the Committee or are specifically referred to it by the House or the Speaker.

CHECK YOUR PROGRESS

Q.1: What is the term of office of the Public Account Committee?

……..

Q.2: Mention one function of the Estimates Committee.

……

Q.3: Write a short note on the Committee on Public Undertaking.

……..
……..
……..
……..
……..

Other Committees:

Another class of Committees, which function as Parliament's watchdogs over the executive, are as follows:

(a) Joint Committee on Offices of Profit: It is formed for the duration of each Lok Sabha and the intention behind constituting this committee is to examine the "composition and character" of the Committees appointed by the Union and State Governments.

(b) Committee on Empowerment of Women: Ever since it came into existence on 29th April, 1997, the committee has been competently playing its role. It not only reviews and monitors government's actions towards securing women equality, status and dignity but also suggests corrective measures for improving the condition of women in respect of matters that come within the purview of the government.

(c) Railway Convention Committee: This ad-hoc Committee was constituted to review the Rate of Dividend that Railway undertaking needs to pay to the government and other matters in connection with the Railway Finance. It also takes up and examines matters which have a direct impact on the working of Railways.

9.3.2 Ad hoc Committees

The Ad Hoc Committees are set up to work for a specific task and are dissolved once it's completed. The Select and Joint Committees on Bills are considered the main committees under this category.

The Parliament has the privilege of referring a bill to a Select Committee or to a Joint Parliamentary Committee (JPC) of both the Houses. The committee is formed only when motion is adopted by one house and supported by the other. A JPC can obtain both written and oral "evidence of experts, public bodies, associations, individuals or interested parties suo motu or on requests made by them". It can also call for documents in connection with a matter under its consideration. The first JPC was formed in August 1987 to investigate the Bofors scandal.

CHECK YOUR PROGRESS

Q.4: For what purpose the Railway Convention Committees was constituted?

……

……

Q.5: The Committee on Empowerment of Women came into existence on …….. (fill in the blank)

9.4 LET US SUM UP

- Committees of Parliament undertake such functions which the House as a whole sitting in session may not be able to undertake and execute. Executive oversight, principally the review and monitoring of operations and activities of government programmes and policies, taking a variety of forms and utilization of various techniques etc are some of the common activities conducted by such committees.
- Most of the works of Parliament are carried out by and generated in Portfolio Committees. Portfolio Committees are expected to table at least one report per session in Parliament covering their activities. Portfolio Committees perform both a pre-audit and post-audit function.
- There are two types of Parliamentary Committees, such as - Standing Committees and Adhoc Committees.
- Among the Standing Committees the three functional Committees of Parliament, namely Public Accounts Committee, Estimates Committee and Committee on Public Undertakings are very important.
- The Ad Hoc Committees are set up to work for a specific task and are dissolved once it's completed. The Select and Joint Committees on Bills are considered the main committees under this category.

9.5 FURTHER READING

1. Fadia, Dr. B.L. & Fadia, Dr. Kuldeep. (2018). *Indian Government and Politics*. New Delhi: Sahitya Bhawan, Publication.

2. Kashyap, Subhash. (2015). *Our Parliament*. New Delhi: National Book Trust.

3. Shoutrie, Arun. (2007).The Parliamentary System. New Delhi:Rupa & Co.

9.6 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q. No 1: one year

Ans to Q. No 2: The Estimate Committee suggests the alternative policies in order to bring about efficiency and economy in administration.

Ans to Q. No 3: The Committee on Public Undertaking was first created in November 1963 by a resolution of the Lok Sabha on the recommendation of the Krishna Menon Committee. It consists of 22 members out of which 15 are elected from the Lok Sabha and the 7 members are elected from the Rajya Sabha. The members are elected by the method of single transferable vote system of proportional representation. Every year, one-fifth members of the Committee are retired and new members are elected in their place. The Chairman of the Committee is appointed by the Speaker from among the members of the Committee drawn from the Lok Sabha. The Committee performs the following functions:

(i) It examines the reports and accounts of the public undertakings specified in the rules of procedures.

(ii) It also considers the report of the Comptroller and Auditor General on the functioning and financial affairs of the public undertakings. It examines whether the affairs of the public undertakings are managed in accordance with sound business principles and public commercial practices.

Ans to Q. No 4: Committee was constituted to review the Rate of Dividend that Railway undertaking needs to pay to the government and other matters in connection with the Railway Finance.

Ans to Q. No 5: 29th April, 1997

9.7 MODEL QUESTIONS

A) Very Short Questions

Q 1: Mention one function of the Committee on Empowerment of Women.

Q 2: In which year was the first Public Account Committee constituted?

Q 3: Who is the *ex-officio* Chairperson of the Rules Committee (Lok Sabha)?

B) Short Questions (Answer each question in about 150 words)

Q 1: Write a short note on the Committee on the Welfare of Scheduled Castes and Scheduled Tribes.

Q 2: Write briefly about the functions of the Estimates Committee.

Q 3: Write a short note on the adhoc committees of the Parliament.

C) Long Questions (Answer within 300-500 words)

Q 1: Discuss the various standing committees of the Parliament and their functions.

Q 2: Examine the functions of the Public Accounts Committee, Estimates Committee and Committee on Public Undertakings.

UNIT 10: DELEGATED LEGISLATION IN PARLIAMENT AND STATE LEGISLATURE

UNIT STRUCTURE

10.1 Learning Objectives
10.2 Introduction
10.3 Causes Responsible for the Growth of Delegated Legislation
10.4 Types of Delegated Legislation
10.5 Permissible and Impermissible Delegated Legislation in Parliament and in State Legislature
10.6 Needs and Various Kinds of Control Mechanisms of Delegated Legislation
10.7 Let Us Sum Up
10.8 Further Reading
10.9 Answers to Check Your Progress
10.10 Model Questions

10.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- describe the factors leading to the growth of delegated legislation in India
- explain the merits and demerits of delegated legislation
- discuss the need and various kinds of control mechanisms of delegated legislation
- explain the delegated legislation in the Parliament and the state legislature
- explain the permissible and impermissible delegated legislation.

10.2 INTRODUCTION

This unit introduces you to the concept of delegated legislation and its importance in a welfare state. In a modern welfare State, the bulk of the business of the legislature has increased. It does not have sufficient time to discuss and look into details of the business of the legislatures. As a result it has to recommend the executive or administrative authority to make subordinate legislation to supplement the legislation made by the legislature. Now a days, the

legislature often designs skeleton legislation and gives authority to the concerned authority to supply flesh and blood to the skeleton by making rules, regulations, orders, etc.

According to traditional theory of separation of power, the legislature should make laws, the executive should execute or administer them and the judiciary should interpret them. The term delegated legislation is difficult to define. The delegated legislation may be defined as the legislation made by the authority other than the Legislature acting under the authority delegated to it by the Legislature. The delegated legislation is also called 'subordinate legislation'.

Jurist Sir John Salmond has classified the legislation in two categories- Supreme Legislation and Subordinate legislation. Supreme Legislation is the legislation made by the supreme power of the State. Subordinate legislation is the legislation made by the authority other than the supreme authority in the State.

In England, the Donoughmore Committee on Ministers' power has also expressed its views on the meaning of the delegated legislation. According to this committee the term "delegated legislation" means – (i) the exercise of law-making power by the executive under the authority delegated to it by Parliament; and also (ii) the rules, regulations, by-laws, etc. made by the executive in the exercise of the law-making power delegated to it by Parliament.

10.3 CAUSES RESPONSIBLE FOR THE GROWTH OF DELEGATED LEGISLATION

The delegated legislation, now-a-days, has become inevitable. The factors responsible for the growth of delegated legislation or subordinate legislation may be summed up as follows:

- **Emergence of welfare state:** In modern welfare state the bulk of the Legislature has increased and it does not have sufficient time to discuss details and also to provide all the details adequate time. Consequently, it has to confer on the executive or other agency, the authority to make subordinate legislation and to supplement the legislation made by the legislature. The Legislature, thus, passes skeleton legislation and gives authority to the concerned authority to supply flesh and blood to the skeleton by making rules, regulations, by-laws, orders etc.
- **Technicality of the subject matter:** Sometimes the subject –matter of the legislation is of technical nature and it requires handling by the expert. In such cases, it becomes necessary to delegate to appropriate authority the power to deal with such subject matters.

- **Fulfill local needs**: Sometimes the law is required to be applied with some modification according to the local needs and conditions. For this purpose, the Legislature lays down broad outlines and details are left to be filled by the authority who are to apply the law.
- **Expediency and Flexibility:** Delegated legislation or subordinate legislation is more flexible than ordinary legislation. The rules, regulations, by-laws, or orders, etc. if found to be defective, may easily be amended. The practice of delegated legislation enables experiment. If the experiment is found to be unsuccessful, the rules and regulations may be revoked or modified according to the requirements and if the experiment is found to be successful, the rules and regulations may be extended or made perpetual.
- **To meet emergency situation:** Sometimes the economic and national emergencies require quick action but because of being over burdened, the legislature finds it very difficult to act as promptly as the situation demands. Therefore, the executive delegates the power to make rules, regulations, etc. to deal with such situation.
- **Public Interest:** In some cases, the public interest demands that the provisions of the law should not be known until the time fixed for their operation come, eg., imposition of import duty or exchange control, rationing schemes, etc. This also necessitates the delegation of power to make rules, regulations, by-laws, etc to the executive or other agency.
- **Future Contingencies:** The legislature, while making the legislation, cannot foresee and provide for all future contingencies. It necessitates delegation of power to the executive or other authority to make rules and regulations to meet the contingencies.

Demerits of Delegated Legislation: In spite of the above advantages of the practice of delegated legislation, it has been criticized by several scholars and jurists on the following grounds:

- Legislations are generally passed by the legislature in skeleton form and executive is given authority to supply the details. In practice, the rules and regulations made by the executive to supply the details are often found to be of vital importance to the common man. Consequently, it is not desirable that such rules and regulations should be made by the elected representatives of the people.
- Control of the delegated legislation by the legislature is not adequate. Due to the heavy work-load the legislature has no time to keep a full watch over what its delegates enact under the authority delegated by it. Sometimes the delegation is made in very wide

terms. In the absence of effective control the executive may misuse it and act in an arbitrary manner.

- The judicial control over the delegated legislation is not adequate. Often the delegation clause is made in unduly wide terms so as to make the judicial control ineffective.
- Inadequate publicity of the delegated legislation is another defect. In England, the Statutory Instruments Act, 1946, has been passed for the publicity of the subordinate legislation. There is a great need of such legislation in India.
- The delegated legislation is also criticized on the ground that it is against the doctrine of separation of power and rule of law. It may result in concentration of power in a single person or body. The concentration of power in the executive or administrative authority is likely to make the executive or administrative authority arbitrary, i.e. it will increase the arbitrariness of the executive and thereby the human liberty will be hampered.

CHECK YOUR PROGRESS

Q. 1: Define delegated legislation.

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Q. 2: Salmond has classified the legislation in two categories- Supreme Legislation and …… (Fill in the blank)

Q. 3: Mention any two causes responsible for the growth of delegated legislation.

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Q. 4: Write two demerits of delegated legislation. (within 50 words).

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10.4 TYPES OF DELEGATED LEGISLATION

The delegated legislation exists in various forms, e.g., rules, regulations, by-laws, directions, orders, schemes, etc. The delegated legislation has been classified by different authors on different basis. The delegated legislation may be classified as follows:-

- **Rule:** It means a rule made in exercise of power conferred by any enactment and includes regulation made as a rule under any enactment.
- **Regulation:** Usually it is taken to mean an instrument by which orders, decisions and acts of the Government are made known to the public. However, in the area of delegated legislation or administrative rule making, it indicates the situation where the executive is delegated the power to specify the date for the enforcement of an Act or statute or to grant exemption from the application of the Act or statute, etc.
- **By-law:** It is taken to mean the rules made by the semi-Government authorities established under the Act or statute, e.g., rules made by local authority, statutory corporation etc. By-laws are, thus, made by the semi-Government authorities established under the Act or statute.
- **Order:** The term order is applied to various forms of legislative and quasi-judicial decisions. The order may be general order or specific order. General order refers to delegated legislation or administrative rule making while the specific order refers to the administrative action.
- **Direction:** Direction is used in more than one sense. It is also used to refer the administrative rule making under the authority of the law or rules or orders made there under. In this sense, it relates to the delegated legislation. Direction may be mandatory or recommendatory. If it is mandatory, it has the force of law.
- **Scheme:** It is used to refer to a situation where the executive or administrative authority is authorized by the Act or statute to lay down a framework within which the concerned authority is to function.

10.5 PERMISSIBLE AND IMPERMISSIBLE DELEGATED LEGISLATION IN PARLIAMENT AND STATE LEGISLATURE

It is well settled that essential and primary legislative functions must be performed by the legislature itself and they cannot be delegated to the executive. Essential legislative functions consist of determination of legislative policy and its formulation as a rule of conduct. Once essential legislative powers are exercised by the legislature, all ancillary and incidental functions can be delegated to the executive. Delhi Laws Act, Re, AIR 1951 SC 332.

