

CHAPTER–21

Legislation

Parliament is a multi-functional institution. One of its important functions is to make laws. All legislative proposals are brought before Parliament in the form of Bills. A Bill is a draft statute and no Bill can become a law until it has been passed by both Houses of Parliament and assented to by the President.

Format of a Bill

A Bill has more or less the following salient features or format:

LONG TITLE, which describes the nature of the proposed measure and is prefixed to a Bill—'A Bill to.....etc.'

PREAMBLE, which follows the Long Title and precedes the enacting formula, explains certain facts necessitating the enactment—'WHEREAS.....etc.'¹ However, of late most of the Bills do not contain any preamble.

ENACTING FORMULA, is a short paragraph preceding the clauses of a Bill. The form of the enacting formula is—'Be it enacted by Parliament in the—year of the Republic of India as follows:—'²

SHORT TITLE, which is a label or an index-heading to an enactment and is cited in the first clause of the Bill—'This Act may be called the...Act, 20...'. Where two or more Bills seek to amend the same principal Act and are introduced in the same year, they are numbered consecutively.³

EXTENT CLAUSE, which explicitly specifies whether the proposed law is applicable to the whole of India or to the whole of India excepting the State of Jammu and Kashmir or only to Union territories or to those States the legislatures of which have passed resolutions under article 252 of the Constitution⁴ or to the whole of India as also to citizens of India and some other categories of persons.⁵

COMMENCEMENT CLAUSE, which specifies when the Act shall come into force. The general practice is to place the short title, the extent clause and commencement clauses in a single clause divided into three sub-clauses. The general rule regarding the commencement of an Act is that in the absence of an express contrary provision, the Act comes into force

on the date on which it receives the assent of the President.⁶ In view of this, an Act which is intended to take effect at once does not usually have a commencement clause. If the Act has to give a retrospective effect, the commencement clause is in the form: 'This Act shall be deemed to have come into force on the...'⁷ In many cases power is conferred on the Central Government to bring the Act into force 'on such date as the Central Government may, by notification in the Official Gazette, appoint' and additionally, some Acts may provide that different provisions thereof may be brought into force on different dates.⁸

DURATION CLAUSE, in a temporary Bill, which is embodied as one of the sub-clauses in the first clause of a Bill stipulates the period till the time the Act will be in operation; after the expiry of the stipulated period, such enactment ceases to be effective.⁹

DECLARATORY CLAUSE, in certain Bills, which comes after clause one (citation clause) of a Bill, declares or states the need or requirement which the statute is framed to fulfil. Generally, a legislation contemplated under article 31C or entry 7, 23, 27, 52, 53, 54, 56, 62, 63, 64 or 67 in the Union List of the Seventh Schedule to the Constitution contains a declaratory clause.¹⁰

DEFINITION CLAUSE, which usually comes immediately after the short title, defines various expressions which occur in a Bill to avoid ambiguities of the words or phrases used in that Act, or a particular part or chapter of that Bill.¹¹ The definitions are arranged in alphabetical order.

RULE-MAKING CLAUSE, which delegates rule-making power to the Executive under the proposed law, is in a set form and inserted in all Bills involving power to make rules, regulations, etc. It is based on three general principles, namely, the rules, etc. should be laid on the Table before each House of Parliament, they should be laid for a specified period, before or as soon as may be after they are made and they should be subject to modification by Parliament within a prescribed period.

REPEAL AND SAVINGS CLAUSE, which is placed at the end of a Bill, repeals some enactment or ordinance and reserves something which would be otherwise included in the words of the enacting part or protects rights which may have accrued under the then existing law. The provisions regarding both repeal and savings are embodied in the same clause. The General Clauses Act provides for the various effects of the repeal of an enactment.¹²

SCHEDULES, which are appended to some Bills, contain matters of detail e.g., forms, lists, tables, etc. The expression used is 'First Schedule', 'Second Schedule', etc. which is spelt with capital letter 'S', and refers at its head the clause of the Bill to which it relates.

Apart from the above clauses, a Bill may also contain provisions in the nature of exceptions and exemptions, procedural matters, overriding effect of the proposed Act, penalty, removal of doubts and power to issue directions. Each clause is a self-contained paragraph embodying a proposal. A clause may be divided into sub-clauses and a sub-clause may be divided into items. The clauses are numbered serially 1, 2, 3 etc., the sub-clauses (1), (2), (3) etc., and the items (i), (ii), (iii) etc. or (a), (b), (c) etc. If a Bill is a long one, it is divided into chapters. Each chapter, clause and schedule is given a brief heading. A Bill having more than twenty-five clauses also carries a list of contents called "Arrangement of Clauses". In some cases like Bills having more than twenty-five clauses or Bills of technical nature which cannot be understood easily, are accompanied by "Notes on Clauses" which explain the various provisions contained therein. They are elucidatory in nature and facilitate consideration of the clauses in their right perspective.¹³ Amending Bills also contain extracts of relevant provisions of the principal Acts proposed to be amended by the Bills, in the form of Annexures.¹⁴

Types of Bills

Bills may be classified into Government Bills and Private Members' Bills accordingly as they are sponsored by a Minister or a Private Member. Depending upon their contents, Bills may further be classified broadly into (a) Original Bills which embody new proposals, ideas or policies, (b) Amending Bills which seek to modify, amend or revise existing Acts, (c) Consolidating Bills which seek to consolidate existing laws/enactments on a particular subject, (d) Expiring Laws (Continuance) Bills which seek to continue Acts which, otherwise, would expire on a specified date, (e) Repealing and amending Bills to cleanse the Statute Book, (f) Validating Bills to give validity to certain actions, (g) Bills to replace Ordinances, (h) Money and Financial Bills, and (i) Constitution Amendment Bills.

Requirements of a Bill

Under the rules, along with its text, a Bill is required to be accompanied by a Statement of Objects and Reasons, a Memorandum Regarding Delegated Legislation and a Financial Memorandum, wherever necessary.

The Statement of Objects and Reasons briefly explains the purpose of the proposed legislation. The Statement is explanatory of the contents and objectives of a Bill and helps in understanding the necessity and scope of the Bill. It is, therefore, required to be framed in a non-technical language;

it should not contain arguments.¹⁵ It can be revised by the Chairman, if he thinks fit.¹⁶

On an occasion, the Statement of Objects and Reasons appended to a Private Member's Bill was found to be very lengthy and also contained arguments and matters which were not germane to the Bill. The Statement was, therefore, revised. When the member concerned was called to introduce the Bill, he complained that the Statement had been 'mutilated' by some alterations, additions and deletions. He, therefore, wanted that his original version should be restored and circulated to members. The introduction of the Bill was, therefore, at the request of the member, postponed. The Statement was later further revised in consultation with the concerned member and circulated to members on the date on which the Bill was introduced.¹⁷

A Bill involving proposals for the delegation of legislative power is required to be accompanied by a memorandum explaining such proposals and also drawing attention to their scope and stating whether they are of normal or exceptional character.¹⁸ In the normal type of delegated legislation the limits of the delegated powers are clearly defined in the enabling Act itself and do not contain such powers as the power to legislate on matters of principle or to impose taxation or to amend any Act of Parliament, including that under which the power exists or any other. The exceptional type embraces powers just mentioned or where the powers given are very wide and their limits are impossible of definition or while limits are imposed the control of courts is ousted.¹⁹

A Bill involving expenditure is required to be accompanied by a Financial Memorandum which has to invite particular attention to the clauses involving expenditure and also give an estimate of the recurring and non-recurring expenditure involved in case the Bill is passed into law. These clauses are shown in thick type or in italics in the printed copy of the Bill.²⁰

As per the established practice, whenever a Bill seeking to replace an Ordinance with modifications of the provisions of that Ordinance is introduced in the House, the modifications contained in the Bill are explained in a memorandum appended to the Bill.²¹

Legislative competence of the House

The Constitution provides for distribution of legislative power between the Union and the States and concurrent power for both, in the three Lists contained in the Seventh Schedule to the Constitution. The Lists enumerate subjects in respect to which Parliament, State Legislatures and both, Parliament and State Legislatures, as the case may be, have power to make laws. Arising from the classification of matters into three Lists, points have been raised in the House, time and again, regarding the competence of Parliament to legislate on particular matters before the House. It is now a

settled practice that the Chair does not give any ruling regarding the legislative competence of the House.

The House also does not take a decision on the specific question of *vires* of a Bill. It is open to members to express their views in the matter and take into account the aspect of *vires* while voting on the various motions on the Bill. The Chairman, though he may express his own views thereon, generally leaves the ultimate decision to the House.

When the Women's and Children's Institutions (Licensing) Bill, 1953, introduced by a member, was taken up, it was pointed out by the concerned Minister that the Bill was being made applicable to the whole of India whereas Parliament could legislate only so far as the then Part C States were concerned. Some members suggested that it was a technical mistake and could be condoned. The Deputy Chairman did not agree and refused to allow the Bill to proceed.²²

When another Bill was introduced on the same subject by the same member in 1956, a point of order was raised that the Bill did not come within the legislative competence of Parliament as the subject-matter of the Bill was entirely within the purview of the State Governments under entry 32 of the State List. The Deputy Chairman expressed the view that the Bill might come under entry 28 of the Concurrent List. However, he observed:

Now, I do not want to take the responsibility of giving a ruling, because there is a ruling already. On 9 December 1947, during the discussion over a particular Bill in the Central Legislative Assembly a point was raised whether the Bill was *ultra vires*. Mr. Speaker observed that the usual practice of the Chair was not to take upon itself the responsibility of deciding whether any particular Bill was *ultra vires* or not to kill any Bill on that account.²³ So, I leave it to the House to decide whether it is *ultra vires* or not.²⁴

On another occasion, when the Representation of the People (Amendment) Bill, 1959, providing for recall of the elected members of the House of the People and of the State Assemblies, introduced by a member, was taken up, the Minister of Law, rising on a point of order, submitted that Parliament was not competent to entertain the Bill because under the Constitution, the composition of Parliament and State Assemblies was fixed and that to provide for recall, there must be an amendment to the Constitution. The Deputy Chairman, after hearing the views of members, observed:

... this objection was not taken at the introduction stage. But I still feel that there is a strong force in the objection raised by the Law Minister and it may amount to an amendment to the Constitution. But the Chair has never taken the responsibility of deciding the *ultra vires* or otherwise of a Bill. There have been several decisions of the Chair in this connection. In fact on 23 April 1951, when an objection was taken in the Provisional

Parliament to the Forward Contracts (Regulation Bill), that it was *ultra vires* the Constitution, the Speaker observed:

The position which I had made clear was that the question of *ultra vires* will not be decided by the Chair, but that it may be left to the House. If it comes to the conclusion that it is *ultra vires* the House may reject the Bill. If the House accepts the Bill for consideration, then the party aggrieved has his remedy in the Supreme Court or other courts. Therefore, I said it was of no use going in detail into questions of constitutional niceties, because after all these are things which can best be argued by lawyers, and it is not proper to take the time of the House over these long discussions of niceties.

Again in 1953, when the constitutionality of the Legislative Assembly (Prevention of Disqualification) Bill, was raised, it was observed:

In all these matters, the Speaker has never taken upon himself the responsibility of deciding the point of order whether it is constitutional or otherwise. It is for the House to take this also into consideration in voting down the Bill or accepting it.

Under the circumstances, I leave it to the House to accept or not to accept the Bill. The discussion will proceed.²⁵

Again, on a later occasion, when the Deputy Minister in the Ministry of Finance moved the Compulsory Deposit Scheme Bill, 1963, for consideration, a member contended that the Bill contravened certain provisions of the Constitution as it infringed a citizen's right to dispose of his property as he liked. After hearing the views of members, the Chairman observed:

I thank the hon'ble members for the assistance they have given me in coming to a conclusion. *Prima facie* I think we can go on with the discussion, but I do not wish to give any ruling, because in the Central Legislature it has been the accepted practice for the Chair not to take upon itself the responsibility of deciding whether the House has the legislative competence to entertain a Bill or whether a Bill is *ultra vires*. When any such question is raised, the usual practice had been to leave the matter for the decision of the House. The main reason for the adoption of this course is that a question relating to the legislative competence of the House or the constitutionality of the proposed legislation often involves much difficulty and complexity and it is the function of the court and ultimately of the Supreme Court to decide such a question. The Presiding Officer should not arrogate to himself the functions of the court, specially as he has not the facilities or the material on which to come to a satisfactory decision. It is the sole privilege and duty of the House to decide every question that arises on a motion moved by a member. So, if the matter is left to the House to decide, the House may reject the Bill, if it is of the view that the Bill is *ultra vires*. If, however, the House accepts the Bill, the party aggrieved will still have the remedy in the courts and ultimately

in the Supreme Court. This question came before the Central Legislature on various occasions and the accepted practice has been as stated by me.²⁶

When the Muslim Women (Protection of Rights on Divorce) Bill, 1986 as passed by the Lok Sabha was about to be taken up for consideration, members raised various points regarding the constitutionality of the Bill. The Chairman permitted full discussion thereon and thereafter ruled:

...it is a well-established precedent in both Houses of Parliament that the Chair does not give a ruling on the *vires* of a legislation. It does not go into the question whether the legislation is *ultra vires* or *intra vires*. It is for the court to decide. This is borne by all the decisions given after the Constitution has been introduced. In accordance with the same principle, I am not deciding whether the Bill is *intra vires* or *ultra vires*. The House has heard the objections and it is open to the members to come to the conclusions on the basis of the arguments advanced on both sides. So far as the Chair is concerned, the Chair rules that it is not for the Chair to give a decision on this, that the Bill is within the competence of the Legislature to consider.²⁷

On 23 January 1985, during the discussion on the General Insurance Business (Nationalisation) Amendment Bill, 1985, a member raised a point of order. He said that the trade unions, the labour had the fundamental right of bargaining which was being denied by the Bill and that the Bill was in contravention of that fundamental right. Another member sought a ruling on this point from the Chair. The Vice-Chairman observed:

It is an accepted practice that the Chair does not give any ruling on a point of order raised whether a Bill is constitutionally within the legislative competence of the House or not...It is open to members to express their views in the matter and to press arguments for and against for the consideration of the House. The members may take this aspect into account in voting on the motion for consideration of the Bill. In view of this long standing practice, I do not want to propose to give any ruling on the points raised.²⁸

Three Readings of a Bill

Subject to the provisions of articles 109 and 117 of the Constitution with respect to Money Bills and other financial Bills, a Bill may originate in either House of Parliament.²⁹ Again subject to the provisions of articles 108 and 109 with respect to joint sittings of both the Houses in certain cases and Money Bills, a Bill is not deemed to have been passed by both Houses of Parliament unless it has been agreed to by both Houses, either without amendment or with such amendments only as are agreed to by both Houses.³⁰

A Bill undergoes three readings in each House of Parliament. The First Reading refers to the Introduction of a Bill. The Bill is introduced after adoption of a motion for leave to introduce a Bill or the introduction of a Bill already published in the Gazette or laying on the Table of a Bill as passed by the other House where it originated. The Second Reading consists of two stages: the 'first stage' consists of discussion on the principles of the Bill and its provisions generally on any of the following motions: that it be taken into consideration; that it be referred to a Select Committee of the Rajya Sabha; that it be referred to a Joint Committee of the Houses with the concurrence of the Lok Sabha; that it be circulated for the purpose of eliciting opinion thereon; and the 'second stage' signifies the clause-by-clause consideration of the Bill as introduced or as reported by the Select/Joint Committee. The Third Reading refers to the discussion on the motion that the Bill (or the Bill as amended) be passed or returned (to the Lok Sabha, in the case of a Money Bill).

While each Bill has to undergo the three readings or stages mentioned above, some categories of Bills such as Government Bills, Constitution Amendment Bills, Money and financial Bills, Bills to replace Ordinances and Private Members' Bills, have special procedural aspects and are, therefore, treated separately.

Government Bills—originating in Rajya Sabha

Formulation of legislative policy

The first stage in the preparation of a Bill is the formulation of legislative policy. A statute is the formal and legal expression of a legislative policy and, therefore, before the Bill can be drafted the policy sought to be implemented by it must be determined and settled from the administrative, financial and political points of view in the administrative Ministries concerned.³¹ Long before the Bill comes to be drafted, considerable mental activity would have gone into its making. Usually, there is formulation of a grievance or a realisation that some new need is to be met and that this can be done only by adding to or altering the law. An attempt is then made at devising the appropriate solution or remedy which may often involve reconciliation of conflicting interests. The legislative idea may take place in the mind of an aggrieved citizen or it may be the result of a concerted effort undertaken by a society or group of people seeking advancement of the public interest or 'pressure groups' having an object to achieve in proposing the legislation, or an idea may have its genesis in the executive confronted with an acute problem and seeking a legislative solution thereof or the legislative idea may have been a part of the announced policy of the party in power.³²

After a legislative idea is born, formulation of a legislative proposal takes place in the Government. The important steps in this formulation are: the administrative Ministry prepares the main outline of the proposal in the form of a note setting out the salient features, the Ministry of Law examines its constitutional validity, and the need for amendment of the existing law or for framing new law by legislation and gives it a legal shape or puts it in the form of a draft legislation.³³ Thereafter a self-contained summary setting out the facts of the case and the legislative measure proposed is prepared and submitted to the Cabinet for consideration and approval.³⁴

Preparation of a Bill

If approval of the Cabinet for any legislative proposal has been obtained, the Ministry initiating action in this behalf prepares a memorandum indicating with sufficient precision the lines on which it has been decided to legislate and requesting the Ministry of Law to draft a Bill for its introduction in Parliament.³⁵ The drafting of a Bill cannot always start even when the memorandum containing instructions about the draft legislation have been received. The substance, policy and form of law and such like matters are inextricably mixed up and it is essential that conferences are held at various stages between the draftsman and department officials before the Bill can be finalised. In the case of a short Bill, one or two drafts may suffice, but in the case of a longer Bill several drafts may have to be made and subjected to comments and criticisms both on files and in conferences. The process of drafting may be a very long one in the case of an important and complex Bill and may continue until the sponsoring Ministry and the draftsman are both satisfied in respect of form and contents of the Bill. However, often the entire process goes in reverse gear also. When a Bill is finalised and approved by the sponsoring Ministry, necessary formalities like preparation of a Statement of Objects and Reasons, Memorandum on Delegated Legislation, Financial Memorandum, etc. as already mentioned, are undertaken. When all the formalities are completed, the Bill, together with its memoranda and annexures, is sent by the Ministry of Law to the Government Press for printing and the proofs are scrutinised and authenticated by the draftsman. The Bill is then sent to the Secretariat of the House of Parliament in which the Bill is proposed to be introduced.³⁶

Choice of the House

Articles 109 and 117(1) of the Constitution prohibit the introduction of Money and certain financial Bills in the Rajya Sabha. Subject to these restrictions, Bills may originate in either House of Parliament. The choice of the House for introduction of a Bill (other than a Bill coming within these articles) is often a matter of convenience depending upon the state of

parliamentary business. Under the Government of India allocation of Business Rules, planning and coordination of legislative and other official business in both Houses is one of the functions assigned to the Ministry of Parliamentary Affairs³⁷ and that Ministry settles the House in which a non-Money Bill is to be introduced. But more often than not, the Minister's preference of the House for introduction of his Bill plays a decisive role in this regard. In this connection the Committee appointed to recommend Draft Rules of Procedure for the Rajya Sabha had in its report of 1963 expressed the view that Government should so arrange its business in the two Houses, particularly in the matter of introduction of Bills, that there would be an even flow of work between the two Houses. The Committee had felt that the then existing position in regard to arrangement of Government Business in the Rajya Sabha was not satisfactory.³⁸ However, the position has since improved considerably.

Scrutiny of a Bill before introduction

Once the question as to the House in which a Bill is to be introduced is settled, the Ministry of Law sends the proof copy of the Bill to the Secretariat under an Office Memorandum signed by the Legislative Counsel (formerly known as Chief Draftsman). Two proof copies of English and Hindi version of the Bill (one original and another duplicate) authenticated by the Legislative Counsel are received from the Ministry of Law in the Secretariat. The Bill from that moment passes to the control of the House and it is then the responsibility of the Secretariat to get fair copies of the Bill printed and circulated to the members and to take all further steps in connection therewith.

Before sending the proof copy of the Bill to the Press for final printing, it is scrutinised with a view to ensuring that various provisions of the Constitution and the Rules of Procedure are complied with, and more particularly with respect to the following points, viz., whether—

the subject-matter of the Bill is within the legislative competence of Parliament; the Bill has been published before introduction; the Bill contains more than twenty-five clauses, and if so, it is accompanied by "Arrangement of Clauses"; in the case of an amending Bill, the sections of the parent Act sought to be amended have been reproduced as an annexure to the Bill; the Bill is accompanied by a Statement of Objects and Reasons; the Bill requires President's recommendation for introduction under the proviso to article 3 or article 274(1), and if so, it has been received; the Bill, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India, and if so, the recommendation of the President under article 117(3) of the Constitution has been received; the Bill requires a Financial Memorandum, and if so, it has been appended to the Bill and

relevant clauses have been shown in thick type or in italics; the Bill involves delegation of legislative power, and if so, the Memorandum regarding Delegated Legislation has been appended to the Bill; the Bill seeks to replace an Ordinance with modifications, and if so, it is accompanied by a memorandum explaining the changes made in the Bill; the Bill requires a prior resolution to be passed by the Rajya Sabha under article 249 or article 312, and if so, it has been done; the Bill requires prior resolutions to be passed by State Legislatures under article 169 or 252, and if so, these have been passed and an indication to that effect has been given in the Statement of Objects and Reasons; the Bill relates to a subject under any of the entries no. 7, 23, 24, 27, 52, 53, 54, 56, 62, 63, 64 or 67 in the Union List, and if so, it contains a declaratory clause; and in case of a Constitution Amendment Bill, ratification by State Legislatures is required, and if so, it has been referred to the Ministry of Law for opinion.

A notice was received from the Minister of Home Affairs during the second part of the 230th Session (30.1.14) for introduction of the Andhra Pradesh Reorganisation Bill, 2014 in the Rajya Sabha. On examination of the proof copy of the Bill received from the Legislative Department, it appeared that some of the clauses of the Bill attracted provisions of article 110(1) (a) and (e) and as such the Bill was put in Category-1 of Financial Bill. Accordingly, advice of the Ministry of Law and Justice was sought on 10 February 2014 as to the admissibility of the notice of the Bill for introduction in the Rajya Sabha. However, in the meantime, the Government preferred to introduce the Bill in the Lok Sabha and the Bill was introduced in that House on 13 February 2014.

The Secretary, Legislative Department in the Ministry of Law and Justice *vide* his letter dated the 5 May 2014 informed the Secretary-General that the Department was also of the view that the recommendation of the President for introduction of the Andhra Pradesh Reorganisation Bill, 2014 was required under article 3 and clauses (1) and (3) of article 117 of the Constitution and, accordingly, the administrative Ministry was advised to give notice for introduction of the Bill in the Lok Sabha.³⁹

The Bill is then entered in the Register of Bills maintained for the purpose and a 'Bill Number' is indicated at the top of the Bill as "Bill No. (in Roman numerals)... of 20..." A docket page which contains the words "Rajya Sabha" at the top, the long title of the Bill and recommendation of the President, if any,⁴⁰ in the middle and name and designation of the Minister in-charge of the Bill at the bottom, is prepared and attached to the Bill. The original proof copy is then sent to the Press with instructions to print copies with line-numbers. On receipt of printed copies, a copy is

minutely checked with the original proof copy. A corrected copy is then sent to the Legislative Counsel, Ministry of Law, for scrutiny. If necessary, a corrigendum (including the corrections pointed out by the Legislative Counsel) is circulated to members, either with the Bill or separately thereafter. Copies of the Bill with superscriptions “To be introduced in the Rajya Sabha” and “As introduced in the Rajya Sabha” are got printed; in the latter case, the date of introduction is stamped on the copies after the Bill is introduced.

Two copies of proof of the Hindi version of a Bill, authenticated by the Legislative Counsel, are also received from the Ministry of Law and copies of the Hindi version of the Bill are printed and circulated to those members who get their parliamentary papers in Hindi.

On an occasion, several members raised an objection to the introduction of a Bill on the ground that the Hindi version of the Bill had not been made available to them alongwith its English version. A member raised a point of order that since there was a convention to that effect, a resolution had to be brought forward, if a departure from that convention had to be made. The Deputy Chairman ruled, “I do not think we had such a convention laid down in this House ... we want to lay it down from now on...” (that the Hindi version of each Bill should be made available to the members along with the English version).⁴¹

Publication of a Bill before introduction

The Chairman, on a request being made to him, may order the publication of a Bill in the Gazette, although no motion has been made for leave to introduce the Bill. In such a case the Bill is published together with the Statement of Objects and Reasons, and the Memorandum regarding Delegation of Legislative Power and the Financial Memorandum, if any.

In the following cases requests for publication of the Bills in the Gazette were received and acceded to:

1. The Hindu Succession Bill, 1954, published in the Gazette on 26 May 1954 and introduced on 22 December 1954 (by a motion, *see infra*);
2. The Drugs (Amendment) Bill, 1954, published in the Gazette on 28 May 1954 and introduced on 23 August 1954;
3. The Railway Stores (Unlawful) Possession Bill, 1954 published in the Gazette on 6 August 1954 and introduced on 23 August 1954.

In such a case, it is not necessary to move a motion for leave to

introduce the Bill, and, if the Bill is afterwards introduced, it is not necessary to publish it again.⁴² The next step is for introduction only of such a Bill as distinguished from moving of a motion to introduce the Bill. The Minister or member in-charge of the Bill merely makes a statement that he introduces the Bill and thereafter the Chairman announces that the Bill is introduced. Where such a Bill undergoes any change before its formal introduction, a motion for leave to introduce it has to be moved as in the case of any other Bill.

The Hindu Succession Bill, 1954, was published in the Gazette prior to its introduction. However, the Bill to be introduced contained some modification.⁴³ Hence leave to introduce the Bill was obtained by moving a motion and after its adoption, the Bill was introduced on 22 December 1954.

Circulation of copies of a Bill to be introduced

During early years, there was no practice of advance circulation of copies of Bills to be introduced to members. Copies used to be circulated only after the Bills were introduced. The reason appears to be that as per the established practice, the Bills were not opposed on introduction.⁴⁴

On an occasion, at the introduction stage, a Private Member gave a short explanatory statement about his Bill. A suggestion was made that members should be provided with copies of Bills before hand so that they had some idea of the Bills before they were called upon to give or refuse permission for the introduction. The Chairman observed that unless the Bills were introduced it was not the practice to circulate them. He, however, agreed to consider the suggestion.⁴⁵

On another occasion also the member concerned was asked to explain his Bill and then the leave to introduce his Bill was granted. He complained that even he was not provided officially with a copy of his Bill to be introduced.⁴⁶

There had been, however, an early instance of the Minister of Home Affairs laying a copy of the Draft States Reorganisation Bill which was being referred to the States and the connected proposals for amendment of the Constitution. While laying the same the Minister (Shri G.B. Pant) stated: "I consider it advisable to do so."⁴⁷

As per the long established practice now, a Bill is ordinarily not included in the list of business until copies of the Bill have been made available to members at least two days before the day on which the Bill is proposed to be introduced.⁴⁸

There have been some instances when objection has been taken to the introduction of a Bill without advance circulation and, therefore, introduction has been deferred.

