

CHAPTER-4

Presiding Officers of Rajya Sabha and other Parliamentary Functionaries

Vice-President *ex officio* Chairman

Provisions regarding Vice-President

Article 63 of the Constitution provides that there shall be a Vice-President of India. Under article 64, he is made the *ex officio* Chairman of the Rajya Sabha. The provision relating to the Vice-President, being the *ex officio* Chairman of the Rajya Sabha, again occurs under the heading “Officers of Parliament.”¹

The Vice-President acts as the President during the vacancy caused by the death, resignation or removal of the President until a new President is elected and assumes office.² The Vice-President discharges the functions of the President when he is unable to act owing to absence, illness or any other cause until the President resumes his duties.³ In the former event when a vacancy occurs, the new President has to be elected as soon as possible after, and in no case later than six months from the date of occurrence of the vacancy.⁴ When the new President enters upon his office, the Vice-President reverts to his office. In the latter event, when a temporary vacancy occurs in the office of the President, the Vice-President discharges the functions till the President resumes his duties.

On the death of President Dr. Zakir Husain on 3 May 1969, the then Vice-President Shri V.V. Giri was sworn in to function as the acting President of India until 19 July 1969. Similarly when President Dr. Fakhruddin Ali Ahmed died on 11 February 1977, Vice-President Shri B.D. Jatti was sworn in to function as the acting President of India until 24 July 1977.

There have been many occasions when the Vice-President discharged the functions of the President owing to absence or illness of the President.

Vice-President Dr. S. Radhakrishnan discharged the functions of President Dr. Rajendra Prasad from 20 June 1960 to 5 July 1960, when he paid a State visit to the Soviet Union as “important State events during the next two weeks” required “formal Presidential assent”. On another

occasion, Dr. Radhakrishnan was sworn in on 25 July 1961 to discharge the functions of the President upto 19 December 1961 due to illness of President Dr. Rajendra Prasad.⁵

Vice-President Dr. Zakir Husain discharged the functions of the President on two occasions when President Dr. Radhakrishnan had to undergo an eye operation in February 1964 and again in March 1965 (5 February 1964 to 21 February 1964 and 16 March 1965 to 18 April 1965).

Vice-President Shri. M. Hidayatullah discharged the functions of President Giani Zail Singh during his medical treatment abroad, from 6 October 1982 to 31 October 1982.

It may, however, be noted that in both the contingencies, *i.e.*, Vice-President acting as, or discharging the functions of the President, the Vice-President is referred to as acting as, or discharging the functions of, the President.

The President's Address to members of both Houses of Parliament assembled together was delivered by the Vice-President discharging the functions of the President on 10 February 1964 and the Motion of Thanks in respect thereof was moved accordingly on 12 February 1964.

The President's Address on 28 March 1977 was delivered by the Vice-President acting as the President and the Motion of Thanks in respect thereof was moved accordingly on 4 April 1977.

The 51st Session of the Rajya Sabha was prorogued on 2 April 1965 by Dr. Zakir Husain as the Vice-President discharging the functions of the President.

The Summoning Order for the 52nd Session of the Rajya Sabha was signed on 4 April 1965 by Dr. Zakir Husain as the Vice-President discharging the functions of the President.

The 68th Session of the Rajya Sabha was prorogued on 21 May 1969 by Vice-President Shri. V.V. Giri acting as President.

The Summoning Order for the 99th Session of the Rajya Sabha was signed on 22 February 1977 by Vice-President Shri. B.D. Jatti acting as President.

The Vice-President (Shri B.D. Jatti) acting as President made an Order on 24 March 1977 appointing a Chairman *pro tem* for the Rajya Sabha.⁶

The Vice-President (Shri M. Hidayatullah) discharging the functions of the President conveyed recommendations to the Rajya Sabha under article 117(3) of the Constitution in respect of some Bills.⁷

When the Vice-President acts as, or discharges the functions of, the President, he has all the powers and immunities of the President and is entitled to the same emoluments as the President;⁸ however, during this period he cannot perform the duties of the office of the Chairman of the Rajya Sabha.⁹

The Vice-President is elected by the members of an electoral college consisting of the members of both Houses of Parliament in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election is by secret ballot.¹⁰

Prior to 1961, the Vice-President was required to be elected at a joint sitting of both the Houses of Parliament. But when Dr. S. Radhakrishnan was elected unopposed in 1952 and 1957, no such sitting was held.

The requirement of a joint sitting was omitted by the Constitution (Eleventh Amendment) Act, 1961, as such requirement “seemed to be totally unnecessary and was also likely to cause practical difficulties.”¹¹

The Vice-President cannot be a Member of Parliament or of a State Legislature and if any such member is elected, he is deemed to have vacated his seat in that House on the date on which he enters upon his office as Vice-President.¹² No person is eligible for election as Vice-President unless he is a citizen of India, has completed the age of thirty-five years and is qualified to be elected as a member of the Rajya Sabha.¹³ Such a person should not hold any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.¹⁴ The offices of the President, Vice-President, Governor, Union or State Minister are not offices of profit for this purpose.¹⁵

Detailed provisions regarding the Vice-Presidential election are contained in the Presidential and Vice-Presidential Elections Act, 1952, and the rules made thereunder. As per the established practice, the Secretary-General, Rajya Sabha or Lok Sabha is appointed by rotation as returning officer for a Vice-Presidential election.

For the first, second, fourth, sixth, eighth, tenth, twelfth and fourteenth Vice-Presidential elections, the Secretary/Secretary-General of Lok Sabha; for the third, fifth, seventh, ninth and thirteenth Vice-Presidential elections, the Secretary/Secretary-General of Rajya Sabha were appointed as returning officers. However, during the eleventh Vice-Presidential election the Secretary, Ministry of Parliamentary Affairs

was appointed the returning officer, which was a departure from the established practice of appointing the Secretary-General of the Rajya Sabha or Lok Sabha as returning officer.

The various stages of the election of the Vice-President are notified in the Official Gazette by the Election Commission. These are: the last date for making nominations, which is the fourteenth day after the date of publication of the notifications; the date for the scrutiny of nominations, which is a date immediately following the last date for making nominations; the last date for the withdrawal of candidatures, which is the second day after the date for scrutiny of nominations, and the date for poll, if necessary, which is a date not earlier than the fifteenth day after the last date for the withdrawal of candidatures. If any of the days to be fixed, is a public holiday, then the next succeeding day which is not a public holiday is taken as the appropriate date for the purpose.¹⁶

The notification for election to fill a vacancy caused by the expiration of the term of office of the Vice-President is issued on, or as soon as conveniently may be after, the sixtieth day before the expiration of the term of office of the outgoing Vice-President and the dates are so appointed that the election is completed at such time as would enable the newly elected Vice-President to assume office on the day following the expiration of the term of office of the outgoing Vice-President.¹⁷ In any other case, the notification is required to be issued as soon as may be after the occurrence of a vacancy.¹⁸

Till 1974, only one elector as proposer and one elector as seconder were needed for a nomination paper for the Vice-President election and there was no requirement of deposit to be made. The Presidential and Vice-Presidential Elections Act, 1952, has been amended to provide that the nomination paper should be subscribed by at least twenty electors as proposers and at least twenty electors as seconders.¹⁹ It is also provided that a candidate has to deposit Rs. 15,000/- for being considered as duly nominated candidate. Where a candidate is nominated by more than one nomination paper he has to make only one deposit.²⁰

It has also been provided that no elector shall subscribe, whether as proposer or seconder, more than one nomination paper at the same election, and if he does, his signature shall be inoperative on any paper other than the one first delivered. Further, not more than four nomination papers can be filed by or on behalf of a candidate or accepted by the returning officer.²¹

The Vice-President holds office for a term of five years from the date on which he enters upon his office but he can resign by writing under his hand addressed to the President; he can also be removed from office by

a resolution passed by a majority of all the then members of the Rajya Sabha and agreed to by the Lok Sabha. At least fourteen days' notice of intention to move the resolution is necessary. A Vice-President continues to hold office notwithstanding the expiration of his term, until his successor enters upon his office.²²

Every Vice-President before entering upon his office, makes and subscribes, before the President, or some person appointed in that behalf by him, an oath or affirmation in the following form:

I, A.B. do swear in the name of God/solemnly affirm, that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter.²³

The following are the details of various Vice-Presidential elections held so far:

Sl. No.	Name of Vice-President elected	No. of contestants	Date of election	Term
1.	Dr. S. Radhakrishnan	Unopposed	25-4-1952	13-5-1952–12-5-1957
2.	Dr. S. Radhakrishnan	Unopposed	23-4-1957	13-5-1957–12-5-1962
3.	Dr. Zakir Husain	Two	7-5-1962	13-5-1962–12-5-1967
4.	Shri V.V. Giri	Two	6-5-1967	13-5-1967–3-5-1969
5.	Shri G.S. Pathak	Two	30-8-1969	31-8-1969–30-8-1974
6.	Shri B.D. Jatti	Two	27-8-1974	31-8-1974–30-8-1979
7.	Shri M. Hidayatullah	Unopposed	9-8-1979	31-8-1979–30-8-1984
8.	Shri R. Venkataraman	Two	22-8-1984	31-8-1984–24-7-1987
9.	Dr. Shanker Dayal Sharma	Unopposed	21-8-1987	3-9-1987–24-7-1992
10.	Shri K.R. Narayanan	Two	19-8-1992	21-8-1992–24-7-1997
11.	Shri Krishan Kant	Two	16-8-1997	21-8-1997–27-7-2002*
12.	Shri Bhairon Singh Shekhawat	Two	12-8-2002	19-8-2002–21-7-2007**
13.	Shri Mohammad Hamid Ansari	Three	10-8-2007	11-8-2007–10-8-2012
14.	Shri Mohammad Hamid Ansari	Two	7-8-2012	11-8-2012–till date

*Died in office

**Resigned

All doubts and disputes arising out of or in connection with the election of the Vice-President are inquired into and decided by the Supreme Court whose decision is final.²⁴ If the election of a person as Vice-President

is declared void by the Supreme Court, acts done by him in exercise of the powers and performance of the duties of his office on or before the decision of the Supreme Court are not invalidated because of that declaration.²⁵

A petition calling in question Vice-Presidential election may be presented to the Supreme Court by any candidate at such election, or by ten or more electors joined together as petitioners, at any time after the date of publication of the declaration containing the name of the returned candidate at the election but not later than thirty days from the date of such publication.²⁶ The grounds for declaring the election of a returned candidate to be void are:

- (a) the offence of bribery or undue influence at the election committed by the returned candidate or by any person with the consent of the returned candidate;
- (b) the result of the election having been materially affected—
 - (i) by the improper reception or refusal of a vote; or
 - (ii) by any non-compliance with the provisions of the Constitution, or of the Presidential and Vice-Presidential Elections Act, 1952, or of any rules or orders made under that Act;
 - (iii) by reason of the fact that the nomination of any candidate (other than the successful candidate) who has not withdrawn his candidature, has been wrongly accepted; or
- (c) the nomination of any candidate has been wrongly rejected or the nomination of the successful candidate has been wrongly accepted.²⁷

The election of a person as President or Vice-President cannot be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him.²⁸

If any person who has lodged an election petition has, in addition to calling in question the election of the returned candidate, claims a declaration that he himself or any other candidate has been duly elected and the Supreme court is of the opinion that in fact the petitioner or such other candidate received a majority of the valid votes, the Supreme Court shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate to have been duly elected. But, the petitioner or such other candidate should not be declared to be duly elected, if it is proved that the election of such candidate would have been void if he had been the returned candidate and a petition has been presented calling in question his election.²⁹

The Vice-President does not draw any salary *qua* Vice-President.³⁰ He draws his salary as Chairman of the Rajya Sabha. His salary and allowances are governed by the Salaries and Allowances of Officers of Parliament Act, 1953, and the rules made thereunder. Under that Act, the Chairman gets a salary of Rs. 1,25,000/- p.m. He is provided with a furnished residence free of charge throughout his term of office and for a period of one month immediately thereafter and is entitled to free medical facilities for himself and his family. Besides, when on official tour, he gets travelling and daily allowances as are admissible to a Cabinet Minister under the rules. The salary and allowances payable to the Vice-President in the capacity as Chairman are charged on the Consolidated Fund of India.³¹ The Vice-President is also provided with a Secretariat to assist him in the discharge of his functions as Vice-President.