Functions which can be delegated or permissible delegation:

- **Commencement:** Several statutes contain an "appointed day" clause, which empowers the Government to appoint a day for the Act to come into force. In such cases, the operation of the Act depends on the decision of the Government. For example Section 3 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 provides that the Act 'shall come into operation on such date as the State Government may by notification in the Official Gazette appoint in this behalf'. Here the Act comes into force when the notification is published in the Official Gazette. Such a provision is valid.
- **Supplying details:** If the legislative policy is formulated by the legislature, the function of supplying details may be delegated to the executive for giving effect to the policy. What is delegated here is an ancillary function in aid of the exercise of the legislative function e.g. Section 3 of the All India Services Act, 1951 authorizes the Central Government to make rules to regulate conditions of service in the All India Services.
- **Inclusion:** Sometimes, the legislature passes an Act and makes it applicable, in the first instance, to some areas and classes of persons, but empowers the Government to extend the provisions thereof to different territories, persons or commodities etc. For example the Transfer of Property Act, 1882 was made applicable to the whole of India except certain areas, but the Government was authorized to apply the provisions of the Act to those areas also.
- **Exclusion:** There are some statutes which empower the Government to exempt from their operation certain persons, territories, commodities, etc. Section 30 of the Payment of Bonus Act, 1965 empowers the Government to exempt any establishment or a class of establishments from the operation of the Act.
- **Suspension:** Some statutes authorize the Government to suspend or relax the provisions contained therein, e.g. under Section 48(1) of the Tea Act, 1953, the Central Government is empowered under certain circumstances to suspend the operation of all or any of the provisions of the said Act.
- **Modification:** Sometimes the Act or statute making the delegation of legislative power authorizes the executive to modify the Act or statute itself. Sometimes it becomes necessary to enable the executive to meet the changing circumstances. Consequently such delegation is, often, held valid, if there is no change in the legislative policy of the Act or statute.
- **Power to remove difficulties:** Power is sometimes conferred on the Government to modify the provisions of the existing statutes for the purpose of removing difficulties.

When the legislature passes an Act, it cannot forsee all the difficulties which may arise in implementing it. The executive is, therefore, empowered to make necessary changes to remove such difficulties. Such type of delegation is also known as the Henry VIII Clause. In England, during the period of the King Henry VIII several laws were made authorizing the Government or executive to modify or amend even the Enabling or Parent Act. This is nicknamed as Henry VIII clause type of delegation.

- **Framing of rules:** A delegation of power to frame rules, by-laws, regulations, etc. is not unconstitutional, provided that the rules, by-laws and regulations are required to be laid before the legislature before they come into force and provided further that the legislature has power to amend, modify or repeal them.

Functions which cannot be delegated:

- **Essential legislative functions:** Even though there is no specific bar in the Constitution of India against the delegation of legislative power by the legislature to the executive, it is now well-settled that essential legislative functions cannot be delegated by the legislature to the executive. In other words, legislative policy must be laid down by the legislature itself and by entrusting this power to the executive, the legislature cannot create a parallel legislature.
- **Repeal of Law:** Power to repeal a law is essentially a legislative function, and therefore, delegation of power to the executive to repeal a law is excessive delegation and is ultra vires.
- **Modification:** Power to modify the Act in its important aspects is an essential legislative function and, therefore, delegation of power to modify an Act without any limitation is not permissible. However, if the changes are not essential in character, the delegation is permissible.
- **Exemption:** The aforesaid principle applies in case of exemption also, and the legislature cannot delegate the power of exemption to the executive without laying down the norms and policy for the guidance of the latter.
- **Removal of difficulties:** Under the guise of enabling the executive to remove difficulties, the legislature cannot enact a Henry VIII clause and thereby delegate essential legislative functions to the executive, which could not otherwise have been delegated.
- **Retrospective operation:** The legislature has plenary power of law making and in India, Parliament can pass any law prospectively or retrospectively subject to the

provisions of the Constitution. But this principle cannot be applied in the case of delegated legislation. Giving an Act retrospective effect is essentially a legislative function and cannot be delegated.

- **Future Acts**: The legislature can empower the executive to adopt and apply the laws existing in other States, but it cannot delegate the power by which the executive can adopt the laws which may be passed in future, as this is essentially a legislative function.
- **Ouster of jurisdiction of courts**: The legislature cannot empower the executive by which the jurisdiction of courts may be ousted. This is a pure legislative function.
- **Offences and penalty**: The making of a particular act into an offence and prescribing punishment for it is an essential legislative function and cannot be delegated by the legislature to the executive. However, if the legislature lays down the standards or principles to be followed by the executive in defining an offence and provides the limits of penalties, such delegation is permissible.

CHECK YOUR PROGRESS

Q. 5: The essential legislative function cannot be delegated to administrative authority. (True/False)

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Q. 6: What do you mean by Henry VIII clause?

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Q. 7: Power to repeal a law is essentially a legislative function, and therefore, such power ……..be delegated. (Fill in the Blank)

Q. 8: Mention any two legislative powers which cannot be delegated.

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10.6 NEEDS AND VARIOUS KINDS OF CONTROL MECHANISMS OF DELEGATED LEGISLATION

Now a day the pertinent question is not whether delegated legislation is desirable or not, but what controls and safeguards can and ought to be introduced so that the rule-making power conferred on the Administration is not misused or misapplied. The control must be introduced at two stages- firstly, at the source, i.e. the safeguards must be provided when the legislature confers the legislative power on the executive. Secondly, some safeguards must be provided in case of misuse or abuse of power by the executive. Controls over the delegated legislation may be divided into three categories:

1. Judicial Control
2. Legislative Control (Parliamentary Control)
3. Other Control

- **Judicial Control:** Delegated legislation does not fall beyond the scope of judicial review and in almost all the democratic countries it is accepted that courts can decide the validity or otherwise of delegated legislation mainly applying two tests, substantive ultra vires and procedural ultra vires.
    - **Substantive Ultra Vires:** Ultra vires means beyond the powers. When a subordinate legislation goes beyond what the delegate is authorized to enact, it is known as substantive ultra vires. Substantive ultra vires means that the delegated legislation goes beyond the scope of the authority conferred on it by the parent statute or by the Constitution. It is a fundamental principle of law that a public authority cannot act outside the power; i.e. ultra vires, and it has been rightly described as the 'central principle' and 'foundation of large part of administrative law'. An act which is for any reason in excess of power is ultra vires.

A delegated legislation may be held to be invalid on the ground of substantive ultra vires in the following circumstances:

(i) Where parent Act is unconstitutional
(ii) Where delegated legislation is inconsistent with the parent Act.
(iii) Where delegated legislation is unconstitutional.
(iv) Unreasonableness.
(v) Mala fide, bad faith
(vi) Sub-delegation.
(vii) Exclusion of judicial review
(viii) Retrospective effect.

- **Procedural Ultra Vires:** When a subordinate legislation fails to comply with certain procedural requirements prescribed by the parent Act or by the general law, it is known as procedural ultra vires. While framing rules, bye-laws, regulations, etc., the parent Act or enabling statue may require the delegate to observe a prescribed procedure, such as holding of consultations with particular bodies or interests, publication of draft rules or bye-laws, laying them before Parliament, etc. It is incumbent on the delegate to comply with these procedural requirements and to exercise the power in the manner indicated by the legislature. Failure to comply with the same may invalidate the rules so framed. The following two procedural requirements may now be discussed – Publication and Consultation.

  (i) **Publication:** The procedural requirements relate to previous publication (i.e. publication of proposed delegated legislation), post-natal publicity (i.e. publication of the delegated legislation after fully framed but before being brought into operation).

  Sometimes the Enabling or Parent Act provides for the publication of the proposed delegated legislation. It is called antecedent publicity (prior or previous publicity). Whether such publication is necessary or not depends on the Enabling or Parent Act. Its purpose is to give the general public an opportunity to raise their objections, make their representations and give their suggestions before the delegated legislation is prepared in the final form.

  Post-natal publicity may be taken to mean publication of the subordinate or delegated legislation after being fully framed, but before being put into operation. It is essential, that adequate means are adopted to publicize the rules so that people are not caught on wrong foot in ignorance of the rules applicable to them in a given situation.

  (ii) **Consultation:** The term ‘consult’ implies a conference of two or more persons or an impact of two or more minds in respect of a topic in order to enable them to evolve a correct or, at least satisfactory solution of a problem. It is a process which requires meeting of minds between the parties to consultation on material facts to come to a right conclusion. In

India, there is no general statutory provision requiring consultation with affected person before making the delegated or subordinate legislation.

- **Legislative Control (Parliamentary Control):** It is the function of the legislature to legislate, but if it seeks to give this power to the executive because of some circumstances, it is not only the right of the legislature, but also its duty as principal, to see how its agent (executive) carries out the agency entrusted to it. Since it is the legislature which delegates legislative power to the administration, it is primarily for it to supervise and control the actual exercise of this power, and ensure against the danger of its objectionable, abusive and the warranted use by the administration. Thus, the underlying object of parliamentary control is to keep watch over the rule-making authorities and also to provide an opportunity to criticize them if there is abuse of power on their part. Legislative control can be effectively exercised by- Laying on Table and Scrutiny Committees.

    (i) **Laying on Table:** One of the controls of delegated legislation by Parliament is the laying procedure, i.e., laying on the table of the House the rules and regulations framed by the administrative authorities. The laying procedure enables the members of the House to scrutinize the subordinate legislation and thereby to exercise control over it.

    (ii) **Scrutiny Committees:** Laying on the table has not always been held to be mandatory. Even if that requirement is complied with, mere laying of rules before Parliament would not be of much use, unless the rules were properly studied and scrutinized. And, therefore, with a view to strengthening Parliamentary control over delegated legislation, Scrutiny Committees or Committees on subordinate legislation are established.

- **Other Control:** Over and above judicial and parliamentary controls, sometimes other controls and safeguards are also provided. One of such safeguards against the abuse of delegated power is to properly and precisely limit the power of the delegate.

CHECK YOUR PROGRESS

Q. 9: Ultra vires means beyond the powers. (True/False)

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Q. 10: Mention any two control mechanism of delegated legislation.

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Q. 11: The Post-natal publicity may be taken to mean publication of the delegated legislation after being fully framed, but before being put into ……. (Fill in the Blank)

Q. 12: Explain the judicial control of delegated legislation. (within 50 words).

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10.7 LET US SUM UP

- According to traditional theory of separation of power, the legislature should make laws, the executive should execute or administer them and the judiciary should enforce and interpret them.
- The term delegated legislation is difficult to define. The delegated legislation may be defined as the legislation made by the authority other than the Legislature acting under the authority delegated to it by the Legislature.
- There are many factors which are responsible for the growth of delegated legislation. These are- emergence of welfare state, technical nature of subject-matter, to fulfill local needs and conditions, flexibility of delegated legislation, to meet emergency situation etc.
- There are certain demerits of delegated legislation, such as- it is against the doctrine of separation of power and rule of law, inadequate legislative and judicial control, inadequate publicity etc.
- Delegated legislation exists in various forms, e.g., rules, regulations, by-laws, directions, orders, schemes, etc.
- There are certain subjects over which delegated legislation is permissible and some other subjects which delegated legislation is impermissible.
- The controls over the delegated legislation may be divided into three categories- judicial control, legislative control (Parliamentary Control) and other control.

10.8 FURTHER READING

1) Jain, M. P. & S.N. (2007). *Principles of Administrative Law*. New Delhi: Wadhwa and Company.

2) Kesari, U.P.D. (2014). *Lectures on Administrative Law.* Allahabad: Central Law Publications.

3) Takwani, C.K. (2002). *Lectures on Administrative Law.* New Delhi: Eastern Book Company.

4) Rai, Kailash (2004). *Administrative Law*. Allahabad: Allahabad Law Agency.

10.9 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No1: The delegated legislation may be defined as the legislation made by the authority other than the Legislature acting under the authority delegated to it by the Legislature.

Ans to Q No 2: Subordinate legislation.

Ans to Q No 3: (i) Emergence of welfare State,

(iii) Expediency and flexibility of delegated legislation

Ans to Q No 4: (i) Control of the delegated legislation by the legislature is not adequate. Due to the heavy work-load the legislature has no time to keep a full watch over what its delegates enact under the authority delegated by it. In the absence of effective control the executive may misuse it and act in arbitrary manner.

(ii) The judicial control over the delegated legislation is not adequate. Often the delegation clause is made in unduly wide terms so as to make the judicial control ineffective.

Ans to Q No 5: True

Ans to Q No 6: Power is sometimes conferred on the Government to modify the provisions of the existing statutes for the purpose of removing difficulties. The executive is, therefore, empowered to make necessary changes to remove such difficulties. Such type of delegation is also known as the Henry VIII Clause. In England, during the period of the King Henry VIII several laws were made authorizing the Government or executive to modify or amend even the Enabling or Parent Act. This is nicknamed as Henry VIII clause type of delegation.

Ans to Q No 7: cannot be

Ans to Q No 8: (i) Essential legislative functions cannot be delegated.

(ii) Power to repeal a law is essentially a legislative function, and cannot be delegated.

Ans to Q No 9: True

Ans to Q No 10: (i) Judicial Control

(ii) Legislative control (Parliamentary Control)

Ans to Q No 11: operation.

Ans to Q No 12: Delegated legislation does not fall beyond the scope of judicial review and in almost all the democratic countries it is accepted that courts can decide the validity or otherwise of delegated legislation mainly applying two tests, substantive ultra vires and procedural ultra vires. Ultra vires means beyond the powers.

10.10 MODEL QUESTIONS

A) Very Short Questions

Q 1: Who made the delegated legislation?

Q 2: Whether essential legislative function can be delegated?

Q 3: Mention any two merits of the delegated legislation.

Q 4: Mention any two demerits of the delegated legislation.

B) Short Questions (Answer each question in about 150 words)

Q 1: Write a brief note on the importance of delegated legislation.

Q 2: Write short notes on (a) Separation of Powers (b) Henry VIII Clause

Q 3: Examine the role of delegated legislation in a modern welfare state.

Q 4: Explain the causes for the growth of delegated legislation.

C) Long Questions (Answer each question in about 300-500 words)

Q1: Discuss the various types of delegated legislation in India.

Q2: Discuss the various types of control mechanism of delegated legislation.

UNIT 11: A COMPARATIVE STUDY OF POLITICAL SYSTEMS OF INDIA, GREAT BRITAIN AND UNITED STATES OF AMERICA

UNIT STRUCTURE

11.1 Learning Objectives
11.2 Introduction
11.3 Political Systems of India, Great Britain and the United States of America
11.4 Let Us Sum Up
11.5 Further Reading
11.6 Answers to Check Your Progress
11.7 Model Questions

11.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- describe the political systems of India, Great Britain and the United States of America
- discuss important characteristics of all the political systems of these three countries
- explain similarities and differences among the political systems of these three countries.