On an occasion, due to heavy and incessant rains in Delhi, members did not get parliamentary papers in time. Amongst the papers were copies of four Bills, slated for introduction that day.⁴⁹ Objection was, therefore, taken to their introduction without circulation of copies of the Bills two days in advance as per the practice. Some members, therefore, wanted that the introduction of Bills be deferred. The Chair conceded the point.⁵⁰

On another occasion, objection was taken to the introduction of the Trade Unions and the Industrial Disputes (Amendment) Bill, 1988, without advance circulation of copies of the Bill to be introduced. However, it was allowed to be introduced only after the Deputy Chairman explained that the Bill was important and members would get enough opportunity to express their views at the consideration stage of the Bill and some members staged a walk-out.⁵¹

The requirement of prior circulation of copies of the Bill before its introduction may be waived by the Chairman if the Minister concerned gives adequate reasons in a communication to the Chairman as to why the Bill is proposed to be introduced without its prior circulation.

The Criminal Law (Amendment) Bill, 1995 and the Sixth Schedule to the Constitution (Amendment) Bill, 1995 were introduced on 18 May 1995 and 17 August 1995 respectively, without circulation of copies of Bills to be introduced in view of the urgency of the Bills as per the reasons explained by the Minister concerned in communications to the Chairman.⁵²

Introduction of a Bill (First Reading)

A Minister who desires to introduce a Bill has to give notice in writing of his intention to move for leave to introduce a Bill. The notice does not lapse upon prorogation of the House and a fresh notice is not necessary if the Bill is sought to be introduced in the next session. However, a fresh notice is required in the case of a Bill in respect of which sanction or recommendation granted under the Constitution has ceased to be operative.⁵³ If the concerned Minister in whose name the item stands in the list of business is absent from the House, his Deputy or any other Minister may move the motion on his behalf if the Chairman has permitted him to do so on a written request from the Minister.

On the day appointed for introduction of the Bill, the Chairman calls the Minister-in-charge who moves the motion that leave be granted to introduce the Bill (with reference to the long title as indicated in the list of business). After the Chairman has put the question and the motion is adopted, the Minister introduces the Bill. At the time of introduction of a Bill, no assurance can be given by a Minister.

On 5 May 1989, at the time of introduction of the Assam University Bill, 1989, a member made an objection and sought an assurance from the Minister of State for Education and Culture for the establishment of another university in the northern part of Assam. Rejecting the objection of the member, the Deputy Chairman made the following observation:

When the Bill comes up for discussion, the Minister will give you an assurance. You should know the procedure. At the time of introduction of the Bill no assurance can be given. There is a procedure at the time of the introduction of the Bill. You have made your point. But the Minister will give you assurance when the Bill comes for discussion.⁵⁴

Members are also not allowed to make a speech at this stage.

On 24 March 1972, when the Constitution (Amendment) Bill, 1972 (to amend article 12) was sought to be introduced by a member, another member wanted to say a few words about the Bill. On this, the Deputy Chairman observed:

It is only the introductory stage. Unless you want to raise any objection or a point of order regarding introduction of the Bill, he should be allowed to introduce it. You will not be allowed to say anything at this stage.⁵⁵

Similarly, on 30 January 1976, after moving for leave to introduce the Workers' Education Scheme Bill, 1976, a member wanted to make a speech on the Bill. The Chairman told him that he could not make a speech at that time. When he insisted, the Chairman then observed:

It is not allowed. Why do you again do something which is against the procedure?⁵⁶

By convention, the motion for introduction is not ordinarily opposed. If any member intends to oppose a Bill at the introduction stage he writes in advance for the purpose.

On 27 March 1990, after the Home Minister sought leave of the House to introduce the Constitution (Sixty-fourth Amendment) Bill, 1990, a member was permitted by the Chair to oppose the introduction of the Bill. Immediately after he spoke, another member wanted to speak on the matter. Refusing permission to speak, the Deputy Chairman said that according to Kaul and Shakhder, anybody wanting to oppose the introduction of a Bill should give it in writing to the Chairman and since the first member had given it in writing he was allowed to oppose the introduction of the Bill. But the member argued that Kaul and Shakhder came only after the rules and hence, he be allowed to speak.

Disallowing him the Deputy Chairman observed:

Anyone who wants to oppose the introduction of a Bill should give it in writing to the Chairman... I am not allowing you... It is up to the discretion of the Chair.⁵⁷

If the motion for leave to introduce the Bill is opposed, the Chairman after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion, may without further debate, put the question. Where the motion is opposed on the ground that the Bill initiates legislation outside the legislative competence of the House, the Chairman may permit a full discussion thereon.⁵⁸

There have been several instances when motions for introduction of Bills have been opposed at the introduction stage; and sometimes the Bills have been permitted to be introduced after division. Some instances are:

The Special Marriage Bill, 1952 (member opposing allowed to make a statement, the Minister replied and then the Bill introduced);⁵⁹ the Himachal Pradesh and Bilaspur (New State) Bill, 1954;⁶⁰ the Hospitals and other Institutions (Settlement of Disputes) Bill, 1982;⁶¹ the Monopolies and Restrictive Trade Practices (Amendment) Bill, 1983;⁶² the Inter-State Water Disputes (Amendment) Bill, 1986;⁶³ the Indian Medical Council (Amendment) Bill, 1987 (introduced after a division);⁶⁴ the Constitution (Fifty-ninth Amendment) Bill, 1988 (all members who had given notices permitted to speak at the introduction stage);⁶⁵ the Constitution (Sixty-first Amendment) Bill, 1988;⁶⁶ and the Banking Regulation (Amendment) Bill, 1994 (introduced after a division).⁶⁷

On an occasion, the motion for leave to introduce the Trade Unions (Amendment) Bill, 1994, was opposed; the motion was not put to the vote of the House.⁶⁸

On another occasion, the motion for leave to introduce the University of Allahabad Bill, 2004 was put to the vote of the House. The motion was negated and the leave to introduce the Bill was not granted.⁶⁹

Likewise, the introduction of the Rani Lakshmi Bai Central Agricultural University Bill, 2011 was opposed during its introduction on 28 December 2011 and the same was deferred. Later, on 22 May 2012, the Bill was allowed to be introduced in the House.

During the 230th Session when the Minister of Home Affairs moved the motion for leave to introduce the Prevention of Communal Violence (Access to Justice and Reparations) Bill, 2014, the Leader of Opposition and other members opposed the introduction of the Bill and as a result thereof motion for introduction of the Bill was deferred on 5 February 2014.

Publication and circulation of a Bill after introduction

After a Bill has been introduced, unless it has already been published before introduction, the Bill is got published by the Secretariat in the Gazette of India (Extraordinary, Part II, Section 2)⁷⁰ of the same date on which the Bill is introduced along with the Statement of Objects and Reasons, Financial Memorandum and the Memorandum on Delegated Legislation, if any. Since copies of the Bill to be introduced are ordinarily circulated in advance to the members of the Rajya Sabha, copies of the Bill as introduced are not circulated again to them. Copies are, however, circulated to the members of the Lok Sabha on reciprocal basis, after the Bill is introduced in the Rajya Sabha. Copies are also sent to the Ministry of Law, Ministry of Parliamentary Affairs, Supreme Court, President's Secretariat, Prime Minister's Office, etc.

In the beginning, as in the Central Legislature, copies of the Bills introduced in one House were not being circulated to the members of the other House, as a matter of course. On 4 August 1952, the Minister for Law (Shri C.C. Biswas) while moving the motion for consideration of the Prevention of Corruption (Second Amendment) Bill, 1952, as passed by the Lok Sabha, suggested that it would be helpful that when any Bill came from the other House, the Bill in the form in which it was introduced in the other House, including the Statement of Objects and Reasons and extracts from other relevant documents that might be annexed, should also be made available to the members of the Rajya Sabha. In the absence of these, the members of the Rajya Sabha were placed at a great disadvantage. He requested the Chairman to instruct the Secretary to circulate the copies, etc. of the Bill to the members of the Rajya Sabha in future.⁷¹ The then Secretary, accordingly, took up the matter with the Secretary of the Lok Sabha and it was agreed that copies of the Bills introduced in one House should be supplied to the members of the other House.⁷² Since then the practice of circulation of copies of Bills introduced in one House to the members of the other House is in vogue.

Motions after introduction of a Bill (Second Reading)

After a Bill is introduced, the Minister concerned may move any of the following motions in regard to his Bill namely, that (i) it be taken into consideration; or (ii) it be referred to a Select Committee of the Rajya Sabha; or (iii) it be referred to a Joint Committee of the Houses with the concurrence of the Lok Sabha; or (iv) it be circulated for the purpose of eliciting opinion thereon.⁷³

Any of the motions may be made only after copies of the Bill have been made available for the use of the members. Any member may object to any such motion being made if the copies of the Bill have not been made available to the members at least two days before the day on which the motion is made, and such objection prevails, unless the Chairman allows

the motion to be made.⁷⁴ Although copies of a Bill are required to be circulated to the members two days before its introduction, ordinarily, the next motion in respect of a Bill is not made on the same day on which the Bill is introduced unless the Chairman so permits at the request of the concerned Minister, after taking all the facts into consideration as also the sense of the House. There are, however, instances where Bills were taken up for consideration on the same day on which they were introduced.⁷⁵

Motion for consideration

No motion that a Bill be taken into consideration (or be passed) can be made by any member other than the member in-charge of the Bill.⁷⁶ As per the practice, ordinarily the member in-charge of the Bill makes a formal motion which is followed by his speech.

On an occasion, objection was taken by a member when the concerned Minister merely made a motion without the speech stating that he would like to hear the views of the members first. The member objecting to this course demanded that the Minister must explain the provisions of the Bill. The House was adjourned for the lunch-recess ahead of the scheduled time and the Minister gave a speech after the House reassembled.⁷⁷

On another occasion, however, when the Minister concerned wanted to make a speech explaining the provisions of a Bill, he was not permitted in view of the fact that the Bill was to be passed without any discussion and it applied to the Minister also.⁷⁸

On yet another occasion, the Prime Minister (Shri Rajiv Gandhi) formally moved motions for consideration of the Constitution (Sixty-fourth and Sixty-fifth Amendment) Bills, 1989 (regarding Panchayats and Municipalities) and thereafter, the two Ministers concerned with the two Bills made speeches one after another explaining the provisions of the Bills.⁷⁹

At this stage amendments to any of the clauses of the Bill are not permitted to be moved. But if the member in-charge moves that the Bill be taken into consideration, any other member may move as an amendment that the Bill be referred to a Select Committee of the House or to a Joint Committee of the Houses with the concurrence of the Lok Sabha, or that the Bill be circulated for the purpose of eliciting opinion thereon by a date to be specified in the amendment. If the member in-charge moves that the Bill be referred to a Select Committee of the House, any member may move as an amendment that it may be referred to a Joint Committee of the Houses and *vice versa*, or that it may be circulated for eliciting opinion.⁸⁰

An amendment for reference of a Bill to a Select or Joint Committee, or for its circulation, is moved immediately after the motion for consideration

of the Bill is moved and not after the motion is adopted or in the midst of the clause-by-clause consideration of the Bill. However, there have been occasions when after the motion for consideration of a Bill was moved and part-discussed, the member in-charge of the Bill, in deference to the suggestions made by members, himself moved for reference of the Bill to a Select or Joint Committee.⁸¹

During consideration of the Lokpal and Lokayuktas Bill, 2011, as passed by the Lok Sabha, a member moved a motion that the Bill be referred to a Select Committee of the House. Later on, the Minister in-charge also moved a motion for reference of the Bill to the Select Committee. The Chair put the motion moved by the Minister to the vote of the House which was adopted on 21 May 2012.

When the motion that the Bill be taken into consideration is moved or on any subsequent day to which the discussion thereof is postponed, the principles of the Bill and its provisions are discussed generally, but the details of the Bill are not discussed further than is necessary to explain its principles.⁸² Two Bills of a similar nature may be taken up for discussion on motions for their consideration together but the motions are put to the House separately.⁸³

Circulation for public opinion

When a Bill has been introduced, the member in-charge of the Bill may move that the Bill be circulated for the purpose of eliciting opinion thereon.⁸⁴ Such a motion can also be moved by way of an amendment to a motion moved by the member in-charge of the Bill that it be taken into consideration or that it be referred to a Select or Joint Committee.⁸⁵ The motion for circulation of a Bill has to specify the period for eliciting public opinion thereon.⁸⁶

The Bill is circulated for public opinion through the State Governments. They are asked to publish the Bill in their Gazettes and to forward in duplicate their opinions on the provisions of the Bill, opinions of members of the State Legislatures and of such public bodies and other persons as the State Governments may think fit to consult, within the period specified in the motion.⁸⁷

After the opinions on a Bill have been received, they are examined and edited in the Secretariat so that they do not contain any objectionable or derogatory matter. Irrelevant or indecorous matter is eliminated therefrom. The opinions, so edited and consolidated, are printed, laid on the Table by the member in-charge of the Bill and circulated to members.⁸⁸

Where a motion that a Bill be circulated for the purpose of eliciting opinion thereon is carried and the Bill is circulated in accordance with that

direction and opinions are received thereon, the member in-charge, if he wishes to proceed with the Bill thereafter, moves that the Bill be referred to a Select Committee of the House or Joint Committee of the Houses unless the Chairman allows a motion to be made that the Bill be taken into consideration.⁸⁹

The following Bills as introduced in the Rajya Sabha were circulated for eliciting opinion:

The Special Marriage Bill, 1952;⁹⁰ the Cantonments (Amendment) Bill, 1952;⁹¹ the Hindu Marriage and Divorce Bill, 1952;⁹² the Hindu Minority and Guardianship Bill, 1953.⁹³ Except the Cantonments (Amendment) Bill, 1952, which was referred to a Select Committee, the other three Bills were referred to Joint Committees and all the Bills were eventually passed.

Motion for reference to Select/Joint Committee

When a motion that a Bill be referred to a Select Committee is made, as a matter of general procedure and practice, the motion sets out the names of the members of the House proposed to be appointed on the Committee.⁹⁴

When the Trade Marks Bill, 1995, as passed by the Lok Sabha, was listed for consideration, some members wanted that the Bill should be referred to a Select Committee of the House. The Minister of Industries agreed and moved a formal motion for reference of the Bill to the Select Committee. However, names of members proposed to be appointed were not announced at that time. They were announced the next day by the Deputy Chairman.⁹⁵

No member is appointed to a Select Committee, if he is not willing to serve on the Committee. The mover of the motion has to ascertain whether a member proposed to be named by him is willing to serve on the Committee.⁹⁶

The Minister of Law had moved a motion for reference of the Special Marriage Bill, 1952 to a joint Committee. Due to reluctance of some members to serve on the Committee the Minister gave alternative names.⁹⁷

When the Minister concerned moved a motion to refer the Patents (Amendment) Bill, 1995, as passed by the Lok Sabha, to a Select Committee of the House, in deference to the wishes of certain members, a member whose name was there in the motion stated that he had already informed the Minister of Parliamentary Affairs that he would not be available to serve on the Committee.⁹⁸

If a private member as well as the Minister in-charge of the Bill give notices for moving amendments/motions for reference of the Bill to a Select or Joint Committee, the notice given by the Minister is given precedence.

The Indian Veterinary Council Bill, 1981 was to be taken up for consideration as per the list of business. The Minister in-charge of the Bill gave notice of a motion for reference of the Bill to a Joint Committee. The motion was included in a supplementary list of business and circulated. Earlier, a member had also given notice of an amendment to the motion for consideration that the Bill be referred to a Joint Committee. After the adoption of the Government motion for reference of the Bill to the Joint Committee, the private member's amendment was not put although it contained names of members different from those proposed in the Minister's motion. The Deputy Chairman ruled, on a point of order, that since the member in-charge of the Bill himself had moved a motion for reference of the Bill to a Joint Committee, there could not be another motion as an amendment by another member; the amendment could only be to the motion for consideration of the Bill.⁹⁹

On another occasion, the Minister in-charge of the Bill had given notice for consideration of the Chit Funds Bill, 1982, as passed by the Lok Sabha. In the Rajya Sabha a demand was made that the Bill be referred to a Select Committee of the House as was done in the Lok Sabha. The Minister, therefore, moved a motion accordingly. Amendments earlier given by members for reference of the Bill to a Select Committee were not permitted on the ground that the Government motion had precedence and was adopted.¹⁰⁰

But if the amendments of members are different in content they are treated separately although all are for the reference of the Bill to a Select Committee.

To the motion for consideration of the Press Council Bill, 1956, three amendments for reference of the Bill to a Select Committee were received namely, (i) of fifteen members to report within eight days; (ii) of twenty members to report by the first day of the next session; and (iii) of twenty-one members to report by the last day of the first week of the next session. They were moved and put separately as each amendment was considered different on account of number of members and time-limit to report, as proposed.¹⁰¹

In the motion for reference of a Bill to a Select Committee, names of members of the Rajya Sabha only are included. In the case of a Government Bill, the name of the Minister in-charge is generally included in the motion.

However, the motions for reference of the Trade Marks Bill, 1995 and the Patents (Amendment) Bill, 1995 to Select Committee, did not contain names of Ministers.¹⁰²

Ministers who are members of the other House may also be included in the motion but Ministers so named as members of the Committee have no voting right in such a Committee.¹⁰³

If the names given in the original motion for reference of the Bill to a Select or Joint Committee require any change, an amendment is moved for the purpose unless the House agrees to such a change without a formal amendment.

Two names of members who were proposed in the motion for reference of the Hindu Marriage and Divorce Bill, 1952, were changed as they were to retire. The House adopted the motion in an amended form.¹⁰⁴

The original motion for reference of the Copyright Bill, 1956 to a Joint Committee proposed ten members from the Rajya Sabha and twenty from the Lok Sabha. The Minister while moving the motion proposed fifteen members from the Rajya Sabha and thirty from the Lok Sabha. The Chairman asked the Minister to seek the permission of the House which the Minister did. Thereafter, the Chairman asked the House whether the Minister had the leave of the House for the alteration proposed. No member dissented.¹⁰⁵

The motion for reference of the States Reorganisation Bill, 1956, was amended for substituting names proposed in the original motion before it was put to the vote of the House.¹⁰⁶

To the motion for consideration of the Railway Protection Force Bill, 1956, an amendment was moved for reference of the Bill to a Select Committee. Another amendment was moved to that amendment to add names of members. The amendments were, however, negatived.¹⁰⁷

After the motion for concurrence to refer the Lokpal Bill, 1985 to a Joint Committee, was adopted, a point was raised that there was no lady member on the Committee. The Minister concerned offered to make amend and substitute a lady member for another member on the Committee. However, the House after considering the procedural issue involved took the view that the Minister should move a formal amendment for the purpose. This was done when the House reassembled after the lunch-recess on the same day.¹⁰⁸

Motions for reference of the Payment and Settlement Systems (Amendment) Bill, 2014, the Repealing and Amending Bill, 2014 and the Real Estate (Regulation and Development) Bill, 2013 to Select Committees were amended for substituting names proposed in the original motions after the House had agreed to such changes before the motions were put to the vote of the House.¹⁰⁹

The number of members who may be appointed on a Committee is not fixed and varies from Committee to Committee. However, as per the practice the composition of the Committee as far as possible represents the parties/groups in the House.

When the motion for concurrence to refer the Constitution (Eightieth Amendment) Bill, 1993, to a Joint Committee was moved by the concerned Minister, members objected to the exclusion of representatives of certain parties therefrom. Further consideration of the motion was, therefore postponed. The next day, the concerned Minister moved a fresh motion in deference to the views expressed by the members.¹¹⁰

After the motion for reference of the Patents (Amendment) Bill, 1995, to a Select Committee was moved and adopted, objection was taken by some members that the representatives of some major parties/groups in the House were excluded from the proposed Committee. It was contended that the composition of the Committee should reflect the composition of the House. Later, after informal discussion, the Minister concerned brought forward a revised motion but that also was considered as not reflecting the strength of various parties/groups in the House. Subsequent to the adoption of the motion, some members resigned, thereby bringing the proportion of membership of the Committee amongst the ruling party and opposition parties near to that in the House.¹¹¹

The motion appointing the Committee mentions a specific date by which, or indicates the period within which its report is to be presented to the House. Where a specific date is not indicated, the usual instructions are for the Committee to report 'by the last day of the first week of the next session' or 'on the first day of the next session.'

The motion of concurrence to refer the Constitution (Third Amendment) Bill, 1954 to a Joint Committee was adopted by the Rajya Sabha on 16 September 1954 and the Committee reported on 20 September 1954, as fixed;¹¹² the time fixed for report by the Select Committee on the Major Port Trusts Bill, 1963, was three days;¹¹³ on the Chit Funds Bill, 1982, four days;¹¹⁴ on the Trade Marks Bill, 1995, fourteen days¹¹⁵; on the Mines and Minerals (Development and Regulation) Amendment Bill, 2015, eight days;¹¹⁶ and on the Coal Mines Special Provision Bill, 2015, eight days.¹¹⁷

It is a convention that members proposed to be appointed on the Committee are not ordinarily permitted to speak on the motion for reference of a Bill to a Select or Joint Committee.¹¹⁸

When the motion for concurrence to the recommendation of Lok Sabha to join the Joint Committee of the Houses on the Untouchability (Offences) Bill, 1954 was taken up, Dr. B.R. Ambedkar, whose name was one of the names proposed for serving on the Joint Committee,

said that it was impossible for him to remain silent during the discussion on that Bill, that he was aware of the convention that a member who was on a Select Committee should not speak or take part in the debate on the motion for reference to a Select Committee and that if that convention was to be rigidly followed in the House, he would like his name to be removed from the list of members to serve on the Committee.

The Deputy Chairman said:

Yes, it is a rigid one; we have been observing it... the convention we have observed in this House is that members on the Select Committee are not to speak on such a motion. On one or two occasions permission has been refused...and that is also the convention, I am told, in the other House.¹¹⁹

On a similar occasion, on 21 May 2012 when a motion for referring the Lokpal and Lokayuktas Bill, 2011 as passed by the Lok Sabha to a Select Committee of Rajya Sabha was moved by Shri Naresh Agarwal, names of fifteen members were proposed to become members of the Committee which included the name of Shri Arun Jaitley, Leader of Opposition in Rajya Sabha. Despite his name being proposed, Shri Jaitley expressed his willingness to intervene in the discussion on the motion and was allowed.¹²⁰

So far as the scope of discussion on the motion is concerned, according to the practice when a motion for concurrence comes up, a few general remarks are made and a full discussion of the Bill is not necessary at that stage.¹²¹ It has become the general practice that motions for reference of the Bills to Joint Committees are adopted without discussion.

Motions for reference to Joint Committees of the Indian Veterinary Council Bill, 1981, the Mental Health Bill, 1981, the Shipping Agents (Licensing) Bill, 1987, the Acquired Immuno Deficiency Syndrome (AIDS) Prevention Bill, 1989, the Representation of the People (Amendment) Bill, 1990, were adopted without discussion.¹²²

After the motion for reference of a Bill to a Select or Joint Committee is adopted by the House, the House is committed to the principles of the Bill.

When the House was discussing the motion for concurrence of the Preventive Detention (Second Amendment) Bill, 1952, for being referred to a Joint Committee, a point of order was raised that the acceptance of the motion should not debar the House later from questioning the principles of the Bill. The Chairman ruled, "When this motion is carried in this House, the House is undoubtedly committed to the principles. But any members who serve on the Select Committee may, if they so desire, make their own reservations, open or otherwise." He also

clarified that when the Bill came to the House from the other House, the House would be at liberty to discuss the principles, the implications, the details, the clauses, and so on.¹²³

When a motion for reference of a Bill to a Joint Committee is adopted by the Rajya Sabha, it is transmitted to the Lok Sabha for concurrence along with a message. The motion gives the names of members of the Rajya Sabha appointed to the Committee and also fixes the number of members from the Lok Sabha who may join the Committee. The Lok Sabha is requested to nominate its members on the Committee and communicate their names to the Rajya Sabha. The proportion of members on a Joint Committee from the Rajya Sabha to the Lok Sabha is 1:2.

The Lok Sabha adopted a motion for reference of the Preventive Detention (Second Amendment) Bill, 1952, to a Joint Committee consisting of forty-two members, thirty from the Lok Sabha and twelve from the Rajya Sabha. While concurring in the motion, a point was raised that the procedure to be followed in the constitution of a Joint Committee should be first settled and that it should not be left to the other House to dictate the number of members to be appointed by the House to the Joint Committee. The Chairman observed that pending a complete drawing up of the procedure by which Joint Select Committees were to be established, he had pressed on the Government that as far as possible such Joint Committees should be set up forthwith without prejudice to the question of framing of the rules of procedure in that regard, and that the procedure adopted on the present occasion did not bind the House.¹²⁴

The Rules Committee which considered the matter was of the opinion that on every Joint Committee the number of members to be nominated by the Lok Sabha and the Rajya Sabha should be in the proportion of 2:1. The Committee had also formulated a set of rules for Joint Committee on Bills for inclusion in the Rules of Procedure of both Houses for the purpose. However, the Rules Committee of the Lok Sabha was of the opinion that the practice in this regard was working satisfactorily and there was no need to make any elaborate provisions in the rules on the subject.¹²⁵ This proportion has, therefore, been settled by mutual consultations.

If any motion of concurrence adopted by the other House contains any mistake of factual nature, or the other House makes any recommendation modifying the terms of the motion already adopted by the initiating House, the mistake is rectified or the modification is made by adoption of another motion and reported to the first House by a message.