Powers and functions as Chairman

As the Presiding Officer, the Chairman of the Rajya Sabha is the unchallenged guardian of the prestige and dignity of the House. His impartial and fair judgement enhances the reputation and prestige of his office.

On 20 April 1987, before a short duration discussion regarding Government's decision to institute an inquiry into the involvement of commission agents in certain defence deals started, the Chairman, Shri R. Venkataraman announced: "From 15 January 1982, through the middle of June 1984, I was the Defence Minister. Therefore, I do not think it proper for me to preside over the debate." He, therefore, vacated the Chair and the proceedings were conducted by the Deputy Chairman.³²

The Chairman is also the principal spokesman of the House and represents its collective voice to the outside world.

Communications from the President to the House are made to the Chairman.³³ When a message from the President, whether with respect to a Bill pending in Parliament or otherwise, is received by the Chairman, he reads it to the House and gives necessary directions in regard to the procedure that is to be followed for the consideration of matters referred to in the message and in giving those directions he can suspend or vary the rules to such extent as may be necessary.³⁴ Similarly, communications to the President are made through the Chairman in the form of a formal address after a motion has been made and carried by the House.³⁵ For instance, the Motion of Thanks on the President's Address to the two Houses of Parliament assembled together, after its adoption by the House, is conveyed to the President by the Chairman.

As the representative of the House to the outside world, the Chairman communicates the decisions of the House to the authorities concerned, requiring them to comply with the terms of such decisions. Similarly, the Chairman communicates to the House letters and documents addressed to him/her as Chairman, such as those relating to the rights and privileges of the House and its members.

On 21 April 1964, the Chairman informed the House about receipt of a notice from the Supreme Court in the matter of Special Reference (No. 1 of 1964) under article 143 of the Constitution relating to a controversy between the Uttar Pradesh Legislative Assembly and the Allahabad High Court.³⁶

Again on 9 May 1974, the Chairman informed the House about receipt of a notice from the Supreme Court in the matter of Special Reference (No. 1 of 1974) under article 143 of the Constitution relating to Presidential election. The House agreed that no action need be taken by the Chairman on the notice.³⁷

On 6 November 1987, the Chairman informed the House about receipt of a notice from the Supreme Court in the matter of the transfer petition of the Union of India seeking transfer of a writ petition filed by two Members of Parliament, challenging the validity of the Constitution (Fifty-second Amendment) Act, 1985, from the Delhi High Court to the Supreme Court.³⁸

The Chairman also communicates messages received by him from foreign countries and legislatures.

On 19 May 1952, the Chairman read out messages of goodwill which had been received from the Parliaments of Sweden, Norway and Denmark, when the Rajya Sabha was duly constituted under the Constitution.³⁹

He also issues warrants to execute the orders of the House, where necessary.

In pursuance of a resolution adopted by the House on 21 December 1967, sentencing a person who threw leaflets from the Visitors' Gallery on the floor of the House, to simple imprisonment till the conclusion of the session, the Chairman issued Warrant of Commitment of that person, addressed to the Superintendent, Tihar Jail, Delhi.⁴⁰

In pursuance of the decision of the House taken on 18 March 1982, sentencing fourteen persons to simple imprisonment till 24 March 1982, for shouting slogans from the Visitors' Gallery, the Chairman issued fourteen separate Warrants of Commitment against the offenders concerned, addressed to the Superintendent, Tihar Jail, Delhi.⁴¹

However, in an instance of a visitor who shouted slogans and threw a *chappal* from the Visitors' Gallery on the floor of the House, whom the House had, by a resolution, sentenced to simple imprisonment till the conclusion of the session, the Warrant of Commitment was issued under the signature of the Deputy Chairman, who was presiding at the time the resolution was adopted.⁴²

Under the Constitution, the Chairman exercises only a casting vote in the case of equality of votes.⁴³ However, if at any sitting of the House a resolution for the removal of the Chairman from his office is under consideration, he is not to preside at that sitting.⁴⁴ He cannot also vote at all on such resolution or on any other matter during such proceedings.⁴⁵ The Constitution also lays down certain powers and duties of the Chairman: he is empowered to adjourn the House or to suspend its sitting in the event of absence of quorum.⁴⁶ In the case of resignation of a member from the House, the Chairman is required not to accept the resignation, if from information received or otherwise, and after making such inquiry as he thinks fit, he is satisfied that such resignation is not voluntary or genuine;⁴⁷ under the Tenth Schedule to the Constitution, the Chairman determines the question as to disqualification of a member of the Rajya Sabha on ground of defection;⁴⁸ he also makes rules for giving effect to the provisions of the Schedule;⁴⁹ he is empowered to direct that any wilful contravention of the said rules should be dealt with in the same manner as a breach of privilege of the House;⁵⁰ and the Chairman may permit a member who is unable to express himself in Hindi or in English, to address the House in his mother tongue.⁵¹

When a member requested that he be permitted to speak in his mother tongue—Malayalam—as he was unable to speak effectively in English or Hindi, the Chair ruled:

Here is a gentleman who says he does not know any of the official languages, Hindi or English. Therefore, he wished to speak in Malayalam which is his mother tongue. The Chair has got the power to allow it provided there is a translation which is submitted to us. We have to take such exceptional cases also into account and our Constitution does take those cases into account.⁵²

However, on an occasion, a member started speaking in Maithili language. On an objection taken, the Deputy Chairman ruled that a member could speak only in any of the languages mentioned in the Eighth Schedule besides Hindi and English.⁵³

After the introduction of the arrangements for simultaneous interpretation of speeches made in the House, a member may now speak in the House in any of the languages mentioned in the Eighth Schedule to the Constitution after giving an hour's notice.⁵⁴

The Chairman does not take part in the deliberations of the House except in the discharge of his duties as the Presiding Officer. However, on a point of order raised or on his own, he may address the House at any time on a matter under consideration with a view to assisting members in their deliberations.

On 19 May 1952, when the House was about to discuss the Motion of Thanks on the President's Address, the Chairman made observations in connection with the procedure to be adopted in respect of amendments to the Motion.⁵⁵

On another occasion, the Chairman announced the procedure to be followed for the clause-by-clause consideration of the Constitution (Forty-fifth Amendment) Bill, 1978, as passed by the Lok Sabha.⁵⁶

Various powers are conferred on the Chairman under the Rules of Procedure of the Rajya Sabha in connection with the proceedings of the House, Committees and such other matters as questions, calling attention, motions, resolutions, amendments to Bills, authentication of Bills, petitions, papers to be laid on the Table, personal explanations, etc. The Chairman may also, if he thinks fit, call a sitting of the House before the date or hour to which it has been adjourned, or at any time after the House has been adjourned *sine die*, but not prorogued by the President.⁵⁷ The Chairman's consent is required to raise a question of breach of privilege of the House. He can also, *suo motu*, refer any such question to the Committee of Privileges for examination, investigation and report.⁵⁸

Parliamentary Committees, whether set up by the Chairman or by the House, work under his guidance. He appoints their Chairmen and issues such directions to them as may be necessary in respect of the procedure and work. He nominates members to various Standing Committees and the Department-related Parliamentary Standing Committees. He himself is the Chairman of the Business Advisory Committee,⁵⁹ the Rules Committee⁶⁰ and the General Purposes Committee.⁶¹

It is the right of the Chairman to interpret the Constitution and rules so far as matters in or relating to the House are concerned, and no one can enter into any argument or controversy with the Chairman over such interpretation. The Chairman's rulings constitute precedents which are of a binding nature. The Chairman's rulings cannot be questioned or criticised and to protest against the ruling of the Chairman is contempt of the House and the Chairman. The Chairman is not bound to give reasons for his decisions. The rulings are generally delivered by the Chairman on the floor

of the House but in some contingency his ruling may be read out to the House by the Deputy Chairman, on his request.

Certain notices of breach of privilege were given by members against the Minister of Finance and the editor of a daily in the matter of Maharashtra Trusts. The Chairman's ruling was read out to the House by the Deputy Chairman on his behalf. While doing so the Deputy Chairman also read out the letter addressed to him by the Chairman in the matters.⁶²

Maintenance of order in the House is a fundamental duty of the Chairman and he has been invested with all the necessary disciplinary powers under the rules for the purpose, such as checking irrelevance or repetition in the speech of a member,⁶³ intervening when a member makes an unwarranted or defamatory remark by asking him to withdraw the same. The Chairman may also order expunction of any unparliamentary or undignified words used in the debate,⁶⁴ or order that anything said by a member without his permission would not go on record. He may direct any member guilty of disorderly conduct to withdraw from the House⁶⁵ and name a member for suspension if he disregards the authority of the Chair and persists in obstructing the proceedings of the House.⁶⁶ He may also adjourn or suspend the sitting of the House in case of grave disorder.⁶⁷

It is customary for the Chairman to make appropriate references in the House on solemn occasions like anniversary of Universal Declaration of Human Rights by U.N., Martyrs Day, Quit India Day, anniversary of bombing of Hiroshima, Nagasaki, etc. Similarly, the Chairman may place before the House motions or resolutions on matters of national or international importance to express the sentiments of the House on occurrences or events of great importance, or on a tragedy or happy event. Such motions or resolutions are unanimously adopted without discussion. As per the established practice in the Rajya Sabha, generally the Chairman alone makes obituary references on behalf of the House, though in some exceptional cases, leaders of various parties/groups in the Rajya Sabha may also associate themselves with the sentiments expressed by the Chairman. The Chairman delivers farewell address when members retire on completion of their term of office in the Rajya Sabha and welcomes the newly elected members. Whenever any distinguished foreign visitors or members of parliamentary delegations from abroad are present in the Special Box to watch the proceedings of the House, the Chairman welcomes them to the country on behalf of the House.⁶⁸

The Chairman is empowered under the rules to correct patent errors in a Bill after it has been passed by the House and to make such other

changes in the Bill consequential on the amendments accepted by the House.⁶⁹ When a Bill is passed by the Houses and is in possession of the Rajya Sabha, the Chairman authenticates the Bill with his signature before presenting it to the President for assent.⁷⁰

All matters not specifically provided for in the rules and all questions relating to the detailed working of the rules are regulated in such manner as the Chairman may, from time to time, direct.⁷¹

The Rajya Sabha Secretariat functions under the control and direction of the Chairman.⁷² Admission to various galleries including Press Gallery, is regulated under the direction of the Chairman. The Chairman is responsible for the protection of the rights of members and for ensuring that all reasonable amenities are provided to them. If a member is arrested or detained, the fact is required to be reported immediately to the Chairman by the concerned authority.⁷³ The same is applicable when a member is released.⁷⁴ No member can be arrested, nor can a legal process, civil or criminal, be served on him, within the precincts of the House without obtaining the Chairman's permission, whether the House is in session or not.

Some statutes also confer duties on the Chairman. For instance, rules made under the Salary, Allowances and Pension of Members of Parliament Act, 1954, do not take effect until they are approved and confirmed by the Chairman and the Speaker.⁷⁵ Under the Judges (Inquiry) Act, 1968, the Chairman has to constitute a Committee, upon receipt of a motion for the removal of a Judge of the Supreme Court or of High Court, for investigation into the grounds on which the removal of a Judge is prayed for.⁷⁶ The rules made under the Act are also required to be approved and confirmed by the Chairman and the Speaker.⁷⁷ Under the Press Council Act, 1978, the Chairman is one of the members of the Committee which nominates the Chairman of the Press Council.⁷⁸

The Chairman nominates members of the Rajya Sabha on various bodies such as courts of Banaras Hindu University, Jawaharlal Nehru University, North-Eastern Hill University, Pondicherry University, University of Hyderabad, Anjuman (Court) of Jamia Millia Islamia, Haj Committee, Press Council of India, Samsad (Court) of Visva Bharati, National Council for Teacher Education, etc. set up under the relevant statutes. The Chairman also nominates members of the Rajya Sabha on other bodies like General Assembly of the Indian Council for Cultural Relations, General Body of the Central Social Welfare Board, General Council of the School of Planning and Architecture, Hindi Shiksha Samiti, Institute of Constitutional and Parliamentary Studies, etc.⁷⁹

The Chairman may also, if there is a general consensus in the House, make an inquiry into a matter which was raised on the floor of the House or appoint a Committee of the House in respect thereof.