11.2 INTRODUCTION

Political system is the set of formal legal institutions that constitute a “government” or a “state.” This is the definition adopted by many studies of the legal or constitutional arrangements of advanced political orders. More broadly defined, however, the term comprehends actual as well as prescribed forms of political behaviour, not only the legal organization of the state but also the reality of how the state functions. Still more broadly defined, the political system is seen as a set of “processes of interaction” or as a subsystem of the social system interacting with other non-political subsystems, such as the economic system. This points to the importance of informal socio-political processes and emphasizes the study of political development.

Political systems are shaped by the societies in which they function. Therefore, it is useful to familiarise oneself with the historical, geographical, social and economic settings

against which they operate, and to understand something of the values and ideas which have mattered and continue to matter to those who inhabit any individual country. In this short introduction, an attempt is made to understand the background factors that help to shape the way in which political life and processes operate in India, Great Britain and United States of America. In particular, this chapter examines similarities and differences in the political culture of these three countries, since some of scholars have sought to identify broadly shared attitudes, belief systems and values that characterise the people of a country.

11.3 POLITICAL SYSTEMS OF INDIA, GREAT BRITAIN AND UNITED STATES OF AMERICA

Democracy, literally, is rule by the people. The term 'Democarcy' is derived from the Greek *dēmokratiā*, which was coined from *dēmos* ("people") and *kratos* ("rule"). The famous US President and statesman, Abraham Lincoln had defined democracy as a "government of people, by people, and for people".

Great Britain and India have parliamentary form of government. This is a democratic form of government in which the executive is selected from among the members of the legislature and is responsible to the legislature is called Parliamentary government. A Parliamentary government is also known as the cabinet form of government because the cabinet is the real executive in it. It is also called *responsible government*, since the cabinet always remains responsible to the legislature for its activities. Executive functions are exercised by members of the Parliament appointed by the Prime Minister to the cabinet. The parties in the minority serve as opposition to the majority. The Prime Minister may be removed from power whenever he/she loses the confidence of the majority in the Parliament.

The US has adopted a presidential form of democratic government. This is a system of democratic government, in which the executive is constitutionally independent of the legislature, is known as the Presidential form of government. In this form of government, the head of the state who is also the head of government is designated as the *President* and hence the phrase, *Presidential form of* government. In this system all three branches – executive, legislative, and judiciary – are constitutionally independent of each other.

- **Political System of Great Britain**

The United Kingdom is a constitutional monarchy and a parliamentary democracy. The country's head of state is the reigning King or Queen, and the head of government is the

Prime Minister, who is the leader of the majority political party in the House of Commons. The British Constitution is mostly unwritten; it is only partly written and is flexible. The main elements of the government are the legislature, the executive, and the judiciary. There is some overlap between the branches, as there is no formal separation of powers or system of checks and balances. For example, the Lord Chancellor traditionally was a member of all three branches, serving as a member of the cabinet (executive branch), as the government's leader in the House of Lords (legislative branch), and as the head of the country's judiciary (judicial branch). However, constitutional reforms enacted in 2005 (and entered into force in 2006) stripped the office of most of its legislative and judicial functions, with those powers devolving to the lord speaker and the lord chief justice, respectively. That reform also created the Supreme Court, which in October 2009 replaced the Appellate Committee of the House of Lords as the venue of last resort in the British legal system.

Sovereignty resides in the Parliament, which comprises the monarch, the mainly appointive House of Lords, and the elected House of Commons. The sovereignty of Parliament is expressed in its legislative enactments, which are binding on all, though individuals may contest in the courts the legality of any action under a specific statute. In certain circumstances individuals may also seek protection under European law. Until 1999 the House of Lords consisted mainly of hereditary peers (or nobles). Since then it has comprised mainly appointed peers, selected by successive prime ministers to serve for life. As of now the House of Lords comprises of 834 members and House of Commons comprises of 650 members.

All political power rests with the Prime Minister and the Cabinet, and the monarch must act on their advice. The Prime Minister chooses the cabinet from MPs in his/her political party. Most cabinet ministers are heads of government departments. The Prime Minister's authority grew during the 20th century, and, alone or with one or two colleagues, the Prime Minister increasingly has made decisions previously made by the cabinet as a whole. Prime Ministers has nevertheless been overruled by the cabinet on many occasions and must generally have its support to exercise powers. Because the party with a majority in the House of Commons supports the cabinet, it exercises the sovereignty of Parliament. The royal right of veto has not been exercised since the early 18th century, and the legislative power of the House of Lords was reduced in 1911 to the right to delay legislation. The Cabinet plans and lays before Parliament all important bills. Although the cabinet thus controls the lawmaking machinery, it is also subject to Parliament; it must expound and defend its policy in debate, and its continuation in office depends on the support of the House of Commons. The executive apparatus, the cabinet secretariat, was developed after World War I and carries out the cabinet's decisions. It also prepares the cabinet's agenda,

records its conclusions, and communicates them to the government departments that implement them.

- **Political System of the United States of America**

The presidential system is a form of government in which the President is the chief executive and is elected directly by the people. Some of its salient features are as follows:

(i) **Separation of power:** This system was invented by America's founders to provide an alternative to the parliamentary form of government. It became known as 'presidential' because a directly elected president was its most salient difference. This does not mean that the president holds supremacy like the prime minister or parliament. In fact, power in the presidential system is divided among many, so no individual or institution can ever become supreme.

(ii) **President and Legislators are elected for fixed terms:** This rejection of legislative supremacy is not the only fundamental difference. Since the presidential system was designed for a full republic, not a constitutional monarchy, it does not have a head of state. The government is not just an executive committee called the Cabinet, it's all three branches. The President, Congress (with two chambers: House of Representatives and Senate) and Supreme Court, work together to constitute a government, and all report directly to the people. Elections are therefore held more frequently than the parliamentary system; every two years for the legislature, and every four for the presidency. The president and legislators are elected for fixed terms. The judges are appointed for life, jointly by the President, who nominates, and the Senate, which approves.

(iii) **Total executive responsibility is assigned to the President individually:** Total executive responsibility is assigned to the President as an individual, not collectively to a council of ministers, as in the parliamentary system. The president's cabinet is not made of legislators but of any individuals considered able by the president and approved by the Senate. In fact, legislators are barred from holding executive offices, and vice versa. Conversely, the president cannot make laws. He/she can veto, but the legislature can override if there is broad consensus.

(iv) **US Federal system provides greater freedom to State governments :** Another big difference is with respect to state governments. The presidential system is designed for a federation, not for running states from the centre. Accordingly, its state governments are independent, cannot be dissolved, and are

required to be self sufficient. Federal and state governments are granted separate and specific powers; residual powers are left with the states.

(v) **US Presidential system - an alternative to British cabinet/ parliamentary system:** The Americans invented the presidential system in 1787 to replace their decade-old fraying structure. After gaining independence, the 13 American colonies lived under the Articles of Confederation. But that provided a weak central government and lacked a fair system for inter-state cooperation. The union began to fall apart. The founders knew they had to come up with a better system. Having lived under the British Constitution all their lives, they knew the parliamentary form of government was not the answer.

(vi) **Direct elections at all levels of government – best known feature of the US system:** They devised a revolutionary new system of strong but non-oppressive governments. The presidential system grants limited powers, empowers state governments, separates the three branches into different institutions, enables the minority to make laws, grants judiciary the power of review, and above all, gives the people a direct say. Direct elections at all levels of government – federal, state, and local – is this system's best known feature.

(vii) **US Presidential system is a Model to be studied:** Many nations have a so-called presidential system, but America is the model to study. In almost all other countries the powers are not as well-balanced. The American system is not difficult to understand or replicate, however it cannot be implemented piecemeal. Since it relies on institutions and their checks on each other, the structure of every institution is equally important.

(viii) **US Presidential system is not authoritarian:** The American presidential system is not authoritarian. The general depiction of America's president as "the most powerful man on the planet" has created an erroneous impression of autocracy. But nothing could be farther from the truth. In 225 years, no American President has even been accused of autocratic behaviour. Power in this system cannot find a focal point. This system makes it structurally impossible, due to its powerful state governments, division of spending and taxing authorities, and separation of the powers of sword and purse.

US and UK Political Systems in Comparative Perspective:

Great Britain and America both have bicameral legislatures, having a lower chamber (in both cases called the House of Representatives in the USA and House of Commons in the UK) and an upper one, the Senate and House of Lords respectively. In Britain, as in many other large democracies, a second chamber is widely considered necessary as a

check upon the lower house, the government-dominated House of Commons, but it is also useful because it shares the parliamentary workload (and so reduces pressure on the House of Commons), has a significant role in legislation (especially the task of scrutiny and revision, but also of delay) and provides opportunities for careful deliberation of matters of public policy by people many of whom are expert in their chosen fields. In America, apart from its law making and other roles, the second chamber provides territorial representation, with each state – however large or small – being represented by two members.

At present, in both cases, members of the upper House serve a longer period in office than do members of the lower House. Composition is determined differently in the Lords from in the Senate, and there are more members. Membership of the Lords was based substantially on heredity, until the phasing out of selection through inheritance in 1999.

In Britain, the House of Commons is the more dominant chamber. The Lords has a role in the legislative process, mainly as a revising body, although new – usually non-controversial – legislation can be initiated there. It is unable to reject bills passed by the House of Commons, although it has a power of delay under the 1949 Parliament Act. This is not the case in America, where the two Houses have a very different relationship and are in theory co-equal. The Senate has some distinctive responsibilities (such as in the field of foreign affairs) and also has higher status. It plays a large role in the legislative and budgetary processes. It also has an important role in checking the Executive, via its powers of checking presidential appointments, and ultimately being the body which conducts any trial for impeachment.

Various factors make the Senate a more significant second chamber than the Lords. The Constitution, with its separation of powers, requires the legislature to act as a curb upon the Executive. Also, in a presidential system, the President is not answerable to one chamber only, so that there is not the same focus of attention on one house more than the other. Strong second chambers are more often found in federal countries and those which provide for effective regional representation. In the case of America, such considerations make it the strongest upper house in the democratic world.

Question Time is a much-vaunted British way of holding ministers responsible. Its merits – particularly those of Prime Minister's Questions on Wednesday afternoon – have been much questioned, but the fact that he and other ministers must appear before the House and face often hostile questioning helps to keep their feet on the ground and brings them into contact with the comments and criticisms which people are making about government policy. As well as advancing an alternative approach, the Opposition party has the specific role of holding the government to account, throwing the spotlight of publicity on

its acts, demanding a full exposition of the ministerial case and censuring ministers when it finds their policies and activities condemnable.

America has no such institution as Question Time, nor does it have a body equivalent to Her Majesty's Opposition. The system of government is very different. Whereas in Britain ministers are members of the legislature and via the doctrine of individual ministerial responsibility are accountable for the work of their departments and their own performance, in America the President is appointed directly and the Cabinet is hand-picked according to the President's requirements and preferences. Cabinet members are not members of Congress and do not have to justify their policies before the elected representatives in Congress, though they may be summoned to appear in committee hearings. The prospect of being subjected to such investigation is bound to influence the behaviour of those who make decisions.

American investigative committees are powerful organs of scrutiny which are the more effective because the 'freedom of information' legislation makes it easier to gain access to key documents. They have the right of subpoena, which means they can force witnesses to appear and answer questions on the issue under investigation. In 1997 the Senate Finance Committee (a permanent standing committee) conducted hearings into the operations of the Internal Revenue Service. Temporary select committees have in the past conducted full-scale investigations of such issues as the conduct of the Vietnam War, the problems surrounding the Watergate break-in, and American involvement in the Iran–Contra affair. The McCarthy hearings of the early 1950s are but the most notorious example of the power of such committees, which have no real counterpart in Britain. Select committees probing the Westland issue in 1986 or the behaviour of ministers in the sleaze cases of the 1990s found it difficult to ever obtain a full picture of what was happening. Even after a lengthy investigation, it can be difficult to discern what actually took place.

Congress also has the key judicial power of impeachment. The House decides on whether the accused official has a case to answer and if it believes that he or she has, then the trial takes place in the Senate. A verdict of guilty results in dismissal from public office. Bill Clinton survived the process in 1999, but the ability of Congress to appoint special prosecutors to probe every aspect of a President's affairs and then bring impeachment charges (and the relentless media interest this creates), make it difficult for the incumbent to concentrate on achieving his or her policy goals.

Congress has two main advantages over the British Parliament whether in scrutinising legislation or in holding members to account. The first is the doctrine of Separation of Powers, which was designed to prevent undue concentration of power in one location, and which denies members of the Executive the chance to sit in Congress. The second is the absence of strong party bonds, which mean that Congress members can act

more as free agents, acting and voting as they think it appropriate to do; they do not feel beholden to their party leaders for their advancement.

Differences between parties in US and UK:

There are key differences between parties in the two countries, of which two are most important:

In Great Britain, parties are centralised and highly disciplined, enabling the governing party to bend Parliament to its will. Not so in the United States, where although American parties can exert some influence they are weaker, have less party discipline and a markedly less-developed national headquarters.

In the United States, the two parties are closer together on the ideological spectrum than in Britain. America is the only industrialised liberal democracy which has never developed a significant socialist party, and although the Democrats are the more left-wing or 'progressive' party, in ideological terms they are nearer to the Liberal Democrats and New Labour than to the Labour Party which existed in Britain for most of the 20th century.

For all of the signs of weakness and fragmentation in party systems, parties are unlikely to become extinct. Even if the bonds are somewhat tenuous, they remain as the main mechanism which links the voters and those who rule them, and they continue to perform useful tasks which today can be summarised as:

(i) recruiting representatives for national legislatures, and thereby at least influencing – in the British case determining – the choice of those who serve in government;
(ii) educating the electorate by developing, elaborating and 'selling' policies;
(iii) offering an opportunity for popular participation in the political process, even if in many cases this chance is shunned by the majority of voters.