The Lok Sabha while adopting the motion for concurrence in the Joint Committee on the Hindu Minority and Guardianship Bill, 1953, recommended that the Joint Committee be instructed to report on or

before 31 March 1955, instead of “on or before the last day of the first week of the next session” as contained in the original motion. The message of the Lok Sabha was reported to the Rajya Sabha on 10 December 1954 and the Rajya Sabha concurred in that recommendation by adoption of a motion.¹²⁶

The Rajya Sabha adopted a motion for reference of the Limitation Bill, 1962, to a Joint Committee consisting of ten members of the Rajya Sabha and twenty members of the Lok Sabha. The Lok Sabha in its message of concurrence appointed thirty members. The error was rectified by a motion in the Lok Sabha. A message was received and reported to the Rajya Sabha, omitting the names of ten excess members.¹²⁷

The Lok Sabha had communicated names of thirty members of that House to the Rajya Sabha to serve on the Joint Committee on the Shipping Agents (Licensing) Bill, 1987 and the same was conveyed to the Rajya Sabha. The Lok Sabha adopted another motion to amend the earlier motion for substitution of a member for the one whose name was already communicated and sent a message to that effect to the Rajya Sabha.¹²⁸

Reference to a Joint Committee by Presiding Officers

At the end of discussion on the motion for consideration of the Constitution (Eighty-first Amendment) Bill, 1996 (insertion of new articles 330A and 332A), introduced in the Lok Sabha, the Lok Sabha authorised the Speaker to refer the Bill to a Joint Committee in consultation with the Chairman, with instruction that the Joint Committee should present its report by the last day of the first week of the Winter Session, 1996. Accordingly, the Bill was referred to a Joint Committee consisting of 31 Members—21 from the Lok Sabha and 10 from the Rajya Sabha.¹²⁹

Reference to Department-related Parliamentary Standing Committee

With the introduction of the Department-related Parliamentary Standing Committees in April 1993, Bills pertaining to the related Ministries/ Departments are examined by them and reports are presented to the Houses of Parliament. The Bills introduced in either of the Houses then are referred to Committees by the Chairman or the Speaker, as the case may be.¹³⁰ The procedure followed in such a reference is that after a Bill is introduced in the House, if the subject-matter thereof relates to a Committee which functions under the control of the Chairman, then he refers the Bills to that Committee.¹³¹ If the Bill relates to a Committee which is under the control of the Speaker, then the Bill is referred to the Committee by the Speaker in consultation with the Chairman. Similar procedure is followed in the Lok Sabha.¹³² There have been instances of the Bills being referred

to the Department-related Committees even before introduction or in the midst of their consideration in the House.

The Cable Television Networks (Regulation) Bill, 1993, as introduced in the Rajya Sabha was due to be taken up for consideration on 10 August 1993, in view of the urgency, as stated by the concerned Minister. A demand was made that it should be referred to the concerned Committee. The Bill was, therefore, not taken up for consideration. Subsequently, the Speaker in consultation with the Chairman referred the Bill to the Standing Committee related to the Ministries of Information and Broadcasting and Communications.¹³³

The Chairman in consultation with the Speaker referred the Public Sector Iron and Steel Companies (Restructuring) and Miscellaneous Provisions (Amendment) Bill, 1993 (which was proposed to be introduced in the Lok Sabha) to the Standing Committee related to the Ministries of Industry, Steel and Mines.¹³⁴

The motion for leave to introduce the Trade Unions (Amendment) Bill, 1994, was opposed at the introduction stage in the Rajya Sabha and, therefore, the motion was not moved. Subsequently, it was referred by the Speaker, to the Standing Committee on Labour and Welfare.¹³⁵

The motions for consideration of (i) the Salaries, Allowances, Leave and Pensions of the Officers and Servants of the Delhi High Court Bill, 1994 and (ii) the Salaries, Allowances, Leave and Pensions of the Officers and Servants of the Supreme Court Bill, 1994, were discussed on 22 and 23 August 1994. On the latter day, the Minister of State in the Ministry of Law, Justice and Company Affairs, agreeing with the suggestions made by some members, informed that the Chairman would be requested to refer the Bills to the Standing Committee on Home Affairs. The Chairman accordingly referred the Bills to the Committee.¹³⁶

Whenever the Bills are referred to the Standing Committees, members are informed accordingly through a Parliamentary Bulletin Part-II. While referring a Bill to a Standing Committee, the Chairman or the Speaker may specify the time within which the Committee should report.¹³⁷

The Public Sector Iron and Steel Companies (Restructuring) and Miscellaneous Provisions (Amendment) Bill, 1993, which was referred to the concerned Standing Committee, as mentioned above, was to report within a month. However, the Committee was given extension upto 18 March 1994.¹³⁸ The Criminal Law Amendment Bill, 1995 was referred to the Standing Committee on Home Affairs on 18 May 1995 with instructions to submit its report within two days.¹³⁹ The Employees' Provident Funds and Miscellaneous Provisions (Amendment) Bill, 1997 was referred to the Standing Committee on Labour and Welfare on 22 October 1997 with instructions to submit its report by 31 October 1997.¹⁴⁰ The Lotteries (Regulation) Bill, 1998 and the High Court and Supreme Court Judges (Conditions of Service) Amendment Bill, 1998

were referred to the Standing Committee on Home Affairs on 10 June 1998 with instructions to submit its reports by 3 July 1998.¹⁴¹ Similarly, the Parliamentary Standing Committee on Finance was to examine the Narcotic Drugs and Psychotropic Substances (Amendment) Bill, 1998¹⁴² (referred to the Committee on 30 July 1998) by the first day of the next session. The Lokpal Bill, 1998 referred to the Standing Committee on Home Affairs on 7 December 1998 was to be examined and reported by 11 December 1998.¹⁴³ The Central Vigilance Commission Bill, 1998 was referred to the Parliamentary Standing Committee on Home Affairs on 10 December 1998 with instructions to report by 16 December 1998.¹⁴⁴ While referring the Semiconductor Integrated Circuits Layout-Design Bill, 1999 to the Parliamentary Standing Committee on Science and Technology, Environment and Forests on 21 January 2000, it was felt necessary to specify the time for examination and report by the Committee by 15 February 2000.¹⁴⁵ Similarly, the Citizenship (Amendment) Bill, 2003 was referred to the Standing Committee on Home Affairs on 30 May 2003 with instructions to submit its report by 1st week of next session (199th Session).¹⁴⁶

Likewise the Telecom Regulatory Authority of India (Amendment) Bill, 2008 was referred¹⁴⁷ to the Standing Committee on Information Technology on 19 December 2008 for examination and report by 31 January 2009; the Civil Liability for Nuclear Damage Bill, 2010 was referred¹⁴⁸ to the Standing Committee on Science and Technology, Environment and Forests for examination and report within two months; the Prohibition of Unfair Practices in Technical Educational Institutions, Medical Educational Institutions and Universities Bill, 2010 and the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 were referred¹⁴⁹ to the Standing Committee on Human Resource Development for examination and report within two months; the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies Bill, 2013 was referred¹⁵⁰ to the Standing Committee on Personnel, Public Grievances, Law and Justice for examination and report within four weeks.

A Bill which has already been referred to a Department-related Standing Committee and passed by one House may be referred to a Select Committee by another House.

The Trade Marks Bill, 1995, was referred to the concerned Department-related Standing Committee on 6 August 1993. The Bill was passed by the Lok Sabha on 29 May 1995. The Rajya Sabha referred the Bill to a Select Committee on 7 August 1995. Similarly, the Coast Guard (Amendment) Bill, 1996 introduced in Rajya Sabha was referred to Department-related Parliamentary Standing Committee on Defence, which presented its report on 22 April 1997. Later on, again the Bill was referred to a Select Committee of the Rajya Sabha on 6 August 1997 and the report was presented on 24 November 1997. Finally, the Bill was withdrawn on 28 November 2001.¹⁵¹

A Bill which has been referred to a Department-related Standing Committee and pending in the originating House may be referred to a Select Committee of the same House.

The Real Estate (Regulation) and Development Bill, 2013 was introduced in the Rajya Sabha on 14 August 2013. The Bill was referred to the Department-related Standing committee on Urban Development on 9 September 2013. The Report of the Committee was laid on the Table of the House on 13 February 2014. The Bill was again referred to a Select Committee of the Rajya Sabha on 6 May 2015. The Report of the Select Committee was presented to the House on 30 July 2015.

Like Joint Committees on Bills, Department-related Parliamentary Standing Committees also become defunct consequent on the dissolution of the Lok Sabha. Bills introduced and pending in the Rajya Sabha which had been referred to erstwhile Committees may be referred afresh to them after their reconstitution, so far as the Committees under the control of the Speaker are concerned. In the case of the Committees under the control of the Chairman, they may, after reconstitution, *suo motu* take up the Bills earlier referred to them.¹⁵²

Procedure after presentation of report of Select/Joint Committee

After the presentation of the report of a Select or Joint Committee to the House, the member in-charge may make any one of the following motions, namely, that the Bill, as reported by the Committee be taken into consideration; or that the Bill, as reported, be recommitted either without limitation, or with respect to particular clauses or amendments only or with instructions to the Committee to make some particular or an additional provision in the Bill; or that the Bills, as reported, be circulated or re-circulated, as the case may be, for the purpose of obtaining opinion or further opinion thereon. In case the member in-charge moves that the Bill as reported by the Select or Joint Committee be taken into consideration any member may object to the motion being made if the copies of the report have not been made available to the members for two days, unless the Chairman allows the motion to be made.¹⁵³ The debate on the motion is confined to the consideration of the report of the Committee and the matters referred to therein. But members can advance alternative suggestions consistent with the principles of the Bill.¹⁵⁴

If a member in-charge moves that the Bill as reported be taken into consideration, any member can move an amendment that the Bill be recommitted or be circulated or re-circulated for eliciting opinion or further opinion, as the case may be.¹⁵⁵

On a motion moved by the Minister of Finance to take into consideration the Banking Laws (Amendment) Bill, 1968, as reported by the Select Committee, a member moved an amendment for recommittal of the Bill to the Select Committee and wanted that his amendment should be discussed and voted first before discussing the Minister's motion. The Deputy Chairman did not agree pointing out that the general practice was to discuss the motion and amendments thereto together.¹⁵⁶

On 19 March 2015 when Shri Narendra Singh Tomar, Union Minister of Steel and Mines, moved a motion to take into consideration the Mines and Minerals (Development and Regulation) Amendment Bill, 2015, as reported by the Select Committee of Rajya Sabha, Shri P. Rajeeve moved an amendment for recommittal of the Bill to the same select Committee for further consideration.¹⁵⁷

Similarly, on 20 March 2015 when the Minister of State of the Ministry of Coal, Shri Piyush Goyal moved a motion to take the Coal Mines (Special Provisions) Bill, 2015 as reported by the Select Committee of Rajya Sabha into consideration, Shri P. Rajeeve moved an amendment for recommittal of the Bill to the same select Committee for further consideration. While proposing the amendment, he stated that the recommittal of the Bill to the Select Committee was necessary in order to uphold the democratic principles of the functioning of the Select Committee and to send a message to all future Select Committees that if they do not function in a proper manner, the House is supreme and has the power as per the existing rules, to recommit the same Bill to the same Committee for further examination.¹⁵⁸

Procedure after presentation of report of Standing Committee

After the report of a Standing Committee on a Bill is presented, the Bill is taken up for consideration and thereafter for clause-by-clause consideration. In other words, there is no motion that the Bill as reported by the Committee be taken into consideration unlike in the case of a Bill reported by a Select or a Joint Committee. The reason appears to be that the report of the Standing Committee 'is based on broad consensus' and has 'persuasive value' to be 'treated as considered advice given by the Committee'.¹⁵⁹ It is for the Minister in-charge of the Bill or any member to move necessary amendments in the House in the light of the recommendations or suggestions made by the Committee.

The Standing Committee concerned to which Dr. B.R. Ambedkar University Bill, 1994 was referred, suggested a number of amendments in the Bill and amendments were moved during the clause-by-clause consideration of the Bill, in the House by the Minister in-charge of the Bill.¹⁶⁰

Clause-by-clause consideration

After a motion that the Bill be taken into consideration has been carried, the Bill is taken up for clause-by-clause consideration. The Chairman may call each clause separately and when the amendments relating to it have been dealt with, he puts the question: "That this clause (or, as the case may be, that this clause as amended) stand part of the Bill".¹⁶¹ The Chairman may, if he thinks fit, postpone the consideration of a clause.¹⁶²

At the clause-by-clause consideration of the Ancient and Historical Monuments and Archaeological Sites and Remains (Declaration of National Importance) Amendment Bill, 1953, a point of order was raised that in view of certain obvious mistakes in the Bill it was not desirable to proceed with the Bill unless those mistakes were rectified. The Chairman ruled that if the House knew that there were mistakes, it was not right to pass the Bill knowing that there were mistakes. He, therefore, postponed the consideration of the Bill till 12 noon that day. At 12 noon the Bill was taken up and the Minister moved the amendments to rectify the errors.¹⁶³

A clause in the State of Nagaland (Amendment) Bill, 1981, provided that "the allowances and privileges of the Governor of Nagaland would, until provision in that behalf was made by Parliament under clause (3) of article 158 of the Constitution, be such as the President might by order determine." A corrigendum was issued for deletion of the words "of the Constitution." A member contended that this should have been done by a formal amendment and not through a corrigendum. The Deputy Chairman agreed but stated that in future it should be done and this should not be quoted as a precedent.¹⁶⁴

Schedule or Schedules, if any, is or are generally taken up after the clauses are disposed of. Schedules may be amended in the same manner as clauses. Consideration of new Schedules follows consideration of the original Schedules.¹⁶⁵ Clauses and Schedules may also be put together as one question. Clause one, the Enacting Formula, the Preamble, if any, and the Title of the Bill are taken up for consideration after all other clauses and Schedules (including new clauses and new Schedules) have been disposed of.

Amendments to clauses

Notice of an amendment, like any other notice¹⁶⁶ is required to be given in writing addressed to the Secretary-General, duly signed by the member, and delivered in the Notice Office between the hours notified in the Bulletin from time to time.¹⁶⁷ The notice is required to be given at least one day before the day on which the Bill is to be considered in the House. Any member may object to the moving of an amendment if the requisite notice has not been given and such objection prevails unless the Chairman allows the amendment to be moved.¹⁶⁸ The Chair has the discretion

to allow the amendments to be moved at shorter notice in exceptional cases.¹⁶⁹ An amendment should be in the proper form and if necessary, it is suitably edited by the Secretariat in consultation with the member concerned before it is circulated.

The conditions governing admissibility of amendments are:

- (i) *An amendment should be within the scope of the Bill and relevant to the subject-matter of the clause to which it relates.*¹⁷⁰

The State of Nagaland (Amendment) Bill, 1981 did not include any amendment to section 32 of the principal Act. The Minister concerned gave an amendment to sub-section (2) of that section relating to laying of rules. He gave notice of a motion for suspension of rule 96(i) also in relation to that amendment. The amendment was circulated in a separate list with a footnote drawing attention to the motion for suspension of rule 96(i) which was also circulated separately. The motion for suspension of the rule was moved and thereafter the amendment was adopted.¹⁷¹

- (ii) *An amendment which has merely the effect of a negative vote is inadmissible.*¹⁷²

Although an amendment which seeks to omit a clause of a Bill is circulated and even put to the vote of the House, the appropriate course underlying the principle of this condition is to vote against the clause. The condition, however, does not apply where the amendment merely seeks to omit certain words or sub-clauses, if any, provided that such an amendment does not have the effect of omission on the whole of the clause.

When a member wanted to move an amendment to delete a clause of the Constitution (Amendment) Bill, 1971, the Chairman ruled it out of order on the ground that it was a negative amendment and the member could vote against the clause.¹⁷³

- (iii) *An amendment should not be inconsistent with previous decision of the House on the same question.*¹⁷⁴

- (iv) *An amendment should not be frivolous or be such as to make the clause which it proposes to amend unintelligible or ungrammatical.*¹⁷⁵

If an amendment refers to, or is not intelligible, without a subsequent amendment or schedule, notice of the subsequent amendment or schedule has to be given before the first amendment is moved, so as to make the series of amendments intelligible as a whole.¹⁷⁶

Amendments to amending Bill

The scope of amendments to a Bill seeking to amend an Act is limited. Normally, amendments to sections of the principal Act which are not touched by the amending Bill are inadmissible unless they are consequential upon the amendments sought to be made through the amending Bill or fall within the scope of the Bill.

When the Constitution (Seventh Amendment) Bill, 1956, was under consideration, a member sought to move certain amendments to amend articles 29, 30 and 35 of the Constitution, which were not touched by the Bill. The Deputy Chairman ruled out the amendments. When the member raised the point during the clause-by-clause consideration of the Bill and stated that a similar amendment was permitted to be discussed in the other House, the Deputy Chairman stated that the convention in this House was not to allow amendments to a section which is not being sought to be amended by the Government.¹⁷⁷

Amendments to repealing and amending Bill

The object of a repealing and amending Bill is “to excise dead letter, prune off superfluities and reject inconsistent enactments.” It has been held that a repealing and amending Bill should include only purely formal amendments on which there could be no controversy and which raise no question of principle.

At the clause-by-clause consideration of the Repealing and Amending Bill, 1953, two entries relating to the Delhi Road Transport Authority Act, 1950 and the Forward Contracts (Regulation) Act, 1952, were held as substantive amendments and they were omitted by moving amendments, after some members contended and the Deputy Chairman conceded that the entries were not of formal nature.¹⁷⁸

Amendments to expiring laws continuance Bill

When it is desired to continue an Act which is limited in duration, a separate Bill extending the life of such an Act to a specified date is brought before Parliament. The scope of amendments to such Bills is very limited. Amendment which seek to amend the sections of the parent Act not covered by the Bill are outside the scope of the Bill.

While the Preventive Detention (Amendment) Bill, 1954, was being discussed, a member sought to move certain amendments to the principal Act. The Deputy Chairman ruling them out of order observed that the Bill came within the category of Expiring Laws Continuance Bill and following the well-established practice in the House of Commons, it would not be competent to seek amendments in the principal Act proposed to be continued.¹⁷⁹

Again, when a member sought to move an amendment to the Preventive Detention (Continuance) Bill, 1957, relating to the area to which the Act should apply, the Deputy Chairman reiterated the earlier ruling on the subject and further cited from *May's Parliamentary Practice*, the 15th Edition (pp. 532-33) that the amendments which could be moved to an Expiring Laws Continuance Bill were subject to the following limitations:

- (a) an amendment is outside the scope of the Bill if it seeks to amend the provisions of the Act proposed to be continued or to make permanent such Act or to include in the Bill a statute which has already ceased to have effect; and
- (b) an amendment may be moved to the operative clause of the Bill to alter the date to which the Act is to be continued.¹⁸⁰

Amendments requiring President's recommendation

A member, desiring to move an amendment which under the Constitution cannot be moved in the House without the previous sanction or recommendation of the President, has to annex to his notice the recommendation conveyed through a Minister and the notice is not treated as valid until this requirement is complied with.¹⁸¹

As per the practice, members generally apply to the Secretariat for obtaining the recommendation of the President on their behalf. A copy of the member's letter along with a copy of the amendment requiring recommendation is forwarded to the Ministry concerned for necessary action. The order of the President granting or withholding the recommendation is communicated to the Secretary-General by the Minister concerned in writing.¹⁸² If time permits it is published in the Parliamentary Bulletin Part-II.¹⁸³

On 27 August 2010, amendments given by Private Members to clause 6 of the Civil Liability for Nuclear Damage Bill, 2010 were moved only after obtaining the President's recommendation under article 117(1) of the Constitution.¹⁸⁴

On 2 September 2013, amendment given by a Private Member to clause 97 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill, 2013 as passed by Lok Sabha, required President's recommendation as the amendment sought to exempt the stamp duty and income tax from the compensation awarded to land owner. The said recommendation was communicated by the Minister of Rural Development for moving of amendment.

On 19 February 2014, notices of amendments to the consideration and passing of the Andhra Pradesh Reorganisation Bill, 2014 were received from two Members. As the proposed amendments to clauses 46 and 67 of the Bill attracted article 117(1) of the Constitution, the President's recommendation for consideration of the Bill was communicated by the Minister of Home Affairs to the Secretariat on the 20 February 2014.

Generally, in the Rajya Sabha notices of amendments are received seeking to vary the incometax or excise duty *i.e.* either to revise or lower the rates prescribed in the Finance Bill before the House. Such notices are forwarded to the Ministry of Finance for obtaining the recommendations of the President and cannot be moved without the recommendation,¹⁸⁵ since amendments which seek to impose or vary a tax or duty in which States are interested cannot be moved without the recommendation of the President.¹⁸⁶

Two amendments to clause 2 of the Indian Tariff (Fourth Amendment) Bill, 1952, were ruled out in the Rajya Sabha as they required sanction of the President under the rules and the sanction was not given.¹⁸⁷

Recommendation of the President is, however, not necessary, for moving an amendment which seeks to abolish or reduce the tax proposed in the Bill.¹⁸⁸

List of amendments

Amendments of which notices have been given are as far as practicable arranged in the list of amendments, issued from time to time, in the order in which they may be called in the House. In arranging amendments which seek to raise the same question at the same point of a clause, precedence is given to the amendment of which notice has been received from the member in-charge of the Bill. Subject to this, amendments are arranged in the order in which notices thereof have been received.¹⁸⁹ Generally, the amendments are arranged in the list clause-wise in this order—amendments to substitute a new clause for an existing clause; amendments to omit a sub-clause or a sub-paragraph; amendments to substitute a sub-clause or a sub-paragraph for an existing sub-clause or a sub-paragraph; amendments to omit certain words; amendments to substitute, add or insert certain words; and amendments to add or insert a new clause. In the case of identical amendments received from more than one member, names of members are clubbed. Amendments relating to clauses and Schedules of a Bill are listed separately from those to the motion for consideration of the Bill *i.e.* amendments to refer a Bill to a Select or a Joint Committee or amendments to circulate a Bill for the purpose of eliciting opinion thereon. Several lists of amendments may be issued in respect of a Bill; a consolidated

list of all amendments may also be issued, if time permits. The lists of amendments are circulated to all the members of the Rajya Sabha, Ministers and others.¹⁹⁰

All notices of amendments lapse on the prorogation of the House, and fresh notices must be given for the next session.¹⁹¹ However, in the case of a Government Bill, an amendment of which notice has been received from the Minister in-charge, does not lapse by reason of the fact that he has ceased to be a Minister or a member and such amendment is printed in the name of the new Minister in-charge of the Bill.¹⁹²

The Chairman is empowered to select the new clauses or amendments to be proposed, and may, if he thinks fit, call upon any member who has given notice of an amendment to give such explanation of the object of the amendment as may enable him to form a judgement upon it.¹⁹³

Moving consideration and withdrawal of amendments

When a motion that the Bill be taken into consideration has been carried, any member may, when called upon by the Chairman, move the amendment for which notice was given by him previously. In order to save time and repetition of arguments, a single discussion is generally allowed to cover a series of interdependent amendments.¹⁹⁴ An amendment to a clause of a Bill has to be moved immediately after the clause is placed before the House. The member should be present in the House to move his amendment when the clause to which it relates is taken up. There is no provision in the rules for moving an amendment by a member on behalf of another. If a member, when called to move his amendment, is not present in the House he loses the opportunity to move it.

When amendments to a particular clause have been moved, members may speak on the clause and the amendments thereto. If time permits, members tabling amendments do get an opportunity to speak in favour of their amendments. Amendments are ordinarily considered in the order of the clauses of the Bill to which they relate.¹⁹⁵ After the discussion on a clause is over, the Chair puts the amendments which have been moved to the vote of the House.

An amendment which has been moved can be withdrawn only by the leave of the House, on a specific request to that effect by the mover. If leave to withdraw the amendment is opposed, it has to be put to vote of the House for disposal.¹⁹⁶ If an amendment has been proposed to an amendment, the original amendment cannot be withdrawn until the amendment proposed to it has been disposed of.¹⁹⁷

Passing of a Bill (Third Reading)

When all the clauses and Schedules, if any, of the Bill have been considered and voted upon by the House, the member in-charge of the Bill may move that the Bill be passed.¹⁹⁸

On an occasion, when the Minister of Home Affairs did not move the motion that the Government of Union Territories (Amendment) Bill, 1977, as amended, be passed, some procedural points were raised. The Vice-Chairman closed the matter with reference to rule 71 read with rule 126 observing, "There is nothing in our rules which empowers the Chair to compel the member in-charge to move the passing motion. As the member in-charge is not moving the motion, nothing further can be done." Another Bill, the Delhi Administration (Amendment) Bill, 1977, taken thereafter was also amended and the Minister did not move the next motion in respect of that Bill as well.¹⁹⁹ Both the Bills lapsed on the dissolution of the Lok Sabha.

An objection may be taken to the moving of the motion that the Bill as amended, be passed on the same day on which the consideration of the Bill is concluded.²⁰⁰ However, the practice normally is that the motion is moved on the same day.

No amendments except formal, verbal or consequential upon an amendment made by the House can be moved to the motion that the Bill be passed.²⁰¹

The discussion on the motion "that the Bill (or the Bill as amended) be passed" is confined to the submission of arguments either in support of or for the rejection of the Bill and in making his speech a member should not refer to the details of the Bill further than is necessary for the purpose of his arguments which shall be of a general character.²⁰²

During the third reading of the Essential Commodities (Amendment) Bill, 1957, a member made some suggestions for implementing the provisions of the Bill. Another member raising a point of order, submitted that according to rule 96 (old rule) of the Rules of Procedure, at the third reading a member should confine himself to the submission of arguments either in support of the Bill or for rejection of the Bill.

The Deputy Chairman said:

They were neither. He made suggestions for implementation... The rule says that in support of the Bill or in opposition to the Bill you can make some remarks, but the remarks that you made were neither. You made some suggestions regarding its implementation.²⁰³

Correction of patent errors

After a Bill is passed by the House, the Chairman is empowered to correct patent errors and make such other changes in the Bill as are consequential on the amendments adopted by the House.²⁰⁴

On an occasion, the Chairman informed that he had corrected the Enacting Formula of two Bills, namely, the Muslim Wakf Bill and the Children Bill, for the sake of uniformity. When a member asked whether this could be done except by an amendment, the Chairman observed that he had the necessary powers to correct patent errors.²⁰⁵

Before the commencement of the general discussion on the Budget, the Minister of Finance made a statement on the floor of the House drawing attention to the printing errors in the Finance Bill, 1956, introduced by him in the Lok Sabha.²⁰⁶

Bills passed by the Rajya Sabha are referred to the Legislative Counsel, Ministry of Law, for scrutiny with a view to assisting the Chairman in correcting patent errors, etc. As a rule, patent errors pointed out by the Legislative Counsel and accepted by the Chairman are carried out in the Bills before they are transmitted to the Lok Sabha. Bills passed by both the Houses of Parliament and last in possession of the Rajya Sabha are invariably got scrutinised before they are presented to the President for assent. Such scrutiny is done before the assent copy of the Bill is finally printed as well as thereafter before it is signed by the Chairman.

The Whistle Blowers Protection Bill, 2011, as passed by the Lok Sabha, was laid on the Table of the Rajya Sabha on 28 December 2011. The Bill was considered and passed by the Rajya Sabha on 21 February, 2014 without any amendments. As a result, Republic Year “Sixty-second” occurring in the Enacting Formula and Calendar Year (2011) in clause 1 of the Bill continued to remain as such instead of the the “Sixty-fifth Year” and “2014” if the formal amendments had been moved by the Minister during consideration and passing of the Bill.

The Minister of State in the Ministry of Personnel, Public Grievances and Pensions, *vide* his letter dated 29 April 2014 requested the Chairman to treat the changes as patent error within the meaning of rule 108 in clause 1 and Enacting Formula of the Whistle Blowers Protection Bill, 2011. The request of the Minister of State was not acceded to by the Chairman and the Bill was submitted to the President under article 111 without changing the Republic Year and the Calendar Year. The Whistle Blowers Protection Bill, 2011 received assent of the President on 9 May 2014 and it became Act No. 17 of 2014.²⁰⁷

Adjournment of debate on a Bill

At any stage of a Bill which is under discussion in the House, a motion that the debate on the Bill be adjourned can be moved with the consent of the Chairman.²⁰⁸

Further consideration of the Parliament (Prevention of Disqualification) Amendment Bill, 1974, as passed by the Lok Sabha, was adjourned on a motion moved by a member and adopted by the House.²⁰⁹

The Chairman may permit more than one member to oppose or speak on the motion for adjournment of debate on a Bill before putting the motion before the House. When a motion for adjournment of debate on a Bill is negatived or withdrawn, discussion on the Bill continues.