On 10 August 1978, the House adopted a motion recommending to the Government to seek the guidance and advice from a Committee to be appointed by the Chairman or appoint two Commissions of Inquiry regarding allegations of corruption made against members of families of the Prime Minister and the former Home Minister. In an announcement made on 17 August 1978, the Chairman, *inter alia*, observed that the appointment of a Committee by him would depend on the indication from the Government as to which one of the two alternatives mentioned in the motion was acceptable to the Government. The Prime Minister announced on 24 August 1978 that the Government did not accept either of the two alternatives. The Chairman, therefore, announced on 29 August 1978 in the light of the Prime Minister's statement, that the motion did not stipulate that the Committee should be appointed by the Chairman even if the Government declined to accept any of the two alternatives mentioned in the motion. He was, therefore, of the opinion that in the circumstances, he was not called upon to appoint such a Committee in terms of the said motion.⁸⁰

On 3 March 1987, award of a highway construction contract in Jordan to a private company was the subject of starred question number⁸⁷ and the interpellations thereon, the thrust of which was that the private company had been favoured at the cost of a public sector company. The Minister of Commerce and other members desired that the matter be looked into by the Chairman. The Chairman agreed and accordingly inquired and gave a detailed ruling in the matter.⁸¹

On 2 August 1995, procurement of railway wagons was the subject of starred question number 42. There was a consensus that the Chairman might constitute a Committee of the House to examine the issue. The Minister of Railways also agreed. The Chairman accordingly announced the constitution of a Committee of fifteen members.⁸²

Deputy Chairman

The Deputy Chairman is elected by the Rajya Sabha from amongst its members.⁸³ The election of the Deputy Chairman is held on such date as the Chairman may fix and the Secretary-General sends to every member notice of this date.⁸⁴ At any time before noon on the day preceding the date so fixed, any member may give notice in writing addressed to the Secretary-General of a motion that another member be chosen as the Deputy Chairman of the Rajya Sabha. The notice is required to be seconded by a third member and accompanied by a statement of the member proposed

that he/she is willing to serve as Deputy Chairman, if elected.⁸⁵ A member cannot propose or second more than one motion.⁸⁶ The dates fixed for receipt of notice and election and the procedure are also notified in a Bulletin.⁸⁷

Notices of motions so received are included in the list of business for the day on which the election of the Deputy Chairman is to take place, in the order in which they are received in the Notice Office in point of time. The form of the motion is:

That A.B. be chosen as the Deputy Chairman of the Rajya Sabha. The election takes place immediately after Question Hour.

A member in whose name a motion stands in the list of business may, when called, move the motion or not move the motion. In the latter case he confines himself to a mere statement to that effect. The motions which have been moved and duly seconded are put by the Chairman one by one in the order in which they have been moved and decided, if necessary, by division. If any motion is carried the Chairman declares that the member proposed in the motion which has been carried, is chosen as the Deputy Chairman of the Rajya Sabha, without putting other motions.⁸⁸

On 17 December 1969, before the motions for election of the Deputy Chairman could be taken up, some members wanted that there should be a secret ballot and the Chairman should waive the rule. The Chairman ruled out the point on the basis of existing rule, practice and procedure. As regards rule 7, since it had not provided for a ballot, the Chairman held that voting could not be by ballot. It had all along been the practice to apply the rule as it stood and no practice could weigh against an existing rule. If the practice had to be changed, it should be done by resorting to proper procedure for changing the rule. The Chairman also did not give his consent to suspend the relevant rule. He, therefore, ruled that motions were listed according to the time of their receipt as per the practice of determining the order of motions.⁸⁹

On 29 July 1980, some members raised a matter regarding the mode of election of the Deputy Chairman which was to be held the next day. They wanted that the election should be held by secret ballot and requested the Chair to waive the rules.⁹⁰ The Chairman assured that he would consider the matter or as he put, "I will have to, as Judges say, take it under advisement." The next day, he gave the following ruling:

I have considered the precedents and the rules. There is one precedent of 1969 and one of 1977. In the latter, the hon'ble Shri Ram Niwas Mirdha was unanimously elected and no question arose.

In 1969, there were two rival candidates and the procedure of rule 7 in Chapter III read with rule 252 was followed. On the basis of this precedent, I should follow the same procedure. Hon'ble members have, however, requested that I should act under rule 267... It is said that the election is by a motion and this rule enables a rule to be suspended.

It is true that rule 7 in Chapter III under which the election is held uses the word "motion", but rule 7 sub-rules (3) and (4), which are sought to be waived cannot be waived. Sub-rule (3) cannot be waived because a member must move his motion; otherwise there will be no election. He can only withdraw his motion. There is no escape from this. In so far as sub-rule (4) is concerned, it provides that each motion in turn shall be put to the vote of the House and adds, "if necessary by division." The procedure of division follows first a voice vote, next a head count and then recording of votes by going into the Lobbies, or by operating the automatic vote-recorder. If sub-rule (4) of rule 7 is to be suspended, then rules 252 to 254 must also be suspended.

The lawyers here—and there are many here—will recall a famous observation of a Law Lord which is used everyday in courts and which expresses the rule in extremely elegant words. It is: "When the law prescribes a certain mode for doing a thing, it must be done in that way or not at all: other modes of doing are necessarily prohibited." The step to step procedure of division must be followed, unless I or anyone has the jurisdiction to make new rule. None of us can enact an *ad hoc* rule. Therefore, the existing rule alone must be followed and no other mode of compliance can be devised.

Thus, according to the precedent and the reason of the rules, the election shall be according to the procedure prescribed.⁹¹

After election, the Deputy Chairman is felicitated by the Chairman and thereafter he/she is conducted to the Chair by the Leader of the House and the Leader of the Opposition. Then various sections of the House make congratulatory references to which the Deputy Chairman responds.

The following are the details of the various elections of the Deputy Chairman held so far:

Name of the Deputy Chairman elected	Date of commencement of Session	Date of Notice/ Bulletin Part-II	Date of Election	Term
Shri S. V. Krishnamoorthy Rao	13.5.1952	28.5.1952	31.5.1952* (Saturday)	31.5.1952–2.4.1956#

Name of the Deputy Chairman elected	Date of commencement of Session	Date of Notice/ Bulletin Part-II	Date of Election	Term
Shri S. V. Krishnamoorthy Rao	23.4.1956	9.4.1956	25.4.1956* (Wednesday)	25.4.1956–1.3.1962%
Shrimati Violet Alva	17.4.1962	15.4.1962	19.4.1962* (Thursday)	19.4.1962–2.4.1966#
Shrimati Violet Alva	14.2.1966	4.4.1966	7.4.1966* (Thursday)	7.4.1966–16.11.1969^
Shri B. D. Khobragade	17.11.1969	8.12.1969	17.12.1969@ (Wednesday)	17.12.1969–1.4.1972#
Shri Godey Murahari	13.3.1972	10.4.1972	13.4.1972* (Thursday)	13.4.1972–2.4.1974#
Shri Godey Murahari	22.4.1974	22.4.1974	26.4.1974* (Friday)	26.4.1974–20.3.1977%
Shri Ram Niwas Mirdha	28.3.1977	28.3.1977	30.3.1977* (Wednesday)	30.3.1977–2.4.1980#
Shri Shyam Lal Yadav	23.7.1980	26.7.1980	30.7.1980@ (Wednesday)	30.7.1980–2.4.1982#
Shri Shyam Lal Yadav	26.4.1982	24.4.1982	28.4.1982** (Wednesday)	28.4.1982–29.12.1984%
Dr. (Smt.) Najma Heptulla	17.1.1985	23.1.1985	25.1.1985* (Friday)	25.1.1985–20.1.1986^
Shri M. M. Jacob	20.2.1986	20.2.1986	26.2.1986** (Wednesday)	26.2.1986–22.10.1986^
Shrimati Pratibha Devisingh Patil	4.11.1986	12.11.1986	18.11.1986** (Tuesday)	18.11.1986–5.11.1988^
Dr. (Smt.) Najma Heptulla	2.11.1988	10.11.1988	18.11.1988* (Friday)	18.11.1988–4.7.1992#
Dr. (Smt.) Najma Heptulla	8.7.1992	6.7.1992	10.7.1992@ (Friday)	10.7.1992–4.7.1998#
Dr. (Smt.) Najma Heptulla	27.5.1998	6.7.1998	9.7.1998* (Thursday)	9.7.1998–10.6.2004
Shri K. Rahman Khan	5.7.2004	19.7.2004	22.7.2004 (Thursday)	22.7.2004–2.4.2006
Shri K. Rahman Khan	10.5.2006	9.5.2006	12.5.2006 (Friday)	12.5.2006–2.4.2012
Prof. P.J. Kurien	8.8.2012	14.8.2012	21.8.2012 (Tuesday)	21.8.2012–till date

*Elected unopposed

**Contesting candidates–2; decided by voice vote

%Elected to Lok Sabha

@Contesting candidates–2; decided by voice vote

#Retirement

^Resigned

The Deputy Chairman holds office from the date of his/her election and vacates the office if he/she ceases to be a member of the House.⁹² He/She may at any time resign his/her office by writing under his/her hand

addressed to the Chairman.⁹³ The Deputy Chairman may also be removed from his/her office by a resolution of the House passed by a majority of all the then members of the House. Fourteen days' notice is required of the intention to move such a resolution.⁹⁴ As and when the Deputy Chairman is elected, resigns or otherwise vacates the office, a notification to that effect is published in the Gazette.

The Deputy Chairman is a whole-time officer of the House. Under the Salaries and Allowances of Officers of Parliament Act, 1953, and the rules made thereunder, the Deputy Chairman gets a salary of Rs. 50,000/- p.m., constituency allowance of Rs. 45,000/- p.m., sumptuary allowance of Rs. 1000/- p.m. and daily allowance of Rs. 2,000/- per day during the whole of his/her term as such officer. The Act also makes provision regarding the rates of travelling and daily allowances and other facilities such as accommodation, telephone, medical, etc. to which the Deputy Chairman is entitled. The salary of the Deputy Chairman is charged on the Consolidated Fund of India and is not subject to the vote of the House.⁹⁵ The Deputy Chairman occupies the tenth place in the order of precedence along with Ministers of State of the Government of India, Members of the erstwhile Planning Commission and the Deputy Speaker of the Lok Sabha. Dr. (Smt.) Najma Heptulla was conferred a cabinet rank on her election as the President of the Inter-Parliamentary Union in 1999.⁹⁶ The Deputy Chairman occupies seat no. 229 in the Chamber on the left side of the Chair. Prof. P.J. Kurien was conferred the status of a Union Cabinet Minister in the Table of Precedence as personal to him for the duration of his term of office *i.e.* upto 1 July 2018.⁹⁷

While the office of Chairman is vacant, or during any period when the Vice-President is acting as, or discharging the functions of the President, the duties of the office are performed by the Deputy Chairman.⁹⁸

During the absence of the Chairman from any sitting of the House, the Deputy Chairman acts as Chairman.⁹⁹ He/She has the same powers as the Chairman when presiding over a sitting of the House and all references to the Chairman in the Rules of Procedure and Conduct of Business in the Rajya Sabha are deemed to be references to the Deputy Chairman when he/she so presides.¹⁰⁰ A ruling given by the Deputy Chairman settles the matter before the House and cannot be reopened by anyone. However, whenever, a point raised in the House needs some consideration, it is open to the Deputy Chairman to refer or reserve the same for the consideration and decision of the Chairman.

The Chairman of the Rajya Sabha is also the Vice-President of India and has thus dual functions and responsibilities. Obviously, he cannot preside

over the sitting of the House all the time. Usually, the Chairman presides during the Question Hour or forenoon of the sitting and thereafter usually the Deputy Chairman takes over.

During the consideration of the Essential Services Maintenance Bill, 1981 when the House sat from 11.00 a.m. on 17 September 1981, till it adjourned at 4.43 a.m. on 18 September 1981, except for a lunch recess of 40 minutes, the Deputy Chairman presided all through for a stretch of over 10 hours with only two short coffee breaks.

On important occasions and debates such as Constitution (Amendment) Bills, etc., however, the Chairman may, if convenient, preside over the sitting of the House.

On 21 April 1987, the Chairman presided over the proceedings of the House for the entire sitting when the House debated the Bofors issue.

As occasions may demand, the Deputy Chairman also holds informal meetings for consultation amongst leaders of various parties and groups in the Rajya Sabha in regard to the business then pending in the House.