CHECK YOUR PROGRESS

Q.1: What are the two Houses of the British Parliament?

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.....

Q.2: What is meant by presidential form of government?

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.....

Q.3: What is the total number of members of the Senate?

.....

- **Political System of India**

Parliament of India:

Parliament is the supreme legislative body of India. The Indian Parliament comprises of the President and the two Houses - Rajya Sabha (Council of States) and Lok Sabha (House of the People). The President has the power to summon and prorogue either House of Parliament or to dissolve Lok Sabha. The formal assent of the President is necessary for bills passed by Parliament to become laws. The Constitution of India came into force on 26 January, 1950. The first general elections under the new Constitution were held during the year 1951-52 and the first elected Parliament came into existence in April 1952, the Second Lok Sabha in April, 1957, the Third Lok Sabha in April 1962, the Fourth Lok Sabha in March 1967, the Fifth Lok Sabha in March 1971, the Sixth Lok Sabha in March 1977, the Seventh Lok Sabha in January 1980, the Eighth Lok Sabha in December 1984, the Ninth Lok Sabha in December 1989, the Tenth Lok Sabha in June 1991, the Eleventh Lok Sabha in May 1996, the Twelfth Lok Sabha in March 1998, Thirteenth Lok Sabha in October 1999, Fourteenth Lok Sabha in May 2004, Fifteenth Lok Sabha in April 2009 and Sixteenth Lok Sabha in April 2014, Seventeenth Lok Sabha in 2019 and eighteenth Lok Sabha in the year 2024.

The Lower House of the Parliament, called House of People, consists of the representatives of the people elected from territorial constituencies. Thus, it is the representative House of the nation as a whole. The Upper House, called the Council of States, consists of the representatives of the federating units composing the Indian federation. Thus, this House represents the federal principle in the Indian union. In terms of Article 81 of the Indian constitution, the House of People has a total strength of 545 elected members. Article 331 empowers the President of India to nominate 2 members of the Anglo-Indian community, if in his opinion, that community is not adequately represented in the Lok Sabha. However this provision was abolished in the year 2020 and the present strength of this House is 543. Elected members of the House are elected for a five-year term on the basis of universal adult suffrage. The Lok Sabha is elected for the term of five years. It may be dissolved earlier by the President on the advice of the Prime Minister. The life of the Lok Sabha may be extended beyond five years during an emergency under Article 352, up to a year at a time by an act passed by the Parliament. But such extension shall not continue beyond six months after the emergency ends.

The Council of States or the Rajya Sabha represents the federal principle in the Indian Parliament. It is a permanent chamber consisting of not more than 250 members 1/3rd of whom retire every two years. Consequently at the beginning of every second year, there is fresh election of 1/3rd of members of the Rajya Sabha. Of the 250 members of the Rajya Sabha, 238 are elected by the Legislative Assemblies of the constituent states and by

members of electoral colleges formed for the purpose, in the union territories. The Rajya Sabha members are elected on the basis of proportional representation by means of single transferrable vote. Each member is elected for a term of six years. The 12 other members of the Rajya Sabha are nominated by the President from among Indians in recognition of their exceptional achievements in literature, science, art or any other field of life. This is a device to associate distinguished Indians with the legislative process. Though the Rajya Sabha represents the federal principle in the Indian Parliament, but the Indian Constitution does not formally recognize the principle of equality of the component states. That is why in India unlike as in the US, the states do not have equal representation in the federal upper chamber. More populous states like Uttar Pradesh have heavier representation than the less populous ones like Goa and Nagaland, thus tilting the balance in favour of populous states. Such states have heavier representation both in the Lok Sabha and the Rajya Sabha.

Table 1: The Constitutions of United Kingdom, the United States of America and India: a summary

Issue	UK	US	India
General characteristics	Unwritten/uncodified Flexible/easy to amend	Written/codified More rigid/less easy to amend	Written/codified Mixture of rigid and flexible ways of amendment
Constitutional principles	Commitment to democracy, rule of law, Monarchical government, Unitary system with Devolution Parliamentary system, Parliamentary sovereignty	Commitment to democracy, rule of law, Republican government, Federal system, Presidential system with Separation of powers, Popular sovereignty	Commitment to democracy, rule of law Republican government, Federal system, Parliamentary system, Popular sovereignty

Table 2: The Prime Ministers of India, UK and the President of the US: a summary

Issue	UK Prime Minister	US President	Indian Prime Minister
A parliamentary versus a presidential system of government	Prime Minister is part of the legislature and answerable to it. Must defend himself or herself in House of Commons – e.g. Question Time.	President detached from legislature and not required to justify his or her performance before Congress – unless impeached. Does deliver State of the Union speech there.	Prime Minister is part of legislature and answerable to it. Must defend himself or herself in Lok Sabha – e.g. No Confidence Motion, Censure Motion, Budget.
Chief of the executive branch or head of state?	Chief of the Executive only – smaller ceremonial role.	Chief of the Executive and Head of State – dual role makes job more burdensome but also enables the President to appear as embodiment of the people.	Chief of the Executive only – little ceremonial role.
A single executive: position of the Cabinet	Prime Minister has to work with the Cabinet, which meets regularly, and share collective responsibility with it, even if he or she may on occasion choose to side-line it when key decisions are made.	President has a Cabinet but it has considerably less status in American politics. He or she might not consult it when making key decisions. It does not include several powerful politicians, personalities in their own right.	Prime Minister has to work with the Cabinet, which meets regularly, and share collective responsibility with it, even if he or she may on occasion choose to side-line it when key decisions are made.
Security of tenure –	May serve for as	Limited by	May serve for as

length of time which can be served in office	long as the public and party want him or her.	Constitution to two whole terms.	long as the public and party want him or her; service might not be continuous.
Party leadership	Strong party leader: can count on support of back benchers in most circumstances. Also, powerful party machine behind him, to rally party beyond Westminster.	Cannot count on party loyalty or support – e.g. in voting lobbies of Congress. National party leadership much weaker. Impact of federalism / separation of powers.	Strong party leader: can count on support of back benchers in most circumstances. Also, powerful party machine behind him, to rally party beyond Parliament.
Ability to achieve desired policies and implement programme	High success rate for governmental policies, in terms of amount of programme implemented. Even controversial programmes usually pass into law. (e. g. privatisation under Margaret Thatcher)	Presidential policies might not be carried out: several Presidents have difficulty with Congress (e.g. Clinton and health reform; Obama and health care; Trump and tax reform).	High success rate for governmental policies, in terms of amount of programme implemented. Even controversial programmes usually pass into law.
Role in foreign policy and management of crises: national strength	Several Prime Ministers have been very powerful in time of war: opportunity for strong leadership. But global influence of Britain has declined post-war; lack of former industrial or military might.	Presidents tend to thrive on crisis management – e.g. Kennedy and Cuba 1962, George W Bush and crusade against terrorism following 11 September. US is the most powerful country in the world.	Several Prime Ministers have been very powerful during crises: opportunity for strong leadership. Global influence of India is steadily rising due to democracy, economic growth and leadership of poor nations.

		It leads free world and acts strongly to try and enforce its world view.	

Table 3: The bureaucracy in India, United Kingdom and the United States of America: a summary

Issues	Britain	US	India
Key personnel	Permanent secretary and higher civil servants who serve for several years and acquire wealth of knowledge and expertise, derived from functioning under different party administrations.	No comparable job to permanent civil servants; senior figures are political appointments of an incoming administration.	Cabinet secretary, Chief secretary and higher civil servants who serve for several years and acquire wealth of knowledge and expertise, derived from functioning under different party administrations.
Use of outside personal advisers	Less used in past, though recent governments have employed more in a bid to ensure that the political will of ministers is reinforced as they seek to impose a sense of direction on their departments. Act as minister's eyes and ears.	Secretaries of various departments surrounded by a coterie of appointees, political figures who help departmental heads to impose their will on the career civil servants below them. System most evident in Executive Office, especially White House Office where advisers act as a counter-bureaucracy.	Less used in past, though recent governments have employed more in a bid to ensure that the political will of ministers is reinforced as they seek to impose a sense of direction on their departments. Act as minister's eyes and ears.

Traditional principles	British civil service noted for its permanence, neutrality and anonymity. Now less neutral and anonymous, with increasing comment about a 'politicisation' of service under Thatcher and Blair administrations. Senior civil servants now liable for interrogation by select committees, making them more accountable.	95 per cent permanent civil service, politically neutral, though appointments made by President undermine the idea. Political appointees not anonymous or neutral, but discussions between departmental heads and their advisers are kept secret to allow officials to 'think the unthinkable'. Never same reluctance to allow officials to appear before congressional committees.	Indian civil service traditionally known for its permanence, neutrality and anonymity. 'Steel frame' is now criticised for getting degenerated into a bamboo frame.
Power and influence of bureaucracy	Increasing comment in recent years about influence of civil service over policy-making. Suggestion that they wield real political power and dominate their political masters. But theory remains that civil servants advise and ministers decide. Minister takes praise or blame for conduct	Bureaucracy not a single, monolithic institution, and various elements of bureaucracy differ in the degree of independence they exercise – e.g. bureaux in departments have great autonomy. Bureaucracy a powerful institution, large and complex,	Increasing influence in recent years of civil service over policy-making. It is called permanent executive that wields real political power and dominates political masters. In theory, civil servants advise and ministers decide. Ministers are accountable while civil servants are

	of department and its officials, answering in Parliament for what is done.	often seen as burdensome by American public. All senior members are appointed by the President who can remove them, but once in office often act independently.	always anonymous.
Recent characteristics	Increased politicisation. Use of political appointees. Use of agencies and other unelected bodies. Appointment of chief executives in agencies in gift of government of the day.	Characteristics of modern British bureaucracy long familiar in United States – e.g., politicisation/ political advisers.	Disturbing trend of increased politicisation and use of political appointees, agencies and unelected bodies.

Table 4: Legislatures in India, United Kingdom and the United States of America: a summary

Issues	UK	US	India
Unicameral or bicameral?	Bicameral.	Bicameral.	Bicameral.
Size	House of Commons 659. House of Lords 834.	House of Representatives 438. Senate 100.	Lok Sabha (House of People) 543. Rajya Sabha (Council of States) 250.
Method of selection	Commons: direct election. Lords: mainly	House and Senate: direct election.	Lok Sabha: direct election (543) Rajya Sabha: indirect

	appointment.		election (238) and nomination (12)
Nature of membership	Both unrepresentative: too few women and minorities.	Both unrepresentative: too few women and minorities.	Both representative of diversity: more women are joining.
Status of chambers	Commons significant. Lords: secondary role.	Theoretically equal, but Senate has higher prestige.	Lok Sabha: significant. Rajya Sabha: usually secondary role, but becomes crucial especially when ruling party does not have majority in Rajya Sabha.
Type and role of committees	Standing (non-specialist) for legislation; select for scrutiny.	Standing (specialist) for legislation and scrutiny: select for special enquiries.	Standing for legislation; select for scrutiny.
Law-making	Commons has main role, Lords does work of revision: most bills pass and impact of process limited.	Key legislative role for both houses, though relatively few bills pass into law: lack of party support.	Lok Sabha has main role, Rajya Sabha does work of revision: most bills pass and impact of process limited.
Watchdog role, investigation	Questions, Opposition and select committees.	Powerful investigatory committees: no Question Time or official Opposition.	Question Hour, Opposition, select committees, joint parliamentary committees.
Relative power	Loss of power: talk of 'Parliament in decline' and need for reform.	Most powerful legislature in world, though often talk of 'congressional paralysis'.	Loss of power: talk of 'Parliament in decline' and need for reform.

CHECK YOUR PROGRESS

Q.4: Who can dissolve the lower House of the Indian Parliament?

.....

Q.5: The Upper House of the Indian Parliament is a permanent Chamber. (True/False)

.....

11.4 LET US SUM UP

- Political system is the set of formal legal institutions that constitute a government or a state. Political system is seen as a set of "processes of interaction" or as a subsystem of the social system interacting with other non-political subsystems, such as the economic system.
- Political systems are shaped by the societies in which they function. Therefore, it is useful to familiarise oneself with the historical, geographical, social and economic settings against which they operate, and to understand something of the values and ideas which have mattered and continue to matter to those who inhabit any individual country.
- Great Britain and India have opted for parliamentary form of government and USA has opted for presidential form of government.
- There are some similarities and some dissimilarities among the political systems of these three countries.

11.5 FURTHER READING

1) Bhagwan, Vishnoo & Bhushan, Vidya (2007) : *World Constitutions*. New Delhi : S.Chand and Company.
2) Chander, Prakash.(2000). *Indian Government and Politics*. New Delhi: Cosmos Bookhive Pvt. Ltd.
3) Chakravarty, Sivnath & Anup, Chakravarty (ed.) (2000-01). *An Introduction to Politics (19th edition).* Calcutta : Modern Book Agency Pvt.Ltd.
4) Ghai, K.K.(2007). *Indian Government and Politics*. New Delhi: Kalyani Publishers.
5) Ghai,K.K.(2006). *Major Governments* . New Delhi : Kalyani Publishers.
6) Sachdeva and Gupta. *A simple study of World Constitutions* . Ajanta Prakashan.

11.6 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q. No 1: House of Commons and House of Lords

Ans to Q. No 2: Presidential form of government is a system of democratic government, in which the executive is constitutionally independent of the legislature, is known as the Presidential form of government. In this form of government, the head of the state who is also the head of government is designated as the *President* and hence the phrase, *Presidential form of* government. In this system all three branches – executive, legislative, and judiciary – are constitutionally independent of each other.

Ans to Q. No 3: 100

Ans to Q. No 4: The President of India

Ans to Q. No 5: True

11.7 MODEL QUESTIONS

A. Very Short Questions

Q.1: Mention the names of the two Houses of the US Congress.