A member moved a motion that the debate on the resolution seeking disapproval of the Essential Services Maintenance Ordinance, 1968 and the related Bill be adjourned. The motion was negatived by a division.²¹⁰

When the Major Port Trusts Bill, 1963, as passed by the Lok Sabha was being discussed, the matter whether the Bill should have been referred to a Joint Committee instead of a Select Committee of the Lok Sabha was raised. As important questions arose, a member moved that further discussion of the Bill be adjourned. After members expressed their views, the member withdrew the motion by leave of the House and debate on the Bill proceeded.²¹¹

If, however, the Chairman is of the opinion that a motion for the adjournment of a debate is an abuse of the rules of the House, he may either forthwith put the question thereon from the Chair or decline to propose the question.²¹²

Withdrawal of a Bill

A member in-charge of a Bill may at any stage of the Bill move for leave to withdraw the Bill and if such leave is granted, no further motion is made with reference to the Bill.²¹³ Some of the grounds on which the Bills have been permitted to be withdrawn are: the legislative proposal contained in the Bill is to be dropped, or the Government does not wish to proceed with the Bill; or the Government intends to bring up a comprehensive Bill on the subject. Some of the Bills introduced in the Rajya Sabha but were subsequently withdrawn are mentioned below with the dates of their withdrawal in brackets.

The Shipping Agents (Licensing) Bill, 1987 (11 March 1991); the Trade Unions and Industrial Disputes (Amendment) Bill, 1988 (30 May 1990); the Press and Registration of Books (Amendment) Bill, 1988 (26 March 1992); the Building and other Construction Workers (Regulation of Employment and Conditions of Service) Bill, 1988 (28 November 1995); the Prevention of Apartheid in Sports Bill, 1988 (26 August 1995); the

Acquired Immuno Deficiency Syndrome (AIDS) Prevention Bill, 1989 (12 August 1992); the Constitution (Seventieth Amendment) Bill, 1990 (13 June 1994); the Representation of the People (Amendment) Bill, 1990 (13 June 1994); the Board for Welfare and Protection of Rights of Handicapped Bill, 1991 (22 August 1995); the National Trust for Welfare of Persons with Mental Retardation and Cerebral Palsy Bill, 1991 (2 June 1995); the University Grants Commission (Amendment) Bill, 1991 (1 June 1995); the Advocates (Second Amendment) Bill, 1992 (30 March 1995); the Companies Bill, 1993 (10 September 1996); the Hire-Purchase (Amendment) Bill, 1989 (12 September 1996); the Pondicherry (Administration) Amendment Bill, 2000 (1 August 2000); the Criminal Law Amendment Bill, 1995 (7 December 2001); the Delhi University (Amendment) Bill, 2000 (13 March 2002); the Indian Post Office (Amendment) Bill, 1986 (21 March 2002); the Companies Bill, 1997 (7 May 2003); the Delegated Legislations (Amendment) Bill, 2003 (7 December 2004); the Private Security Guards and Agencies (Regulation) Bill, 1994 (24 March 2005); the Arbitration and Conciliation (Amendment) Bill, 2003 (12 August 2003); the Private Universities (Establishment and Regulation) Bill, 1995 (14 August 2007); the University Grants Commission (Amendment) Bill, 1995 (24 April 2008); the Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation in Posts and Services) Bill, 2004 (22 December 2008); the Constitution (Sixty-first Amendment) Bill, 1998 (3 December 2009); the Lotteries (Prohibition) Bill, 1999 (7 May 2010); the Administrative Tribunals (Amendment) Bill, 2006 (3 December 2010); the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Amendment and Miscellaneous Provisions Bill, 2005 (23 March 2011); the Indian Medical Council (Amendment) Bill, 2005 (21 March 2013); the readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies Bill, 2013 (7 August 2013); the Indian Medical Council Bill, 2013 (19 August 2013); the Drugs and Cosmetics (Amendment) Bill, 2007 (29 August 2013); the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies (Second) Bill, 2013 (10 December 2013); the Representation of the People (Second Amendment and Validation) Bill (18 December 2013) and the Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill, 2005 (5 February 2014).

Where a Bill is under consideration of a Select or a Joint Committee, notice of a motion for the withdrawal of the Bill automatically stands referred to the Committee and after the Committee has expressed its opinion in a report to the House, the motion is set down in the list of business.²¹⁴

Where a Bill has originated in and passed by the Lok Sabha and is pending before the Rajya Sabha, the member in-charge has to move a motion in the Rajya Sabha recommending to the Lok Sabha that the Lok Sabha do agree to leave being granted by the Rajya Sabha to withdraw the

Bill and after the motion is adopted by the Rajya Sabha and concurred in by the Lok Sabha, the member in-charge moves for leave to withdraw the Bill.²¹⁵ A message to that effect is then sent to the Lok Sabha.

On 11 May 2015 Shri Piyush Goyal, Minister of State (Independent Charge) of the Ministry of Power, Ministry of Coal, and Ministry of New and Renewable Energy moved a motion for withdrawal of the Coal Mines (Special Provisions) Bill, 2014, passed by the Lok Sabha on 12 December, 2014 and pending in the Rajya Sabha.²¹⁶

A similar procedure is adopted in the Lok Sabha for the withdrawal of a Bill originated in and passed by the Rajya Sabha and pending in the Lok Sabha.²¹⁷ The following are some of the instances of the Rajya Sabha adopting motions of concurrence in the recommendation of the Lok Sabha for withdrawal of Bills earlier passed by the Rajya Sabha and pending before the Lok Sabha.

The Manipur State Hill People's (Administration) Regulation (Amendment) Bill, 1954; the Advocates (Amendment) Bill, 1965; the Advocates (Second Amendment) Bill, 1968; the Arms (Amendment) Bill, 1981; the Indian Medical Council (Amendment) Bill, 1992; the Multimodal Transportation of Goods Bill, 1992; the Dentists (Amendment) Bill, 1992; the Constitution (Seventy-first Amendment) Bill, 1990²¹⁸ and the Securities and Exchange Board of India (Amendment) Bill, 2013.

As per the established practice when a Bill is sought to be withdrawn by Government, a statement giving reasons for the withdrawal of the Bill is circulated to members by the Minister concerned in advance of the date on which the motion for withdrawal is sought to be made.²¹⁹

If a motion for leave to withdraw a Bill is opposed, the Chairman may, if he thinks fit, permit the member who moves and the member who opposes the motion to make brief explanatory statements and thereafter puts the question without further debate.²²⁰

In the midst of discussion of the motion for consideration of the Lady Hardinge Medical College and Hospital Bill, 1959, the Minister of Health announced that the Government did not propose to proceed with the Bill. Members objected, on a point of order, that the Minister should have asked for leave to withdraw the Bill only after the conclusion of the discussion. Referring to rule 117(old), the Deputy Chairman permitted the Minister and the member who opposed withdrawal to make statements. Thereafter, the motion to withdraw the Bill was formally proposed by the Chair and adopted by a division.²²¹

The Indian Telegraph (Amendment) Bill, 1995, as passed by the Lok Sabha on 16 August 1995 was laid on the Table of the Rajya Sabha on 17 August 1995. The Government proposed to bring a comprehensive Bill, namely, the Telecom Regulatory Authority Bill, 1995 and, therefore,

proposed to withdraw the Bill passed by the Lok Sabha. Some members, however, opposed the withdrawal and the motion, therefore, could not be moved.²²²

Removal of a Bill from Register of Bills

The Secretariat maintains a Register of Bills in which Bills introduced in the House are entered. Where any of the motions in regard to various stages of a Bill originating in the Rajya Sabha is rejected by the Rajya Sabha no further motion is made with reference to that Bill and the Bill is removed from the Register of Bills pending in the Rajya Sabha. Such motions are: that leave be granted to introduce the Bill; that the Bill be referred to a Select or a Joint Committee; that the Bill be taken into consideration; that the Bill as reported by the Select or the Joint Committee be taken into consideration; and that the Bill (or, as the case may be that the Bill as amended) be passed.²²³ A Bill pending before the Council is also removed from the Register of pending Bills in case the Bill is withdrawn²²⁴ or after introduction it is held a Financial Bill falling under article 117(1).²²⁵

Bills other than Money Bills returned by Lok Sabha with amendments

If a Bill other than a Money Bill passed by the Rajya Sabha and transmitted to the Lok Sabha is returned to the Rajya Sabha with amendments, it is laid on the Table of the House.²²⁶ After the amended Bill has been laid on the Table, any Minister, after giving two days' notice or with the consent of the Chairman without notice, may move that the amendments be taken into consideration.²²⁷ When notice of a motion for consideration of amendments is received, it is included in the list of business. If a motion that the amendments made by the Lok Sabha be taken into consideration is carried, the Chairman puts the amendments to the House, in such manner as he thinks most convenient for their consideration.²²⁸

An amendment relevant to the subject-matter of the amendment made by the Lok Sabha may be moved, but no further amendment can be moved to the Bill unless it is consequential upon, or an alternative to, an amendment made by the Lok Sabha.²²⁹

The Rajya Sabha, if it agrees to the amendment made by the Lok Sabha, sends a message to the Lok Sabha to that effect, but if it disagrees with that amendment or proposes further amendment or an alternative amendment, the Rajya Sabha returns the Bill as amended to the Lok Sabha with a message to that effect.²³⁰

If the Bill is returned to the Rajya Sabha with a message that the Lok Sabha insists on an amendment or amendments to which the Rajya Sabha has disagreed, the Houses are deemed to have finally disagreed

as to the amendment or amendments.²³¹ In such a case, the President may notify his intention to summon both the Houses to meet in a joint sitting for the purpose of deliberating and voting on the Bill.²³² There have been three instances of a joint sitting of the two Houses being convened, namely in regard to the Dowry Prohibition Bill, 1959, the Banking Service Commission (Repeal) Bill, 1978 and the Prevention of Terrorism Bill, 2002.²³³

Bills originating in Lok Sabha and transmitted to Rajya Sabha

When a Bill originating in the Lok Sabha has been passed by that House and is transmitted to the Rajya Sabha, the message forwarding the Bill as passed by the Lok Sabha is reported by the Secretary-General and the Bill is laid on the Table.²³⁴

Message from the Lok Sabha alone is sufficient for the Bill being taken up in the Rajya Sabha.

On 4 September 1970, when the Constitution (Twenty-fourth Amendment) Bill, 1970, was about to be moved by the Prime Minister, on a point of order, a member said that it was not clear that the Bill had been passed by the Lok Sabha with the requisite majority as laid down by the Constitution since the Speaker had first said that it had got 336 votes, then revised it to 331 and later said that he was still examining as to exactly how many votes had been secured in favour of the Bill. As such, as long as the matter was under examination it could not be deemed to have been passed by the Lok Sabha and, therefore, it could not be taken up in the Rajya Sabha. There was a lot of discussion on this point after which the Chairman ruled:

I am not accepting this point. I overrule this point of order. I have received a message from the Lok Sabha that the Bill has been passed by the Lok Sabha. That is enough for me... I understand that the Speaker has said that the result would not be affected by it.²³⁵

Once the message received from the Lok Sabha is reported by the Secretary-General as the Bill is laid on the Table, copies of the Bill as passed by the Lok Sabha are circulated to members of the Rajya Sabha. If the message is received while the Rajya Sabha is not in session the message is published in the Parliamentary Bulletin Part-II.²³⁶ Before such a Bill is passed by the Lok Sabha it may adopt a motion referring the Bill to a Joint Committee of the Houses and recommending to the Rajya Sabha to join in that Committee. The message from the Lok Sabha to that effect is reported to the House by the Secretary-General. Subsequently the Minister in-charge of the Bill may move, after due notice, a motion concurring in the recommendation of the Lok Sabha and resolving at the same time that such and such members of the Rajya Sabha be nominated to serve on the Joint Committee.

At any time after the Bill as passed by the Lok Sabha has been laid on the Table, the Minister concerned may give notice of his intention to move that the Bill be taken into consideration.²³⁷ Unless the Chairman otherwise directs, the motion is not included in the list of business earlier than two days from the receipt of the notice.²³⁸ The general practice is that whenever in case of urgency a Minister desires to take up the Bill earlier than two days, he sends a communication to the Chairman requesting for the waiver of two days' notice period. The Chairman considers each case on merit and directs accordingly.²³⁹

The message in respect of the Assam Reorganisation (Meghalaya) Bill, 1969, as passed by the Lok Sabha, was reported on 24 December 1969 and the Bill was taken up for consideration immediately after formally adopting a motion for suspension of rule 123.²⁴⁰

When the Companies (Amendment) Bill, 1977, as passed by the Lok Sabha on 14 December 1977, was to be taken up on 15 December, 1977, members raised an objection on the ground that two days' notice had not been given. The Deputy Chairman observed that it was in order since the Chairman had agreed to include the Bill in the list of business earlier than two days.²⁴¹

When objection was taken for consideration of the Muslim Women (Protection of Rights on Divorce) Bill, 1986, which was passed by the Lok Sabha on 6 May 1986 and being taken up on 8 May 1986, the Chairman observed that he had the authority to waive the notice and he did it in pursuance of the recommendation of the Business Advisory Committee.²⁴²

Members objected to take up for consideration on 16 December 1987, a very bulky Money Bill—the Direct Tax Laws (Amendment) Bill, 1987, as passed by the Lok Sabha, on 15 December 1987, as they did not get adequate time. The Deputy Chairman observed that in future, whenever important Bills especially of a nature of the above Bill were to be listed for consideration, it should be ensured that members got adequate time to go through the provisions so that “the deliberations of the House become meaningful”.²⁴³

On the day the motion is set down in the list of business, the Minister moves that the Bill as passed by the Lok Sabha be taken into consideration. On that day, or on any subsequent day to which the discussion is postponed, the principles of the Bill and its general provisions are discussed but the details of the Bill are not discussed further than is necessary to explain its principles.²⁴⁴

If the Bill has not already been referred to a Joint Committee of the Houses, any member may move an amendment at this stage that the Bill be referred to a Select Committee. If the amendment is carried, the Bill

stands referred to the Select Committee and undergoes the same process in the Committee as any other Bill introduced in the Rajya Sabha and referred to a Select Committee.²⁴⁵ The following Bills introduced in the Lok Sabha and passed by that House were referred to Select Committees of the Rajya Sabha:

The Major Port Trust Bill, 1963; the Banking Laws (Amendment) Bill, 1968; the Chit Funds Bill, 1982; the Patents (Amendment) Bill, 1995; the Trade Marks Bill, 1995; the Prevention of Money-Laundering Bill, 1999; the Commercial Division of High Courts Bill, 2009; the Wakf (Amendment) Bill, 2010; the Prevention of Torture Bill, 2010 and the Lokpal and Lokayuktas Bill, 2011.

If the motion that the Bill be taken into consideration is carried, the Bill is taken into consideration clause-by-clause. The procedure regarding consideration of the amendments and passing of the Bill is the same as provided in the rules relating to Bills originating in the Rajya Sabha as explained above.²⁴⁶ If the Bill is passed without any amendment, a message is sent to the Lok Sabha intimating that the Rajya Sabha has agreed to the Bill without any amendment.²⁴⁷ If the Bill is passed with amendments, the Bill is returned with a message asking the concurrence of the Lok Sabha to the amendments, (including purely consequential or formal amendments) adopted by the Rajya Sabha.²⁴⁸ The amendments adopted by the Rajya Sabha are incorporated in the copy of the Bill returned to the Lok Sabha along with the message. Some of the important Bills which, as passed by the Lok Sabha were amended by the Rajya Sabha are:

The Code of Criminal Procedure (Amendment) Bill, 1990; the Commissions of Inquiry (Amendment) Bill, 1990; the Prasar Bharati (Broadcasting Corporation of India) Bill, 1990; the Madhya Pradesh Reorganisation Bill, 2000; the Uttar Pradesh Reorganisation Bill, 2000; the Bihar Reorganisation Bill, 2000;²⁴⁹ the Academy of Scientific and Innovative Research Bill, 2011; the Constitution (One hundred and Eighteenth Amendment) Bill, 2012; the National Highways Authority of India (Amendment) Bill, 2013; the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Bill, 2013; the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill, 2013 and the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2014.

If the Lok Sabha disagrees with the amendments made by the Rajya Sabha or with any of them, or agrees to any of the amendments made by the Rajya Sabha with further amendments or proposes further amendments in place of the amendments made by the Rajya Sabha, the Bill as further amended is laid on the Table on receipt from the Lok Sabha.²⁵⁰ Thereafter, any Minister after giving two days' notice, or with the consent of the

Chairman without giving notice, may move that the amendments be taken into consideration.²⁵¹

If the motion that the amendments be taken into consideration is carried, the Chairman puts the amendments to the House for consideration, in such manner as he thinks most convenient.²⁵² Amendments relevant to the subject-matter of the amendments made by the Lok Sabha may be moved, but no further amendment can be moved to the Bill unless it is consequential upon, or an alternative to, an amendment made by the Lok Sabha.²⁵³ The Rajya Sabha may either agree to the Bill as originally passed by the Lok Sabha or as further amended by the Lok Sabha, as the case may be, or may return the Bill with a message that it insists on the amendment or amendments to which the Lok Sabha has disagreed.²⁵⁴ In the latter case the Houses are deemed to have finally disagreed as to the amendments.²⁵⁵

When any of the following motions moved in the Rajya Sabha with reference to a Bill originating in the Lok Sabha and transmitted to the Rajya Sabha is negatived, the Bill is deemed to have been rejected by the Rajya Sabha: (i) that the Bill be referred to a Select Committee of the Rajya Sabha; (ii) that the Bill be taken into consideration; (iii) that the Bill as reported by the Select Committee of the Rajya Sabha be taken into consideration; or (iv) that the Bill (or, as the case may be) as amended, be passed.²⁵⁶ There have been occasions when the motion for consideration of a Bill passed by the Lok Sabha was negatived by the Rajya Sabha. The Banking Service Commission (Repeal) Bill, 1977, as passed by the Lok Sabha on 5 December 1977, was negatived by the Rajya Sabha. Similarly, the Prevention of Terrorism Bill, 2002, as passed by the Lok Sabha on 18 March 2002, was negatived by the Rajya Sabha on 21 March 2002. In both the cases, a joint sitting of the Houses was summoned to consider the Bills.²⁵⁷

Assent to Bills

After a Bill is passed by both the Houses of Parliament and is in possession of the Rajya Sabha, a copy thereof is signed by the Chairman, and presented to the President for his assent.²⁵⁸ Two assent copies are endorsed by the Chairman, or by the Deputy Chairman, if he is performing the duties of the Chairman, with a certificate to the effect that the Bill has been passed by the Houses of Parliament. One copy, after assent by the President is received in the Secretariat and the other one is retained in the Ministry of Law and Justice through which the Bill is presented to the President for assent. In the absence of the Chairman from New Delhi, the Secretary-General may authenticate the Bill for the Chairman, (or for the Deputy Chairman when he is performing the duties of the Chairman) in case of urgency.²⁵⁹

The Bill authenticated by the Secretary-General in the absence of the Chairman was the Manipur Panchayati Raj Bill, 1994, on 12 April 1994. The Iron Ore Mines Labour Welfare Cess Bill, 1961, the Institutes of Technology Bill, 1961 and the Yoga Undertakings (Taking over of Management) Bill, 1977, were also authenticated by the Secretary-General for the Deputy Chairman.

When a Bill is presented to the President, he has option to declare, either (a) that he assents to the Bill, or (b) that he withholds assent thereof,²⁶⁰ and (c) he may also return the Bill, except a Money Bill, to the Houses with his recommendation for reconsideration of the Bill or any specified provisions thereof and in particular introduction of any amendment that he may mention in his message.²⁶¹ In the first instance, the Bill becomes law. In the second instance, the Bill is vetoed and cannot become law. In the third instance, if the Bill is again passed by the Houses with or without amendment and presented to the President, he shall not withhold assent therefrom.²⁶²

(a) *Assent to Bill*

The assent is given by the President in this form:

“I assent to this Bill.....President.”

If for any reason, the functions of the President are being discharged by the Vice-President or the Vice-President is acting as the President or the Chief Justice is discharging the functions of the President, necessary changes are made in the word “President” in the endorsement.

In 1961, twenty-three Bills, in 1965 one Bill and in 1982 three Bills were signed by the Deputy Chairman and assented to by the Vice-President discharging the functions of President; in 1977, eight Bills were signed by the Deputy Chairman and assented to by the Vice-President acting as the President,²⁶³ in 1969, six Bills were signed by the Deputy Chairman and assented to by Shri M. Hidayatullah (Chief Justice of India) discharging the functions of the President.

(b) *Withholding of assent*

The assent is withheld by the President in this form:

“I withhold assent to this Bill... President.”

The Salary, Allowances and Pension of Members of Parliament (Amendment) Bill, 1991, as passed by the Houses of Parliament, was submitted to the President for assent by the Secretariat. The Bill was received back in the Secretariat with the President’s endorsement withholding his assent, through the Secretary, Ministry of Law and Justice.²⁶⁴ The Deputy Chairman informed the Rajya Sabha regarding withholding of the assent accordingly.²⁶⁵

In the Lok Sabha the PEPSU Appropriation Bill, 1954 was returned to the Lok Sabha due to revocation of the President's Proclamation in respect of that State before the Bill could be submitted to the President for assent. The Speaker made an announcement in the matter in the Lok Sabha.²⁶⁶

Return of a non-Money Bill for reconsideration

When a Bill which has been passed by the Houses of Parliament is returned by the President for reconsideration, the point or points referred for reconsideration are required to be put before the House by the Chairman and discussed and voted upon in the same manner as amendments to a Bill, or in such other way as the Chairman may consider most convenient for their consideration by the House.²⁶⁷

The Indian Post Office (Amendment) Bill, 1986, as passed by the Houses of Parliament was submitted to the President on 19 December 1986. The President returned the Bill to the Rajya Sabha for reconsideration, especially clause 16 thereof (which, *inter alia*, sought to give power to the Central and State Governments or their authorised officers to intercept or detain postal articles on certain grounds) on 7 January 1990. As the House was not in session, the message of the President was published in the Bulletin.²⁶⁸ The Bill, as returned, was laid on the Table of the Rajya Sabha by the Secretary-General on 12 March 1990 when the House reassembled. A copy of the President's message was also forwarded to the Lok Sabha Secretariat for information.²⁶⁹ Since then the Bill continued to be laid on the Table of the House without being taken up for reconsideration, till it was withdrawn on 21 March 2002.

In this context, a question arose whether the Bill had lapsed on the dissolution of the Ninth Lok Sabha while the Bill was pending before the President for assent and also subsequent to its return by the President to the Rajya Sabha and pending there since then. The matter was, therefore, referred to the Ministry of Law and Justice which opined as follows:

The circumstances in which a Bill lapses are indicated in clause (5) of article 107 of the Constitution. Article 107 does not deal with a Bill which has been referred to the President for his assent. Accordingly, a Bill which is pending for consideration of the President does not lapse even if the Lok Sabha is dissolved after the Bill is referred to the President for his assent. This view is supported by D.D. Basu in his Commentary on the Constitution of India (Vol. G., 1983, p. 38) drawing on the Supreme Court decision in *Purushothaman Nambudiri v. State of Kerala* (1962 Supp.) (1) SCR 753 and also by M.N. Kaul and S.L. Shakhder in *Practice and Procedure of Parliament* (1991), p. 176. Thus, the dissolution of Lok Sabha will not result in lapse of a Bill which is pending assent of the President.

After the President returns a Bill in pursuance of proviso to article 111 of the Constitution for reconsideration of the Houses of Parliament, the Bill is required to be considered *de novo* by both the Houses. As indicated in the note of the Rajya Sabha Secretariat, the Indian Post Office (Amendment) Bill, 1986 is pending in the Rajya Sabha. Even applying the principle contained in clause (4) of article 107 which provides that a Bill pending in the Council of States which has not been passed by the House of the People, shall not lapse on dissolution of the House of the People, the present Bill cannot be said to have lapsed. Therefore, in any view of the matter, the Bill under consideration which is now pending in the Rajya Sabha cannot be said to have lapsed on the dissolution of the Ninth Lok Sabha.²⁷⁰

On another occasion, the Parliament (Prevention of Disqualification) Amendment Bill, 2006, as passed by the Houses of Parliament, was submitted to the President for his assent on 25 May 2006. The Bill was returned by the President, in pursuance of the provisions of article 111, with a message for reconsideration of the Bill, which was published in the Parliamentary Bulletin Part-II, dated 31 May 2006. The Bill as returned by the President was laid on the Table of the House on 25 July 2006. The Bill was reconsidered and passed again by the Rajya Sabha on 27 July 2006. The Bill as passed by the Rajya Sabha was reconsidered and passed by the Lok Sabha on 31 July 2006. The Bill was assented to by the President on 18 August 2006 and became Act No. 31 of 2006.

In the case of a Bill seeking to amend the Constitution within the meaning of article 368, however, the President has no option but to accord his assent to the Bill passed by the Houses by the requisite special majority.²⁷¹

There is no time-limit laid down in article 111 in respect of the assent to be given or assent to be withheld or return of the Bill for reconsideration by the President. There have been instances when the President's assent was received on the same day when the Houses passed the Bill. For instance, the Constitution (Seventy-fifth Amendment) Bill, 1991, was finally passed by the Rajya Sabha on 12 March 1991 and it received the assent of the President on the same day. Similarly, the Cancellation of General Elections in Punjab Bill, 1991, was finally passed by the Rajya Sabha on 17 September 1991 and it received the assent of the President on the same day.

An assented copy of each Bill is laid on the Table by the Secretary-General. In the case of a Bill to which assent is obtained by the Lok Sabha Secretariat, the Bill as assented to by the President is authenticated by the Secretary-General of that House and supplied to the Rajya Sabha Secretariat for being laid on the Table. A copy of the Bill duly authenticated by the Secretary-General, Rajya Sabha, is similarly supplied to the Lok Sabha Secretariat when the assent is obtained by the Rajya Sabha Secretariat.

Money Bills and Financial Bills

Under the Constitution, the Bills concerning public finance can be divided into three categories:

- (a) Money Bills proper *i.e.*, Bills exclusively dealing with matters mentioned in all or any of the clauses of article 110.
- (b) Other financial Bills dealing with any of the matters specified in clauses (a) to (f) of article 110 and also other matters.
- (c) Bills other than those falling under (a) and (b) but involving expenditure from the Consolidated Fund of India.

Money Bills are defined in article 110. Other Financial Bills falling under (b) and (c) are covered by article 117, clauses (1) and (3) thereof respectively.