On a suggestion of the Prime Minister, the Deputy Chairman held a meeting with the leaders to consider whether a J.P.C. should be set up to probe into the excise issue.¹⁰¹

On another occasion, the Deputy Chairman held a meeting to decide about the business to be disposed by the House after the resignation of the Government.¹⁰²

The Deputy Chairman presides during the absence of the Speaker and the Deputy Speaker from any joint sitting of the Houses of Parliament.¹⁰³

The Deputy Chairman can speak in the House, take part in its deliberations and vote as a member on any question before the House, but he/she can do so only when the Chairman is presiding.

On 1 August 1954, the Deputy Chairman, Shri S.V. Krishnamoorthy Rao participated in the discussion on the Central Silk Board (Amendment) Bill, 1952, while the Chairman was in the Chair.

When the Deputy Chairman is in the Chair, he/she cannot vote except in the event of equality of votes.¹⁰⁴

As per convention, the Deputy Chairman does not sponsor Bills, resolutions, etc., nor does he/she table questions.

Dr. (Smt.) Najma Heptulla, a member introduced the Delhi Rent Control (Amendment) Bill, 1983, on 29 April 1983. She was elected Deputy Chairman on 25 January 1985. The Bill was thereafter removed from the list of pending private members' Bills.¹⁰⁵

However, on 8 March 1996, the Deputy Chairman, Dr. (Smt.) Najma Heptulla moved a resolution regarding status and well-being of women, in the context of 'International Women's Day', while the Chairman was in the Chair, who proposed the resolution which was adopted by the House.

The Deputy Chairman is a member of the Business Advisory Committee,¹⁰⁶ the Rules Committee¹⁰⁷ and the General Purposes Committee.¹⁰⁸ If the Chairman, who is also the Chairman of these Committees, is for any reason unable to preside over any meeting of any of these Committees, the Deputy Chairman acts as the Chairman of that meeting.¹⁰⁹

Until 1981, the Deputy Chairman was not a member of the Business Advisory Committee or the Rules Committee. However, as a convention and practice he/she used to be invited to attend the meetings of these Committees as a special invitee. The Rules Committee recommended that the Deputy Chairman should be made a member of these Committees and the strength of the Business Advisory Committee be increased from 10 to 11 and that of the Rules Committee from 15 to 16, for the purpose. The relevant rules were amended accordingly.¹¹⁰

The Report of the Rules Committee is presented to the House by the Deputy Chairman when generally the Chairman is in the Chair. However, on 14 February 1995, the Deputy Chairman presented the Seventh Report of the Rules Committee while presiding from the Chair.

If the Deputy Chairman is a member of any other parliamentary committee, he/she is appointed as the Chairman of the Committee.¹¹¹

Since 1958 the Deputy Chairman is nominated as a member of the Committee of Privileges and so appointed as the Chairman of that Committee.

Only in 1969, the Deputy Chairman was not a member of that Committee, so another member (Shri M.C. Setalvad), headed the Committee.

The Deputy Chairman has also been nominated a member of the Committee on Provision of Computers to Members of Rajya Sabha from March 1997 till April 2012 and was so appointed as the Chairman of that Committee. Besides, the Deputy Chairman has been nominated as a member of the Committee on Member of Parliament Local Area Development Scheme since September 1998 and is so appointed as Chairman of the Committee.

The Deputy Chairman was also appointed the Chairman of the Joint Committees of the Houses of Parliament on the following Bills:

- (i) Children Bill, 1959 (Shri S.V. Krishnamoorthy Rao)

- (ii) Limitation Bill, 1962 (Shrimati Violet Alva)
- (iii) Foreign Marriage Bill, 1963 (Shrimati Violet Alva)
- (iv) Press Council Bill, 1963 (Shrimati Violet Alva)
- (v) Central Industrial Security Force Bill, 1966 (Shrimati Violet Alva)
- (vi) Monopolies and Restrictive Trade Practices Bill, 1967 (Shrimati Violet Alva)
- (vii) Wakf Bill, 2010 (Shri K. Rahman Khan)

The Deputy Chairman (Shrimati Violet Alva) was also appointed as the Chairman of the Committee set up to recommend Draft rules of procedure under clause (1) of article 118 of the Constitution.

Under the Protection of Human Rights Act, 1994, the Deputy Chairman is one of the members of the Committee to recommend the appointment of the Chairperson and other members of the National Human Rights Commission set up under that Act.¹¹²

Chairman *pro tem*

When the offices of both the Chairman and the Deputy Chairman are vacant, the duties of the office of the Chairman are performed by such member of the Rajya Sabha as the President may appoint for the purpose.¹¹³ The member so appointed is known as the Chairman *pro tem* and this nomenclature distinguishes him from the *ex officio* Chairman. For the first time in the Rajya Sabha when the Vice-President (Shri B.D. Jatti) was acting as the President and the post of Deputy Chairman held by Shri Godey Murahari having fallen vacant on 20 March 1977, consequent upon his election to the Lok Sabha, the Vice-President acting as President made the following Order on 24 March 1977:

WHEREAS the Vice-President is acting as the President and the office of Deputy Chairman of the Council of States is also vacant:

NOW, THEREFORE, in exercise of the powers conferred upon me by clause (1) of article 91 of the Constitution of India, I hereby appoint Shri Banarsi Das, a member of the Council of States, to perform the duties of the office of Chairman of the Council of States until the Deputy Chairman shall have been chosen by the said Council.¹¹⁴

The 100th Session commenced on 28 March 1977. At that sitting, only formal business of making obituary references and laying of papers on the Table was transacted.¹¹⁵ The sitting of the House fixed for 29 March 1977, was cancelled on account of *Ram Navami*.¹¹⁶ The election of the

Deputy Chairman took place on 30 March 1977. Thereafter, the *pro tem* Chairman vacated the office.¹¹⁷ There was no Question Hour on any of these days as the session was called at short notice.¹¹⁸

Panel of Vice-Chairmen

The Chairman, from time to time, nominates from amongst the members of the House, a panel of not more than six Vice-Chairmen. In the absence of the Chairman and the Deputy Chairman, one of them presides over the House.¹¹⁹

The first panel which was to consist of four members was nominated by the Chairman on 16 May 1952 (*i.e.*, three days after the first sitting of the Rajya Sabha). The Chairman informed the House that he had nominated three members to the panel of Vice-Chairmen with one vacancy unfilled. He observed:

We have said that there would be a panel of Vice-Chairmen since the President of this Assembly is called Chairman. So it is said the Council will have a panel of Vice-Chairmen... Well, in the House of the People they have a panel of Chairmen.¹²⁰

The panel consisted of Acharya Narendra Deva, Shri Mukand Lal Puri and Begum Aizaz Rasul. Acharya Narendra Deva had not made oath/affirmation till then. However, by a cable to the Chairman, he had consented to serve as a Vice-Chairman.¹²¹ Thereafter, the general practice has been to reconstitute/nominate the panel fully from time to time.

Until the end of 1981, the panel of Vice-Chairmen consisted of four members. The Rules Committee recommended that the strength of the panel should be increased to six and in so recommending, the Committee observed: "It has been brought to the notice of the Committee that the present strength of the panel of four Vice-Chairmen is not sufficient as sometimes, especially when the House has prolonged sittings, none of the four Vice-Chairmen is available for presiding."¹²² The Committee on Rules presented its Third Report to the House on 2 December 1981 and the Report was adopted by the House on 24 December 1981.

In 1992, however, the panel consisted of five members. Sixth member was inducted later.¹²³

It has also happened sometimes that in view of the withdrawal or resignation or retirement of a member from the panel, it had to be reconstituted more than once in the same year.¹²⁴

In 1997, there was an occasion when the panel consisted of more than six members. During the 180th Session, the Chairman, Rajya Sabha, nominated two additional members to the existing panel. The new panel which was constituted by the Chairman on 1 August 1997 consisted of eight members.¹²⁵

In nominating members to the panel of Vice-Chairmen, the Chairman gives consideration to the strength of various parties in the House and as per convention, selects some members from the opposition parties/groups for nomination to the panel. The Chairman may also consult the leaders of political parties/groups for the purpose before making a final choice. However, there is one instance when a nominated member was nominated to the panel of Vice-Chairmen. On 21 June 2005, Shri Fali S. Nariman, a nominated member was nominated to the panel of Vice-Chairmen.

There have been some occasions when a Vice-Chairman has presided at the commencement of a sitting in the absence of the Chairman and the Deputy Chairman.¹²⁶ On one occasion, the Vice-Chairman presided over a sitting of the House continuously for over five hours and before adjourning the House *sine die* (119th Session) put it humorously: "If I would have known that my fate would be this, I would have been absent."¹²⁷

The Vice-Chairman, when presiding over a sitting of the House, has the same powers as the Chairman when so presiding.¹²⁸ He is, however, free to participate fully in all discussions in the House. As per the established convention, members of the panel of Vice-Chairmen are invited as special invitees to the meetings of the Business Advisory Committee. They are also nominated to the General Purposes Committee.

A Vice-Chairman while presiding over a sitting of the House cannot vote in the first instance, and has to exercise a casting vote in the case of an equality of votes. There has been so far only one instance when the Vice-Chairman exercised a casting vote in the case of an equality of votes.¹²⁹

On 5 August 1991, a member (belonging to the ruling party) moved a resolution disapproving the Code of Criminal Procedure (Amendment) Ordinance, 1991. After discussion on the Ordinance and the Bill replacing it, the member sought leave of the House to withdraw the resolution. The Vice-Chairman proposed the question whether the member had the leave of the House to withdraw the resolution. When an opposition member dissented, the resolution was put to the vote of the House.¹³⁰ When the count was taken, thirty-nine members were for the Ayes and equal number for the Noes. The Vice-Chairman exercised the casting vote in favour of the resolution, *i.e.*, along with the opposition for the disapproval of the Ordinance. It was the first time in the history of our Parliament that the Chair exercised a casting vote under article 100 of the Constitution.¹³¹

A Vice-Chairman holds office until a new panel of Vice-Chairmen is nominated.¹³² The same member may also be renominated. If a Vice-Chairman resigns his office, another member may be nominated in his place.¹³³

On one occasion, certain derogatory remarks were made against the Vice-Chairman. Before adjourning the House *sine die*, (67th session), the Vice-Chairman observed, "The Chair has felt hurt and as a measure to vindicate the position of the Chair, I hereby announce my resignation from the panel of Vice-Chairmen."¹³⁴ He was, however, later renominated to the reconstituted panel.¹³⁵

Non-panel member presiding

When neither the Chairman nor the Deputy Chairman nor a Vice-Chairman is present to preside, such other member as may be determined by the House acts as the Chairman.¹³⁶ The practice is that the outgoing Presiding Officer requests a member to take the Chair with the approval of the House. Such a member continues to preside temporarily until the Deputy Chairman or a Vice-Chairman becomes available to preside. In other words, such a member cannot preside when a Vice-Chairman is present in the Chamber.

Recourse to the provision contained in article 91(2) of the Constitution was taken for the first time on 18 March 1987, when the Deputy Chairman said, "Before we take up the next item, I have an announcement to make. If the House agrees, I will request Shri Sukul to preside in my absence, as none of the members of the panel is present in the House just now." A member responded by saying, "We welcome it."¹³⁷

There have also been instances when non-panel members presided over the proceedings of the House in the absence of the Deputy Chairman and the members of the panel of Vice-Chairmen with the permission of the House.¹³⁸

No appeal against the decision of Deputy Chairman/Vice-Chairman

As already stated, the Deputy Chairman or a member of the panel of Vice-Chairmen when presiding has the same powers as the Chairman when presiding over the sitting of the House.¹³⁹ It has been consistently held that no appeal lies to the Chairman against a ruling given by the Deputy Chairman or any other member presiding over a sitting of the House in the absence of the Chairman. The ruling given from the Chair settles the matter before the House and cannot be reopened.