Q.2: State the names of the two Houses of the British Parliament.

Q.3: Mention the names of the two Houses of the Indian Parliament.

B. Short Questions (answer each question in around 150 words)

Q.1: Define parliamentary form of government.

Q.2: Write briefly about four features of the US presidential form of government.

Q.3: Write briefly about the composition of the Indian Parliament.

C. Long Questions (answer each question in around 300-500 words)

Q.1: Make a comparative analysis between the Indian political system and British political system.

Q.2: Make a comparative analysis between the Indian political system and American political system.

Q.3: Make a comparative analysis between the British political system and American political system.

UNIT 12: A COMPARATIVE STUDY OF THE EXECUTIVE, LEGISLATURE AND JUDICIARY OF INDIA, GREAT BRITAIN AND THE UNITED STATES OF AMERICA

UNIT STRUCTURE

12.1 Learning Objectives
12.2 Introduction
12.3 Executive, Legislature and Judiciary of India, Great Britain and the United States of America
12.4 Let Us Sum Up
12.5 Further Reading
12.6 Answers to Check Your Progress
12.7 Model Questions

12.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- discuss the powers and functions of the three organs, e.g. executive, legislature and judiciary of the government
- make a comparative analysis of executive, legislature and judiciary of India, Great Britain and the United States of America.

12 .2 INTRODUCTION

The Constitution, whether written or unwritten, is a document that provides for certain laws according to which the powers of the government are exercised. The government being one of the essential ingredients of a State, it operates through its three basic organs which are the Executive, Legislature and the Judiciary. The legislature being the law-making body makes the laws which are later on implemented by the executive. The judiciary interprets the laws made by the legislature and implemented by the executive besides adjudicating the disputes. Therefore, mutual exclusiveness among the three organs is necessary to prevent absolutism and tyranny.

12.3 EXECUTIVE, LEGISLATURE AND JUDICIARY OF INDIA, GREAT BRITAIN AND THE UNITED STATES OF AMERICA

The constitution of a country lays down certain procedures according to which the respective government is expected to perform. The three organs of the government - executive, legislature and judiciary stand as pillars of democracy and these pillars are further strengthened by the constitutional provisions which prevent it from being arbitrary in nature. Each organ has its own area of operation which is clearly demarcated by the doctrine of separation of powers. The idea of separation of powers was conceived to prevent the good old saying 'power corrupts and absolute power corrupts absolutely'. But in India, we can see the delegation of powers by one organ to the other at times to accelerate the efficiency of the government.

In the following sections we shall discuss the executive, legislature and judiciary of India, Great Britain and the United States of America.

- **Executive**

As mentioned earlier the executive organ of the government executes or implements the laws. The executive organ consists of the President, Vice President, Prime Minister and the Councils of Ministers along with civil servants. The United States of America has opted for presidential form of government and Great Britain and India have opted for parliamentary form of government. The President of USA is the real head of the state, while the President of India and the Queen or King of Great Britain are nominal head of the state. In India and Great Britain the Council of Ministers headed by the Prime Minister is the real executive. A comparison of the executives of the three countries has been provided in the following:

- The American President enjoys a secured term of Office empowered constitutionally. No one can remove the President before the expiry of a period of four years unless impeached earlier by the Congress which is a very difficult and complicated procedure. The British and the Indian Prime Minister, on the other hand, depends for his/her term upon the confidence of the House of Commons and Lok Sabha respectively. They continue in office as long as they enjoy the support of the majority party in the lower Houses of the Parliament. The Prime Ministers of Great Britain and India must vacate his/her office, as soon as the lower Houses withdraw its support to him/her.

- The American President is indirectly elected by the Electoral College though the election in reality has become direct. The British Prime Minister, on the other hand, is appointed by the King/Queen from the majority party in the House of Commons. The Indian Prime Minister is also appointed by the President of India from the majority party in the Lok Sabha. He/she actually represents only a constituency from which he/she is elected. But the American President, in the words of Wilson, is representative of no constituency but the whole people of the country.
- The President of USA acts as the head of the State as well as of the Government. But the Prime Ministers of Great Britain and India are only the head of the Government not of the state.
- Regarding responsibility to the legislature also there are differences between the American President and the British and Indian Prime Minister. The President is not responsible to the legislature for his/her action, whereas the British and Indian Prime Ministers are answerable and accountable to the House of Commons and Lok Sabha respectively. Besides, the President neither guides the course of legislation, nor is he/she a member of the Congress of USA. His/her influence on the legislation is indirect though very effective at times. The British and Indian Prime Minister, on the other hand, is the leader of the lower House of the Parliament and directly steers the course of legislation.
- The American President is helpless if the majority in the Congress is against him/her. He/she cannot get all the necessary legislation enacted. On the other hand, the British and Indian Prime Ministers as the leader of the majority party can get the necessary legislation passed. Thus, in this respect, the British and India Prime Ministers are comparatively more powerful than the American President.
- The American President possesses the Veto power over laws enacted by the Congress. No such power has been vested with the British and Indian Prime Minister. However, the President's veto power except Pocket veto is not final. His/her veto can be vetoed by the Congress. Hence, the President may not always be sure of enactment or rejection of legislation as per hi/hers wishes.
- The British and Indian Prime Ministers are only the leader of the Cabinet and they cannot easily afford to ignore the advice of the cabinet. The Prime Minister acts only as the leader of the Cabinet which is consisted

of the leading party members with considerable backing. On the other hand, the American President acts as the boss and the Cabinet members are his/her subordinate assistants. The American President is the master of his/her cabinet.

- The American President's power of making appointments and formulating treaties is subject to approval by the Senate. There is no such restraint on the powers of the British and Indian Prime Minister. All high appointments and treaties are made under the signatures of the King/Queen (in Great Britain) and President (in India) according to the advice of the Prime Ministers of both the countries respectively.
- In Great Britain the Crown and in India the President can declare war but in actual practice, it is the Prime Ministers who declare war. But in USA, the President in spite of being the Commander-in-Chief cannot declare war. The Congress only can declare it. However, the President can create such conditions which may compel the Congress to declare war.
- In USA the budget is prepared by the Bureau of Budget under the supervision of the President, but Congress can accept or modify it. In UK, the budget introduced by the Chancellor of Exchequer under the direction of the Prime Minister is apt to be accepted by the House of Commons otherwise the House faces dissolution at the hands of the Prime Minister. In India the budget is prepared by the finance ministry under the direction of the Prime Minister and it is bound to be accepted by the Lok Sabha, because the Prime Minister and the cabinet enjoy majority support in the Lok Sabha.
- The President of USA and the Indian Prime Minister derive powers and authority mostly from the Constitution. On the other hand, it is the conventions from which the Prime Minister of England derives his/her powers and authority. Theoretically all powers are vested with the Queen/King and the Prime Minister and his/her ministers are appointed only to aid and advise the King/Queen. But in actual practice, the King/Queen is only a constitutional ruler, a constitutional executive in whose name the government is run. The real powers are exercised by the Council of Ministers headed by the Prime Minister.

- **Legislatur**e

The United States of America, Great Britain and India have bicameral legislatures. The two Houses of the US Congress are- House of Representatives and Senate. Two Houses of the British Parliament are- House of Lords and House of Commons. Rajya Sabha and Lok Sabha are the two Houses of the Indian Parliament.

Great Britain and India have parliamentary form of government. In Great Britain there is parliamentary sovereignty. Parliament is regarded as the supreme in Great Britain. In USA and India, the Constitution is regarded as the supreme. In parliamentary form of government there is a close relationship between the executive and legislature. In India the real executive, e.g. the Prime Minister and the Council of Ministers are responsible to the Lok Sabha. In Great Britain too, the Prime Minister and the Council of Ministers are responsible to the House of Commons. In both these countries the real executives hold office as long as they enjoy majority support in the lower House of the Parliament. The United States of America has presidential form of government. In USA the President, real executive, is not responsible to the legislature. The President enjoys a secured term of office and cannot be removed from the office by the legislature, except through impeachment procedure.

The Senate, Upper House of the US Congress differs sharply from the British House of Lords (Upper House of the British Parliament) and the Rajya Sabha (Upper House of the Indian Parliament) in many aspects. The US Senate is regarded as the strongest and the British House of Lords is regarded as the weakest second chambers of in the world. The British House of Lords is a hereditary chamber. Nearly ninety percent of its members occupy their seats on the basis of heredity. The Senate on the other hand, is an entirely elected chamber. There is no hereditary or nominated element in the Senate. The Rajya Sabha of the Indian Parliament also does not have hereditary members. It has both elected and nominated members. The British House of Lords and the Rajya Sabha are permanent chambers. The Lords are members for life. They do not retire. And in case of Rajya Sabha 2/3 members retire after every two years. But the Senators occupy seats for a period of six years—— one third retiring after every two years. The Senate and the Rajya Sabha are dynamic chambers where the standard of debates is of high level. The members of these two Houses take active interest in the proceedings and are politically awake. The House of Lords on the other hand, is a sleeping beauty. The Lords seldom attend the meetings and do not have much say in politics. The Senate is a fully representative and a responsible chamber. In power also the House of Lords is far inferior to the Senate and Rajya Sabha. In legislative sphere the power of the Lords is much inferior to those of the House of

Commons. In England a bill may become a law despite the disapproval of the Lords if it has been passed by the Commons in two successive sessions. On money bills, the House of Lords has no power. In case of money bill the Rajya Sabha also does not have any power. The Senate, on the other hand, possesses coequal powers with the House of Representatives in legislation and finance. Besides, the Rajya Sabha and the Senate have power in the appointment of the President, treaty-making. However, the House of Lords is also a court of impeachment for the trial of important officers of the Crown.

- **Judiciary**

In any democratic country judiciary plays an important role in upholding the rights of the people as well as maintaining the supremacy of the constitution. It interprets the laws formulated by the legislature and acts implemented by the executive.

Supremacy of judiciary is a primary condition in the United States of America and India. Judiciary of both these countries have the power of judicial review. In USA and India, any law passed by the legislature and any acts of the executive can be reviewed by the judiciary and if the judiciary finds that particular law or act violates any provision of the constitution, the judiciary can declare such act or law as unconstitutional. But in Great Britain, the judiciary plays a limited role where parliament plays the absolute role in making or unmaking laws for the entire country. In Great Britain the judiciary does not have the power of judicial review. In USA the judges of the Supreme Court are appointed by the President in consultation with the Senate. In India too, the President appoints the judges of the Supreme Court according to the advice of the Prime Minister. In Great Britain the too the judges are appointed by the Queen according to the advice of the Prime Minister. In India, Great Britain and the USA the judiciary remains independence of the other organs of the government. In all the three countries, however, the role of the judiciary is very significant.

CHECK YOUR PROGRESS

Q.1: State the names of the two Houses of the Indian Parliament.

……

Q.2: Mention any two differences between American President and the British Prime Minister.

……

……

……

……..

Q.3: The British House of Lords is a permanent chamber. (True/False)

……..

Q.4: What is meant by judicial review?

……

……

……..

Q.5: Judiciary in Great Britain has the power of judicial review. (True/False)

……

12.4 LET US SUM UP

- Government of any democratic country has three organs, such as- legislature, executive and judiciary. The legislature formulates the laws, executive implements the laws made by the legislature and judiciary interprets the laws.
- The three organs of the government -executive, legislature and judiciary stand as pillars of democracy and these pillars are further strengthened by the constitutional provisions which prevent it from being arbitrary in nature. Each organ has its own area of operation which is clearly demarcated by the doctrine of separation of powers. The idea of separation of powers was conceived to prevent the good old saying 'power corrupts and absolute power corrupts absolutely'.
- India and Great Britain have parliamentary form of government and the United States of America has presidential form of government. The difference in the forms of government has brought certain difference among the executive, legislature and judiciary of the three countries.

12.5 FURTHER READING

1) Bhagwan, Vishnoo & Bhushan, Vidya (2007). *World Constitutions*. New Delhi: S.Chand and Company.
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3) Chakravarty, Sivnath & Anup, Chakravarty (ed.) (2000-01). *An Introduction to Politics (19th edition).* Calcutta: Modern Book Agency Pvt.Ltd.
4) Ghai, K.K. (2007). *Indian Government and Politics*. New Delhi: Kalyani Publishers.
5) Ghai, K.K. (2006). *Major Governments* . New Delhi: Kalyani Publishers.
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12.6 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q. No 1: Rajya Sabha and Lok Sabha

Ans to Q. No 2: (i) The American President enjoys a secured term of Office empowered constitutionally. No one can remove the President before the expiry of a period of four years unless impeached earlier by the Congress which is a very difficult and complicated procedure. The British Prime Minister, on the other hand, depends for his/her term upon the confidence of the House of Commons. He/she continue in office as long as He/she enjoys the support of the majority party in the lower Houses of the Parliament. The Prime Ministers of Great Britain must vacate his/her office, as soon as the lower Houses withdraw its support to him/her.

(ii) The American President is indirectly elected by the Electoral College though the election in reality has become direct. The British Prime Minister, on the other hand, is appointed by the Queen from the majority party in the House of Commons. He/she actually represents only a constituency from which he/she is elected. But the American President, in the words of Wilson, is representative of no constituency but the whole people of the country.

Ans to Q. No 3: True

Ans to Q. No 4: Judicial review means that any law passed by the legislature and any acts of the executive can be reviewed by the judiciary and if the judiciary finds that particular law or act violates any provision of the constitution, the judiciary can declare such act or law as unconstitutional.

Ans to Q. No 5: False

12.7 MODEL QUESTIONS

A. Very Short Questions

Q.1: State the names of the two Houses of the US Congress.

Q.2: Who appoints the judges of the Supreme Court in India?

Q.3: In Great Britain who is the real executive?

B. Short Questions (answer each question in around 150 words)

Q.1: Write briefly about any four differences between the American President and the British Prime Minister.

Q.2: Write briefly about any four differences between the American President and the Indian Prime Minister.