Money Bills

Definition of a Money Bill

A Bill is deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely: (a) the imposition, abolition, remission, alteration or regulation of any tax; (b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India; (c) the custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such fund; (d) the appropriation of moneys out of the Consolidated Fund of India; (e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure; (f) the receipt of money on account of the Consolidated Fund of India or the Public Account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State; or (g) any matter incidental to any of the matters specified in sub-clauses (a) to (f).²⁷² Accordingly, if a Bill which contains all or any of these matters specified in sub-clauses (a) to (f) contains also other matters, the question whether such a Bill is a Money Bill or not will depend on whether such other matters are incidental to any of the matters specified in sub-clauses (a) to (f). However, a Bill is not deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.²⁷³

Certification of a Money Bill

If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker thereon is final.²⁷⁴ Whenever a Money Bill is transmitted to the Rajya Sabha, a certificate of the Speaker signed by him that it is a Money Bill is endorsed.²⁷⁵ The certificate is in this form: "I hereby certify that this is a Money Bill within the meaning of article 110 of the Constitution of India."

When the House was about to take up the Indian Tariff (Second Amendment) Bill, 1952, as passed by the Lok Sabha, a point was raised about the Bill having been certified as a Money Bill. The member contended that it should be open to the Rajya Sabha (Council of States) to recommend to the Speaker that a particular Bill which had come to it was not a Money Bill within the meaning of article 110. The Leader of the House, *inter alia*, observed, "We cannot in this House take a decision which should make the decision of the Speaker of the House of the People on this question nugatory altogether... "When we receive that certificate from the Speaker, the Council has no jurisdiction to reopen the question." The Chairman remarked, "If you begin to say that it is not 'only' a Money Bill there is nothing only in this world. Everything has a bearing on everything else. You can never say that the financial part of it is not related to the political or industrial or other aspects." He closed the discussion by stating that it was a Money Bill and the House had to consider the question whether it was prepared to make any recommendations on it. That was all that was open to the House to do.²⁷⁶

In 1953, a controversy arose between the two Houses on the question of certification of the Indian Income-Tax (Amendment) Bill, 1952, as a Money Bill. The Chairman made the following observations:

Article 110(1) states what a Money Bill is. Article 110(2) states what a Money Bill is not. Article 110(3) says that, if a doubt arises, the decision taken by the Speaker of the House shall be final. This doubt may arise in different ways: first in the House of the People when the Bill is initiated, the question may be raised, "Is it a Money Bill?" Or, when a Bill is initiated in the Council of States a doubt may arise whether it is a Money Bill, and then the matter will have to be referred to the Speaker. Or, a doubt may arise within the Speaker's mind itself, as now we are informed that a doubt had arisen in his mind, and then he decided that it was a Money Bill. The relevant article which governs this point is article 110(4). When a Bill is transmitted to the Council, it is transmitted with a certificate by the Speaker who says that it is a Money Bill. In this particular matter, we are generally governed by the procedure in the British Parliament. There, it is put down in section 3 of the Parliament Act that a Money Bill, when it is sent up to

the House of Lords, must be endorsed with the Speaker's certificate that it is a Money Bill. Such a certificate is conclusive for all purposes and is not to be questioned in any court of law. That is how the procedure is there, which governs us.²⁷⁷

The matter was eventually resolved when the Prime Minister observed that:

...the Speaker's authority is final in declaring that a Bill is a Money Bill. When the Speaker gives his certificate to this effect, this cannot be challenged. The Speaker has no obligation to consult anyone in coming to a decision or in giving his certificate.²⁷⁸

Special procedure in respect of a Money Bill

A Money Bill cannot be introduced in the Rajya Sabha.²⁷⁹ After a Money Bill is passed by the Lok Sabha it is transmitted to the Rajya Sabha for its recommendations. A Money Bill passed by the Lok Sabha and transmitted to the Rajya Sabha is, as soon as may be, laid on the Table by the Secretary-General.²⁸⁰ After the motion that the Bill be taken into consideration has been carried, the Bill is taken up for consideration clause-by-clause. At that stage amendments to be recommended to the Lok Sabha are moved.²⁸¹ 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 moves that the Bill be returned.²⁸² When the motion that the Bill be returned has been carried, the Bill is returned to the Lok Sabha in the case where the Rajya Sabha does not make any recommendations, with a message that the Rajya Sabha has no recommendations to make to the Lok Sabha in regard to the Bill, and in the case where any amendments have been recommended by the Rajya Sabha, with a message intimating to the Lok Sabha the amendments so recommended.²⁸³ The Bill is required to be returned to the Lok Sabha with the recommendations, if any, within a period of fourteen days from the date of receipt of the Bill.²⁸⁴

The Lok Sabha may thereupon either accept or reject all or any of the recommendations of the Rajya Sabha.²⁸⁵ If the Lok Sabha accepts any of the recommendations of the Rajya Sabha, the Money Bill is deemed to have been passed by both the Houses with the amendments recommended by the Rajya Sabha and accepted by the Lok Sabha.²⁸⁶ If the Lok Sabha does not accept any of the recommendations of the Rajya Sabha, the Money Bill is deemed to have been passed by both the Houses in the form in which it was passed by the Lok Sabha without any of the amendments recommended by the Rajya Sabha.²⁸⁷

There have been a number of instances when Money Bills were returned by the Rajya Sabha with the recommendations and the recommendations

made by the Rajya Sabha were accepted by the Lok Sabha. The following are such instances:

In the case of the Travancore-Cochin Appropriation (Vote on Account) Bill, 1956, the Rajya Sabha recommended addition of a clause repealing an Ordinance on the Bill.²⁸⁸

In the case of the Union Duties of Excise (Distribution) Bill, 1957, and the Estate Duty and Tax on Railway Passenger Fares (Distribution) Bill, 1957, the Rajya Sabha recommended an amendment in the Long Title of the Bills to make a reference to the recommendations of the Finance Commission.²⁸⁹

In the Income-Tax Bill, 1961, the Rajya Sabha recommended amendments in clauses 13, 88 and 288 of the Bill.²⁹⁰

In the Appropriation (Railways) Bill, 1985, the Appropriation (Railways) No. 2 Bill, 1985, the Appropriation Bill, 1985, the Appropriation (No. 2) Bill, 1985, and the Punjab Appropriation Bill, 1985, the Rajya Sabha recommended an amendment in the Republic Year *i.e.*, from thirty-fifth to thirty-sixth.²⁹¹

There have also been instances when Money Bills were returned by the Rajya Sabha with the recommendations and the recommendations made by the Rajya Sabha were not accepted by the Lok Sabha. The two instances are:

In the Finance (No. 2) Bill, 1977, the Rajya Sabha had recommended amendments in five clauses and a Schedule of the Bill.²⁹²

In the Finance Bill, 1978, the Rajya Sabha had recommended an amendment in clause 36 of the Bill.²⁹³

A message is received from the Lok Sabha intimating its decision in regard to the amendments recommended by the Rajya Sabha and the message is reported to the House.²⁹⁴

If the Rajya Sabha does not return the Bill within the prescribed period of fourteen days, the Bill is deemed to have been passed by both Houses of Parliament at the expiry of the period in the form in which it was passed by the Lok Sabha.²⁹⁵ The period of fourteen days is computed from the date of receipt of the Bill in the Rajya Sabha Secretariat and not from the date on which it is laid on the Table of the Rajya Sabha.²⁹⁶ As the General Clauses Act, 1897 applies for the interpretation of the Constitution,²⁹⁷ the said period of fourteen days is computed in accordance with section 9(1) of that Act. Hence the date of receipt of a Money Bill by the Rajya Sabha Secretariat is excluded. Generally, a Money Bill is transmitted

by the Lok Sabha to the Rajya Sabha as soon as it is passed by that House, unless the Speaker directs otherwise.

The Indian Tariff (Amendment) Bill, 1955, a Money Bill, was passed by the Lok Sabha when the Rajya Sabha was not in session but was due to assemble later. The Speaker informed the Lok Sabha that according to legal interpretation, even when the Rajya Sabha was not in session, a Bill could be sent to the Secretary of the Rajya Sabha and it would be deemed to have been received by the Rajya Sabha. He, however, directed the Secretary of the Lok Sabha not to transmit the Bill to the Rajya Sabha immediately, but a little later so that the period of fourteen days did not terminate before the commencement of the session of the Rajya Sabha. This would enable the Rajya Sabha to have an opportunity to discuss the Bill. Accordingly, the Bill which was passed by the Lok Sabha on 26 July 1955 was transmitted to the Rajya Sabha when it reassembled on 16 August 1955.²⁹⁸

Similarly, the Travancore-Cochin Appropriation (Vote on Account) Bill, 1956, a Money Bill, which was passed by the Lok Sabha on 29 March 1956 when the Rajya Sabha was not in session was transmitted to the Rajya Sabha when it reassembled on 23 April 1956.²⁹⁹

There have been a number of instances when the Rajya Sabha could not return the Money Bills to the Lok Sabha within the stipulated period and so the concerned Bills were deemed to have been passed by the Houses of Parliament, thereafter.

The Appropriation (Railways) Nos. 4 and 5 Bills, 1978, as passed by the Lok Sabha, were received in the Secretariat on 21 December 1978 and the Appropriation (No. 5) Bill, 1978, was received on 22 December 1978. The Rajya Sabha adjourned *sine die* on 26 December 1978 without taking up the Bills for consideration. Hence the first two Bills were deemed to have been passed on 5 January 1979 and the third Bill on 6 January 1979.

The Contingency Fund of India (Amendment) Bill, 1994, the Appropriation (No. 6) Bill, 1994, and the Appropriation (Railways) No. 6 Bill, 1994, as passed by the Lok Sabha, were received in the Secretariat respectively on 19, 20 and 22 December 1994. The Bills could not be taken up for consideration before the Rajya Sabha adjourned *sine die* on 23 December 1994. Hence the Bills were deemed to have been passed by the Houses after the expiry of fourteen days from those dates.

The Appropriation (No. 5) Bill, 1995, as passed by the Lok Sabha was received in the Secretariat on 7 December 1995. In view of the series of adjournments of the House, the Bill could not be taken up till 21 December 1995. The Bill was, however, not listed on

22 December 1995 when the House adjourned *sine die*. This is thus the only case when the prescribed period of fourteen days for return of a Money Bill by the Rajya Sabha expired while the House was still in session. Ten Bills relating to the Union Budget, Uttar Pradesh and Jammu & Kashmir Budgets for 1996-97, as passed by the Lok Sabha, were received in the Secretariat on 12 March 1996; messages in respect of six of them were reported and Bills laid on the Table, the same day.³⁰⁰ Messages in respect of the other four Bills were circulated through a Bulletin³⁰¹ since the House adjourned *sine die* that day before the scheduled time. The Bills were, therefore, deemed to have been passed by both Houses of Parliament on 27 March 1996.

The Appropriation (No. 2) Bill, 1998³⁰² (received in the Secretariat on 12 June 1998) could not be considered by the Rajya Sabha as the House adjourned on the same day till 3 July 1998. The Appropriation (Railways) Vote on Account Bill, 1999; the Appropriation (Railways) No. 2 Bill, 1999 and the Appropriation (Railways) Bill, 1999³⁰³ (received in the Rajya Sabha on 15 March 1999); the Appropriation (Vote on Account) Bill, 1999; the Appropriation Bill, 1999 and the Appropriation (No. 2) Bill, 1999³⁰⁴ (received on 18 March 1999) could also not be taken up for consideration following adjournment of Rajya Sabha on 19 March 1999 till 12 April 1999. Similarly, the Cotton Textiles Cess (Repeal) Bill, 2000³⁰⁵ and the Direct Tax Laws (Miscellaneous) Repeal Bill, 2000³⁰⁶ as passed by the Lok Sabha were received in the Secretariat on 8 and 11 May 2000, respectively. The Bills could not come up for consideration before the Rajya Sabha adjourned *sine die* on 17 May 2000. All these Bills were deemed to have been passed by the Houses after the expiry of fourteen days from those dates. The Appropriation (No. 4) Bill, 2002 & the Appropriation (No. 5) Bill, 2002 and the Appropriation (Railways) No. 3 Bill, 2002³⁰⁷ & the Appropriation (Railways) No. 4 Bill 2002³⁰⁸ were received as passed by the Lok Sabha on 1 and 12 August 2002, respectively. These Bills could also not come up for consideration before the Rajya Sabha adjourned *sine die* on 12 August 2002. The Supreme Court (Number of Judges) Amendment Bill, 2008 was passed by the Lok Sabha on 22 December 2008. Since the House was adjourned *sine die* on 23 December 2008, the Bill could not be passed by the Rajya Sabha and was considered deemed to have been passed by both Houses after expiry of fourteen days.³⁰⁹

After a Money Bill is passed, it is presented to the President for assent by the Lok Sabha Secretariat with a certificate of the Speaker endorsed on the Bill that it is a Money Bill³¹⁰ within the meaning of article 110 of the Constitution. In the case of a Money Bill which is deemed to have been passed, in addition, the Bill also contains an endorsement that the concerned Bill “is deemed to have been passed by the Houses of Parliament under clause (5) of article 109 of the Constitution of India.”³¹¹ In the case of a Money Bill pertaining to a State under the President’s Rule,

however, the reference to article 110 is omitted from the Speaker's certificate.

A Money Bill cannot be referred to a Joint Committee of the Houses.

The Incometax Bill, 1961, was referred to a Select Committee of the Lok Sabha. In the Rajya Sabha when a point was raised in this regard, the Chairman explained that only Financial Bills could be referred to a Joint Committee and not Money Bills. As the Bill had been certified to be a Money Bill by the Speaker, the question of referring it to a Joint Committee did not arise.³¹²

Objection to introduction of a Money Bill in Rajya Sabha

On a Bill being introduced in the Rajya Sabha or at a 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 Rajya Sabha, the Chairman, if he holds the objection valid, directs that further proceedings in connection with the Bill be terminated.³¹³ If the Chairman has any doubt in regard to the validity of the objection, he has to refer the matter to the Speaker whose decision on the question is final in accordance with clause (3) of article 110 of the Constitution.³¹⁴

When a member sought leave to introduce the Pensions Bill, 1977, under which provision was made, *inter alia*, for grant of pensionary and other benefits to retired Central Government employees, the Minister of State in the Ministry of Finance opposed the motion on the ground that the Bill was a Money Bill. After some discussion, the decision on the motion was deferred till the next session.³¹⁵ At the resumed discussion next session, the Vice-Chairman stated that since the matter was not free from doubt, the Bill should be referred to the Speaker under rule 186(8) for decision.³¹⁶ It was accordingly referred.³¹⁷ The Speaker held that the Bill in question came within the scope of article 110(1)(e) read with article 110(1)(g) of the Constitution and was, therefore, a Money Bill. The Deputy Chairman announced the decision of the Speaker accordingly and ruled that the Bill could not be introduced in the Rajya Sabha.³¹⁸

Financial Bills

Article 117 makes special provisions as to Financial Bills. They may broadly be divided into two categories: (i) Bills which make provisions for any of the matters contained in sub-clauses (a) to (f) of clause (1) of article 110 but do not consist exclusively of such matters but consist of other matters in addition, e.g. a Bill which contains a taxation clause but does not solely deal with taxation. Such Bills come under clause (1) of article 117; (ii) Ordinary Bills, which, if enacted and brought into operation, would

involve expenditure from the Consolidated Fund of India. Such Bills come under clause (3) of article 117. For facility of reference, the former may be called Financial Bills of category 'A' and the latter, Financial Bills of category 'B'.

Financial Bills of category 'A'

Such Bills have two features in common with Money Bills, viz., i.e., (i) they cannot be introduced in the Rajya Sabha, and (ii) they cannot be introduced except on the recommendation of the President.³¹⁹ But, not being Money Bills, the provisions of clauses (2) to (5) of article 109 do not apply to such Bills, so that the Rajya Sabha has full power to reject or amend such Bills as it has in the case of non-financial Bills. Such Bills have to be passed in the Rajya Sabha like ordinary Bills and in case of final disagreement between the two Houses over such a Bill, the provision of a joint sitting contained in article 108 is attracted.

Under article 117(1), an amendment making provision, for any of the matters specified in article 110(1)(a) to (f), cannot be moved except on the recommendation of the President. However, such a recommendation is not required for an amendment seeking to reduce or abolish any tax.³²⁰

A member sought to move an amendment to a clause of the Finance Act, 1961, with a view to extending the exemption available to the Government employees in respect of their gratuities under the Indian Income tax Act, 1922, to employees in the private sector also. The Minister of Finance (Shri Morarji R. Desai) pointed out that the amendment could not be moved because it was *ultra vires* in the sense that it required the prior consent of the President. Before the amendment was put to vote, a member sought the opinion of the Deputy Chairman on the point. The Deputy Chairman stated that it was not necessary. The amendment was, however, negatived.³²¹ On 1 May 1961, the Deputy Chairman clarified that when he said that the amendment did not require President's recommendation, he had in his mind article 117(1). He revised his opinion stating that under article 274(1), prior recommendation of the President was required for the moving of an amendment which varied any tax or duty in which States were interested. It could be held that the particular amendment sought to vary the income tax which was a tax in which States were interested as the net proceeds thereof were distributed to the States. Hence the amendment required President's recommendation under article 274(1).³²²

Financial Bills of category 'B'

Any ordinary Bill may contain, *inter alia*, provision(s) which, if passed, would involve expenditure from the Consolidated Fund of India, i.e., by providing for the appointment of officers or other authorities, etc. Such a

Bill has all the incidence of an ordinary Bill, viz., it may be initiated in either House and the Rajya Sabha has full power to reject or amend it. But in view of the financial provision contained in it which involves expenditure it cannot be passed in either House of Parliament unless the President has recommended consideration of the Bill.³²³

The recommendation of the President in respect of a Bill as passed by the Lok Sabha attracting article 117(3) has to be obtained separately for the Rajya Sabha.

Before the consideration of the National Security Bill, 1980, as passed by the Lok Sabha, a point of order was raised regarding a separate recommendation of the President for consideration of the Bill by the Rajya Sabha. The Deputy Chairman informed that the recommendation was conveyed by the Minister in a letter addressed to the Secretary-General and observed that the letter received from the Minister concerned was sufficient proof of the fact that the recommendation was given.³²⁴ A similar point was again raised after the Minister moved the motion for consideration of the Tea (Amendment) Bill, 1980, as passed by the Lok Sabha. In this case the words "as passed by the Lok Sabha", were omitted from the letter conveying the recommendation in respect of that Bill. The Deputy Chairman ruled that if the Bill was passed by the Lok Sabha the letter should say accordingly and if the Bill originated in the Rajya Sabha the date (of recommendation) should be given.³²⁵ Again, at the time of consideration of four Appropriation Bills, 1981, the point regarding omission of indication of date on which the President had given recommendation was raised and the Deputy Chairman reiterated his earlier ruling and observed, "There should be two recommendations from the President: one, when the Bill is introduced in the Lok Sabha, and second, when it is to be brought to this House after the Lok Sabha has passed....Therefore, it was necessary that the date should be given when the President gave recommendation."³²⁶

On an earlier occasion, when a point of order was raised that the Special Marriage Bill, 1952, required President's recommendation under article 117(3), the Chairman, *inter alia*, observed that not every Bill that came before the House, which might involve some expenditure from the Consolidated Fund of India, came within the scope of clause (3) of article 117 and also taking into account the provision of article 255, held that it was not right for the House to stop consideration of the Bill at that stage.³²⁷

In the case of the Salary, Allowances and Pension of Members of Parliament (Amendment) Bill, 1991, as passed by the Lok Sabha, the President's recommendation for its consideration by the Rajya Sabha was conveyed "subject to scrutiny at the time of giving assent."³²⁸ Eventually, however, the assent to the Bill was withheld.

What are not Financial Bills

Clause (2) of article 117 is an exception to clause (1) of that article and states what are not Financial Bills within the purview of clause (1). Thus, Bills providing for certain specified matters, *i.e.*, the imposition of fines or other pecuniary penalties, the demand or payment of fees for licences or fees for services rendered, and the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes, though *prima facie* they may contain provisions which are financial in nature, are not Financial Bills for the purposes of the Constitution and as such they have no special incidence with respect to their introduction or passage in the House. Like ordinary Bills they may be introduced in either House, require no recommendation from the President and may be rejected or amended by the Rajya Sabha in the ordinary manner. But if such a Bill involves expenditure from the Consolidated Fund of India the recommendation of the President must be obtained under article 117(3) before the motion for the consideration of the Bill is made.

Objection to introduction of a Bill under article 117(1)

If notice of a 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.³²⁹

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) of Article 117 of the Constitution and should not be introduced in the Rajya Sabha.³³⁰ If the Chairman holds that the Bill is a Financial Bill, he terminates discussion on the Bill forthwith and directs that it be struck off from the list of business and be removed from the Register of Pending Bills in the Rajya Sabha.³³¹

If, however, the Chairman has any doubt in regard to the validity of the objection, he has to refer the matter to the Speaker and if there is no agreement between the Speaker and the Chairman, he has to report the matter to the House and take the sense of the House as to whether it wishes to proceed further with the Bill.³³²

On 2 June 1995, the Minister of Welfare moved a motion for withdrawal of the National Trust for the Welfare of Persons with Mental Retardation and Cerebral Palsy Bill, 1991, introduced in the Rajya Sabha. In the statement of reasons for the withdrawal of the Bill, the Minister stated:

Clause 19 of the Bill provides that the Trust shall not be liable to pay incometax or any other tax in respect of its income, profits

or gains derived. Under Article 117(1) of the Constitution of India read with Article 110(1) of the Constitution, this Bill will be a Financial Bill. However, it was inadvertently introduced in the Rajya Sabha. It is, therefore, being withdrawn from the Rajya Sabha and will be introduced in the Lok Sabha.³³³

Reference of a Financial Bill to a Select/Joint Committee

A Money Bill cannot be referred to a Joint Committee of the Houses. However, there is no such bar in respect of a Financial Bill. There have been occasions when the Rajya Sabha referred to its own Select Committees, Financial Bills which were earlier referred to Select Committees of the Lok Sabha where they were introduced.

A member moved an amendment for referring the Life Insurance Corporation Bill, 1956, to a Select Committee after the Finance Minister moved a motion for consideration of the Bill. The Finance Minister (Shri C. D. Deshmukh), rising on a point of order, said that the question of the possibility of referring the Bill to a Joint Committee was considered but in view of the proviso to rule 92 of the Rules of Procedure and Conduct of Business in the Lok Sabha, it was felt that the Life Insurance Corporation Bill could not be referred to a Joint Committee because clause 37 of the Bill attracted the provisions of Article 110 of the Constitution making it a Financial Bill. A member submitted that Article 110 of the Constitution did not say that a Financial Bill could not be referred to a Joint Committee. He would even say that the Constitution did not say that even a Money Bill as such should not be referred to a Joint Committee. So far as Financial Bills were concerned, the powers of both the Houses were the same, except that they must be introduced in the other House. The Council had a right as far as Financial Bills were concerned to disagree with the recommendations of the Lok Sabha and if there was disagreement a joint sitting could be held. The Deputy Chairman ruled:

So far as Financial Bills are concerned, this House has got as much power as the other House has for referring them to a Select Committee, and our rules also provide that, when there is no Joint Committee and the Bill has been referred to a Select Committee in the other House, this House has got power to refer it to a Select Committee of its own. There is no point of order, but, of course, the Hon'ble Finance Minister may oppose the motion, and I will put it to the House.³³⁴

In the case of the Major Port Trusts Bill, 1963, a similar point arose when the Bill was referred to a Select Committee of the Lok Sabha and not the Joint Committee of both the Houses on the ground that the Bill attracted article 117(1). Although the matter was not pursued further in view of the urgency of the Bill, the Rajya Sabha referred the Bill to its own Select Committee.³³⁵

Again, when the Banking Laws (Amendment) Bill, 1968, was also not referred to a Joint Committee but was referred by the Lok Sabha to its Select Committee, on a point, the Minister concerned stated that the Bill attracted some of the matters specified in article 110 and so was not referred to a Joint Committee. However, he conceded the right of the Rajya Sabha to refer the Bill to a Select Committee which was eventually done.³³⁶

Bills seeking to replace Ordinances

Promulgation of Ordinances

If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require.³³⁷ An Ordinance so promulgated by the President has the same force and effect as an Act of Parliament, but every such Ordinance has to be laid before both Houses of Parliament and it ceases to operate at the expiration of six weeks from the reassembly of Parliament, or, if before the expiration of that period resolutions disapproving it are passed by both the Houses, then upon the passing of the second of those resolutions. It can also be withdrawn at any time by the President.³³⁸

The President may issue an Ordinance to enforce the provisions of a Bill introduced in, and pending before a House³³⁹ or a Committee³⁴⁰ or to enforce the provisions of a Bill already passed by one House but not yet passed by the other House³⁴¹ or on an entirely new matter or for a temporary purpose.³⁴²

Objection in the House

Members have objected to the frequent resort to the power to issue an Ordinance by the Government, particularly on dates too close to a session of Parliament.

On 15 November 1971, for instance, members raised objection to the issue of large number of Ordinances contending, *inter alia*, that there was no necessity for levying certain taxes through Ordinances without the approval of Parliament which was going to meet soon. The Deputy Chairman observed:

As has been pointed out by the hon'ble members, this is quite a large number of Ordinances that are being placed on this Table... Of course, Ordinances are to be normally issued in abnormal or extraordinary conditions. Recourse should not be taken to this procedure of legislating, in normal conditions. It has been pointed out by the Leader of the House that if, strictly speaking, according

to the provisions of the Constitution there is no emergency, there is a near emergency, by which, I thought, he meant that even if an emergency is not proclaimed under the provision of the Constitution, the situation is emergent. And, therefore, he said that under such extraordinary circumstances it was necessary and essential for the Government to issue such Ordinances... But there is the constitutional obligation on the part of the Government that when an Ordinance is issued, Government must place a copy of the Ordinance on the Table of both the Houses as early as possible. That constitutional obligation is there.

I have said earlier also that there is constitutional provision for issuing Ordinances. It is an entirely different issue whether from the political, democratic or moral point of view it is proper or not. But, as I have said earlier, very strong feelings, very strong views have been expressed, I should say by almost all the opposition parties... I hope the strong views expressed in this House by the entire Opposition will be taken into consideration...by the Government and in future there will be no recourse at all and, if at all, very little recourse, to issue Ordinances and to make laws by this procedure.³⁴³

Again, on 17 November 1980, members raised objection to the issue of ten Ordinances. The Chairman observed, "...so far as my reaction to these Ordinances *vis-a-vis* the Government and its policy of having them passed is concerned, I have already said that I do not like Ordinance..."³⁴⁴

Again, when the Finance (Amendment) Ordinance, 1987, was being laid on the Table, a point of propriety of the Government issuing a fiscal Ordinance was raised. It evoked the Chairman's response as follows:

I hope these views and the propriety of the Constitution will be kept in view by the Government, and in future, recourse to issuing Ordinances will be minimal and will be as sparing as possible, especially in the case of Financial Ordinances and they will be issued only when absolutely essential and urgent.³⁴⁵

Laying of an Ordinance

Ordinances promulgated by the President are required to be laid before both Houses of Parliament.³⁴⁶ Normally, Ordinances are laid on the first sitting of the House held after the promulgation of the Ordinances on which formal business is transacted. In the case of an Ordinance embodying wholly or partly or with modification the provisions of a Bill pending before

the House, a statement explaining the circumstances which had necessitated legislation by Ordinance is also required to be laid on the Table along with the Ordinance.³⁴⁷

Ordinances promulgated by the Governor of a State under the President's Rule are also laid on the Table in the same manner as Ordinances promulgated by the President. An Ordinance promulgated by the Governor of a State before issue of the Proclamation by the President in relation to that State can be laid before the House in case it could not be laid before the State Legislature.