On 31 March 1967, when the Minister of External Affairs was piloting the Armed Forces (Special Powers) Continuance Bill, 1967, a point of order was raised whether he could do so and not the Minister of Home Affairs since Nagaland was an integral part of India. The Vice-Chairman ruled out the point of order stating that the matter had been finally decided that the Ministry of External Affairs should deal with it.¹⁴⁰ On 3 April 1967, when the member again wanted to raise the same point of order before the Chairman, he ruled, "If a matter has been disposed of by one presiding officer... another presiding officer will not deal with it".¹⁴¹

On 2 December 1968, the Deputy Chairman ruled that the motion to consider the Banking Laws (Amendment) Bill, 1968, as reported by the Select Committee and an amendment to recommit the Bill to the Committee should be discussed together. When a member suggested that the matter be sent to the Chairman for ruling, the Deputy Chairman observed, "For the present I am conducting the House."¹⁴² The matter was again raised on 3 December 1968. The Chairman observed:

I cannot be revising the rulings of the gentleman or lady who is sitting in this Chair... I would like to honour the ruling of the Deputy Chairman or the Vice-Chairman. Whoever sits in my seat has the same status and the same privileges as the Chairman; and I would certainly not set up a convention where the Chairman would over-rule the Deputy Chairman or the Vice-Chairman.¹⁴³

On another occasion, the Vice-Chairman ordered, "Nothing on this point would go on record."¹⁴⁴ On 1 July 1980, a member raised the matter questioning the right of the Chair to order any part of proceedings of the House off the record. The Chairman observed:

I must stand by the ruling given by the Vice-Chairman who was in the Chair. It is as good a ruling as given by me. If I were to begin revising those rulings, then the work will never be finished and there will be lot of trouble.¹⁴⁵

On 22 December 1980, the House continued to sit beyond mid-night and a point of order against the continued sitting was ruled out by the Deputy Chairman who was presiding at that time.¹⁴⁶ At the next sitting on 23 December 1980, when some members sought to raise the matter, the Chairman observed, "When the Deputy Chairman sits in this Chair he is 'me' and I cannot sit in judgment over his action; otherwise, everyday I will have to be hearing appeals, revisions, reviews and what not."¹⁴⁷

However, whenever a point raised in the House needs some consideration or involves application of precedents or study, it is open to the Deputy Chairman or the Vice-Chairman to reserve the matter for the consideration

and decision of the Chairman, as observed by the Chairman on an occasion:

As we do in the Supreme Court, in courts everywhere, if I sit on a division bench, I can decide it. But we say, no, I would reserve it for a bigger bench. Really speaking, when the Deputy Chairman or the Vice-Chairman reserves something for me, they think that it is a matter important enough for me to know and to decide. I think that is a very legitimate operation...¹⁴⁸

On 2 July 1980, the Chairman had permitted members to raise a matter regarding situation arising out of failure to discharge constitutional responsibility under article 178 to elect Speakers of Legislative Assemblies of U.P. and Rajasthan. Objection was taken to the jurisdiction of the House to discuss the matter and the propriety of admitting it for a mention. The Vice-Chairman reserved the matter for Chairman's consideration.¹⁴⁹ The Chairman gave a ruling the next day.¹⁵⁰

During the discussion on the Assam Budget and the related Appropriation Bill on 25 August 1981, a point of order was raised about the non-laying of the Assam (Vote on Account) Appropriation Ordinance promulgated by the Governor of Assam on 1 April 1981, to incorporate the demands voted by the Assembly which was adjourned *sine die* and later prorogued before the Appropriation Bill could be passed by that Assembly. The contention of some members was that after Assam was brought under the President's Rule, the Ordinance ought to have been laid on the Table of the Houses of Parliament, under article 213 of the Constitution. The Deputy Chairman ruled that it was not necessary.¹⁵¹ The Bill was returned to the Lok Sabha. However, the next day, the matter was raised again in the House before the Chairman. The Chairman ruled:

I do not and cannot express an opinion on the disputed points so far raised for three simple reasons. One, whatever is decided by the Chairman for the time being in the Chair binds the House; I have no appellate or revisionary powers; and there will be no end to things if I interfere with the rulings from the Chair. The second reason is even more potent. When the matter was on, the Deputy Chairman could have conferred with me or other colleagues of ours. But now the matter has passed into quite a different stage, what we lawyers call, this House is *functus officio*, it has finished with its work. The Bill has been returned to the Lok Sabha. We cannot recall it. Our House has finished with it. Therefore, the Bill must stand as it has been dealt with in this House. Some other tribunal, if you want to go to another tribunal, may be able to rule on your contention, but no one in this House can rule upon what

has been done in this House yesterday. The third reason is that there is a pendency of proceedings in the High Court. Some points are being agitated in parts; more points may probably be annexed, I, therefore, do not think it is necessary for me to give a ruling on what has been said up till now.

The Chairman, however promised to examine the limited questions whether in similar circumstances occurring in future the Ordinance must be laid on the Table of the House and whether the Ordinance in question should still be laid on the Table of the House.¹⁵² The Chairman accordingly delivered a ruling on 8 September 1981.

Chairmen of Parliamentary Committees

The Chairman of a Parliamentary Committee (hereinafter referred to in this part as Committee Chairman) is appointed by the Chairman from amongst the members of the Committee. In the Rajya Sabha, the offices of Committee Chairmen are shared by ruling and opposition parties by informal arrangement and consultations. This facilitates the Chairman's task of appointing Committee Chairmen. The Chairman, Rajya Sabha is the Chairman of three Committees—Business Advisory Committee, Committee on Rules and General Purposes Committee. If the Deputy Chairman is a member of any other Committee, he/she is invariably appointed the Chairman of that Committee, for instance, the Committee of Privileges. In the case of Joint/Select Committees on Bills initiated in the Rajya Sabha, the Chairman may be a member who does not belong to the ruling party. The following are the instances of members not belonging to the ruling party who were appointed Chairmen of various Committees:

Shri Yogendra Sharma (CPI)—Chairman, Joint Committee on the Indian Penal Code (Amendment) Bill, 1970;

Shri Prakash Veer Shastri (Ind.)—Chairman, Joint Committee on the Central and other Societies (Regulation) Bill, 1972;

Prof. A.R. Wadia (Nom.)—Chairman, Joint Committee on the Delhi Primary Education Bill, 1960;

Shri Jairamdas Daulatram (Nom.)—Chairman, Joint Committee on the Banaras Hindu University (Amendment) Bill, 1964

Dr. M.S. Adiseshiah (Nom.)—Chairman, Joint Committee on the Visva Bharati (Amendment) Bill, 1978;

Shri Era Sezhiyan (Janata Party)—Chairman, Select Committee on the Chit Funds Bill, 1982.

If a Committee Chairman resigns, or is, for any reason unable to act, the Chairman appoints any other member of the Committee as a Committee Chairman in his/her place. In the absence of the Committee Chairman from

any sitting of the Committee, the Committee chooses another member to act as the Chairman for that meeting.¹⁵³

The Committee Chairman presides over the meetings of the Committee and has various duties, functions and powers in respect of the proceedings and functioning of the Committee as the Chairman has in respect of the proceedings of the House. The Committee Chairman appoints Chairman/Convener of a sub-Committee, which the Committee may decide to set up. He fixes the date and time for holding the sittings of the Committee. If at any time fixed for any sitting of the Committee, or at any time during any such sitting, there is no quorum, he/she may either suspend the sitting until there is quorum or adjourn the sitting to some future day.

Rule 74(3) regarding Select Committee on Bills provides that when a Select Committee has adjourned for want of quorum on two successive dates fixed for meeting of the Committee, the Committee Chairman has to report the fact to the House. There has been only one instance so far when such a report has been made by way of a statement by the Chairman of the Committee. The Chairman of the Joint Committee of the Houses on the Shipping Agents (Licensing) Bill, 1987, (Shri B.A. Masodkar) made a statement regarding adjournment of the meetings of the Committee for want of quorum.¹⁵⁴

Any procedural matter arising in the Committee is decided by the Committee Chairman. In case of doubt, he may, if he thinks fit, refer the point to the Chairman for decision. In the deliberations of the Committee, if there is an equality of votes on any matter, the Committee Chairman does not vote in the first instance but has only a casting vote.¹⁵⁵ Minutes of the sittings of the Committee are approved by the Committee Chairman and its report is signed by him, on behalf of the Committee.¹⁵⁶ If in the opinion of the Committee Chairman, a minute of dissent of a member of the Committee to be appended to its Report contains words, phrases or expressions which are unparliamentary, irrelevant or otherwise inappropriate, he may order such words, etc. to be expunged from the minutes of dissent.¹⁵⁷ The Report of the Committee is presented to the House by the Committee Chairman, or in his absence by any member of the Committee.¹⁵⁸

Rule 91(2) provides that in presenting a report of the Select Committee on a Bill, the Committee Chairman, if he makes any remarks, should confine himself to a brief statement of fact. On occasions the Committee Chairman have while presenting reports of the Committee of Government Assurances stated about the progress of fulfilment of assurances.¹⁵⁹

A Chairman of a Parliamentary Committee (other than a Select or Joint Committee on a Bill or any other *ad hoc* Committee) is exempted

from payment of any charges for local calls made from the telephone installed at his residence in Delhi or New Delhi. This exemption is in addition to the exemption in respect of telephone charges admissible to him as a member.¹⁶⁰ He is also entitled to travelling and daily allowances at the rate admissible to a Member of Parliament when he attends to work connected with the Committee.¹⁶¹

Leader of the House

The Leader of the House is an important parliamentary functionary who, like Presiding Officers, Leader of the Opposition and Whips, facilitates members' participation in debates effective and meaningful. The genesis of the office may be traced to the practice obtaining in the House of Commons in U.K. where the member of the Government who is responsible to the Prime Minister for the arrangement of the Government business is known as the Leader of the House. It is not a statutory office nor is the Leader of the House formally appointed by the Crown. Usually he/she holds that office alongwith another office.¹⁶²

The Leader of the House "suggests, and in a great degree fixes, the course of all principal matters of business, supervises and keeps in harmony the action of his colleagues, takes the initiative in matters of ceremonial procedure and advises the House in every difficulty as it arises."¹⁶³ The details of the arrangement of Government business are settled, subject to his control, by the Chief Whip and the Leader of the House announces the business for the following week normally every Thursday after questions.

The Leader of the House should be conscious of five responsibilities: to the Government, to the Government's own supporters on the back benches, to the Opposition, to the House as a whole and to the individual Minister incharge.¹⁶⁴ He should, within reason, be accessible to both sides of the House. His relations with the Government Whips should be close, cordial and cooperative. He should keep in mind the duty of the Government to promote all reasonable facilities for the House to debate matters about which it is genuinely concerned and must regard himself not only as a member of the Government but as one of the principal guardians of the rights of the House as a whole.¹⁶⁵ He moves procedural motions about the business of the House from time to time, expresses the sense of the House on formal occasions, recommends to the Government about the stand it should take on private members' motions and Bills. He has, therefore, to be usually present either in the House or in his room in order that a responsible decision may be taken as to the management of Government business. At the same time, the Leader of the House is more than a

manager. He is not merely the leader of his party and the leader of the Government, but also the Leader of the House. In some respects, he takes the place of the Speaker. In short, when the House speaks as a corporate body, he speaks on its behalf. He is an active representative on behalf of the House on events of national or international importance.¹⁶⁶

The Page Committee appointed by the Presiding Officers in 1968, made the following observations regarding the duties and functions of the Leader of the House:

He should be present in the House for most of the time and during the Question Hour and thereafter, at the beginning of the normal business of the House. His foremost duty is to assist the Speaker in the conduct of the business. He should be at all time prepared to intervene in the discussions, respond to the demands of the Opposition in the matter of giving opportunity for debate, fixing time and dates for discussion, control unruly behaviour of members and help the Speaker in arriving at decisions in regard to matters before the House. If the Leader of the House is unavoidably absent or otherwise busy, he should nominate a Deputy Leader who should in the absence of the Leader of the House perform the above functions at any time. Thus either the Leader or the Deputy Leader should be present in the House.¹⁶⁷

Rule 2(1) of the Rules of Procedure and Conduct of Business in the Rajya Sabha defines the Leader of the House to mean the Prime Minister, if he is a member of the House, or a Minister who is the member of the House and nominated by the Prime Minister to function as the Leader of the House. Although this definition was incorporated in the Rule book only in 1981 by an amendment adopted in the House on 24 December 1981, the office of the Leader of the House in the Rajya Sabha existed since its inception in 1952. The earliest reference to the Leader of the House is to be found in the Rajya Sabha proceedings of 21 May 1952, when the Leader of the House (Shri N. Gopalaswamy Ayyangar) laid on the Table of the House a copy of the first report of the Finance Commission and memorandum of action taken thereon.¹⁶⁸ About a year later, again, the Leader of the House (Shri C.C. Biswas) laid on the Table a statement of the estimated receipt and expenditure of the Railways (Railway Budget) (without Railway Minister's speech) on behalf of the Minister of Railways who was to speak in the other House.¹⁶⁹

The Leader of the House was granted leave of absence from the meetings of the House, on 24 November 1952.¹⁷⁰ Few days later, a member mentioned that the Leader of the House was hardly ever present in the House and it should consider the matter seriously.¹⁷¹ Again

after a couple of days, the matter relating to the absence of the Leader (acting Leader, Shri C.C. Biswas) was raised in the House. It was pointed out that during that session, the attendance of the Leader had not been for more than two hours. The member concerned suggested that someone else should be appointed, if the member acting for the Leader was not able to be present.¹⁷² [On 11 February 1953, the Prime Minister made a reference to the passing away of Shri Ayyangar.]