Q.3: Write the meaning of judicial review.

C. Long Questions (answer each question in around 300-500 words)

Q.1: Make a comparative analysis between the Indian executive and the American executive.

Q.2: Make a comparative analysis between the British legislature and the American legislature.

UNIT 13: A COMPARATIVE STUDY OF THE PARTY SYSTEM OF INDIA, GREAT BRITAIN AND THE UNITED STATES OF AMERICA

UNIT STRUCTURE

13.1 Learning Objectives
13.2 Introduction
13.3 Development of Party System in Great Britain, United States of America and India
13.4 Political Parties of Great Britain, United States of America and India
13.5 Let Us Sum Up
13.6 Further Reading
13.7 Answers to Check Your Progress
13.8 Model Questions

13.1 LEARNING OBJECTIVES

After going through this, until you will be able to-

- explain the development of the party system of India, Great Britain and the USA
- discuss the salient features of the party systems of India, Great Britain and USA
- make a comparative analysis of political parties of India, Great Britain and the USA.

13.2INTRODUCTION

This unit makes a comparative study of the party system of India, Great Britain and the United States of America.

Party system is like a steering wheel for a country. The political parties are voluntary associations or organized groups of individuals which are inevitable in a representative democracy. Each and every political party tries to gain political power through constitutional means and desires to work for people and for uplifting the national interest. In India, Great Britain and the United States of America, the Party system is working continuously from beginning.

13.3 DEVELOPMENT OF PARTY SYSTEM OF INDIA, GREAT BRITAIN AND THE UNITED STATES OF AMERICA

The evolution of party system in India, Great Britain and the United States of America has been taking place from their early years. In this section we shall discuss the development of party system in UK, USA and India.

- **Development of Party System of Great Britain**

  The party system of Great Britain is basically seen as the existence of bi-party system and it has been working successfully and efficiently. Political parties of Great Britain have played a notable role in their evolution as a Liberal Democratic system. The development of British political parties started from the Puritans. They behave like an opposition in policy of religious toleration adopted by the Queen. However, after 1660s a drastic change took place in the history of British political parties, when monarchy was restored in England and the Cavaliers came to be very strong. Then gradually two groups were formed- the Whigs and Tories which played an active role in the Parliament when the Glorious Revolution took place in 1688. From that time onwards the origin and development of political parties of Great Britain gained a new impetus. After the landmark events of passing the First Reforms Act (1832), the Whigs got the name Liberal and Tories came to be designated as Conservative. Another important political party of Great Britain was established in 1899 namely as Labour Representations Committee and later on, in 1906 this Committee adopted the name Labour Party. Chronologically in 1922 elections, the Labour Party and in 1979 Conservative Party emerged as a ruling Party. The Conservative party was the ruling party since 2010 to 2024 and the Labour party was working as Opposition. In 2024 Labor Party won

and Conservative Party is working as Opposition. Some of the features of the British part system can be discussed as follows:

- **Bi-Party System**

  In Great Britain the main electoral battle for securing political power is between two parties; namely the Labour Party and the Conservative Party. The two-party system in Britain has developed naturally. They are playing a deterministic role in the successful operation of the British Parliamentary system of government.

- **Emergence of Moderate Approach of the Political Parties**

  The emergence of moderate ideas is a significant feature in British political system. Both the parties are gradually involved in moderate activities and philosophies beyond their traditional ideas. Presently the Labour Party not only indicates its original ideas like socialism or to the rule of the workers, but also accepts importance of other social groups. In that way the Conservative party put emphasis on quite liberal policies.

- **Continuity for the Power**

  Political parties of Great Britain are continuously and actively involved in the struggle for power. Each of the parties starts preparing for the next election after one general election is over. Both the ruling and opposition party always seek a fresh mandate from the people. Significantly both the major parties always remain active.

- **Well-Organized Opposition**

  Well organized opposition system is one of the significant features of British party system. Along with ‘Shadow Cabinet’ the organized opposition is working as an instrument of control over the policies of the ruling cabinet. In British government the majority party forms the government and on the other side the minority party who is known as opposition party also forms a shadow cabinet. The leader of the opposition is respected as the ‘alternative Prime Minister’.

- **Development of Party System in the United States of America**

The political parties in the United States of America have emerged as a natural process of development with liberal political ideas. From its independence days, the shadows of political parties were developed and notably after a decade, in 1790 a stepping stone was moved in United States politics by Alexander Hamilton, the first Secretary of Treasury. He organized a group of senators and representatives within the government for lending him necessary political support and this organized group is known as the caucus or the Hamilton Party. On the other corner Jefferson regrouped the Anti Federalist and named it Democratic Republican Party. In 1824 Democratic Republican party was divided into two: (i) The Democratic Party and (ii) The National Republican Party. Later in 1856 the National Republican Party got the name as the Republican Party and Abraham Lincoln was the first Republican US President. The main aim of the Republican Party is the abolition of slavery, while the Democratic Party favoured its retention. Gradually in USA, bi-party system has developed. Till now the bi-party system continues. There have been a few minor third parties in American history from time to time and some of them have left an imprint on the country's political system. Some other minor political parties in USA are Green Party, Libertarian Party, Constitution Party etc. However, these are not so significant and the US party system remains mainly bi- party system. Some of the important features of the American party system are discussed in the following:

- **Two- or Bi-Party System**

  The existence of bi-party system in the USA is the most notable feature. The parties namely the Republican and the Democratic Party play a domineering role in the US Presidential government. Besides these two major parties, there are also numerous parties in USA, but they have not played an active role like that of these two parties.

- **Uniform Membership**

  Generally Democratic Party is based on agriculturists. On the other hand, the Republican Party is based on Industrialists. If we look at these two Parties initially we find an ideological difference between the two. But now we cannot find any contradiction and all the people of USA fully support to them. They are similar in the sense that both the parties have no any specific procedure and ceremony for joining, they get no signatures to their programmes or policies, they enforce no rules, they have no any system or means for expelling the members of the parties.

- **Strong Relationship between Interest Groups and Political Parties**

  In USA, party system is closely connected with interest group. Both the two Parties have within it several well-articulated interest groups. They are working for their party and especially put emphasis on the interest of the people.

- **Less Communal**

  American society is totally based upon diverse races, religion, cultures, languages etc. However, the US party system is free from communal politics. They are more educated and aware about their political rights. Political parties support to all races, religion and others.

Apart from these there are also some other noteworthy features of the party system of United States of America which are as follows:

(a) Similar programmes and policies of the two parties

(b) Dominant Players in Politics

(c) Local domination

- **Development of Party System of India**

  India has adopted multi-party system from its pre-independence period. Notably India is a liberal parliamentary democracy and a pluralist society. The Indian government is formed by various political parties from time to time. The origin of Indian political parties is related to Indian National Congress, which was established in 1885 in the pre-independence time and it can be called as India's first organized political party. Chronologically, in 1906 Muslim League, in 1916 the Hindu Mahasabha and in 1924 the Communist party of India was formed. After independence a large number of political parties were formed in India and in the first general election of 1952, as many as 14 national and more than 50 states political parties participated. Thus India has opted for a multi- party system characterized by the presence of national, state and regional political parties. Some of the features of the Indian party system can be discussed as follows:

- **Multi-Party System**

  India has developed a multi-party system because of the huge size of the country, the diversified character of society, the adoption of universal adult franchise, unique kinds of political process and so on. It has been estimated that over 200 political parties have existed in India since independence. The right parties, central parties, left parties, communal parties, non-communal parties, regional parties –all such parties are found in India.

- **Single Party Domination System in the Initial Period**

  In a multi-party system where one particular party dominates overwhelmingly is called single dominant party system. Eminent political analyst Rajni Kothari preferred to call the Indian party system as “one-party domination system” or the “Congress System”. From the first general election to 1967, the Congress party enjoyed dominant position. However, in the present time, coalition among different political parties has become a new feature of the Indian party system.

- **Lack of Clear-Cut Ideology**

  In India, political parties lack clear ideology except two or three. They are ideologically closer to each other. The common ideas of each and every party are democracy, secularism, anti-communism, socialism and Gandhism. But most of the times Indian politics has moved around issue based rather than ideology.

- **Rise of Regional Parties**

  The rise of regional political parties is an important aspect of Indian politics. It has changed the dynamics of Indian political scenario. From the post-independence decade to till now a large number of regional political parties have emerged. For instance Akali Dal in Punjab, Telegu Desam Party in Andhra Pradesh, Assam Gana Parishad, BPPF, Raijor Dol in Assam, Shiv Sena in Maharashtra, DMK and AIADMK in Tamil Naidu, National Conference in Jammu and Kashmir and so on. It is often stated that the lopsided development in different parts of the country led to the growth of regionalism in India and this paved the way for growth of regional parties which are playing an active role in Indian politics.

- **Caste, Religion, Language-Based Parties**

  Factors like caste, religion, language play a predominant role in Indian political system in the formation of political parties. In this context we can mention Akali Dal, DMK, AIADMK, Bahujan Samajwadi Party etc.

CHECK YOUR PROGRESS

Q.1: When was the Indian National Congress formed?

……..

Q. 2: Who was the first President of US Republican Party?

……

Q.3: State the names of the two political parties of Great Britain.

……

Q.4: In the political system of UK we have seen the existence of …….system. (fill in the blank)

Q.5: Uniform membership is one of the vital features of US party system. (True / False)

……...

Q.6: Mention any two features of party system of Great Britain.

…….....

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Q.7: Discuss the evolution of party system in the USA. (within 50 words)

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13.4 POLITICAL PARTIES OF GREAT BRITAIN, UNITED STATES OF AMERICA AND INDIA

In the following section we shall discuss the important political parties of Great Britain, United States of America and India:

- **Political Parties of Great Britain**

  In the British Parliament which is the oldest parliament in the world, political parties play a crucial role. Initially the Whigs and the Tories were the two main political parties from 1678 to 1850s.The Whigs was the party of the liberal and reforming aristocracy. While Tories was monarchists and traditionalist, especially at the time of the restoration of the monarchy in 1660.In this context it can be mentioned that in 1850s, Whigs took the name as "Liberal Party" and in 1834 Tories became the Conservative Party. Significantly, after the First World War a new party came to power in British Parliament i.e the Labour Party. At present time apart from these two major parties, the UK Independent Party, British National Party of Great Britain, Scottish National Party are found in British political system.

- **The Conservative Party:**

  During the nineteenth century the Tory Party was renamed as the Conservative Party in 1834. From the formation of the Conservative Party, its members are from the industrialist, wealthy person, businessman and the royalist. The ideology of the Conservative Party is promotion of private property and enterprise, the maintenance of a strong military and the preservation of traditional cultural values and institution. The Conservative Party calls

itself as nationalistic and rejects class struggle.

If we look at the history of performance of Conservative Party, it is seen that the first Conservative government was formed by Sir Robert Peel. It is notable that Conservative Prime Minister was leading the governments for 57 years during 20th century, including Winston Churchill (1940-45/1951-55), Margaret Thatcher (1979-90). Throughout the 20th century the Conservative Parties Domination in British politics has been considered as one of the most successful political parties in the western world. The Conservative party was the ruling party since 2010 to 2024.

- **The Labour Party:**

The Labour Party is another key political party, which role is very crucial in Great Britain. The Labour Party was formed in 1906 and its political activities started continuing from the beginning of 19th century. The first Labour MP had been elected in 1990s.

Labour Party always opposes to capitalism and it supports to every worker of industry. Labour party always emphasises on socialism through democratic policies and liberal economics and it has vehemently divided the ideas of colonialism and imperialism. Significantly the ideas of Labour Party has been changed from 1990 onwards and pursuing the ideology of full liberalism in both politics and economy and most recently it stands for liberalization, market economy and capitalism.

If we look back on the election performance of Labour Party, it is seen that the Labour Party formed government first in 1924 and then from 1929 to 1931 under the leadership of Ramsay MacDonald ; again from 1940 to 1945 and after the second world war it formed a majority government under Clement Attlee. The next Labour Party led government came to power from 1964 to 1970 under Harold Wilson and from 1974 to 1979 under Wilson and James Callaghan. Notably, from 1997 to 2010 ,in the early period of 21st century “New Labour” era was Started, under the Premiership of Tony Blair and Gordon Brown . The Conservative party was the ruling party since 2010 to 2024 and the Labour party was working as Opposition. In 2024 Labor Party won and Conservative Party is working as Opposition.

- **Political Parties of the United States of America**

The US party system has bi-part system, namely the Republican and the Democratic Party. These two parties have won United States Presidential election after one another since 1852. Both these political parties have played a significant role from their inception. Apart from these, there are also some other political parties like Liberation party, Green Party, Constitution party etc. But their role is minimal as compared to the Republican and Democratic Party.

- **The Democratic Party:**

The Democratic Party is the oldest political parties in the world. It traces its root to 1792, when followers of Thomas Jefferson adopted the name Republican to emphasis their anti-monarchical view. Since its inception, the Democratic Party has been changing its nature and character gradually.

The Democratic Party is mostly associated with the defence of slavery, great society concept, issues of civil rights and so on. Since 1912 the party has been playing as the liberal party on domestic issues. And since the middle of 20th century, Democrats have generally been in the centre-left and current support to social justice, social Liberalism, mixed economy and welfare state. From the 1828 the Democrats won various Presidential elections in US. Most of the familiar President of Democrats was Franklin D. Roosevelt, Bill Clinton, Barack Obama etc. The role of the party is significant as it has contributed in the development, wealth and prosperity and progress of American civilization.

- **The Republican Party:**

The birth of the Republican Party has been announced on June, 1856 as a Unified Political Force. Its formation was based around opposition to the Kansas-Nebraska act of 1854, which would allow each territory to allow slavery if they wanted to. The first Republican President Abraham Lincoln was elected in 1860. For the rest of the second half of 19th century, the country had mostly Republican Presidents.

