

Structure

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10.0 OBJECTIVES

This unit examines the evolution, structure and functioning of the Indian Parliament. After going through this unit, you should be able to:

- Trace the evolution of modern legislature in India;
- Discuss the organisation and functions of the Parliament; and
- Explain parliamentary procedures

10.1 INTRODUCTION

The term legislature has been derived from the Latin word *lex*, which means a distinct kind of legal rule mainly of general application. This rule is named legislation, and the institution, which enacts it on behalf of the people, is known as legislature. Essentially, there are two models of legislative structure: the Parliamentary and the Presidential. In the parliamentary model, the executive is selected by the legislature from among its own members. Therefore, the executive is responsible to the legislature. The Presidential system is based on the theory of separation of powers and does not permit any person to serve simultaneously in both executive and legislature.

The Parliament of India, which is the creation of the Constitution, is the supreme representative authority of the people. It is the highest legislative organ. It is the national forum for the articulation of public opinion.

India States. The Government of India Act of 1915 consolidated all the previous Acts so that the executive, legislative and judicial functions could be derived from a single Act.

The next phase of legislative reforms emerged out of the Government of India Act of 1919 brought further legislative reforms in the form of responsible government in the Provinces. At the Centre, the legislature was made bicameral and elected majority was introduced in both the Houses. However, no element of responsible government was introduced at the Centre. The Governor General in Council continued to be responsible as before to the British Parliament through the Secretary of State.

The Government of India Act of 1935 came into being after several parleys between the Indian national leaders and Britain. It contemplated a federation consisting of British Indian Provinces and native states. It introduced bicameral legislatures in six Provinces. It demarcated legislative power of the Centre and the Provinces through three lists: the Central List, the Provincial List and the Concurrent List. However, the Central Executive was not made responsible to the legislature. The Governor General as well as the Crown could veto bills passed by the Central Legislature. The Governor-General besides the Ordinance-making powers had independent powers of legislation or permanent Acts. Similar limitations existed in case of Provincial Legislatures existed as well.

The international political scene and the conditions in India and Britain led the British government to an unequivocal acceptance of India's claim to freedom. The Indian Independence Act of 1947 was passed setting up two independent dominions, India and Pakistan. The legislature of each dominion was to have full legislative sovereignty. The powers of the legislature of the dominion were exercisable without any limitations whatsoever by the Constituent Assembly formed in 1946. This Constituent Assembly adopted the Constitution of India, which received the signature of the President on 26th November 1950.

Check Your Progress Exercise-I

Note: i) Use the space below for your answer.

ii) Check your answer with the model answer given at the end of this unit.

- 1) The important legislative reforms introduced by the Government of India Act of 1919 are.....
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the President may nominate two members of the Anglo-Indian community if he is of the opinion that the community is not adequately represented in the Lok Sabha.

The distribution of seats among the States is based on the principle of territorial representation which means each State is allotted seats on the basis of its population in proportion to the total population of all the States. For election purpose, each state is divided into territorial units called constituencies which are more or less of the same size with regard to the population.

The election to the Lok Sabha is conducted on the basis of adult franchise; every adult who has attained 18 years of age is eligible to vote. The candidate who secures the largest number of votes gets elected. The Constitution provides for an independent organisation known as the Election Commission to conduct elections. The normal life of the Lower House is five years, though it can be dissolved earlier by the President.

To be a member of the Lok Sabha, a person should be an Indian citizen, must have completed 25 years of age and must possess all other qualifications that are prescribed by a law of the Parliament. A candidate seeking election to the Lok Sabha can contest from any parliamentary constituency from any of the States in India.

The Constitution has laid down certain disqualifications for membership. No person can be member of both Houses of Parliament or member both of Parliament and of a State legislature. The candidate may contest from several seats, but if elected from more than one, he has to vacate all except one according to his choice. If a person is elected both to the State legislature and the Parliament and if he does not resign from the State legislature within the specified time period, he will forfeit his seat in Parliament. A member should not hold any office of profit under the Central or State government except those that are exempted by a law of Parliament, and should not have been declared as an insolvent or of unsound mind by a competent court. A member also gets disqualified when he remains absent from the meetings of the House for a period of sixty days without prior permission or when he voluntarily acquires the citizenship of another country or is under any acknowledgement of allegiance to a foreign state.