As a matter of convention, if one of the members who is to make oath/affirmation is the Leader of the House, he is called first to do so.

Shri N. Gopaldaswamy Ayyangar, Shri C.C. Biswas, Shri Jaisukhlal Hathi and Shri Pranab Mukherjee, who were Leaders of the House were called first to make oath/affirmation. In the case of Shri Mukherjee, immediately after he took oath, the Chairman announced Shri Mukherjee's nomination as the Leader of the House by the Prime Minister.¹⁷³

On 24 May 1996, the Chairman announced about the appointment of Shri Sikander Bakht as the Leader of the House. He also announced that he had recognised Shri S.B. Chavan as the Leader of the Opposition in the Rajya Sabha. Thereafter, he called Shri Sikander Bakht to make and subscribe oath. After him, Shri S.B. Chavan was called to do so. Rest of the members made and subscribed oath after them on that day.¹⁷⁴

On 23 March 1998, the Chairman announced that he had recognised Dr. Manmohan Singh as the Leader of the Opposition in the Rajya Sabha and on 5 July 2004, the Chairman announced and recognised Shri Jaswant Singh as the Leader of the Opposition in the Rajya Sabha and accordingly called him first to make oath/affirmation. After him rest of the members made and subscribed oath/affirmation on that day.¹⁷⁵

The Leader of the House occupies the first seat in the Chamber at the right side of the Chair. He is available for consultation to the Presiding Officer. Under the rules, the Leader of the House is consulted by the Chairman in regard to the arrangement of Government business in the House,¹⁷⁶ allotment of days or allocation of time for discussion on the President's Address,¹⁷⁷ private members' business on any day other than Friday,¹⁷⁸ discussion on no day-yet-named motions,¹⁷⁹ short duration discussions,¹⁸⁰ and consideration and return of a Money Bill.¹⁸¹ He is also consulted by the Chairman in the matter of adjournment or otherwise of the House for the day in the case of death of an outstanding personality, national leader or international dignitary.¹⁸²

The Leader of the House suggested that the House (which had been adjourned the previous day on account of Shri V.V. Giri's death) be adjourned on that day (next day) when the late Shri Giri's cremation was to take place. The House agreed.¹⁸³

On a number of occasions the obituary references on the demise of important personalities, were initiated by the Leader of the House; for instance, on the death of Dr. Rajendra Prasad, Shri G.B. Pant, Shri Jawaharlal Nehru, Shri Lal Bahadur Shastri, Dr. Zakir Husain, Dr. Fakhruddin Ali Ahmed, Shri Jagjivan Ram and Chaudhary Charan Singh.¹⁸⁴

On the death of Shri Jawaharlal Nehru, Dr. Zakir Husain and Dr. Fakhruddin Ali Ahmed, condolence resolutions were also moved by the Leader of the House.¹⁸⁵

When a member suggested that the House should be adjourned on account of the death of a former member of the Lok Sabha and the Rajya Sabha as was done in the Lok Sabha, the Leader of the House explained the practice of the House regarding making obituary references. The House did not adjourn.¹⁸⁶

As a matter of convention, the Leader of the House is generally consulted when a motion for suspension of a member from the service of the House is moved. There have been instances when the Leader of the House himself has moved such motions.¹⁸⁷

The Leader of the House plays an important role in the matter of privileges of the House and its members. Under rule 167 as it existed before 1964, after leave to raise a question of privilege was granted by the House, the question could be referred to the Committee of Privileges on a motion being made by the Leader of the House to that effect. In 1964, the rule was amended so as to enable any other member also to move such a motion in the absence of the Leader of the House.¹⁸⁸ For instance, the Leader of the House moved motions on 9 September 1966, 5 June 1967 and 7 September 1970, to refer the questions of privilege to the Committee of Privileges.¹⁸⁹ The Leader of the House has also moved motions for contempt of the House committed by persons who threw leaflets from Visitors' Gallery on the floor of the House¹⁹⁰ or shouted slogans from there¹⁹¹ or threw a *Chappal* on the floor of the House.¹⁹²

The seat of a member who has remained absent for sixty or more consecutive days without the permission of the House, under article 101(4) of the Constitution, is declared vacant on a motion by the Leader of the House. He may, however, delegate his functions in this behalf to any member of the House.¹⁹³

The seat of Shri Barjinder Singh Hamdard, who had absented himself from all sittings of the House for a period of more than sixty days, was declared vacant in terms of clause (4) of article 101 of the Constitution of India on 21 December 2000. In case of Shri Hamdard, the Leader of the House delegated his functions to Shri Pramod Mahajan, the then Minister of Parliamentary Affairs.¹⁹⁴

Since 1981, the Leader of the House was invariably a member of the Business Advisory Committee. However, from 1996 onwards, the Leader of the House is not a Member of the Business Advisory Committee but is invited to the meetings of the Committee as a Special Invitee. Although the present practice is that the announcement regarding the Government business for the next week is made by a Minister in the Ministry of Parliamentary Affairs, there have been many instances in early sixties in the Rajya Sabha when the Leader of the House had announced the Government business himself or the Minister of Parliamentary Affairs had done so expressly on behalf of the Leader of the House.¹⁹⁵ The Leader of the House is also nominated to the General Purposes Committee, as its member.

The Leader of the House deals with procedural matters relating to the business of the House and advises it in every difficulty as it arises.

The Leader of the House (Shri N. Gopaldaswamy Ayyangar) intervened to spell out the scope of amendments to the Motion of Thanks on the President's Address.¹⁹⁶

There was a long discussion in the Rajya Sabha in regard to continuance of three Ministers after they ceased to be members on their retirement from the Rajya Sabha. In the course of the discussion some members had raised a point regarding political morality involved in the issue. The Leader of the House assured that he would convey the feelings and sentiments of members to the Prime Minister.¹⁹⁷

There was a day-long discussion in the Rajya Sabha regarding facilities to be accorded to the Leader of the Opposition who was recognised for the first time. The Leader of the House promised to convey the views of the members to the Government and expedite the decision.¹⁹⁸

When some members sought to move a motion to suspend Question Hour, the Leader of the House (Shri S.B. Chavan) requested them not to press it in view of the previous day's discussion on the Ayodhya issue.¹⁹⁹

When there was a privilege matter against the Government on the ground of obstructing the Committee on Public Undertakings by not making available relevant files on HSD deal and the Chairman suggested

that a rule could be framed to remove whatever anomalies existed in regard to the membership of the Rajya Sabha on the Committee, the Leader of the House stated that a mutually acceptable satisfactory solution could be found in this regard. That defused the matter.²⁰⁰

When members complained about the delay in getting replies to special mention matters, the Leader of the House assured his cooperation to get the replies as early as possible.²⁰¹

When members demanded that the Rajya Sabha should also have a Committee on Papers Laid on the Table, the Leader of the House responded favourably to the suggestion.²⁰²

Whenever, Committees of the Rajya Sabha are reconstituted, the Leader of the House takes initiative by calling an informal meeting of leaders of parties/groups in the Rajya Sabha to decide about the allocation of Committee membership/chairmanship amongst themselves. This facilitates the task of the Chairman in deciding to nominate members/appoint Chairmen to various Committees.

In his day to day activities, the Leader of the House acts as the Leader of his party or concerned Minister of the Government with which the office of the Leader of the House is combined.

In the years from 1952 to 1959, the Leader of the House replied to debates on the Motion of Thanks. In 1961, the Minister of Law and in 1964, the Minister of Home Affairs replied on behalf of the Leader of the House who was unwell.

In 1979 and 1991, the Leader of the House (Shri K.C. Pant and Shri Yashwant Sinha, respectively) informed the House about the resignations of the Government and requested the Chair to adjourn the House *sine die* and for the day, respectively.²⁰³

On 15 April 1999, Shri Sikander Bakht, Minister of Industry and Leader of the House made a suggestion that in view of the Motion of Confidence being discussed in Lok Sabha on 15, 16 and 17 April 1999, the House may be adjourned till Monday, the 19 April 1999 and Dr. Manmohan Singh, Leader of the Opposition agreed to the proposal. The Chairman, after taking the sense of the House adjourned the House till Monday, the 19 April 1999.²⁰⁴

As occasions demand, the Leader of the House acts as the spokesman and representative of the whole House. The chief occasions for his doing so are when the House as a whole desires to define its position on an issue or in relation to the other House or to express feelings, sense or sentiments on some event or happening, etc.

Objection was taken in the Lok Sabha regarding the Rajya Sabha discussing the Budgets first. During the course of a discussion on the issue in the Rajya Sabha, the Leader of the House (Shri M.C. Chagla) explained the position and while asserting that the Rajya Sabha had every right to discuss the Budget as the Lok Sabha had under the Constitution, he appealed to the House to try to avoid any friction or conflict with the other House.²⁰⁵

Similarly, on the proposal to scrutinise the budget estimates of the Rajya Sabha, the Leader of the House (Shri M.C. Chagla) spelt out principles which should be borne in mind if any change was to be made in the existing procedure in that behalf. He offered to convey to the Speaker the wish of the Rajya Sabha in the matter.²⁰⁶

The Leader of the House moved resolutions:

- (i) expressing sense of relief about the safety of the Prime Minister in an attack in Colombo;²⁰⁷
- (ii) condemning killings in Assam;²⁰⁸
- (iii) condemning demolition and desecration of Babri Masjid;²⁰⁹
- (iv) Destruction of Statues of Buddha and Buddhist shrines in Bamiyan (Afghanistan) by Taliban Regime.²¹⁰
- (v) Storming of the estate and precincts of the State Legislature of Orissa by a mob of persons allegedly belonging to the VHP and the Bajrang Dal.²¹¹

The Leader of the House thus performs all-pervading role in the functioning of the House. Naturally, therefore, the House holds him in admiration and affection and is always unanimous in upholding his dignity.