The Republican Party has faith on federalism, capitalism, *laissez faire*, a strong military and national defence, opposition to abortion in all or most cases, individual responsibility and so on. The parties' performance in election is mostly balancing from 1900 onwards. In this period some of the

prominent Presidents are Theodore Roosevelt, Richard Nixon, Ronald Reagan, George W. Bush. In November 2016, Donald Trump was elected as US President and Republican Party again came to power. In 2025 Donald Trump was again elected as the President of the United States of America.

- **Political Parties of India**

We have already mentioned that India is home to several political parties. Various types of political parties are found in India on the based on caste, language, religion, region etc. Some of the significant political parties are:

➢ **Indian National Congress:**

The Indian National Congress was established in 1885 in Bombay and it was the India's First organized political party. During the time of freedom struggle, Congress was playing a crucial role and it established in the minds of the people the feeling of Indian Nationalism. After independence Congress party identified themselves as a dominant party from 1947 to 1967 in State and from 1952 to 1977 at National level.

The Congress party mainly follows the ideology of secularism and socialism and it always pursues the ideals of democracy. We can mention some of the key characteristics of Congress ideology. These are: upgrading agriculture sector, uplift of farmers' condition, promotion of village industries, modern infrastructure in urban and rural areas and so on.

In Indian political system the Congress party occupies a dominant position. From the time of first general election of India, 1952 to 1977 the Congress party plays single party ruling system at National level under the leadership of Pt. Jawaharlal Nehru, Lal Bahadur Shastri, Indira Gandhi. But in 1967 the parties dominant position was broke down in Kerala and for the first time a non-Congress party was going to rule the state that is Communist Party of India. Consequently in 1977 after the national emergency of India the Congress was defeated against Janata Party for the first time at national level. After that in 1980 Indira Gandhi again came to power and then in 1984 Rajiv Gandhi

became Prime Minister with largest majority (won 411 seats) ever in Indian democracy. From 1989 onwards coalition politics was developed gradually and in 1991, 2004, 2009 the Congress party formed government with the help of other parties under the banner United Progressive Alliance. Presently the Congress is playing opposition role in the Lok Sabha.

- **Bharatiya Janata Party:**

  The Bharatiya Janata Party was formed in 1980. The party can be called as a successor to the old Jan Sangh. The ideology of BJP is faith on socialism, Gandhian socialism and democratic values. The constitution of BJP declares under Section 2, "The party shall be committed to furthering national integration, democracy, positive secularism, Gandhian Socialism and value based polities. The party stands for decentralization of economic and political power."

  From the time of its formation, BJP plays a very active role at national and states level. From 1991 it has got above 100 seats and stands in opposition. In 1996 for the first time BJP came to power with the Prime Minister Atal Bihari Vajpeyee but it was dissolved. Again in 1998 and 1999 BJP emerged as big party in Lok Sabha and from 1999 to 2003 BJP ruled in India with the name of NDA (National Democratic Alliance). In 2014, Prime Minister Narendra Modi leads the BJP government in centre with single majority in general election and it rules more than ten states in India. At present the BJP is the ruling party in India under the banner of NDA.

- **The Communist Party of India:**

  The Communist Party of India is one of the oldest political parties in India which was formed in 1924.The prime inspiration of the party was the successful socialist revolution of Russia in 1917.The main ideology of Communist Party of India is Marxism and Leninism. It started its active participation in election from 1952.Notably in 1964 it was divided into two parties because of their internal splits and as a result Communist Party of India (Marxist) was formed.

- **Regional Parties:**

Apart from these national parties a huge number of regional political parties are playing active role in Indian political scenario. For the first time DMK was formed in Tamil Nadu as a regional party. Gradually, Shiv Sena was formed in Maharashtra to save Maratha people and came to power for many years. Asom Gana Parishad was formed in 1985 with basic ideas of Assamese identity, immigrant issues etc. AGP ruled in Assam from 1985 to 1990, another term was 1996 to 2001 under the Chief Ministership of Prafulla Kumar Mahanta. In Assam some other regional political parties are- BPPF, Raijor Dol etc.

CHECK YOUR PROGRESS

Q.8: In which year was the Communist Party of India formed?

…….....

Q.9: Labour Party exists in Great Britain. (True/False)

……

Q.10: Make a note on Republican Party in US. (50 words)

……

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13.5 LET US SUM UP

- The political parties are voluntary associations or organized groups of individuals which are inevitable for a representative democracy. Each and every political party tries to gain political power through constitutional means and desires to work for people and for promoting the national interest.
- There are three types of party system around the world. They are: (i) One-Party system ((ii) Two- or bi-Party system and (iii) Multi-Party system.
- India has adopted multi-party system right since its pre-independence period. Notably India is a Liberal Parliamentary Democracy and a Pluralist society. Some present noted political parties are Congress, BJP, NCP, TMC, Communist Party of India, Telugu Desam Party, National Conference, Akali Dal, Shiv Sena, AGP, BSP, SP, AIADMK, RJD, JD(U), Telangana Rashtra Samiti etc.
- The party system of Great Britain is basically seen as the existence of bi-party system and it has been working successfully and efficiently.
- In US, bi-party system is developed. Till now the bi-party system exists and in 2016 Presidential election too, the two parties contested election.
- Multi-party system, one-party domination, lack of clear ideology, rise of regional parties are the main features of Indian Party system.
- A bi-party system, emergence of moderate approach of the political parties, well-organized opposition are the prime features of Great Britain party system.
- Bi-party system, uniform membership, less communal are the significant features of American party system.
- After independence Congress party identifies themselves as a dominant party from 1947 to 1967 in State and from 1952 to 1977, 1980 to 1996 at National level.
- Throughout the 20^{th} century, the Conservative Party's domination in British politics has been considered as one of the most successful political parties in the western world.
- The US political parties basically depend on two-party system namely the Republican Party and the Democratic Party. These two parties have won United States Presidential election after one another since 1852.

- The Democratic Party is mostly associated with the defense of slavery, great society concept, issues of civil rights and so on. Since 1912 the party has been playing as the liberal party on domestic issues. And since the middle of 20th century, Democrats have generally been in the centre-left and current support to social Justice, social Liberalism, mixed economy and welfare state.
- The belief of the Republican Party is federalism, capitalism, laissez faire, a strong military and national defense, oppose abortion in all or most cases, individual responsibility and so on.

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13.7 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q. No 1: 1885

Ans to Q. No 2: Abraham Lincoln

Ans to Q. No 3: Labour Party and the Conservative Party

Ans to Q. No 4: bi-party

Ans to Q. No 5: True

Ans to Q. No 6: i) Bi-party system: existence of bi party system is a noteworthy feature of British party system. The two parties namely – the Labour Party and the Conservative Party are playing a deterministic role in the successful operation of the British Parliamentary system of government.

ii) Well-organized opposition: well-organized opposition system is one of the significant features of British party system. Along with "shadow cabinet" the organized opposition is working as an instrument of control over the policies of the ruling cabinet.

Ans to Q. No 7: The political parties of the USA have emerged as a natural process of development with liberal and political ideas. Right since its inception the shadow of political parties were developed. In 1790, Alexander Hamilton, the first Secretary of Treasury organized a group of senators and representatives within the government for lending him necessary political support and this organized group is known as the caucus or the Hamilton Party. On the other corner Jefferson regrouped the Anti-Federalist and named it Democratic Republican Party. In 1824, Democratic Republican Party was divided into two- i) The Democratic Party, and ii) The National Republican Party. Later in 1856 the National Republican Party got the name as the Republican Party. Gradually in the US, bi-party system developed. In 2016 Presidential election too, the two parties - Republican and Democratic -contested elections.

Ans to Q. No 8: 1924

Ans to Q. No 9: True

Ans to Q. No 10: The Republican Party is one of the major parties in USA. Its formation was based around opposition to the Kansas –Nebraska Act of 1854, which would allow each territory to allow slavery if they wanted to. The Republican Party believes in federalism, capitalism, laissez faire, a strong military and national defense, opposes abortion in all or most cases, advocates individual responsibility and so on. The performance of this party in election is mostly balancing since 1900. Recently in November 2016 Donald Trump of the Republican Party was elected as US President and the party is running White House.

13.8 MODEL QUESTIONS

A. Very Short Questions

Q.1: How many national parties are there in India?

Q.2: Mention the names of two political parties of Great Britain.

Q.3: From which party Barack Obama was elected as US President?

B. Short Questions (answer each question in around 150 words)

Q.1: Examine the role of “one party domination system” in India.

Q.2: Write a short note on evolution of party system in Great Britain.

Q.3: Explain any four features of party system of India.

Q.4: Write a brief note on the Liberal Democracy party of Great Britain.

C) Long Questions (Answer each question in about 300-500 words)

Q.1: Compare the evolution of party system in India and the United States of America.

Q.2: Compare political parties of Great Britain and the United States of America.

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UNIT 14: A COMPARATIVE STUDY OF THE COMMITTEE SYSTEM OF INDIA, GREAT BRITAIN AND THE UNITED STATES OF AMERICA

UNIT STRUCTURE

14.1 Learning Objectives
14.2 Introduction
14.3 Features of the Committee System of India, Great Britain and the United States of America
14.4 A Comparative Study of various Committees of India, Great Britain and the United States of America
14.5 Let Us Sum Up
14.6 Further Reading
14.7 Answers to Check Your Progress
14.8 Model Questions

14.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- explain features of various committees of India, Great Britain and the USA
- discuss and compare committee system of India, Great Britain and the USA.

14.2 INTRODUCTION

This unit introduces you to the comparative study of the committee system of India, Great Britain and the United States of America. Committees are inalienable part of a political system and it regulates different functions. Committees play a vital role in the works of the different governments. The committee system of India, Great Britain and US has been working smoothly from its formation and has been improving. In India and Great Britain, committee system is mainly made up of a small number of parliamentarians appointed to deal with particular areas or issues originating in the Parliamentary Democracy. But in US, there are differences because of the existence of Presidential form of government. With the help of committees India, Great Britain and the USA are systematically doing law-making and other activities. While we are going to discuss about India, basic emphasis is on Parliamentary Committees. In Great Britain we emphasize on the Committee system of the House of Commons and in the USA, we have discussed various kinds of Committees that each House of the US Congress appoints.

14.3 FEATURES OF COMMITTEE SYSTEM OF INDIA, GREAT BRITAIN AND THE UNITED STATES OF AMERICA

- **Features of Indian Committee System**

The main features of the Indian committee system as it operates are as follows:

1. Term of members: The tenure of members of each committee is only one year. After one year, new members are appointed in each committee.

2. Members are allotted from parties through the system of proportional representation: Members of these committees are appointed on the basis of the system of proportional representation from each party. This process brings effectiveness and transparency to the committees.

3. May seek help of outside experts or suggestions of general public: Committees can invite expert from various fields relating to committee's subjects. In addition to experts, committees can also invite general public for suggestions to them.

4. In-camera proceedings are held: Significantly each and every meeting, conference of committees are recorded in camera. It gives a new dimension to the committees of Indian Parliament.

5. Decisions are taken on majority basis: The decisions of the committees are taken on the basis of majority support. It is a process where committees are moving in the right direction.

- **Features of Committee System of Great Britain**

Some of the important features of the British Committee system are as follows:

1. In British Parliamentary Committees, the Committees from the House of Commons play quite a prominent role.

2. The vital character of committees is to reduce Parliamentary law-making pressure on both the Houses.

3. Discussions of any non-money bill is placed only in Standing Committees.

4. The functioning of the Select Committees is like a semi-judicial body.

5. In regards of bills the decisions of any committee is regarded as final.

- **Features of Committee System of the United States of America**

Some of the important features of the American committee system are:

1. The committee system of the US Congress is seen very powerful. Particularly, the Standing Committees are powerful because this can virtually kill any bill.

2. The Standing Committees are also known as Subject Committees. Each Committee has one particular subject. Apart from one subject, two or three subjects are also highly related to the Standing Committees.

3. Both the Houses of US Congress has its own committees.

4. There are no similarities among the members of each committee. A member of the House of Representatives can serve only one committee and a Senator cannot be a member of more than two committees.

5. In Senate, most of the Standing Committees have a strength of 17 each, while in the House of Representative, the strength of majority of the committees is around 30 each.

CHECK YOUR PROGRESS

Q.1: Which system is used in appointment of members of parliamentary committees in India?

……

Q.2: The Standing Committees are also known as ……. in the USA.(fill in the Blank)

Q.3: The tenure of members of each committee is only one year in India. (True / False)

……..

Q.4: Mention any two features of committee system of India.

…….

……

…….

……..

14.4 A COMPARATIVE STUDY OF VARIOUS COMMITTEES OF INDIA, GREAT BRITAIN AND THE UNITED STATES OF AMERICA

Now, we are going to discuss the detailed structure of the committee systems of India, Great Britain and the United States of America respectively:

- **Committee System of the Indian Parliament**

  The functions of the Parliament are not only varied in nature but, considerable in volume. It cannot make very detailed scrutiny of all legislative and other matters that comes up before it. A good deal of its business is therefore transacted in committees. Our Parliamentary Committees have been formed on the British model.

  In India, Parliamentary Committee means a Committee that is utterly

appointed or elected by the two houses of Parliament or nominated by the speaker or the Chairman. The committees work under the direction of the speaker or chairman, present its all report and document to the House or to the Speaker or Chairman and most interestingly it has Secretariat provided by the Lok Saba or Rajya Sabha. All these types of activities, rules are made by the two houses under Article 118(1) of the Indian Constitution.

In India we see there are broadly two types of Parliamentary Committees- Standing committees and Ad Hoc Committees.

(i) Standing Committees

Standing Committees are permanent and elected or nominated every year or periodically and their works are going on, more or less on a continuous basis. Standing Committees can be classified into various categories on the basis of their nature of functions. Under Standing Committees there are three Financial Committees. They include–

(a) Public Accounts Committee: The emergence of this Committee was found during the role of British Period and it was set up in 1921 under the provision of the Government of India Act of 1919 and has since been in existence. Presently, it consists of 22 members in which 15 from the Lok Sabha and 7 from the Rajya Sabha and members are elected by the Parliament every year. The tenure of office of the members is one year and a Chairman is appointed by the Speaker from amongst it members.