10.3.3 The Rajya Sabha

The Rajya Sabha or Council of States consists of not more than 250 members of which 12 members are nominated by the President from amongst persons having 'special knowledge or practical experience in literature, science,

Thus, these special provisions make the Rajya Sabha an important component of Indian Legislature rather than just being an ornamental second chamber like the House of Lords of England. The constitution makers have designed it not just to check any hasty legislation, but also to play the role of an important influential advisor. Its compact composition and permanent character provides it continuity and stability. As many of its members are "elder statesmen" the Rajya Sabha commands respectability.

10.4 PRESIDING OFFICERS

Each house of Parliament has its own presiding officers. The Lok Sabha has a Speaker as its principal presiding officer and a deputy speaker to assist him and officiate as presiding officer in his absence. The Rajya Sabha is presided over by the Chairperson, assisted by a deputy chairperson. The latter performs all the duties and functions of the former in case of his/her absence.

10.4.1 The Speaker

The position of the Speaker of the Lok Sabha is more or less similar to the Speaker of the English House of Commons. The office of the Speaker is symbol of high dignity and authority. Once elected to the office, the speaker severs his party affiliation and starts functioning in an impartial manner. He acts as the guardian of the rights and privileges of the members.

The Speaker is conferred with a number of powers to ensure an orderly and efficient conduct of the business of the House. He conducts the proceedings of the house, maintains order and decorum in the house and decides points of order, interprets and applies rules of the house. The Speaker's decision is final in all such matters. The Speaker certifies whether a bill is money bill or not and his decision is final. The Speaker authenticates that the house has passed the bill before it is presented to the other house or the President of India for his assent. The Speaker in consultation with the leader of the house determines the order of business. He decides on the admissibility of questions, motions and resolutions. The Speaker will not vote in the first instance, but can exercise a casting vote in case of a tie. The Speaker appoints the chairpersons of all the Committees of the house and exercises control over the Secretarial staff of the house.

10.5 LEGISLATIVE PROCEDURE

Law making is the primary function of the legislature. As modern society is very complex in nature, law making also becomes a complex process. The Constitution of India prescribes the following stages of legislative procedure.

The first stage of legislation is introduction of a bill which embodies the proposed law and is accompanied by the "Statement of Objects and Reasons". The introduction of the bill is also called the first reading of the bill. There are two types of bills: ordinary bills and money bills. A bill other than money or financial bill may be introduced in either House of Parliament and requires passage in both the Houses before it can be presented for the President's assent. A bill may be introduced either by a Minister or a private member. Every bill that is introduced in the House has to be published in the Gazette. Normally, there is no debate at the time of introduction of a bill. The member who introduces the bill may make a brief statement indicating broadly the aims and objects of the bill. If the bill is opposed at this stage, one of the members opposing the bill may be permitted to give his reasons. After this the question is put to vote. If the House is in favour of the introduction of the bill, then it goes to the next stage.

In the second stage, there are four alternative courses. After its introduction, a bill (I) may be taken into consideration; (II) may be referred to a Select Committee of the House; (III) may be referred to a Joint Committee of both the Houses; (IV) may be circulated for the purpose of soliciting public opinion. While the first three options are generally adopted in case of routine legislation, the last option is resorted to only when the proposed legislation is likely to arouse public controversy and agitation.

The day one of these motions is carried out, the principles of the bill and its general provisions may be discussed. If the bill is taken into consideration, Amendments to the bill and clause by clause consideration of the provisions of the bill is undertaken. If the bill is referred to the Select Committee of the House, it considers the bill and submits its report to the House. Then the clauses of the bill are open to consideration and amendments are admissible. This is the most

bill cannot be introduced in the Rajya Sabha. Once a money bill is passed by the Lok Sabha, it is transmitted to the Rajya Sabha. The Rajya Sabha cannot reject a money bill. It must, within a period of fourteen days from the date of receipt of the bill, return the bill to the Lok Sabha which may thereupon either accept or reject all or any of the recommendations. If the Lok Sabha accepts any of the recommendations, the money bill is deemed to have been passed by both Houses. Even if the Lok Sabha does not accept any of the recommendations, the money bill is deemed to have been passed by both the Houses without any amendments. If a money bill passed by the Lok Sabha and transmitted to the Rajya Sabha for its recommendations is not returned to it within fourteen days, it is deemed to have been passed by both the Houses at the expiry of the said period in the original form.