The Assam Appropriation (Vote on Account) Ordinance, 1981, was promulgated by the Governor of Assam on 1 April 1981, after the prorogation of the Assembly on 31 March 1981, for the duration of four months. The Assembly thereafter sat only for a day on 29 June 1981. The next day President's Rule was imposed in that State. The session of Parliament commenced on 17 August 1981. In connection with the Assam Appropriation Bill, 1981, which was under consideration of the House, points were raised whether the Governor's Ordinance was required to be laid on the Table of the House under article 213(2)(a).³⁴⁸ The Ordinance expired on 31 July 1981, but got a six week's life under article 213(2)(a), with effect from 29 June 1981, when the Assembly met for a day. So, the Ordinance became inoperative on 9 August 1981. There was a duty to lay the Ordinance on the Table of the Assembly on 29 June 1981 and the Assembly could have disapproved the Ordinance that day or on any subsequent day but before it could do so the President's Rule was imposed in that State. Neither was the Ordinance laid nor was any action taken in respect of it by the Assembly. The Chairman, therefore, *inter alia*, ruled, "As the duty to lay it on the Table of the Assembly had commenced and was not fulfilled there is nothing in the Constitution which substituted Parliament for this purpose. After the expiry of six weeks, no resolution disapproving the Ordinance could be moved in Parliament and the matter of laying the Ordinance on the Table of the House which began on 29 June 1981, also came to an end when a resolution disapproving it was not possible either in the Assembly or in Parliament...no purpose would have been served by laying a twice dead Ordinance on the Table of our House except to inform the hon'ble members about it. That was adequately done by providing copies of the Ordinance in the Members' Library. There was thus no breach of any constitutional provision...If the letter and spirit of article 213(2)(a) are to be followed it may be necessary to lay the Ordinance on the Table of the Assembly when it meets, not having been laid thus on 29 June 1981, but that omission will not be supplied by laying it on the Table of our House which could not have acted under article 213(2)(a) on 17 August 1981."³⁴⁹

Bill replacing Ordinance

If the Government wants to continue the provisions of an Ordinance for a longer period or to make it permanent, a Bill to replace it is brought forward. Whenever a Bill seeking to replace an Ordinance with or without modification is introduced in the House, a statement explaining the circumstances which had necessitated legislation by Ordinance, is required to be placed before the House along with the Bill.³⁵⁰

On an occasion, the concerned Minister instead of laying a copy of the statement which had necessitated promulgation of the Special Protection Group Ordinance, 1995, read out the statement in the House.³⁵¹

Generally, a statutory resolution disapproving an Ordinance and the related Government Bill are discussed together.³⁵² If the resolution is adopted, it would mean disapproval of the Ordinance and the Bill would automatically fall through. If the resolution is negatived, the motion for consideration of the Bill is then put to vote and further stages of the Bill are proceeded with.

The resolution for the disapproval of the Code of Criminal Procedure (Amendment) Ordinance, 1991, and the related Bill were discussed on 5 August 1991, the resolution was adopted by a casting vote of the Vice-Chairman. No further proceedings on the Bill were taken up.³⁵³

The Banaras Hindu University (Amendment) Bill, 1958, to replace an Ordinance on the subject was introduced in the Lok Sabha and the Rajya Sabha met a week later on 18 August 1958, when the Ordinance was laid on the Table. Meanwhile, the Lok Sabha referred the Bill to its Select Committee. A point of privilege was raised in the Rajya Sabha on the score that the Ordinance should have been laid on the Table of the Rajya Sabha, the Rajya Sabha should have been given an opportunity to disapprove it and the Bill should have been referred to a Joint Committee. The Chairman ruled out the point stating that members would have opportunity to modify or amend the Bill when it came from the Lok Sabha and due to delay in meeting and need for quick action, the Bill was referred to a Select Committee. This, however, he clarified, should not be treated as a precedent.³⁵⁴

Private Members' Bills

Notice

A Private Member, *i.e.*, a member other than a Minister, desiring to move for leave to introduce a Bill has to give one month's notice of his

intention, unless the Chairman allows the motion to be made at a shorter notice.³⁵⁵ The notice is required to be accompanied by a copy of the Bill together with a Statement of Objects and Reasons. In case it is considered necessary to revise the statement, it is done under the directions of the Chairman³⁵⁶ and in consultation with and concurrence of the concerned member. In the early fifties, a member could introduce not more than three Bills on a day allotted for Private Members' Bills. However, since 1997 as per the Chairman's Direction, a member can introduce a maximum of three Bills in a Session.³⁵⁷ There is no bar to a Bill being introduced in the Rajya Sabha when an identical Bill is pending before the Lok Sabha.

Drafting

The primary responsibility for drafting of a Private Member's Bill is that of the member concerned. The Secretariat, however, renders all possible technical assistance and advice to members so that their Bills do not become inadmissible on technical or procedural grounds. The Bill when received, is scrutinised with reference to several points mentioned earlier in this Chapter. When a Bill has not been properly drafted by a member, he is consulted in the matter and any changes required in the Bill are made only with his approval.

Precedence

The relative precedence of notices of Bills given by Private Members is determined by draw of lots, to be held in accordance with the order made by the Chairman, on such day, not being less than fifteen days before the day with reference to which the draw of lots is held, as the Chairman may direct.³⁵⁸ The relative precedence is in the following order, namely, (a) Bills for introduction; (b) Bills returned by the President under article 111; (c) Bills passed by the Rajya Sabha and returned by the Lok Sabha with amendments; (d) Bills passed by the Lok Sabha and transmitted to the Rajya Sabha; (e) Bills in respect of which motion for consideration has been carried; (f) Bills in respect of which a report of a Joint/Select Committee has been presented; (g) Bills which have been circulated for the purpose of eliciting opinion thereon; (h) Bills introduced and in respect of which no further motion has been made; and (i) other Bills.³⁵⁹

The relative precedence of Bills falling under the same clause is determined by draw of lots.³⁶⁰ However, in the case of Bills to be introduced, they are listed in the list of business in the order in which notices in respect thereof are received and no ballot is held for the purpose. As regards Bills falling under clause (h) above, names of ten members are drawn by lot.³⁶¹ As per the direction of Chairman, Rajya Sabha the priority obtained in the draw of lots remains valid for the entire Session. However,

the Bill of only five members (excluding part-discussed, if any), in order of their priority, are included in the list of business for consideration out of the names of members who have secured the first ten places in the draw.³⁶² If a member has more than one Bill pending against his name, he can select one of his Bills.³⁶³

If any member whose Bill is listed for consideration and passing is absent when called by the Chair, to move his Bill for consideration he shall lose his priority and his name shall be placed at the end of the priority so drawn, on the subsequent days allotted for the purpose.³⁶⁴

Prior to the amendment of rule 25, the practice was that Bills introduced and in respect of which no further motions had been made or carried, were arranged in groups in the order of their introduction and the relative precedence within each group was determined by draw of lots and ten such Bills in respect of which notices of next motions were received were included in the concerned list of business. The rule was, therefore, amended on the recommendation of the Rules Committee so that instead of Bills, names of members in-charge of Bills are balloted; no member (out of ten balloted) being permitted to take up more than one Bill for consideration in the same session. In recommending this change, the Committee observed:

This (old) procedure causes lot of dissatisfaction amongst members who introduce Bills later and who have, therefore, to wait for years before their Bills see the light of the day in the House. Many a time, due to this procedure, Bills come up for consideration in the House at such a later stage that the purpose of introducing the Bills gets defeated. There have been occasions in the past when Bills have come up for discussion after a lapse of 3 to 4 years and in some cases did not come up at all, the sponsors of such Bills having retired in the meantime.....The Committee hopes and trusts that by the proposed procedure, the existing frustration amongst private members would be removed to a large extent and more and more Bills would come up for discussion in the House at the initiative of private members.³⁶⁵

However, as early as 1969, it was brought to the notice of the Business Advisory Committee that a large number of Private Members' Bills were pending and the practice of including all of them in the list of business did not serve any practical purpose. The Committee recommended that henceforth only the first ten Bills, in the order of priority, in respect of which notices of next motions had been received need be included in the list of business for a particular day.³⁶⁶

Introduction

On the day allotted for the disposal of Private Members' Bills, Bills for introduction are set down as the first item in the list of Private Members' business for that day.³⁶⁷ In the case of a motion for leave to withdraw a Bill, the same is set down before the Bills for introduction.³⁶⁸

By convention the motion for introduction of a Bill is not opposed, but there are several instances where motions for introduction of Private Members' Bills were opposed and also negated by the House.

For instance, the Constitution (Tenth Amendment) Bill, 1956 (motion for leave to introduce the Bill was negated by a division);³⁶⁹ two Bills regarding Salary and Allowances of Members, 1968 (motions were negated);³⁷⁰ the Constitution (Amendment) Bill, 1993 (to omit Article 370, the motion was negated);³⁷¹ the Constitution (Amendment) Bill 1993 (to omit Article 30, the motion after opposition, was withdrawn).³⁷²

The Constitution (Amendment) Bill, 2004 (amendment to Preamble) (the Leave to introduce the Bill was not granted)³⁷³; the Customs (Amendment) Bill, 2004 (the then Minister of State for Finance opposed the introduction of the Bill on the ground that the Bill was a Money Bill and accordingly the introduction of the Bill was deferred. Finally the decision of the Speaker was communicated to the House that it was a Money Bill)³⁷⁴; the Constitution (Amendment) Bill, 2006 (Omission of Article 370) (Leave to introduce the Bill was not granted).³⁷⁵

Motions after introduction

After the introduction of a Bill, the next motion in respect thereof is not made on the same day on which the Bill is introduced. As already stated, the relative precedence of Private Members' Bills after their introduction, as regards the subsequent legislative stages, is determined by draw of lots. There is one draw of lots for the entire session. Depending on the priority secured in the draw of lots, the member in-charge may move any of the next motions in respect of his Bill. However, a member cannot take up more than one Bill for consideration in the same session.³⁷⁶ Since only names of ten members in-charge of the Bills are drawn by lot, members, in whose names more than one Bills are pending, are requested, while notifying the result of the draw of lots of Bills, to select one of their Bills for listing for the next motions.³⁷⁷

There had been an occasion in the early fifties when one member moved three Bills at the same sitting. One Bill was negated, the second one was not proceeded with for want of President's recommendation under article 117(3), and the third Bill was taken up for consideration.³⁷⁸

A Private Member's Bill can be discussed in the absence of the mover, if the Bill had already been moved.

On 17 August 1995, when further discussion on a Private Member's Bill was in progress, a member raised a point of order and questioned the validity of taking up a Bill for discussion in the absence of the mover of the Bill. He contended that the member in-charge of the Bill was not present to reply to the questions raised by other members and

that the Minister could speak only after the mover had replied to them. Ruling out the point of order, the Vice-Chairman gave the following ruling:

So far as the discussion on the Bill is concerned, it is not essential under the rules, for the member moving the Bill to be present in the House. Once the Bill is moved in the House and it is under discussion, it becomes the property of the House. So, the House is competent to discuss the matter further. This discussion is valid and your point of order is hereby ruled out...³⁷⁹

While a Private Member's Bill is under consideration, if the concerned member is absent to reply to the discussion, the motion may be put to the vote of the House after the concerned Minister has intervened in the debate in the absence of the member in-charge of the Bill.³⁸⁰

A Private Member's Bill originating in and passed by the other House and transmitted to the Rajya Sabha may be taken up by any Private Member of the Rajya Sabha on a day allotted for Private Members' Bills.

Recommendation of the President

In a case where a Bill sponsored by a private member requires the recommendation of the President, the member concerned has to apply to the President for such recommendation. When a request from the member is received by the Secretariat for obtaining the recommendation of the President, the letter of the member is forwarded to the Ministry concerned for necessary action. The Minister concerned communicates the orders of the President to the member under intimation to the Secretariat. When intimation regarding President's order is received by the Secretariat through the Minister concerned, it is communicated to the member and published in the Bulletin.³⁸¹

Where the President's recommendation has been withheld, the Bill is not proceeded with and where it has not been obtained, the consideration of the Bill is postponed.

The Orphanages and Widows' Homes Bill, 1954, introduced by a private member did not get President's recommendation under article 117(3), for which the member had applied. The Chairman informed the House accordingly and so the Bill could not be taken up for consideration.³⁸²

A member moved a motion for consideration of the Standards of Higher Education Coordinating Bill, 1953, introduced by him. A point of order was raised that some clauses of the Bill involved expenditure from the Consolidated Fund of India and so the President's recommendation was required under article 117(3). The Deputy Chairman upheld the point of order and the member was advised to apply for President's recommendation. Till then further proceedings in respect of the Bill were stayed.³⁸³

Before the member in-charge of the Unemployment Relief Bill, 1953 moved the motion for consideration of the Bill, the Deputy Chairman stated that there was a technical objection that the Bill required the recommendation of the President. The mover stated that he had applied for it and till he got it the consideration of the Bill be postponed. The Deputy Chairman agreed and postponed the consideration of the Bill.³⁸⁴

In the case of a Bill for which the recommendation of the President has been withheld, the earlier practice was to remove the Bill from the Register of Pending Bills.³⁸⁵ The current practice, however, is that such Bills are excluded from the draw of lots.³⁸⁶

Time-limit on debate

The General Purposes Committee in its meeting held on the 28 April 2008 decided that a Private Member's Bill taken up for consideration/discussion on a day earmarked for Private Members' business should be disposed of on that day itself. The Committee further decided that the time-limit of two hours for the discussion on Private Member's Bill prescribed in the Direction of the Chairman should be strictly adhered to.³⁸⁷

Adjournment of debate

When on a motion being carried, the debate on a Private Member's Bill is adjourned to the next day allotted for Private Members' Bills in the same or the next session, it is not set down for further discussion unless it has gained priority in the draw of lots.³⁸⁸ When the debate is adjourned *sine die*, the member concerned has to give notice for resumption of the adjourned debate, if he wishes to proceed with his Bill on a subsequent day allotted for Private Members' Bills. Such a notice then has precedence over other Bills set down for that day.³⁸⁹ Debates on Private Members' Bills have been adjourned on motions moved in and adopted by the House. Some of the instances are:

The Parliamentary Secretary to the Minister of Education while intervening in the discussion on the Ancient and Historical Monuments and Archaeological Sites and Remains (Declaration of National Importance) Second Amendment Bill, 1954, stated that the Government proposed to bring a comprehensive legislation on the subject. The mover of the Bill, therefore, stated that pending the proposed Bill, his Bill be kept pending and further proceedings be postponed. The House agreed.³⁹⁰

After some discussion a member moved that the debate on the Constitution (Amendment) Bill, 1962 (to amend the Eighth Schedule) be adjourned. The motion was adopted.³⁹¹ Similar motion for adjournment of debate was moved and adopted in respect of the Indian Penal Code (Amendment) Bill, 1963.³⁹² Upon the motions moved and adopted, the debates on the two Constitution Amendment Bills (to amend articles 143 and 291) were postponed, one to the next session and another indefinitely.³⁹³

Circulation for opinion

As in the case of Government Bills there have been instances of Private Members' Bills being circulated for purpose of eliciting opinion thereon. These Bills and the subsequent progress regarding them were the following:

1. The Orphanages and Widows' Homes Bill, 1956.³⁹⁴
2. The Historical Records (of National Importance) Bill, 1957.³⁹⁵
3. The Indian Marine Insurance Bill, 1959.³⁹⁶
4. The Representation of the People (Amendment) Bill, 1962.³⁹⁷
5. The Indian Penal Code (Amendment) Bill, 1963.³⁹⁸
6. The Delhi Rent Control (Amendment) Bill, 1964.³⁹⁹
7. The Sterilisation of the Unfit Bill, 1964.⁴⁰⁰
8. The Port Protection Force Bill, 1968.⁴⁰¹
9. The Payment of Bonus (Amendment) Bill, 1966.⁴⁰²

The Bill at Sl. No. 1 was withdrawn by the member in-charge of the Bill,⁴⁰³ the Bills at Sl. Nos. 2, 4 and 8 lapsed on retirement of the concerned members; the Bills at Sl. Nos. 3 and 5 were referred to Joint and Select Committees,⁴⁰⁴ respectively and were eventually passed; the Bill at Sl. No. 6 was referred to a Joint Committee and later withdrawn by the concerned member,⁴⁰⁵ motions for reference of the Bills at Sl. Nos. 7 and 9 to Select Committee were negated.⁴⁰⁶

There have also been instances when motions for circulation of the Private Members' Bill were withdrawn or negated.

When a member had moved a motion for circulation of the Women's and Children's Institutions (Licensing) Bill, 1953, introduced by her for eliciting opinion thereon, an objection was raised that Parliament could not enact the law for the whole of India to which the Bill was intended to apply. The Deputy Chairman asked the member to withdraw the Bill and bring a fresh one, if necessary.⁴⁰⁷

On another occasion, the motion for circulation of the Prevention of Hydrogenation of Oils Bill, 1962, introduced by a member, for eliciting opinion thereon, was negated by the House.⁴⁰⁸

Register of Bills

As in the case of Government Bills, a separate Register is maintained by the Secretariat in which Bills introduced in the House by private members are entered. The rules applicable to removal of Government Bills⁴⁰⁹ are also applicable to Private Members' Bills. A Private Member's Bill pending before the House is removed from the Register of Bills in case a measure substantially identical is passed by the House or the Bill is withdrawn by the member on that ground.

A private member had introduced the Constitution (Amendment) Bill, 1987, to amend article 326, to lower the minimum voting age in elections from 21 years to 18 years, on 27 February 1987. The motion for consideration of the Bill was discussed on 4 and 25 November 1988, but remained inconclusive. Parliament passed the Constitution (Sixty-second Amendment) Bill, 1988 on 20 December 1988 and the Bill was sent to State Legislatures for ratification. Under the direction of the Chairman given in pursuance of rule 266, the Bill was not listed in the list of business for further consideration on the first Private Members' Bills day in the next session *i.e.*, on Friday, 24 February 1989 and was also removed from the Register of Bills. The member concerned was informed accordingly.⁴¹⁰

However, on another occasion, a private member who had introduced the Representation of the People (Amendment) Bill, 1991 on 20 December 1991, to restrict the countermanding of the poll only if a candidate set up by recognised political party died, withdrew the Bill on 30 April 1992 in view of the Government Bill on the identical subject having been passed by Parliament, and assented to by the President on 26 March 1992 (Act 2 of 1992).⁴¹¹

A Private Member's Bill pending before the House is also removed from the Register of Private Members' Bills in case the member in-charge ceases to be a member of the House⁴¹² or is appointed a Minister.⁴¹³

Earlier the practice was that a member in-charge of a Bill on his appointment as a Minister had to formally move a motion for withdrawal of the Bill introduced by him. Accordingly, for instance, Bills were withdrawn by the concerned Ministers by moving formal motions to that effect on 2 June 1967 and 28 December 1990. But in 1995 after the issuance of a direction by the Chairman⁴¹⁴ as many as 126 Bills introduced by two Private Members were removed from the Register after they were appointed Ministers.⁴¹⁵

Private Members' Bills enacted into law

So far fourteen Bills have become part of the statute book at the initiative of private members in both the Houses; five of them originated in the Rajya Sabha and nine in the Lok Sabha. Besides those Bills, the Rajya Sabha also passed the Aligarh Muslim University (Amendment) Bill, 1977 on 2 March 1979, which was introduced by Shri Triloki Singh on 5 August 1977. The Bill was reported and laid on the Table in the Lok Sabha on 9 March 1979, where it lapsed on the dissolution of the Sixth Lok Sabha on 22 August 1979, without the Bill being taken up there.

The latest private Member's Bill to have been passed by the Rajya Sabha is the Rights of Transgender Persons Bill, 2014 which was introduced by Shri Tiruchi Siva in the Rajya Sabha on 12 December 2014 and passed by it on 24 April 2015.⁴¹⁶ The Bill was laid on the Table of the Lok Sabha on 29 April 2015⁴¹⁷ and is pending consideration and passage there. If passed by Lok Sabha, the Bill will become the first Private Member's Bill since 1970 to become an Act.

The statement overleaf gives the details of the fourteen Bills.

Statement of Private Members' Bills Enacted

Sl. No.	Short title of the Bill	Lok Sabha			Rajya Sabha			Act No. Date of Assent
		Dates of introduction (i)/ consideration (c)/ passing (p)	Member piloting the Bill	Whether referred to Select/ Joint Committee	Dates of introduction (i)/ consideration (c)/ passing (p)	Member piloting the Bill	Whether referred to Select/ Joint Committee	
1	2	3	4	5	6	7	8	9
1.	The Muslim Wakfs Bill, 1952	16.7.52(i) 30.7.52 (c) 13.3.53 (c) 14.8.53 (c) 26.11.53 (c) 18.2.54 (c) 4.3.54 (c) 12.3.54 (c & p)	Syed Mohammad Ahmed Kazmi (Congress)	Referred to Select Committee on 13.3.53	15.3.54 (laid on Table) 23.4.54 (c & p)	Shri Akhtar Hussain (Congress)	—	Act 29 of 1954 21.5.54
2.	The Code of Criminal Procedure (Amendment) Bill, 1953 (Amendment of section 435)	27.11.53 (i) 29.4.55 (c) 5.8.55 (c) 27.7.56 (c & p)	Shri Raghunath Singh (Congress)	—	3.8.56 (laid on Table) 10.8.56 (c & p)	Shri J.N. Kaushal (Congress)	—	Act 39 of 1956 1.9.56
3.	The Indian Registration (Amendment) Bill, 1955 (Amendment of section 2 etc.)	16.9.55 (i) 16.12.55 (c) 15.3.56 (c) 23.3.56 (c & p)	Shri S.C. Samanta (Congress)	—	19.12.55 (laid on Table) 9.3.56 (c & p)	Shri P.T. Leuva (Congress)	—	Act 17 of 1956 6.4.56

1	2	3	4	5	6	7	8	9
4.	The Proceedings of Legislature (Protection of Publication) Bill, 1956 [Title changed to the "The Proceedings of Parliament (Protection of Publication) Bill, 1956" when the Bill was passed by the Lok Sabha]	24.2.56 (i) 23.3.56 (c) 6.4.56 (c) 1.5.56 (c) 4.5.56 (c & p)	Shri Feroze Gandhi (Congress)	Referred to Select Committee on 6.4.56	7.5.56 (laid on Table) 11.5.56 (c & p)	Dr. P. Subbarayan (Congress)	—	<u>Act 24 of 1956</u> 26.5.56
5.	The Women's and Children's Institutions (Licensing) Bill, 1954	26.2.54 (i) 10.8.56 (c) 24.8.56 (c) 25.8.56 (c) 30.11.56 (c) 7.12.56 (c & p)	Rajmata Kamalendu Mati Shah (Independent)	Referred to Select Committee on 24.8.56	10.12.56 (laid on Table) 14.12.56 (c & p)	Dr. (Smt.) Seeta Parmanand (Congress)	—	<u>Act 105 of 1956</u> 30.12.56
6.	The Ancient and Historical Monuments and Archaeological Sites and Remains (Declaration of National Importance) Bill, 1954	31.8.56 (laid on Table) 7.12.56 (c & p)	Shri Balwant Sinha Mehta (Congress)	—	3.12.54 (i) 17.12.54 (c) 24.8.56 (c & p)	Dr. Raghbir Singh (Congress)	—	<u>Act 70 of 1956</u> 15.12.56

1	2	3	4	5	6	7	8	9
7.	The Hindu Marriage (Amendment) Bill, 1956 (Amendment of section 10)	3.12.56 (laid on Table) 7.12.56 (c & p)	Smt. Uma Nehru (Congress)	—	24.8.56(i) 30.11.56 (c & p)	Dr. (Smt.) Seeta Parmanand (Congress)	—	Act 73 of 1956 20.12.56
8.	The Code of Criminal Procedure (Amendment) Bill, 1957 (Amendment of section 198)	20.12.57 (i) 11.9.59 (c) 27.11.59 (c & p) 23.8.60 (c & p) 23.12.60 (c & p)	Smt. Subhadra Joshi (Congress)	—	7.12.59 (laid on Table) 19.2.60 (c) 19.8.60 (c & p)	Dr. (Smt.) Seeta Parmanand (Congress)	—	Act 56 of 1960 26.12.60
9.	The Orphanage and other Charitable Homes (Supervision and Control) Bill, 1960	26.2.60 (laid on Table) 18.3.60 (c & p)	Shri Diwan Chand Sharma (Congress)	—	8.5.59 (i) 4.9.59 (c) 30.11.59 (c) 19.2.60 (c & p)	Shri Kailash Bihari Lal (Congress)	Referred to Joint Committee on 4.9.59	Act 10 of 1960 9.4.60
10.	The Marine Insurance Bill, 1963 (Introduced in the Rajya Sabha as the Indian Marine Insurance Bill, 1959)	14.3.63 (laid on Table) 5.4.63 (c & p)	Shri Diwan Chand Sharma (Congress)	—	20.2.59 (i) 17.8.62 (c) 8.3.63 (c & p)	Shri M.P. Bhargava (Congress)	Referred to Joint Committee on 17.8.62	Act 11 of 1963 18.4.63
11.	The Hindu Marriage (Amendment) Bill, 1963	22.2.63 (i) 4.12.64 (c & p)	Shri Diwan Chand Sharma (Congress)	—	8.12.64 (laid on Table) 11.12.64 (c & p)	Shri M.P. Bhargava (Congress)	—	Act 44 of 1964 20.12.64

1	2	3	4	5	6	7	8	9
12.	The Salaries and Allowances of Members of Parliament (Amendment) Bill, 1964 (Amendment of sections 3&5)	10.4.64 (i) 24.4.64 (c & p)	Shri Raghunath Singh (Congress)	—	28.4.64 (laid on Table) 8.5.64 (c) 18.9.64 (c & p)	Shri M.P. Bhargava (Congress)	—	Act 26 of 1964 29.9.64
13.	The Indian Penal Code (Amendment) Bill, 1967 (Amendment of sections 292, 293, etc.)	20.12.67 (laid on Table) 14.3.68 (c) 29.3.68 (c) 11.4.68 (c) 1.5.69 (c) 16.5.69 (c & p)	Shri Diwan Chand Sharma (Congress)	Referred to Select Committee on 11.4.68	3.5.63 (i) 26.2.65 (c) 19.8.66 (c) 22.5.67 (c) 4.8.67 (c) 1.12.67 (c) 15.12.67 (c & p) 22.8.69 (c & p)	Diwan Chaman Lal (Congress)	Referred to Select Committee on 19.8.66	Act 36 of 1969 7.9.69
14.	The Enlargement of the Appellate (Criminal) Jurisdiction of the Supreme Court Bill, 1968 [Title changed to "The Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Bill, 1970", when passed by Lok Sabha and Rajya Sabha)	15.11.68 (i) 3.4.69 (c) 18.4.69 (c) 17.11.69 (c) 19.12.69 (c & p) 25.3.70 (c) 31.7.70 (c & p)	Shri Anand Narain Mulla (Independent)	Referred to Select Committee on 18.4.69	22.12.69 (laid on Table) 20.3.70 (c & p)	Shri M.P. Bhargava (Congress)	—	Act 28 of 1970 9.8.70

Constitution Amendment Bills

Parliament's power to amend the Constitution

Article 368 of the Constitution confers power on Parliament to amend the Constitution and prescribes procedure therefor. Until the *Golak Nath* case, the Supreme Court had been holding that Parliament was empowered to amend any provision of the Constitution, without any exception whatever⁴¹⁸ and it could exercise that power over all the provisions of the Constitution.⁴¹⁹ In the *Golak Nath* case, however, the Court held, *inter alia*, that a Constitution Amendment which “took away or abridged” a fundamental right would be void.⁴²⁰ This decision led Parliament to enact the Constitution (Twenty-fourth Amendment) Act, which declared expressly that there would be no limitation whatever on the constituent power of Parliament to amend the provisions of the Constitution and that article 13 which was a bar against abridging or taking away any of the fundamental rights did not apply to a Constitution Amendment under article 368.⁴²¹

In the *Kesavananda Bharati* case,⁴²² the Supreme Court reviewed the decision given in the *Golak Nath* case and held, *inter alia*, that article 368 did not enable Parliament to alter the basic structure or framework of the Constitution. The theory of basic structure of the Constitution was reaffirmed and applied by the Supreme Court in the *Indira Nehru Gandhi* case.⁴²³ In the *Minerva Mills* case⁴²⁴ the Court held that the Constitution had conferred a limited amending power on Parliament and this limited amending power was one of the basic features of the Constitution. Parliament, therefore, could not under article 368 expand its amending power so as to acquire for itself the right to repeal or abrogate the Constitution or to destroy its basic and essential features. The Court developed the concept of basic structure in subsequent cases also.⁴²⁵

Salient features of article 368

Apart from the limitations on Parliament's power to amend the Constitution described above, some points of special interest arising with regard to article 368 may also be mentioned.