The functions of the Public Accounts Committee is to scrutinize the annual audit report of the government and Comptroller and Auditor General of India. It ensures that public money is spent in accordance with Parliament's decision and calls attentions to cases of waste, extravagance, loss or nugatory expenditure.

(b) Estimates Committee: The origin of Estimates Committee can be traced to the Standing Financial Committee set up in 1921. In the post–independence era, the first Estimates Committee was established in 1950. It was an outcome of recommendation of John Mathai, the then Finance Minister of India. Primarily, it had 25 members but its membership was raised to 30 in 1956. Most notably all the members of Estimates Committee are from Lok Sabha and there are no representatives from Rajya Sabha. The tenure of office is one year and appointment of Chairman is conducted by the speaker of Public Accounts Committee. The main function of the Estimates Committee is to examine the estimates included in the budget and suggest economics in public

expenditure also. For these kinds of activities, Estimates Committee is also called as “Continuous Economy Committee”.

(c) **Committee on Public Undertakings:** One of the more effective outcomes of recommendation of Krishna Menon Committee is the establishment of Committee on Public Undertakings. It was set up in 1964 along with 15 members originally. However, in 1974, its membership was raised to 22, in which 15 from Lok Sabha and 7 from Rajya Sabha. Members of this Committee are elected every year. The Chairman of these Committee is appointed by the Speaker only from the Lok Sabha. The Committee examines the report and accounts of the public undertakings in the context of autonomy and efficiency. It also examines reports of the Comptroller and Auditor General of India. Also examines whether the affairs of public undertakings are being run efficiently and managed in accordance with sound business principles and prudent commercial practices.

Departmental Committees: The Rules Committee of the Lok Sabha recommends for setting up of 17 Department- related Standing Committees which were set up in 1993. Incidentally, the number of Committees was raised into 24 in 2004. List of some important Departmental Standing Committees-

(1) Committees on Commerce
(2) Committees on Home Affairs
(3) Committees on Human Resource Development
(4) Committees on Defence
(5) Committees on External Affairs
(6) Committees on Finance
(7) Committees on Information Technology.

Each committee of Departmental Standing Committee consists of 31 members in which 21 from Lok Sabha and 10 from Rajya Sabha. The tenure of office of the members is one year. The objective of these Committees is to secure accountability of the Executive to the Parliament, basically financial accountability. The function of Departmental Standing Committee is (a) to consider the demands for grants of the concerned ministries before they are discussed and voted in the Lok Sabha; (b) to examine annual reports of Ministries and Department and (c) to consider national basic long-term policy documents presented to the House.

Other Standing Committees in each House is divided in terms of their functions. They are-

Committees to Inquire

Under Committees to Inquire there are three committees. These are -

1. Committee on Petitions: This Committee is related to examine petitions on bills and on matters of general public interest and also entertain, representations on matters concerning central subjects. This kind of Committee is formed with 15 members in Lok Sabha and with 10 members in Rajya Sabha.

2. Committee on Privileges: The Lok Sabha Committee of Privileges has 15 members and the Rajya Sabha Committee has 10 members. The function of this Committee is to examine any questions of privilege referred to it by both the Houses or the Speaker and the Chairman. On the basis of nature this Committee is Semi-Judicial.

3. Ethics Committee: Ethics Committee was formed in Lok Sabha in 2000 and in Rajya Sabha in 1997. This Committee examines the cases of misconduct and recommends appropriate action.

Committees to Scrutinize and Control

Under this category various committees are included. Such as-

(1) Committee on Government Assurances
(2) Committee on Subordinate Legislation
(3) Committees on Papers Laid on the Table
(4) Committee on Welfare of SCs and STs
(5) Committee on Empowerment of women
(6) Joint Committee on Offices of Profit

Committees Relating to the Day to Day Business of the House

There are four committees under this category. These are-

1. Business Advisory Committee
2. Rules Committee
3. Committee on Private Members' Bills and Resolution
4. Committee on Absence of Members

House Keeping Committees or Service Committees

Under this category various committees are included. Such as-

(1) General Purpose Committee
(2) House Committee
(3) Library Committee

(4) Joint Committee on Salaries and Allowance of Members.

(ii) Ad hoc Committees

It is worth mentioning that without understanding Ad Hoc Committees, the Parliamentary Committee system is incomplete. We can divide Ad hoc Committees into two categories, those are-

(a) Inquiry Committees: The basic structure of this Committee is constituted from time to time, either by the two Houses on a motion adopted in that behalf or by the Speaker/ Chairman. Its aim is to inquire into and report on specific subjects to various committees. For instance-

(i) Railway Convention Committee

(ii) Committee On Members Of Parliament Local Area Development Scheme.

(iii) Joint Committee On Stock Market Scam.

(b) Advisory Committee: It includes Select or Joint Committees on bills, which are basically appointed to consider and report on specific bills. The Select or Joint Committee examines the bill clause by clause just as the two Houses do.

- **Committee System of the British Parliament**

The committee system is familiar all over the world, because of their activities relating to law making and other functions. Great Britain is not exception to it; for instance, Privy Council exercises control over bills. In comparative study, the study of committee system of Great Britain is notable and it can be called as mother of all committee systems in the world.

Initially in Great Britain a Select Committee is to be found in the Journals of the 3rd Parliament of Elizabeth in 1577. It was a landmark beginning for Great Britain, but now object of a committee has undergone a substantial change. In Great Britain the House of Commons and the House of Lords have their own committee system, which are, however, almost similar to each other. Here the committee system of the House of Commons is being discussed-

- **The Committee System of the British House of Commons**

There are six types of committees of the House of Commons. These are -

1. The Committee of the Whole House: It is an important Committee of the House and the members of this Committee consist of all the members of the House of Commons except the Speaker. A Chairman is to be selected for the Committee and he presides over the meetings. The whole procedure of this Committee is simple and flexible.

It is playing a vital role in regards of bills. It examines all matters of appropriation bills, all budgetary proposals, and those of ordinary bills, which the House decides are to be

considered by it instead of a Standing or Select Committee. After the completion of discussing its agenda, the committee finalizes its reports and then the Chairman of the Committee submits the reports to the House. After that the House starts discussions on the recommendations made therein.

2. Standing Committee: The Standing Committee of the House of Commons plays a pivotal role to each and every non-money public bills. Most of the non-money bills come to the Standing Committees after the House has approved them in the second reading. Then the Standing Committee has to discuss the details and compulsorily submit their reports to the House.

Notably, it can be mentioned that unlike the Standing Committee of the US Congress, the Standing Committee of Great Britain cannot kill any bill by non-reporting.

In Great Britain, under Standing Committee, there are five Standing Committees. Out of these, one Standing Committee is for discussing private members bills and the rest of four discusses non-money government public bills. Each Standing Committee has 20 members nominated by the Committee of Selection.

3. Select Committee: The third kind of Committee is Select Committee. This kind of committee came first in Great Britain. Select Committee consists of maximum 15 members nominated by the House and a Chairman is elected by the members of the Committee. The Select Committee in Great Britain is established specially by the House of Commons whenever there is a need for some investigation for law – making on particular matters.

4. Joint Committee: Joint Committee is also important for British Parliamentary Committee system. But if we look at the development of Britain Committee system, there was no Joint Committee between 1695 and 1864. The principle of the Joint Committee was received in 1864 and it consists of an equal numbers of members from each House. A peer presides over the meetings of the Joint Committee.

5. Private Bill Committee: This kind of Committee is formed to discuss private bills. It is also related to a group of people or an area sponsored by ordinary people. Each of such Committees consists of 4 members of the House of Commons.

6. Sessional Committees: The Sessional Committees consist of several committees which are established by the House of Commons which continue to work during its session. Sessional Committees include committees like – (a) The Estimates Committee, (b) Public Accounts Committee, (c) Committees on Standing Orders and Rules, (d) Committees on

Statutory Instrument that is Delegated Legislation, (e) Committee on Privileges, (f) The Committee on Nationalized Industries, (g) Committees on Publication of Debates and , (h) Committee on Selection.

- **Committee System of the US Congress**

The committee system in US is one of the strongest in the world. In legislature, the US Congress carries out its work with the help of several committees. Both the Houses of the US Congress appoint their own committees which help to examine the law-making and other functions systematically. The organization of the committee systems of the two House is similar.

Now, we are going to discuss about these committees that each House appoints. These are -

1. Standing Committees:

In US, the Standing Committee is one of the significant parameter, which performs a notable role in the legislative process. In US Congress these Committees are formed on the regular basis at the beginning of each Congress. Both the Houses of Congress appoints various committees. The House of Representatives appoints 22 Standing Committees and the Senate appoints 15 Standing Committees. The members of these committees are determined and chosen by both the Houses. Each committee has its Chairman and the Chairman is elected by the House but in practice, the senior most member of a committee became the Chairman.

The function of the Standing Committees is very powerful in US. No bill can be considered by the House until it has been read, examine and reported back by a Committee. Some noted Standing Committee of the Congress:

(i) Committees on Foreign Relations
(ii) Committees on Education and Labour
(iii) Committee on Armed Services
(iv) Committee on Budget etc

2. Special Committees:

In US Special Committee is a temporary committee and it is dissolved after completing the assigned matter. Both the Houses in US appoint Special Committee for any issues or matters. The members of the Special Committee are nominated by the Speaker (in case of House of Representatives) or Chairman (in case of Senate). The main work of this kind of Committee is mostly used as a device for probing and exposing the working of various government departments. Investigation Committee is one of the most suitable

examples that each House establishes from time to time to examine the government department.

3. Joint Committee:

The Joint Committee is composed of both the members of Senate and the House in US. The Committee has its jurisdiction over matters of joint interest.

4. Committee of the Whole:

It is the Whole House of the Representative sitting as a Committee. All the members of the House of Representatives can sit in it. But the Speaker does not preside, instead, the House appoints a member to conduct the Committee. The main function of Committee deals with Money bill and other bills.

5. Joint Conference Committee:

The Joint Conference Committee is mainly appointed for resolving a disagreement over any bill. Both the Houses participate in this process and usually this Committee consists of senior and prominent members of the two Houses. It consists of minimum three and maximum nine members. The final decision of the Committee is accepted by the two Houses. Senators are playing a dominant role in this Committee.

CHECK YOUR PROGRESS

Q.5: Each Standing Committee has 20 members nominated by the Committee of Selection in Great Britain. (True/False)

……

Q.6: Estimate Committees membership was raised to ……...in 1956. (Fill in the Blank)

Q.7: Which kind of Committee did come first in Great Britain?

……

Q.8: Write a note on Public Accounts Committees of India. (Within 50 words)

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14.5 LET US SUM UP

- Through committees of legislature India, Great Britain and the US are systematically doing law-making and other activities.
- The main features of the Indian committee system as it operates are as: term of members, members are allotted from parties through the system of proportional representation, may seek help of outside experts or suggestions of general public, in camera proceedings are held, decision are taken on majority basis.
- Discussion of any non-money bill is placed only in Standing Committees and the functioning of the Select Committees is like quasi-judicial bodies which are the most important features of Great Britain Committee system.
- The committee system of US Congress is seen very powerful, the Standing Committees are also known as Subject Committees, there are no similarities among the members of each committee.
- In India we see there are broadly two types of Parliamentary Committees- Standing committees and Ad Hoc Committees. Standing Committees are permanent and elected or nominated every year or periodically and their work goes on, more or less on a continuous basis. Standing Committee system includes three Financial Committees- Public Accounts Committee, Estimates Committee, Committee on Public Undertakings
- There are two kinds of Ad-Hoc Committees in India. These are: Inquiry Committees and Advisory Committees.
- In Great Britain the House of Commons and the House of Lords have their own committee system, which are, however, almost similar to each other. There are six types of committees of the House of Commons.
- In US Congress Standing committees are formed on the regular basis at the beginning of every Congress. The House of Representatives appoints 22 Standing Committees and the Senate appoints 15 standing committees.

14.6 FURTHER READING

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(2) Gupta, B. B. *Comparative Study of Six Living Constitutions.* New Delhi: Sterling Publishers (P) LTD.

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14.7 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q. No 1: Proportional Representation

Ans to Q. No 2: Subject Committees

Ans to Q. No 3: True

Ans to Q. No 4: (i) Members are allotted from parties through the system of proportional representation: the members of committees of India are appointed on the basis of the system of proportional representation from each party. This is considered as important as it brings effectiveness and transparency to the committees.

(ii) Decisions are taken on majority basis: the majority support of the members in making decisions are considered as extreme importance in the committee system of India. It is a process where committees are moving in the right direction.

Ans to Q. No 5: True

Ans to Q. No 6: 30

Ans to Q. No 7: Select Committees

Ans to Q. No 8: The Public Accounts Committee was formed in 1921 under the recommendations of Government of India Act 1919.Total members of these Committees is 22 and members are elected by the Parliament from amongst its members for one year term. The main role of the Committee is to examine annual audit reports of the Comptroller and Auditor General of India and public expenditure.

14.8 MODEL QUESTIONS

A) Very Short Questions

Q.1: How many types of Parliamentary Committees are there in India?

Q.2: How many Standing Committees are appointed by the House of Representatives?

Q.3: Mention any two kinds of committees of the House of Commons.

Q.4: Mention any two types of Standing Committees of US Congress.

B) Short Questions (Answer each question in about 150 words)

Q.1: Write a brief note on the features of committee systems of India.

Q.2: Write a brief note on the various committees of the USA.

Q.3: Write a short note on the features of the American committee system.

C) Long Questions (Answer each question in about 300-500 words)

Q.1: Discuss committee system in India and Great Britain.

Q.2: Discuss the features of committee system of India, Great Britain and the United States of America.

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