10.6 PARLIAMENTARY PRIVILEGES

For free and efficient functioning of the members of Parliament it is important that they are granted some privileges. There are two types of privileges for the members of Parliament: enumerated and unenumerated. The important privileges a member enjoys under the enumerated category are: i) Freedom of speech in each House of the parliament; ii) Immunity from proceedings in any Court in respect of anything said or any vote cast; iii) Immunity of liability in respect of publication by or under the authority of either house of Parliament of any report, paper, votes or proceedings; iv) Freedom from arrest in civil cases for duration of the session for a period of 40 days before and after the session; and v) Exemption from attending as a witness in a Court.

In the unenumerated category fall similar privileges and immunities which are granted to the members of the House of Commons of British Parliament. Like the House of Commons, the Indian Parliament has power to punish a person, whether a member or a non-member, in case of contempt of Parliament.

10.7 PARLIAMENTARY DEVICES TO CONTROL THE EXECUTIVE

As observed, one of the important functions of the Parliament is to control the executive. A number of mechanisms are available to it for this purpose.

Parliament has solved the problem by establishing a series of committees with necessary powers to scrutinise the working of the different departments of the government.

Among the important Committees, which scrutinise the government's works, particularly in the area of public finances, two committees need special mention: Public Accounts Committee and Estimates Committee. These and other Committees are expected to keep the executive on its toes. They ensure an effective and comprehensive examination of all the proposed policies. Often, Committees provides an ideal context for discussing controversial and sensitive matters in a non-partisan manner, away the glare of publicity. They provide a useful forum for the utilisation of experience and ability that may otherwise remain untapped. They also constitute a valuable training ground for future ministers and presiding officers.

10.8 STATE LEGISLATURE

In most respects, state legislatures are similar to the Parliament of India. However, the choice of unicameralism or bicameralism was left to the states, depending on how they weighed the functions of the second chamber compared to the costs involved in running it. Very few states have opted to have bicameral legislature consisting of the Legislative Assembly (Vidhan Sabha) and the Legislative Council (Vidhan Parishad).

The Legislative Assembly of each State is composed of members chosen by direct election on the basis of adult suffrage from territorial constituencies. The size of the Assembly varies from a minimum of 40 to no more than 500. The duration of the Legislative Assembly is for five years.

The membership of the Legislative Council shall not be less than 40 but not more than one-third of the total membership of the Assembly. The House is composed of partly elected and partly nominated members. Normally, 1/6 of total members are nominated by the Governor and the rest are indirectly elected on a complicated formula involving graduates, educators and members of the Assembly.

The position of the Council is inferior to that of the Assembly so much so that it may well be considered as unnecessary. A) The very nature of composition

party, the lack of party organisation, the malaise of political defections, corruption and the decline of the morale of politician have all contributed to the erosion of the prestige of the Parliament. A major threat to Parliament in India is posed by the growth of diverse and divisive forces in all the political parties. Both the ruling and opposition parties are prompted more by considerations of expediency and political motives than ideology. The ineffectiveness of the opposition and the lack of a strongly articulated public opinion have added to the erosion of Parliaments position vis a vis the executive headed by the Prime Minister. In theory, we have a parliamentary system where the executive is controlled by the legislature, but in reality, the powers of the legislature have passed into the hands of the executive.

Check Your Progress Exercise-3

Note: I) Use the space below for your answer.

ii) Check your answer with the model answer given at the end of this unit.

1) What is Question Hour?

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2) Bring out the significance of adjournment motion.

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10.10 LET US SUM UP

The Parliament of India, the supreme legislative organ in the country, has a long historical background. While legislature in some form came into being during the days of the East India Company, it was only when the Company rule was replaced by that of the Crown that the powers of the Union Legislature as well as its democratic base began to gradually grown.