- (i) When Parliament amends the Constitution, it does so in exercise of its constituent power as distinguished from its ordinary legislative power.
- (ii) An amendment can be initiated only by the introduction of a Bill.
- (iii) Such a Bill can be initiated in either House of Parliament.
- (iv) The Bill so initiated must be passed in each House by a majority of the total membership of that House and by a majority of not

less than two-thirds of the members of that House present and voting.

- (v) In view of the requirement of special majority in each House, there is no provision for a joint sitting in case of disagreement between the two Houses over any amendment to be made or when a Constitution Amendment Bill passed by one House is not passed by the other. In such an eventuality the amendment or the Bill, as the case may be, falls through. The following are the instances when Constitution Amendment Bills passed by one House could not secure the requisite majority in the other House and, therefore, the Bills fell:

The motion for consideration of the Constitution (Twenty-fourth Amendment) Bill, 1970, regarding abolition of privileges and purses of erstwhile rulers, as passed by the Lok Sabha, received 149 votes in favour and 75 against in the Rajya Sabha. The motion was, therefore, lost by a fraction of a vote or one vote.

$[(149+75) \times 2/3 = 149.33]$ which was the requirement]

Eventually the Bill fell through.⁴²⁶

The motions for consideration of the Constitution (Sixty-fourth and Sixty-fifth Amendment) Bills, 1989, regarding Panchayats and Municipalities, as passed by the Lok Sabha, received 157 votes in favour and 83 against in the Rajya Sabha. The motions were, therefore, lost by three votes

$[(157+83) \times 2/3 = 160]$ which was the requirement]

Eventually the Bill fell through.⁴²⁷

The motion for consideration of the Constitution (Sixty-fourth Amendment) Bill, 1990, regarding President's Rule in Punjab, as passed by the Rajya Sabha,⁴²⁸ received 236 votes in the Lok Sabha which was short of the requirement of the majority of the total membership of that House⁴²⁹ (*i.e.* 545). The Bill was, therefore, lost there. A new Bill, *viz.* the Constitution (Sixty-fifth Amendment) Bill, 1990, was introduced and passed in the Lok Sabha by the requisite majority.⁴³⁰ The Rajya Sabha considered and passed the Bill on 10 April 1990, by adopting earlier a motion to suspend rule 228 which bars repetition of a motion on which the House has given decision in the same session.⁴³¹

- (vi) When a Constitution Amendment Bill as passed by one House is not passed by the other House with requisite majority, the first

House is informed accordingly through a message sent from the other House.

In the case of the Constitution (Sixty-fourth Amendment) Bill mentioned in the preceding paragraph, a point was raised by some members in the Rajya Sabha inquiring about the fate of the Bill.⁴³² By the time the message was received from the Lok Sabha, the Rajya Sabha had already adjourned. The message was, therefore, circulated through the Bulletin.⁴³³

- (vii) When the Constitutional Amendment Bill is passed, it must be presented to the President who has to give his assent to the Bill. The President cannot withhold his assent from such a Bill nor can he return the Bill to Parliament as he can do in the case of an ordinary Bill.

The Constitution (Fifty-ninth Amendment) Bill, 1988, relating to Punjab was submitted for the President's assent by the Lok Sabha Secretariat (through the Ministry of Law). Leaders of political parties urged upon the President to return the Bill for reconsideration of Parliament or refer the matter to the Supreme Court for advisory opinion. The President consulted the Attorney-General. In the opinion of the Attorney-General, the article did not give any discretion to the President in a matter relating to the amendment of the Constitution.⁴³⁴

- (viii) When the amendment seeks to make any change in any of the provisions mentioned in the proviso to article 368, it must be ratified by not less than one-half of the State Legislatures.
- (ix) Such a ratification is to be done by resolutions passed by the State Legislatures.
- (x) No specific time-limit for the ratification of an amending Bill by the State Legislatures has been laid down; however, the ratification to be taken into account should be done before the amending Bill is presented to the President for his assent. In case a State Legislature ratifies the Bill after its assent, a copy of the resolution is forwarded to the Ministry of Law for information, as per the practice.
- (xi) Only Parliament can amend the Constitution and the role of the States in this regard is limited only to ratification of certain types of amendments, mentioned in the proviso to article 368.

Constitution Amendment Bills introduced in Rajya Sabha

An amendment to the Constitution may be brought forward by a Minister or a private member. So far as Private Members' Bills seeking to amend the Constitution are concerned, they are introduced in both the

Houses, subject to rules, almost every session. But no such Bill has been passed so far. As regards the Government Bills, they are distinguished by consecutive numbers irrespective of the year of their introduction. This applies equally to the Bills when they are passed and become Acts of Parliament. The following Constitution Amendment Bills have been introduced in the Rajya Sabha so far and passed:

The Constitution (Twenty-first Amendment) Bill, 1967 (inclusion of Sindhi language in the Eighth Schedule) introduced on 20 March 1967; the Constitution (Fifty-ninth Amendment) Bill, 1988 (Proclamation in respect of Punjab), introduced on 14 March 1988; the Constitution (Sixty-second Amendment) Bill, 1989 (continuance of reservation for Scheduled Castes, Scheduled Tribes and Anglo-Indian Community in the Lok Sabha), introduced on 20 December 1989; the Constitution (Seventy-sixth Amendment) Bill, 1992, enacted as the Constitution (Seventieth Amendment) Act (inclusion of Members of the Legislative Assemblies of Union Territories of Delhi and Pondicherry in the electoral college for the election of the President), introduced on 3 April 1992; the Constitution (Eighty-first Amendment) Bill, 1994, enacted as the Constitution (Seventy-eighth Amendment) Act (inclusion of certain State Acts in the Ninth Schedule), introduced on 19 April 1994; the Constitution (Eighty-fifth Amendment) Bill, 1994, enacted as the Constitution (Seventy-sixth Amendment) Act (inclusion of a Tamil Nadu Act about reservation of seats in educational institutions, etc. in the Ninth Schedule), introduced on 24 August 1994; the Constitution (Seventy-seventh Amendment) Bill, 1995 (about reservation in matters of promotion to any class or classes of posts in the services under the State in favour of the Scheduled Castes and Scheduled Tribes introduced on 31 May 1995; the Constitution (Seventy-eighth Amendment) Bill, 1995 (inclusion of certain entries in the Ninth Schedule), introduced on 19 April 1994; the Constitution (Seventy-ninth Amendment) Bill, 1999 (for extending the period for reservation of seats and special representation), introduced on 26 October 1999; the Constitution (Eightieth Amendment) Bill, 2000 (about levy and assignment of taxes in the States), introduced on 9 March 2000; the Constitution (Eighty-first Amendment) Bill, 2000 (for filling up reserved vacancies in succeeding years or year), introduced on 8 May 2000; the Constitution (Eighty-second Amendment) Bill, 2000 (Provision in favour of the members of the Scheduled Castes and the Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standard of evaluation), introduced on 23 December 1999; the Constitution (Eighty-third Amendment) Bill, 2000 (non-application of provisions of article 243 to the State of Arunachal Pradesh), introduced on 17 December 1999; the Constitution (Ninety-fifth Amendment) Bill, 2009 (to extend the reservation of seats for Scheduled Castes and Scheduled Tribes in the Lok Sabha and States Assemblies from Sixty years to Seventy years) was introduced on 30 July 2009; the Constitution (One Hundred and Eighth Amendment) Bill, 2008 (to provide reservation

for women in the House of the People and Legislative Assemblies of the States) was introduced on 6 May 2008 and passed on 9 March 2010 and the Constitution (One Hundred Seventeenth Amendment) Bill, 2012 (to provide impediment free reservation in promotion to the Scheduled Castes and the Scheduled Tribes with retrospective effect, *i.e.* 17 June 1995) was introduced on 5 September 2012 and passed on 17 December 2012. The Constitution (One hundred and Twentieth Amendment) Bill, 2013, providing for constitution of the Judicial Appointments Commission was also passed by the Rajya Sabha on 5 September 2013.

Besides the above mentioned Bills, the following Constitution Amendment Bills were also introduced in the Rajya Sabha by Government but could not get enacted for the reasons mentioned against each:

The Constitution Forty-first Amendment Bill, 1975 (protection to Prime Minister under article 361), introduced on 9 August 1975 and passed on the same day and transmitted to the Lok Sabha on 5 January 1976; it lapsed on the dissolution of the Fifth Lok Sabha.

The Constitution (Sixty-first Amendment) Bill, 1988 (transfer of 'sports' from the State List to the Concurrent List), introduced on 24 November 1988; it was withdrawn on 3 December 2009.

The Constitution (Sixty-fourth Amendment) Bill, 1990 (extension of Proclamation in respect of Punjab), introduced on 27 March 1990, passed on 28 March 1990 and transmitted to the Lok Sabha; it lost there on 30 March 1990.

The Constitution (Seventieth Amendment) Bill, 1990 (amendment of article 324 of the Constitution) introduced on 30 May 1990; it was withdrawn on 13 June 1994, as the Government did not want to proceed with the Bill.

The Constitution (Seventy-first Amendment) Bill, 1990 (readjustment of seats in the Lok Sabha and State Assemblies), introduced on 30 May 1990; it was passed on 29 April 1992 and transmitted to the Lok Sabha on 4 May 1992; the Lok Sabha referred the Bill to a Select Committee on 7 May 1982; the Bill was withdrawn on 14 June 1994, with the concurrence of the Rajya Sabha given on 13 June 1994.

The Constitution (Seventy-ninth Amendment) Bill, 1992 (population control and small family norm), introduced on 22 December 1992; referred to the Department-related Parliamentary Standing Committee on Human Resource Development, report of the Committee presented on 22 March 1995; it is pending in the Rajya Sabha.

The Constitution (Eighty-third Amendment) Bill, 1997 was introduced on the 28 July 1997; the Bill was referred to the Parliamentary Standing Committee on Human Resource Development; report of the Committee was presented on 24 November 1997; the Bill was withdrawn on 27 November, 2001.

Categories of amendments

The Constitution provides for three categories of amendments.⁴³⁵ The first category of amendments can be effected by Parliament by law passed by a simple majority. The second category of amendments can be effected by Parliament by the prescribed 'special majority'. The third category of amendments require ratification by at least one half of the State Legislatures after being passed by a special majority. This categorisation, however, excludes 'innumerable articles in the Constitution'⁴³⁶ which leave the matters to be dealt with by Parliament by law as, for example, article 11 regarding citizenship, since such laws do not make any change in the letter of the Constitution. The amending procedure under the three categories is, therefore, described below.

Amendment by simple majority

A Bill in respect of any of the following subjects is treated as an ordinary Bill and passed by a simple majority: admission or establishment of new States or formation of new States and alteration of areas, boundaries or names of existing States;⁴³⁷ creation or abolition of Legislative Councils in States;⁴³⁸ administration and control of Scheduled Areas and Scheduled Tribes;⁴³⁹ administration of Tribal Areas in the States of Assam, Meghalaya and Mizoram,⁴⁴⁰ amendment of Scheduled Castes and Scheduled Tribes Orders.⁴⁴¹

Normal legislative procedure applies to this category of amendments. However, the Constitution lays down certain conditions before Parliament legislates in respect of some of such amendments. For instance, no Bill for the formation of a new State, etc. can be introduced in either House of Parliament except on the recommendation of the President and unless such Bill is referred by the President to the Legislature of the State concerned for expressing its views thereon within the specified period.⁴⁴² Further, Parliament's power to make law for the abolition or creation of a Legislative Council in the States is exercisable only if the Legislative Assembly of the concerned State passes a resolution to that effect by a majority of not less than two-thirds of the members of the Assembly present and voting.⁴⁴³

Amendment by special majority

Barring the provisions and the Schedules mentioned above which can be amended by a simple majority, a Bill seeking to amend any other provision of the Constitution has to be passed in either House of Parliament by a special majority, *i.e.* a majority of the 'total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting'. The total membership stipulated in the

Constitution is taken to mean the total number of members comprising the House irrespective of any vacancies or absentees on any account.⁴⁴⁴ 'Abstentions' in any voting are not taken into consideration in declaring the result on any question.

In connection with the voting on a Constitution Amendment Bill, a member sought the Chair's interpretation of the expression 'present and voting' and wanted to ascertain whether members who abstained from voting would be counted while deciding the majority. The Deputy Chairman while saying that in common sense, voting meant either 'yes' or 'no', *inter alia*, observed: "it is established that abstentions in any voting are not taken into consideration in declaring the result on any question. A member who votes 'abstention' either through the electronic vote recorder or on a voting slip or in any other manner does so only to indicate his presence in the House and his intention to abstain from voting. He does not record his vote within the meaning of the words 'present and voting'. The expression 'present and voting' refers to those who vote for 'Ayes' or for 'Noes' and not to those who are merely present but not voting either in favour of or against any question before the House. This has also been the practice in this House in the past so that whenever members have abstained from voting, they have not been counted for the purpose of declaring the result of a division. Even in an election, if you abstain, your vote will not be counted."⁴⁴⁵

Except for the conditions as to the special majority and ratification of certain Bills by State Legislatures, the Constitution does not lay down any other procedure to be followed with respect to Constitution Amendment Bills in the House. As observed by the Supreme Court, "Having provided for the constitution of a Parliament and prescribed a certain procedure for the conduct of its ordinary legislative business to be supplemented by rules by each House (article 118), the makers of the Constitution must be taken to have intended Parliament to follow that procedure, so far as it may be applicable consistently with the express provisions of article 368, when they entrusted to it the power of amending the Constitution."⁴⁴⁶ The Rules of Procedure in the Rajya Sabha, however, do not contain any special provisions in regard to such Bills and rules relating to ordinary Bills, therefore, apply, subject to the requirements of article 368.

The Committee on Draft Rules considered whether special rules should be made regulating the procedure in respect of Constitution Amendment Bills and came to the conclusion that the present practice and procedure had worked satisfactorily and that it was unnecessary to make specific provision for the purpose.⁴⁴⁷

Although strictly interpreted, article 368 requires special majority only for passing a Constitution Amendment Bill at the final stage, as per

the practice and as a matter of abundant caution, the constitutional requirement is adhered to at all the effective stages of the Bill, *i.e.*, for adoption of the motion that the Bill be taken into consideration; for adoption of the clauses and Schedules and the motion that the Bill be passed.

In 1951, the Attorney-General had given the following opinion on a reference made to him by the Speaker:

The expression, 'when the Bill is passed in each House' has reference to the passing of the Bill at the final stage. The majority insisted upon by article 368 is, therefore, applicable only to the voting at the final stage. It is, however, better to err on the safer side and take stricter view insisting on the requisite majority at all stages of the passage of the Bill.⁴⁴⁸

The motion that the Bill be referred to a Select or Joint Committee may, however, be passed by a simple majority.

Earlier, the motions for reference of the Constitution (Third and Fourth Amendment) Bills of 1954 and 1955 to Joint Committees respectively were adopted by a special majority.⁴⁴⁹ However, on subsequent occasions the motions were adopted by a simple majority.⁴⁵⁰

When a motion has to be carried by a special majority, voting is always by division. The Chairman, while announcing the result of the voting, makes a special mention of the fact that the motion has been carried by a special majority. Each clause or Schedule is put to the vote of the House separately and carried by a special majority. The Chairman may, however, with the concurrence of the House, put any group of clauses or Schedules together to the vote of the House.

On 11 September 1956, after the motion for consideration of the Constitution (Seventh Amendment) Bill, 1956, was adopted, the Deputy Chairman announced the following procedure to be adopted in taking up the clause-by-clause consideration of the Bill containing twenty-nine clauses and a Schedule which would have entailed thirty divisions, if not more, if each clause was disposed by a special majority separately:

...I propose to take up the amendments first. We shall dispose of all the amendments to all the clauses and then take up the clauses together to save the time of the House...If any amendment is accepted, we will put that clause also to vote.

The amendments were accordingly disposed of first—they were either withdrawn or negatived by a voice vote. After ascertaining the views of members he put clauses 6, 18 and 24 separately and other clauses and the Schedule together to vote. Thus, only four divisions were held for disposing the clauses and the Schedule; but the result of the divisions was made applicable separately to individual clauses and the Schedule.⁴⁵¹

On 31 August 1978, before the clause-by-clause consideration of the Constitution (Forty-fifth Amendment) Bill, 1978 was taken up, the Chairman announced the following procedure to be followed in respect thereof:

...amendments to the clauses may be moved, considered and disposed of when that particular clause is under consideration. If any amendment is adopted by a simple majority, then particular clause as amended will be put to vote immediately. For adoption of the clause, as amended, special majority as prescribed would be necessary. If the amended clause does not get the prescribed majority then that particular clause would be treated as negated by the House. Thereafter, all the clauses on which there are no amendments or on which amendments have not been accepted will be put to vote together. In case a member presses any particular clause to be put to vote separately, voting on that clause will take place accordingly.⁴⁵²

The House agreed with that procedure.

Amendment by special majority and ratification by State Legislatures

If an amendment of the Constitution seeks to make any change in articles relating to the election of the President⁴⁵³ or the extent of the executive power of the Union and the States,⁴⁵⁴ or the Supreme Court and the High Courts,⁴⁵⁵ or distribution of legislative powers between the Union and States,⁴⁵⁶ or the representation of States in Parliament, or the very procedure for amendment as specified in the Constitution,⁴⁵⁷ the amendment, after it is passed by the special majority has also to be ratified by Legislatures of not less than one-half of the States by resolutions to that effect passed by those Legislatures before the Bill making provisions for such an amendment is presented to the President for assent. The Constitution does not contemplate any time-limit within which the State Legislatures should ratify the amendments referred to them.

The opinion of the Ministry of Law is always obtained as to whether a particular amendment requires to be ratified by State Legislatures. The Chairman may also in case of a doubt refer the matter to the Attorney-General for opinion.

The Constitution (Twenty-fifth Amendment) Bill, 1971, sought to amend article 31 and add a new article 31C. The Minister of Law and Justice made a statement in the House that a question had arisen whether before the Bill was presented to the President for his assent, the amendments proposed by the Bill required ratification by State Legislatures under the proviso to article 368. The contention might be put forward that the terms in which article 31C was framed, deprived the courts of a part of their jurisdiction and, therefore, the article

required ratification. The Government took the view that such ratification was not necessary. However, with a view to avoiding difficulties that might possibly arise and out of abundant caution the Government decided to refer the Bill for ratification to State Legislatures.⁴⁵⁸

The Constitution (Sixty-second Amendment) Bill, 1988, sought to lower the voting age from twenty-one to eighteen years in the elections to the Lok Sabha and to the Legislative Assemblies of States. On the advice of the Ministry of Law, the Bill was referred to State Legislatures for ratification. Meanwhile, a member raised the matter in the House by way of special mention and contended that the Bill did not require ratification.⁴⁵⁹ Subsequently, on a suggestion of a member the Chairman referred the matter to the Attorney-General for opinion who confirmed the view of the Ministry of Law and the reference of the Bill to State Legislatures for ratification.⁴⁶⁰

Prior to the Constitution (Twenty-fourth Amendment) Bill, 1971, the procedure with regard to the ratification by the States was that the Union Ministry of Law used to obtain the ratification of the State Legislatures and intimate the Secretariat, accordingly. At the Conference of Presiding Officers held in Goa in 1969, it was decided that “communication should go from Legislature to Legislature...Whether it is Rajya Sabha or Lok Sabha, it should go direct to the State Legislatures and no Ministry should come in.” Since then it is the Secretariat which sends communications to State Legislature Secretariats in the matter. While forwarding a copy of the Bill, as passed by the Houses of Parliament, the following general form of resolution is also suggested to them for ratification:

That this House ratifies the amendment to the Constitution of India falling within the purview of clause...of the proviso to clause (2) of article 368 thereof, proposed to be made by the Constitution (Amendment) Bill, 20...as passed by the Houses of Parliament.⁴⁶¹

After the required number of State Legislatures have ratified the proposed amendment, the Bill is sent to the President for his assent through the Secretary, Ministry of Law with an endorsement signed by the Chairman, on the Bill: “The above Bill has been passed by the Houses of Parliament in accordance with the provisions of article 368 of the Constitution and has also been ratified by the Legislatures of not less than one-half of the States by Resolutions to that effect as required under the proviso to clause (2) of the said article.” Xerox copies of the resolutions are also sent with the note to the Ministry of Law, while obtaining the assent of the President on the Bill.

So far, out of the ninety-eight amendments of the Constitution, Bills in respect of thirty nine amendments have been referred to State Legislatures for ratifications. These are second, third, sixth, seventh, eighth, thirteenth to sixteenth, twenty-second to twenty-fifth, twenty-eighth, thirtieth to

thirty-second, thirty-fifth, thirty-sixth, thirty-eighth, thirty-ninth, forty-second to forty-sixth, fifty-first, fifty-second, fifty-fourth, sixty-first, sixty-second, seventieth, seventy-third to seventy-fifth, seventy-ninth, eighty-fourth, eighty-eighth and ninety-fifth.⁴⁶² As already stated, upto the twenty-third amendments, the Ministry of Law obtained the ratification. Subsequent amendments were got ratified by the Rajya Sabha Secretariat barring the forty-fourth, sixty-second and ninety-fifth amendments which were got ratified by the Lok Sabha Secretariat.

The Bill in respect of the Constitution (Fifty-second Amendment) Act, 1985, popularly known as the Anti-defection Law was not ratified by the State Legislatures. The Supreme Court had an occasion to consider the issue whether the whole constitutional amendment was bad for want of ratification. The Court upheld the validity of the Tenth Schedule inserted by that Act but declared its paragraph 7 invalid for want of ratification as it brought about in terms and effect a change in articles 136, 226 and 227 of the Constitution. While doing so the majority treated paragraph 7 as severable part from the rest of the Schedule. However, the minority of the Judges held that the entire Constitutional Amendment Act was invalid for want of ratification.⁴⁶³

NOTES AND REFERENCES

1. For instances, see the Transplantation of Human Organs Act, 1994 (42 of 1994) and the Patents (Amendment) Bill, 1995. The Arbitration and Conciliation Act, 1996, contains more than one preambles.
2. In 1954, the Enacting Formula adopted was "Be it enacted by Parliament in the—Year of our Republic as follows." R.S. Deb., 6.5.1954, c. 5291. The present formula was introduced first in the Himachal Pradesh and Bilaspur (New State) Bill, 1954, as passed by Houses of Parliament.
3. For instance, see the Criminal Law Amendment Bill, 1995 introduced in the Rajya Sabha on 18.5.1995 and the Criminal Law (Second Amendment) Bill, 1995, introduced in the Lok Sabha on 21.8.1995. However, in the case of Constitution Amendment Bills, the numbers in the short titles are given consecutively.
4. For example, see the Transplantation of Human Organs Act, 1994.
5. For instance, see the Criminal Law Amendment Bill, 1995.
6. General Clauses Act, 1897, s. 5(1).
7. For instance, see the Constitution (One Hundred Seventeenth Amendment) Bill, 2012.
8. For instance, see the Representation of the People (Second Amendment) Bill, 1994.
9. For instance, see the Essential Commodities (Special Provisions) Act, 1981 and the Terrorists and Disruptive Activities Act, 1985.
10. For instance, see the National Institute of Design Bill, 2013.
11. For instance, see the Merchant Shipping Act, 1958, ss. 357 and 390.
12. General Clauses Act, 1897, s. 6.
13. For instance, see the Arbitration and Conciliation Bill, 1995, the Higher Education and Research Bill, 2011 and the Rani Lakshmi Bai Central Agricultural University Bill, 2012.
14. The Insurance Laws (Amendment) Bill, 2008, the Armed Forces Tribunal (Amendment) Bill, 2012 and the National Highways Authority of India (Amendment) Bill, 2012.
15. R. 62(1).