For instance, in 1952, the then Leader of the House, Shri N. Gopaldaswamy Ayyangar, had asked for leave of absence as he was unwell. While one member opined that he did not need the leave of the House, another member expressed good wishes “for the earliest recovery of our Leader of the House.”²¹²

On a later occasion, in the case of the Leader of the House, Shri G.B. Pant, the Chairman made these observations after Question Hour: “I should like to express our joy, Mr. Pant, at seeing you back in your seat as the Leader of the House after your recent illness. I hope you will not over-strain yourself.” The Leader of the House thanked the Chairman.²¹³

In the famous Income-tax (Amendment) Bill case, the Leader of the House (Shri C.C. Biswas) was called to be present in the other House, the Rajya Sabha passed a resolution directing the Leader of the House not to present himself in any capacity whatsoever in the other House.²¹⁴

On an occasion, a member moved an amendment to a motion for election to the Committee on the Welfare of Scheduled Castes and Scheduled Tribes so as to set up a separate Committee of the Rajya Sabha for the purpose and stated that the amendment was in consonance with the assurance given by the Government in that behalf. The Leader of the House denied that any such assurance was given. The Chairman observed: "The Leader of the House has said just now that there was no assurance given on behalf of the Government and you must take it as correct."²¹⁵

In the Rajya Sabha the following members have been the Leaders of the House since 1952:

Name	Period
1. Shri N. Gopaldaswami Ayyangar	May 1952 to Feb. 1953
2. Shri Charu Chandra Biswas	Feb. 1953 to Nov. 1954
3. Shri Lal Bahadur Shastri	Nov. 1954 to March 1955
4. Shri Govind Ballabh Pant	March 1955 to Feb. 1961
5. Hafiz Mohammad Ibrahim	Feb. 1961 to Aug. 1963
6. Shri Yashwantrao Balwantrao Chavan	Aug. to Dec. 1963
7. Shri Jaisukhlal Hathi	Feb. to March 1964
8. Shri Mahomadali Currim Chagla	March 1964 to Nov. 1967
9. Shri Jaisukhlal Hathi	Nov. 1967 to Nov. 1969
10. Shri Kodradas Kalidas Shah	Nov. 1969 to May 1971
11. Shri Uma Shankar Dikshit	May 1971 to Dec. 1975
12. Shri Kamlapati Tripathi	Dec. 1975 to March 1977
13. Shri Lal K. Advani	March 1977 to Aug. 1979
14. Shri K.C. Pant	Aug. 1979 to Jan. 1980
15. Shri Pranab Mukherjee	Jan. 1980 to July 1981 and Aug. 1981 to Dec. 1984
16. Shri Vishwanath Pratap Singh	Dec. 1984 to April 1987
17. Shri N.D. Tiwari	April 1987 to June 1988
18. Shri P. Shiv Shanker	July 1988 to Dec. 1989
19. Shri M.S. Gurupadaswamy	Dec. 1989 to Nov. 1990

Name	Period
20. Shri Yashwant Sinha	Dec. 1990 to June 1991
21. Shri S.B. Chavan	July 1991 to April 1996
22. Shri Sikander Bakht	20th May 1996 to 31st May 1996
23. Shri Inder Kumar Gujral	June 1996 to Nov. 1996
24. Shri H.D. Deve Gowda	Nov. 1996 to April 1997
25. Shri Inder Kumar Gujral	April 1997 to March 1998
26. Shri Sikander Bakht	March 1998 to Oct. 1999
27. Shri Jaswant Singh	Oct. 1999 to May 2004
28. Dr. Manmohan Singh	June 2004 to May 2014
29. Shri Arun Jaitley	June 2014 - till date

Leader of the Opposition

Like the Leader of the House, the office of the Leader of the Opposition has also originated in England out of practice and which has no official functions either according to legislation or the rules of the House.²¹⁶ The task of the Leader of the Opposition is, however, not so difficult as that of the Leader of the House, but is nevertheless of considerable public importance. It is so important, indeed, that he is paid salary, etc. out of the Consolidated Fund, both in England as well as in India. This is so because opposition is an essential part of the democratic government.²¹⁷ What is expected from an opposition is effective criticism.²¹⁸ Hence, it is rightly said that the most important part of Parliament is the opposition. The government governs and opposition criticises.²¹⁹ Both of them thus have functions and rights.

The function of the opposition is to attack upon government and upon individual Ministers. Its duty is to oppose. That duty is the major check upon corruption and defective administration. It is also the means by which individual injustices are prevented. This duty is no less important than that of the Government.²²⁰ In fact, opposition and government are carried on alike by agreement. The minority agrees that the majority must govern, and the majority agrees that the minority should criticise.²²¹ The opposition has no right to obstruct, in the sense of making Parliament barren or unproductive.²²² It would be the clearest proof of the triumph of party spirit over parliamentary spirit if any government sets out to whittle away the rights of the opposition.²²³ The uninterrupted respect for the

rights of the opposition which Government shows should be accepted as *prima facie* evidence of the soundness of its parliamentary faith.²²⁴ The process of parliamentary government will break down if there was absence of mutual forbearance.²²⁵

In view of the importance of the opposition in a parliamentary democracy, the post of the Leader of the Opposition is indeed one of responsibility. He, among other things, watches for encroachments on the rights of minorities, demands debates when government is trying to slide away without parliamentary criticism. He must be in his place more often and familiar with all the tricks of a skilled parliamentarian and all the opportunities available under the rules of the House.²²⁶

In the Rajya Sabha until 1969, there was no Leader of the Opposition in the real and accepted sense of that expression, since there was no party which had the requisite strength of one-tenth of the total membership of the House, *i.e.*, twenty-five, the number required for constituting the quorum of the House. Till then, the practice was to call the Leader of the numerically largest opposition party as the Leader of the Opposition without according him any formal recognition, status or privileges. It was on 18 December 1969 that the Congress(O) which had the strength of thirty-nine members in the House of two hundred and forty, was recognised as the Opposition party and its Leader, Shri S.N. Mishra as the Leader of the Opposition in the Rajya Sabha. Immediately thereafter, felicitations were offered to him by the Chairman, Prime Minister and other leaders of parties/groups in the Rajya Sabha.²²⁷ He was allotted front seat, next to the Deputy Chairman's seat on the left side of the Chair.

After the split in the Indian National Congress, the leader of the largest party in Opposition Group (Shri S.N. Mishra) requested the Chairman on 16 November 1969 that separate seats should be allotted to members of his group in the Rajya Sabha. He occupied the Deputy Chairman's seat which was vacant as the Deputy Chairman had resigned. Objection was taken by some members about Shri Mishra occupying that seat. The Chairman ruled that until seats were allotted, the leader of the new group and his members should speak from their seats as re-allotment would take time. The House was adjourned at 12.54 p.m. till 2.00 p.m. that day. When the House reassembled, the Vice-Chairman announced that the Chairman was considering the matter and adjourned the House for an hour. On reassembly, the Chairman announced that seats had been re-allocated to leaders and to other members, and the change would be effected by the next day. Thereafter, the Leader of the Opposition spoke from the new seat.²²⁸

The recognition was followed by a demand that facilities and privileges, etc. of the Leader of the Opposition should be decided. The Government assured that the same were already under consideration and would be

finalised and an announcement would be made soon. On 14 May 1970, the House spent the entire day discussing the issue and asking for the decision of the Government in the matter. The Leader of the House merely assured that he would convey the views of members to the Government and expedite the decision. Shri S. N. Mishra continued to be the Leader of the Opposition till March 1971, when he ceased to be the member of the Rajya Sabha, consequent upon his election to the Lok Sabha. He was succeeded by Shri M. S. Gurupadaswamy as the Leader of the Opposition. Although no formal announcement to that effect was made in the House, he was described as such in the proceedings.²²⁹ He continued in that position till April 1972. Thereafter till March 1977, no opposition party in the Rajya Sabha had the requisite strength for recognition and there was no recognised Leader of the Opposition during that period.

The Salary and Allowances of Leaders of Opposition in Parliament Act of 1977, accords a statutory recognition and status to the office of the Leader of the Opposition. That Act defines the Leader of the Opposition in relation to either House of Parliament, as a “Member of the Council of States or the House of the People, as the case may be, who is, for the time being, the Leader in that House of the Party in opposition to the Government having the greatest numerical strength and recognised as such by the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.”²³⁰ Thus the Leader of the Opposition should satisfy three conditions, namely, he should be a member of the House, be the Leader in the Rajya Sabha of the party in opposition to the Government having the greatest numerical strength and be recognised as such Leader by the Chairman. As clarified further, where there are two or more parties in opposition to the Government, having the same numerical strength, the Chairman, having regard to the status of the parties, recognises anyone of the Leaders of such parties as the Leader of the Opposition for the purposes of the Act and such recognition is final and conclusive.²³¹ After a Leader is accorded recognition or ceases to be the Leader, a Gazette notification is issued. It is the conclusive evidence of the fact that the member concerned has become or ceased to be a Leader of the Opposition on the date indicated in the Gazette.²³² The Leader of the Opposition occupies seat No. 228 in the Chamber on the left side of the Chair next to the Deputy Chairman’s seat.

Under the Act, the Leader of the Opposition gets a salary of rupees fifty thousand per mensem, a daily allowance of rupees two thousand, for each day during the whole of his term, a constituency allowance of

rupees forty-five thousand per mensem and a sumptuary allowance of rupees two thousand per mensem, travelling allowance in respect of journeys performed, free and furnished residence and telephone, secretarial and medical facilities. Leader of Opposition is also entitled to a conveyance allowance of rupees three thousand per month if conveyance facility with a driver is not provided by the Secretariat. All these expenses are being met from the budgetary grants of the Rajya Sabha Secretariat.

Since the enactment of the provision mentioned above, a number of occasions have arisen to invoke the provision according recognition to or withdrawing it from the Leader of the Opposition in the Rajya Sabha.

On 29 March 1977, Shri Om Mehta, the then Chief Whip of the Congress Party in Rajya Sabha, informed that Shri Kamlapati Tripathi had been elected as the Leader of the Opposition in the Rajya Sabha by the Congress Party. On the basis of numerical strength of that party, the Chairman recognised him as the Leader of the Opposition and an announcement to that effect was made in the House on 30 March 1977.²³³

On 10 January 1978, Shri Bipin Pal Das, Chief Whip of the Congress Party intimated that Shri Kamlapati Tripathi had ceased to be the Leader of that Party (as a result of a split in that party). In that context a question arose whether the Chairman had power to derecognise a member as the Leader of the Opposition and if so, from which date. The matter was, therefore, referred to the Ministry of Law for advice. The Ministry gave the following opinion:

Although section 2 of the Act refers only to the recognition of a member as being the Leader of the Party in Opposition to the Government having the greatest numerical strength, the power of derecognition is implicit and necessarily follows from the power of recognition. Apart from cases like the one now under consideration, it is possible to visualise non-controversial occasions such as the case of the person ceasing to be a member of the Council, dying or resigning from the leadership of the party... Since there can be a time-lag between the date of the notification under section 9 and the date on which a person becomes or ceases to be a Leader of the Opposition, there would appear to be no objection to the notification mentioning a past date. If the Chairman is satisfied that Shri Kamlapati Tripathi, in fact, ceased to be the Leader of the Group having the greatest numerical strength with effect from 10 January 1978, or any other date, he may come to a finding to that effect. But, if the matter is likely to be controversial, then withdrawal of the recognition with effect from the date from which the Chairman comes to that conclusion would lessen the scope for dispute.²³⁴

After ascertaining the position, the Chairman declared that Shri Tripathi ceased to be the Leader of the Opposition in the Rajya Sabha on 15 February 1978.²³⁵ Shri Bhola Paswan Shastri, Leader of that Party, was thereafter, recognised as the Leader of the Opposition on the basis of the intimation received from Shri Bipin Pal Das.²³⁶

In the meantime, the party position in the Rajya Sabha underwent considerable change. The Congress(I) Party emerged as the largest opposition party. Shri Kamlapati Tripathi was again recognised as the Leader of the Opposition and Shri Bhola Paswan Shastri was derecognised on 23 March 1978.²³⁷ Shri Tripathi ceased to be the Leader of the Opposition on his retirement from the Rajya Sabha on 2 April 1978. After his re-election, he was again recognised as the Leader of the Opposition on 18 April 1978.²³⁸ He continued till 8 January 1980, when he ceased to be the member of the Rajya Sabha on his election to the Lok Sabha.²³⁹

On 21 January 1980, Shri Lal K. Advani belonging to the Janata Party was recognised as the Leader of the Opposition as that party was the largest in numerical strength.²⁴⁰ He, however, resigned from that post on 7 April 1980 and so ceased to be the Leader of the Opposition from that date.²⁴¹

From 7 April 1980 to December 1989, again there was no Leader of the Opposition in the Rajya Sabha since no party enjoyed the required numerical strength for recognition, *i.e.*, twenty-five members. On 18 December 1989, Shri P. Shiv Shanker belonging to Congress (I) Parliamentary Party was recognised as the Leader of the Opposition.²⁴² He continued till 2 January 1991.²⁴³

In November 1990, Shri Chandra Shekhar formed the Government with the support of Congress (I) Party. The matter regarding the status of Shri Shiv Shanker as the Leader of the Opposition, when his party was supporting the ruling party, was raised in the Rajya Sabha on 27 December 1990.²⁴⁴ The Chairman obtained the opinion of the Attorney-General, the material portion of which was: "...as the law stands today in the light of parliamentary convention and provisions of the Salary and Allowances of Leaders of Opposition in Parliament Act, 1977, there is no change in the position in regard to the Leader of the Opposition and the Leader of the Congress(I) Party continues to be the Leader of the Opposition." While reading out the opinion in the House, the Chairman also announced that the Congress(I) Party had forgone the office of the Leader of the Opposition and that office became vacant.²⁴⁵

Meanwhile, the numerical strength of Janata Dal increased from twenty-four to twenty-five with the election of a member from Orissa in a bye-election, with effect from 19 March 1991. Shri M. S. Gurupadaswamy,

the Leader of that party, therefore, became eligible to be recognised as the Leader of the Opposition. However, with the resignation of the Government headed by Shri Chandra Shekhar, the question arose, whether the Congress (I) could revive its status as the numerically largest party in Opposition to the Government and of its Leader (Shri Shiv Shanker) as the Leader of the Opposition. By the time the claim of either of these parties could be decided, the Congress (I) party became the ruling party as a result of the general election. The strength of the Janata Dal continued to be twenty-five in the Rajya Sabha. Shri M.S. Gurupadaswamy was, therefore, recognised as the Leader of the Opposition with effect from 28 June 1991.²⁴⁶ (Thus, there was no Leader of the Opposition between January and June 1991).