16. R. 62(1), *Proviso*.
17. R.S. Deb., 22.7.1982, c. 226-27 and F. No. 2/16/82-B.
18. R. 65.
19. A Memorandum on the Preparation and Passing of Bills, Ministry of Law (1958), p. 12 (hereinafter referred to as *A Memo.*).
20. R. 64.
21. For instance, see the Merchant Shipping (Amendment) Bill, 1993, as introduced in the Rajya Sabha on 6.12.1993.
22. R.S. Deb., 4.12.1953, c.1277-86.
23. C.A. (Leg.) Deb., 9.12.1947, p. 1568.
24. R.S. Deb., 14.12.1956, c. 2489-97.
25. *Ibid.*, 4.9.1959, c. 2968-69.
26. *Ibid.*, 11.5.1963, c. 3128-51; see also R.S. Deb., 30.8.1965, c. 1924; 7.12.1965, c. 4077-78; 1.6.1967, c. 1740-42; 23.12.1968, c. 5331; 23.1.1985, c. 192-93; 19.3.1986, c. 165-66; and 26.8.1987, c. 265.
27. *Ibid.*, 8.5.1986, c. 223-81.
28. *Ibid.*, 23.1.1985, c.191-93.
29. Art. 107(1).
30. Art. 107(2).
31. *A Memo.*, p. 3.
32. P.M. Bakshi, *Legislative Process: Ideals and Reality*, National Publishing House, Delhi, pp. 23-24.
33. *Ibid.*, p. 26.
34. *A Memo.*, p. 4.
35. *Ibid.*, p. 5.
36. *Ibid.*, pp. 5-13.
37. Annual Report, Ministry of Parliamentary Affairs, 1994-95, p. 47.
38. Rpt. of the Committee on Draft Rules of Procedure.
39. F. No. RS 1/5/2014-B.
40. For instance, see the docket page of the Himachal Pradesh and Bilaspur (New State) Bill, 1954; and F. No. CS/7/11/54-L(B).
41. R.S. Deb., 12.12.1967, c. 3587-88.
42. R. 61.
43. R.S. Deb., 22.3.1955, c. 2716-17.
44. Bn. (II), 8.5.1952.
45. R.S. Deb., 24.8.1956, c. 2115-17.
46. *Ibid.*, 14.12.1956, c. 2499-2501.
47. *Ibid.*, 16.3.1956, c. 2899.
48. Directions by the Chairman; Bn. (II), dated 8.11.2012.
49. Revised LoB, 28.8.1987.
50. R.S. Deb., 28.8.1987, c. 221-25.
51. *Ibid.*, 13.5.1988, c. 370-89.
52. F. Nos. 1/28/95-B and 1/42/95-B.
53. R. 225.
54. R.S. Deb., 5.5.1989, c. 322-25.
55. *Ibid.*, 24.3.1972, c. 104.
56. *Ibid.*, 30.1.1976, c.100.
57. *Ibid.*, 27.3.1990, c. 239-41.
58. R. 67.
59. R.S. Deb., 28.7.1952, c. 2102-07.
60. *Ibid.*, 15.3.1954, c. 2737-40.
61. *Ibid.*, 6.5.1982, c. 242-49.
62. *Ibid.*, 22.12.1983, c. 283-85.
63. *Ibid.*, 19.3.1986, c. 159-66.

64. R.S. Deb., 26.8.1987, c. 263-75.
65. *Ibid.*, 14.3.1988, c. 253-302.
66. Bn. (I), 24.11.1988.
67. *Ibid.*, 23.2.1994.
68. *Ibid.*, 2.5.1994.
69. *Ibid.*, 4.2.2004.
70. R. 68.
71. R.S. Deb., 4.8.1952, c. 2847-48. *See*, however, R.S. Deb., 28.7.1952, c. 2106, for the Minister's observation regarding non-supply of copies of the Special Marriage Bill, 1952, before formal introduction.
72. F. No. CS 22(35)/52-L(B).
73. R. 69.
74. *Ibid.*, Proviso.
75. For instance, the Constitution (Fifty-ninth Amendment) Bill, 1988, was introduced and taken up for consideration immediately on 14 March 1988; *and* the Constitution (Eighty-fifth Amendment) Bill, 1994 was introduced and passed on the same day *i.e.*, 24 August 1994; *and* the Tamil Nadu Legislative Council Bill, 2010 was introduced and passed on the same day *i.e.* 5 May 2010.
76. R. 71.
77. R.S. Deb., 24.7.1967, c. 130-34.
78. *Ibid.*, 2.6.1995 re. the Constitution (Eighty-sixth Amendment) Bill, 1995.
79. *Ibid.*, 14.8.1989, c. 73-96.
80. R. 70(2).
81. For instance, *see* PB-I on 29.12.2011 and 21.5.2012 with regard to reference of Lokpal and Lokayuktas Bill, 2011 to Select Committee.
82. R. 70(1).
83. For instance, the Essential Commodities (Special Provisions) Bill, 1981 *and* the Prevention of Black-marketing and Maintenance of Supplies of Essential Commodities (Amendment) Bill, 1981, were taken up for consideration together on 23 April 1981; the Anti-Hijacking Bill, 1982 and the Suppression of Unlawful Acts against Safety of Civil Aviation Bill, 1982, were taken up for consideration together on 2 November 1982. Likewise, the Appropriation (Railways) No.3 Bill, 2013, the Appropriation (No.3) Bill, 2013 *and* the finance Bill, 2013, as passed by Lok Sabha were taken up for consideration and return on 2 May 2013.
84. R. 69(iv).
85. R. 70(2).
86. *Ibid.*
87. F. No. CS 22/14/52-L(B).
88. Bn. (II), 17.2.1953.
89. R. 70(3).
90. Bn. (I), 7.8.1952.
91. *Ibid.*
92. *Ibid.*, 20.12.1952.
93. *Ibid.*, 20.4.1953.
94. R. 72(1); *and* R.S. Deb., 25.1.1980, c. 70-71.
95. Bn.(I), 7.8.1995 *and* 8.8.1995.
96. R. 72(2); *see*, however, R.S. Deb., 7.12.1971, c. 19-20; *see also* R.S. Deb., 14.4.1972, c. 119.
97. C.S. Deb., 16.9.1953, c. 2502.
98. R.S. Deb., 2.6.1995, c. 323.
99. *Ibid.*, 2.3.1982, c. 293-303.
100. *Ibid.*, 2.8.1982, c. 207-15.
101. *Ibid.*, 11.12.1956, c. 2104-06.
102. Bn. (I), 8.8.1995; *and* Bn. (II), 15.11.1995.

103. Art. 88. For instance, Sardar S.S. Majithia, Deputy Minister of Defence and Maulana Abul Kalam Azad, Minister of Education, who were members of the Lok Sabha were named members of the Select Committees of the Rajya Sabha on the Cantonments (Amendment) Bill, 1952, and the Children Bill, 1953, respectively; see C.S. Deb., 6.12.1952, c. 1013; and 19.12.1953, c. 2953.
104. C.S. Deb., 16.3.1954, c. 2886-88.
105. R.S. Deb., 16.2.1956, c. 61-62.
106. *Ibid.*, 2.5.1956, c. 1031.
107. *Ibid.*, 25.5.1957, c. 1536.
108. *Ibid.*, 29.8.1985, c. 28-32 and 70-72.
109. Bn. (I), 23.12.2014 and 6.5.2015.
110. R.S. Deb., 4.8.1993, c. 304-12.
111. *Ibid.*, 2.6.1995; Bn. (II), 15.11.1995.
112. Bn. (I), 16.9.1954 and 20.9.1954.
113. *Ibid.*, 16.9.1963.
114. *Ibid.*, 2.8.1982.
115. *Ibid.*, 8.8.1995.
116. *Ibid.*, 11.3.2015.
117. *Ibid.*
118. C.S. Deb., 16.9.1953, c. 2551.
119. R.S. Deb., 16.9.1954, c. 2417-21.
120. *Ibid.*, 21.5.2012, pp. 395-97.
121. C.S. Deb., 24.7.1952, c. 1876.
122. R.S. Deb., 2.3.1982, 27.7.1982, 27.4.1988 and 7.1.1991.
123. C.S. Deb., 24.7.1952, c. 1880, 1881. However, see also L.S. Deb., 17.12.1953, c. 2427 and 30.4.1956, c. 6744-51, for rulings of the Deputy Speaker and the Speaker respectively on the issue.
124. C.S. Deb., 24.7.1952, c. 1875-76.
125. F. No. CS/3/52-L.
126. Bn. (I), 25.8.1954 and L.S. Bn. (I), 8.12.1954; Bn. (I), 10.12.1954 and 20.12.1954.
127. R.S. Deb., 7.9.1962, c. 5809-10; and L.S. Bn. (I), 7.9.1962.
128. Bn. (I), 13.5.1988.
129. L.S. Bn. (I), 13.9.1996 and Bn. (II), 7.10.1996.
130. R. 270(b) and 273.
131. Bn. (II), 8.9.1995.
132. *Ibid.*, 26.8.1995 and 13.9.1995.
133. R.S. Deb., 10.8.1993, c. 640-42; and Bn. (II), 13.8.1993.
134. Bn. (II), 10.1.1994 (No. 34207).
135. Bn. (I), 2.5.1994; and Bn. (II), 9.6.1994.
136. R.S. Deb., 22.8.1994, c. 379-419; and 23.8.1994, c. 389-90; Bn. (I), 23.8.1994 and Bn. (II), 26.8.1994.
137. R. 273(b).
138. Bn. (II), 10.1.1994 and 1.3.1994.
139. *Ibid.*, 18.5.1995.
140. *Ibid.*, 22.10.1997.
141. *Ibid.*, 10.6.1998.
142. *Ibid.*, 30.7.1998.
143. *Ibid.*, 7.12.1998.
144. *Ibid.*, 10.12.1998.
145. *Ibid.*, 21.1.2000.
146. *Ibid.*, 30.5.2003.
147. *Ibid.*, No. 45629, 19.12.2008.
148. *Ibid.*, No. 47227, 13.5.2010.
149. *Ibid.*, No. 47228, 13.5.2010.
150. *Ibid.*, No. 50774, 19.3.2013.

151. The Lokpal Bill, 2011 was introduced in the Lok Sabha on 4 August 2011 and was referred to the Department related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice which presented its report to the House on 9 December 2011. On the basis of the recommendations of the Committee the Lokpal Bill, 2011 was withdrawn on 22 December 2011 and a revised Bill titled 'The Lokpal and Lokayuktas Bill, 2011' was again introduced in the Lok Sabha. On 27 December 2011, the Bill was passed by the Lok Sabha with certain amendments and was taken up by the Rajya Sabha for consideration on 29 December 2011 but it remained inconclusive. On 21 May 2012, the Rajya Sabha referred the Bill to the Select Committee of Rajya Sabha which presented its report on 23 November 2013. Finally, the Bill was passed by the Rajya Sabha and the Lok Sabha on 17 and 18 December 2013, respectively.
152. F. No. 5/1/96-13; Bn. (II), 4.10.1996.
153. R. 93.
154. R. 94.
155. R. 93(2).
156. R.S. Deb., 2.12.1968, c. 2249-65.
157. Bn. (I), 19.3.2015.
158. *Ibid.*, 20.3.2015.
159. R. 274(1) read with R. 277.
160. Bn. (I), 25.8.1994.
161. R. 104.
162. R. 105.
163. C.S. Deb., 20.4.1953, c. 3322-29 and 3402-03.
164. R.S. Deb., 24.8.1981, c. 228-35.
165. R. 106.
166. R. 107.
167. R. 223.
168. R. 95.
169. R.S. Deb., 18.11.1957, c.164-69, 245-46; and 10.12.1971, c. 44.
170. R. 96(i).
171. F. No. 1/1/81-B; and R.S. Deb., 24.8.1981.
172. R. 96(ii).
173. R.S. Deb., 11.8.1971, c. 240-41.
174. R. 96 (iii).
175. R. 96 (iv).
176. R. 96 (v).
177. R.S. Deb., 11.9.1956, c. 4150-53 and 4177-78.
178. C.S. Deb., 20.4.1953, c. 3329-61.
179. R.S. Deb., 18.12.1954, c. 2657-60.
180. *Ibid.*, 20.12.1957, c. 3452-53; see also, R.S. Deb., 18.2.1958, c. 780-84.
181. R. 97.
182. R. 98.
183. Bn. (II), 8.5.1989.
184. R.S.1/38/2010-B.
185. Art. 117(1), *Proviso*.
186. Art. 274(1).
187. C.S. Deb., 24.11.1952, c. 124.
188. Art.117(1), *Proviso*; R.S. Deb., 28.4.1961, c. 1277; and 1.5.1961, c. 1403-04.
189. R. 100.
190. R. 95(2).
191. R. 225.
192. R. 95(1), *Proviso*.
193. R. 99.
194. R. 96(v), *Proviso*.

195. R. 101.
196. R. 229(2).
197. R. 103.
198. R. 109.
199. R.S. Deb., 11.4.1977, c. 221 and 265.
200. R. 109 (2) and (3).
201. R. 109 (4).
202. R. 110.
203. R.S. Deb., 1.6.1957, c. 2728-33.
204. R. 108. For instances, F. No. 1/68/88-B and 1/12/92-B.
205. C.S. Deb., 6.5.1954, c. 5291.
206. R.S. Deb., 5.3.1956, c. 1571.
207. F. No. RS1/62/2010-B.
208. R. 117.
209. R.S. Deb., 5.8.1975, c. 72-74.
210. *Ibid.*, 24.12.1968, c. 5542.
211. *Ibid.*, 16.9.1963, c. 4319-29.
212. R. 230(2).
213. R. 118.
214. *Ibid.*, *Proviso*.
215. *Ibid.*, 2nd *Proviso*.
216. Bn. (I), 11.5.2015.
217. L.S.R. 110, 2nd *Proviso*.
218. R.S. Deb., 29.5.1956; 27.7.1966; 17.11.1970; 28.7.1983; 25.2.1993; 1.3.1993 and 13.6.1994.
219. F. No. 1/6/88-B; 1/1/91-B and 1/35/95-B.
220. R. 119.
221. R.S. Deb., 11.8.1959, c. 254-64; *see also*, R.S. Deb., 27.7.1966, c. 446-58; and 17.11.1970, c. 168-69.
222. F. No. 1/35/95-B; and R.S. Deb., 22.8.1995, c. 368.
223. R. 120(1).
224. R. 120(2).
225. R. 185(3).
226. R. 112.
227. R. 113.
228. R. 114(1).
229. R. 114(2).
230. R. 115.
231. R. 116.
232. Art. 108(1).
233. For details, *see* Chapter-5, *supra*.
234. R. 121.
235. R.S. Deb., 4.9.1970, c. 33-43.
236. Bn. (II), 21.12.2012.
237. R. 122.
238. R. 123.
239. For waiver of notice *see* F. No. 1/12/92-B, re. Citizenship (Amendment) Bill, 1993 and F. No. 1/4/2013, Criminal Law(Amendment) Bill, 2013.
240. R.S. Deb., 24.12.1969, c. 5859.
241. *Ibid.*, 15.12.1977, c. 180-87.
242. *Ibid.*, 8.5.1986, c. 280.
243. *Ibid.*, 16.12.1987, c. 78-93.
244. R. 124.
245. R. 125.

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246. R. 126.
247. R. 127.
248. R. 128.
249. Bn. (I), 30.3.1990, 10.4.1990, 5.9.1990, 9.8.2000, 10.8.2000, 11.8.2000, 21.12.2011 and 19.12.2012.
250. R. 129.
251. R. 130.
252. R. 131(1).
253. R. 131(2).
254. R. 132.
255. R. 133.
256. R. 134.
257. See Chapter 5, *supra*; and R.S. Deb., 8.12.1977 for details.
258. Art. 111; R. 135.
259. R.135, *Proviso*. For instances, see F. No. 6/9/93-B.
260. Art. 111.
261. *Ibid.*, *Proviso*.
262. *Ibid.*
263. For instance, Bn. (II), 29.4.1977 and 8.7.1977.
264. F. No. 1/31/91-B.
265. Bn. (I), 9.3.1992.
266. L.S. Deb., 5.4.1954, c. 4035.
267. R. 136.
268. Bn. (II), 10.1.1990.
269. F. No. 1/51/86-B.
270. *Ibid.*
271. Art. 368.
272. Art. 110(1).
273. Art. 110(2).
274. Art. 110(3).
275. Art. 110(4).
276. C.S. Deb., 31.5.1952, c. 910-15.
277. *Ibid.*, 30.4.1953, c. 4455-56.
278. *Ibid.*, 6.5.1953, c. 5040.
279. Art. 109(1).
280. R. 186(1).
281. R. 186(4).
282. R. 186(5).
283. R. 186(6).
284. Art. 109(2).
285. *Ibid.*
286. Art. 109(3).
287. Art. 109(4).
288. Bn. (I), 27.4.1956.
289. *Ibid.*, 19.12.1957.
290. *Ibid.*, 4.9.1961.
291. *Ibid.*, 30.1.1977.
292. *Ibid.*, 28.7.1977.
293. *Ibid.*, 9.5.1978.
294. *Ibid.*, 3.5.1956, 21.12.1957, 8.9.1961, 3.8.1977, 11.5.1978, and 31.1.1985.
295. Art. 109(5).
296. Art. 109(2).
297. Art. 367.
298. L.S. Deb., 1.8.1955, c. 8950-53; Bn. (I), 16.8.1955.

299. Kaul & Shakhder, p. 473, *f.n.* 19.
300. Bn. (I), 12.3.1996.
301. Bn. (II), 12.3.1996.
302. Bn. (I), 12.6.1998.
303. *Ibid.*, 15.3.1999.
304. *Ibid.*, 18.3.1999.
305. *Ibid.*, 8.5.2000.
306. *Ibid.*, 11.5.2000.
307. *Ibid.*, 1.8.2002.
308. *Ibid.*, 12.8.2002.
309. Bn.(II), No. 45820, 11.2.2009.
310. Art. 110(4).
311. For instance, the Contingency Fund of India (Amendment) Bill, 1994, as passed by Houses of Parliament and Supreme Court (Number of Judges) Amendment Bill, 2008.
312. R.S. Deb., 26.4.1961, c. 900-02.
313. R. 186(7).
314. R. 186(8).
315. R.S. Deb., 17.3.1978, c. 176-85.
316. *Ibid.*, 5.5.1978, c. 164-76.
317. F. No. 2/14/77-B.
318. R.S. Deb., 28.7.1978, c. 190-91.
319. Art. 117(1).
320. *Ibid.*
321. R.S. Deb., 28.4.1961, c. 1273-77.
322. *Ibid.*, 1.5.1961, c. 1403-04.
323. Art. 117(3).
324. R.S. Deb., 22.12.1980, c. 207.
325. *Ibid.*, 24.12.1980, c. 256-66.
326. *Ibid.*, 18.3.1981, c. 283-90.
327. *Ibid.*, 16.9.1953, c. 2501.
328. F. No. 1/13/91-B.
329. R. 185(1).
330. R. 185(2).
331. R. 185(3).
332. R. 185(4).
333. F. No. 1/3/91-B.
334. R.S. Deb., 28.5.1956, c. 3562-64.
335. *Ibid.*, 16.9.1963, c. 4260-4340.
336. *Ibid.*, 26.8.1968, c. 4530.
337. Art. 123(1).
338. Art. 123(2).
339. For instance, the State of Nagaland (Amendment) Ordinance, 1981, was promulgated on a Bill on the subject introduced on 19.2.1981 in the Rajya Sabha. The Ordinance was laid on the Table of the Rajya Sabha on 18.8.1981.
340. For instance, the Sick Textile Undertaking (Nationalisation) Amendment Ordinance, 1995 and Central Industrial Security Force (Amendment) Ordinance, 2009.
341. For instance, the Depositories Ordinance, 1996, the Bill on the subject has been passed by the Lok Sabha and is pending in the Rajya Sabha.
342. For instance, the Representation of the People (Amendment) Ordinance, 1985, which was not replaced by a Bill.
343. R.S. Deb., 15.11.1971, c. 193-98.
344. *Ibid.*, 17.11.1980, c. 217-30.
345. *Ibid.*, 6.11.1987, c. 237-42.
346. Art. 123(2).

347. R. 66(2).
348. R.S. Deb., 25.8.1981, c. 320-46; and 26.8.1981, c. 139-49.
349. *Ibid.*, 8.9.1981, c. 221-23.
350. R. 66(1).
351. R.S. Deb., 14.2.1995.
352. *See, however*, R.S. Deb., 23.6.1971, c. 45-47 *and* 24.6.1971, when the disapproval resolution and the Bill in respect of the Maintenance of Internal Security Ordinance, 1971, were discussed separately *and* R.S. Deb., 8.12.1977 when the disapproval resolution and the motion in respect of the Banking Service Commission (Repeal) Bill, 1977 were put to vote separately.
353. R.S. Deb., 5.8.1991, c. 181.
354. *Ibid.*, 18.8.1958, c. 98-110.
355. R. 62(1) *and* (3).
356. R. 62(1).
357. Bn. (II), No. 36268, 2.5.1997.
358. R. 25(1).
359. R. 25(2).
360. R. 25(3).
361. R. 25(3), 1st *Proviso*; *and* R. 29(4).
362. Bn. (II), No. 36268, 2.5.1997.
363. R. 25(3), 2nd *Proviso*.
364. Bn. (II), 12.11.2014.
365. 4 Rpt., COR (adopted on 14.5.1986), pp. 1-2.
366. BAC mts., 28.4.1969.
367. R. 25(2)(a).
368. R.S. Deb., 28.12.1990, c. 285-90; *and* LoB 30.4.1992.
369. Bn. (I), 24.8.1956.
370. R.S. Deb., 29.11.1968, c. 2016-17.
371. *Ibid.*, 30.7.1993, c. 364-71.
372. Bn. (I), 13.8.1993.
373. *Ibid.*, 9.7.2004.
374. *Ibid.*, 3.12.2004.
375. *Ibid.*, 24.11.2006.
376. R. 25(3), *and* 3rd *Proviso*.
377. For instance, Bn. (II), 20.2.1996.
378. C.S., Deb., 4.12.1953, c. 1286, 1304 *and* 1351.
379. R.S. Deb., 17.8.1995, c. 316.
380. R.S. Deb.; The Prevention of Influx of Foreign Nationals in the Country Bill, 1991, 12.8.1994, c. 266-67; The Payment of Bonus (Amendment) Bill, 2012 *and* R.S. Deb., 22.2.2013, c.108-110.
381. For instance, Bn. (II), 1.5.2013.
382. R.S. Deb., 17.12.1954, c. 2433-34.
383. C.S. Deb., 4.12.1953, c. 1304-22.
384. *Ibid.*, 5.3.1954, c. 1809-10.
385. F. No. 2/36/91-B.
386. F. No. 2/18/92-B.
387. Bn. (II), No. 36268, 2.5.1997.
388. R. 28(1).
389. R. 28(2).
390. R.S. Deb., 17.12.1954, c. 2513-15.
391. *Ibid.*, 23.8.1963, c. 1289.
392. *Ibid.*, 18.8.1967, c. 4918.
393. *Ibid.*, 29.11.1968, c. 1995.
394. *Ibid.*, 30.11.1956.

395. R.S. Deb., 30.8.1957.
396. *Ibid.*, 21.8.1959.
397. *Ibid.*, 13.12.1963.
398. *Ibid.*, 26.2.1965.
399. *Ibid.*, 4.3.1966.
400. *Ibid.*, 14.3.1969.
401. *Ibid.*, 23.2.1968.
402. *Ibid.*, 7.8.1970.
403. *Ibid.*, 21.8.1959.
404. *Ibid.*, 17.8.1962 and 19.3.1966.
405. *Ibid.*, 28.3.1969.
406. *Ibid.*, 20.3.1970 and 26.3.1971.
407. C.S. Deb., 4.12.1953, c. 1277-86.
408. R.S. Deb., 6.9.1963, c. 3113.
409. R. 120.
410. F. No. 2/1/87-B.
411. R.S. Deb., 30.4.1992, c. 309-10; and F. No. 2/65/91-B.
412. R. 120(3).
413. Direction from the Chair, published in Bn. (II), 23.11.1995 (No. 35373).
414. *Ibid.*
415. Bn. (II), No. 35411, 27.11.1995.
416. Bn. (II), 12.12.2004 and 24.4.2015.
417. *Ibid.*, 29.4.2015.
418. *Shankari Prasad Singh Deo v. Union of India*, AIR 1951 SC 458.
419. *Sajjan Singh v. State of Rajasthan*, AIR 1965 SC 845.
420. *L.C. Golak Nath v. State of Punjab*, AIR 1967 SC 1643.
421. Clauses (3) and (5).
422. *His Holiness Kesavananda Bharati Sripadagalvaru v. State of Kerala*, AIR 1973 SC 1461.
423. *Indira Nehru Gandhi v. Raj Narain*, AIR 1975, SC 2299.
424. *Minerva Mills Ltd. v. Union of India*, AIR 1980, SC 1789.
425. *Waman Rao v. Union of India*, AIR 1981, SC 271; *Bhim Singhji v. Union of India*, AIR 1981 SC 234; *S.P. Gupta v. President of India*, AIR 1982 SC 149; *S.P. Sampath Kumar v. Union of India*, AIR 1987 SC 386; *P. Sambamurthy v. State of Andhra Pradesh*, AIR 1987 SC 663; *Kihota Hollohon v. Zachilhu and Others*, AIR 1993 SC 412; *S.R. Bommai v. Union of India*, AIR 1994 SC 1918.
426. Bn. (I), 5.9.1970.
427. *Ibid.*, 13.10.1989.
428. *Ibid.*, 28.3.1990.
429. L.S. Bn. (I), 30.3.1990.
430. *Ibid.*, 5.4.1990.
431. Bn. (I), 10.4.1990.
432. R.S. Deb., 30.3.1990, c. 306-15.
433. Bn. (II), 4.4.1990.
434. R. Venkataraman, *My Presidential Years*, pp. 142-47.
435. *Shankari Prasad Singh Deo v. Union of India*, AIR 1951, SC 458.
436. C.A. Deb., Vol. IX, 17.9.1949, p. 1660.
437. Arts. 2-4.
438. Art. 169.
439. Fifth Schedule to the Constitution, para. 7.
440. Sixth Schedule to the Constitution, para. 21.
441. Arts. 341 and 342.
442. Art. 3.
443. Art. 169(1).
444. Kaul & Shaktiher, p. 542, *f.n.* 463.

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445. R.S. Deb., 13.10.1989, c. 178-79.
 446. *Shankari Prasad Singh Deo v. Union of India*, AIR 1951 SC 458.
 447. Rpt. of the Committee on Draft Rules of Procedure, p. viii.
 448. Kaul & Shakhder, *op. cit.*
 449. Bn. (I), 16.9.1954 and 19.3.1955.
 450. *Ibid.*, 2.5.1956, 16.5.1956, 12.12.1962, 25.1.1963 and 21.12.1991.
 451. R.S. Deb., 11.9.1956, c. 4147 and 4201-19.
 452. *Ibid.*, 31.8.1978, c. 107.
 453. Arts. 54 and 55.
 454. Arts. 73 and 162.
 455. Art. 241, Chapter IV of Part V, Chapter V of Part VI.
 456. Chapter I of Part XI and 7th Sch.
 457. Art. 368.
 458. R.S. Deb., 17.12.1971, c. 18-19
 459. *Ibid.*, 19.12.1988, c. 8-15.
 460. F. No. 1/67/88-B.
 461. F. No. 1/28/92-B.
 462. From Constitution Files records maintained by the Rajya Sabha Secretariat.
 463. *Kihota Hollohon v. Zachilhu & Others*, *op. cit.*