Shri Gurupadaswamy continued in that post till 21 July 1991, whereafter he was replaced by Shri S. Jaipal Reddy who was elected as the Leader of the Janata Dal in the Rajya Sabha, as per the communication received from Shri Gurupadaswamy.²⁴⁷

The strength of the Janata Dal in the Rajya Sabha came down to twenty-three with the retirement of two of its members from the Rajya Sabha on 2 April 1992. That party and its Leader Shri S. Jaipal Reddy, therefore, did not qualify to be recognised as the numerically largest Opposition Party and the Leader of the Opposition, respectively. Shri Reddy accordingly informed the Chairman who decided to rescind his recognition as the Leader of the Opposition with effect from 29 June 1992.²⁴⁸

The Bharatiya Janata Party became the numerically largest opposition party with a strength of twenty-nine members and as per a communication received from its Leader in Parliamentary Party (Shri Lal K. Advani), Shri Sikander Bakht, its Leader in the Rajya Sabha, was recognised as the Leader of the Opposition with effect from 7 July 1992.²⁴⁹

To summarise, following is the list of Leaders of the Opposition in the Rajya Sabha:

	Name	From	To
1.	Shri Shyam Nandan Mishra	December 1969	March 1971
2.	Shri M.S. Gurupadaswamy	March 1971	April 1972
3.	Shri Kamalapati Tripathi	30.3.1977	15.2.1978
4.	Shri Bhola Paswan Shastri	24.2.1978	23.3.1978
5.	Shri Kamalapati Tripathi	23.3.1978 18.4.1978	2.4.1978 and 8.1.1980

	Name	From	To
6.	Shri Lal K. Advani	21.1.1980	7.4.1980
7.	Shri P. Shiv Shanker	18.12.1989	2.1.1991
8.	Shri M.S. Gurupadaswamy	28.6.1991	21.7.1991
9.	Shri S. Jaipal Reddy	22.7.1991	29.6.1992
10.	Shri Sikander Bakht	7.7.1992 10.4.1996	10.4.1996 and 23.5.1996
11.	Shri S.B. Chavan	23.5.1996	1.6.1996
12.	Shri Sikander Bakht	1.6.1996	19.3.1998
13.	Dr. Manmohan Singh	21.3.1998	21.5.2004
14.	Shri Jaswant Singh	3.6.2004 5.7.2004	4.7.2004 16.5.2009
15.	Shri Arun Jaitley	3.6.2009 3.4.2012	2.4.2012* 26.5.2014
16.	Shri Ghulam Nabi Azad	8.6.2014 16.2.2015	10.2.2015 and till date

*Consequent on the expiry of his term as a Member of Rajya Sabha on 2 April 2012, Shri Arun Jaitley also ceased to be the Leader of the Opposition. On his re-election to Rajya Sabha, he was again accorded recognition as the Leader of the Opposition in Rajya Sabha by the Chairman *w.e.f.* 3 April 2012.

Ministers

The Constitution provides for a Council of Ministers headed by the Prime Minister to aid and advise the President who, in the exercise of his/her functions, acts in accordance with such advice.²⁵⁰ The Prime Minister is appointed by the President and other Ministers are appointed by the President on the advice of the Prime Minister.²⁵¹ On the death or resignation of the Prime Minister, the entire Council of Ministers stands dissolved. However, in the case of resignation, the President asks the Prime Minister and other Ministers to continue until alternative arrangements are made. The Council of Ministers consists of all the categories of Ministers whether they are of the Cabinet rank or Ministers of State or Deputy Ministers.²⁵² The Ministers hold office during the pleasure of the President.²⁵³ The Council of Ministers is collectively responsible to the Lok Sabha.²⁵⁴ This implies that a motion of no-confidence can be moved against the Council of Ministers only in the Lok Sabha and not in the Rajya Sabha. Hence, the Rajya Sabha

rules do not contain any provision for moving of such a motion nor is there a provision in the rules for moving of an adjournment motion which is regarded as a censure motion. Provisions for these purposes are made only in the Rules of Procedure and Conduct of Business in the Lok Sabha.²⁵⁵

When a new Minister is appointed and sworn-in, the Prime Minister or in his absence the Leader of the House introduces him to the House at the earliest possible opportunity. Generally, a Minister is introduced to the House at the beginning of Question Hour. However, there have been many occasions when Ministers have been introduced to the House later in the day or on a subsequent day, if any of them is not able to be present on the first day of introduction.

After a Minister answered a question and supplementaries thereon, a member pointed out, "It seems a stranger was answering these questions because he has not been introduced." The Chairman stated, "There is a custom of being introduced." Thereafter, Shri Jaisukhlal Hathi, a senior Minister introduced the Minister to the House.²⁵⁶ Also, on an occasion, objection was taken to the laying of a copy of the Proclamation on Karnataka by a Minister in the absence of another Minister who had not been introduced till then.²⁵⁷

The Prime Minister introduced the Ministers after lunch recess. One of the Ministers introduced had already participated in the proceedings that morning. A point of order was raised that it was a lapse. The Chairman ruled: "A Minister takes charge after the oath is administered to him. This is only a formality of introduction."²⁵⁸

On an occasion, some members took objection when the Prime Minister was about to introduce a Minister. The objection was that the particular Minister had supported the practice of 'Sati'. The Prime Minister made a statement denying that the Minister had supported 'Sati'. The Minister also explained the position. The Leader of the Opposition lodged a protest when Prime Minister was introducing another Minister, objection being that a criminal case was pending against that Minister.²⁵⁹

A person who is not a member of either House of Parliament can be appointed a Minister. But if he does not get a seat in either House within six consecutive months from the date of his appointment as a Minister, he ceases to be a Minister.²⁶⁰

On 3 April 1970, a point was raised regarding the constitutional validity of three Ministers—Dr. S. Chandrasekhar, Dr. (Smt.) Phulrenu Guha and Shrimati Jahanara Jaipal Singh—who had ceased to be members on their retirement from the Rajya Sabha the previous day. It was contended, *inter alia*, that these Ministers should have resigned and

if at all they had to be continued, they should have been re-appointed by the Prime Minister. The Minister of Law (Shri P. Govinda Menon), by way of reply stated that the Prime Minister had obtained the opinion of the Attorney-General in the matter, which was as follows:

The question which has been asked of me by the Prime Minister is as to whether a person who has been a Minister and at the same time a member of the Rajya Sabha but has ceased to be a member of the Rajya Sabha can continue to be a Minister under the Constitution.

The only relevant provision in the Constitution in this regard is article 75(5),...

...The basic idea behind this provision is that a person, who is a Minister, shall cease to be a Minister if he is not a member of either House for a period of six consecutive months. From this it follows that a person who becomes a Minister but at the same time is not a member of either House will cease to be Minister if he does not become a member of either House within six months after he assumes office as Minister. From this it would further follow that if after a period of six months he ceases to be a member of either House, the period of six months will again start from the date when he ceases to be a member of either House and he will only cease to be Minister if he is not a member of either House at the expiration of this period of six consecutive months.

This being the position, a Minister who has ceased to be a member of the Rajya Sabha on 2 April 1970 can, in my view, continue to be Minister for a period of six consecutive months but no more without being a member of either House. It would not be necessary for him to resign and then take a fresh oath and thereafter be a Minister.

The Deputy Chairman closed the discussion with the following observations:

There are three aspects involved: one is factual, the other is constitutional and the third one is regarding political morality...

So far as the factual aspect is concerned, the three hon'ble Ministers cease to be members of either House on the 2nd midnight. As mentioned by the hon'ble Minister, the hon'ble Ministers have tendered their resignations and their resignations have been forwarded to the hon'ble Prime Minister. It means that they have vindicated their position... only the hon'ble Prime Minister has asked them to continue in office for some more period. These are the facts.

So far as the constitutional position is concerned, contradictory views have been expressed, and I think this is not the forum to discuss and decide the constitutional aspect. There is another forum where you can decide the constitutional matters.

So far as the political morality is concerned, I think this is a matter for the consideration of the Government. It has been pointed out by the hon'ble Law Minister and the Leader of the House that both of them will convey the feelings and sentiments of the hon'ble members... to ...the Prime Minister... Therefore, the sentiments and feelings, or whatever the views expressed by the hon'ble members, will be taken into consideration by the hon'ble Prime Minister.²⁶¹

The next day, the matter was again raised. The Leader of the Opposition (Shri S. N. Mishra) and Shri Bhupesh Gupta sought to move the following motions respectively, which was not permitted by the Deputy Chairman on the previous day:

That this House disapproves of the continuance of Dr. Chandrasekhar, Shrimati Phulrenu Guha and Shrimati Jahanara Jaipal Singh as members of the Council of Ministers since they have ceased to be members of this House.

The House is of the opinion that the Prime Minister takes due note of the divergent and sharply contradictory views which have been expressed in regard to the continuance of Shrimati Jahanara Jaipal Singh, Dr. Phulrenu Guha and Dr. Chandrasekhar as members of the Council of Ministers and settles the matter raised in accordance with the provisions of the Constitution and keeping in view the norms of propriety as well as administrative efficacy.

The Chairman, also did not give permission to move the motions.²⁶² On another occasion, such issue was raised on 27 April 1982, during Question Hour when a Minister (Shri Sawai Singh Sisodia) who had ceased to be a member of the House on retirement began to answer a question. The Chairman after hearing some members reserved his ruling.²⁶³ On 5 May 1982, he delivered the following ruling:

Objection was taken recently, during Question Hour, when an hon'ble Minister, who has ceased to be a member of the House by efflux of time, began to answer a question as Minister. It was argued that his oath as Minister 'had run out' and he must be freshly appointed and sworn-in as a Minister before the provisions of Article 75(5) of the Constitution can apply to him.

I reserved my ruling but allowed the Minister to reply on behalf of the Government to the question. I now proceed to give my ruling.

My attention has been drawn to the proceedings in this House on 3 April 1970, when an identical question had arisen. The matter was very exhaustively debated, but the Deputy Chairman was not called upon to express his opinion as the Minister then had resigned. The Attorney-General, however, gave an opinion upholding the claim of the concerned Minister to act as such. I have read the debate and the opinion of the Attorney-General. I agree with that opinion. (*Supra*)

In my view the position is clear beyond doubt and is also supported by precedents in the House to which the Leader of the House, including his own case, drew attention. Of course, the practice and precedents of the House cannot prevail against the Constitution and the laws and the matter must be set at rest once and for all. In my opinion, I rely upon the provisions of the Constitution itself.

Article 75(5), which is the relevant provision, reads as follows and please mark the words:

A Minister, who for any period of six consecutive months is not a member of either House of Parliament shall at the expiration of that period cease to be a Minister.

The sub-article opens with the words “a Minister” and not the words “a person”. This points to the fact that a Minister can continue for six consecutive months as a Minister whether such a person be newly sworn-in as a Minister or continues as Minister, having been sworn-in before the expiry of his term. If it was intended otherwise the sub-article would have read:

A person who is not a member or ceases to be member of either House of Parliament may be sworn-in as a Minister but if for any period of six consecutive months he is not a member of either House of Parliament he shall at the expiry of that period, cease to be a Minister.

The emphasis on the words “six consecutive months” leads to the conclusion that the Minister cannot cease to be a Minister during that period so long as at the commencement of the period he was a Minister. There is no break in the continuity by the fact of his ceasing to be a member of either House.

As to the oath, it may be said at once that a Minister takes two oaths—one as a member of the House and the other as Minister before entering upon that office. The former lapses as he cannot be sustained by any law as a member, but the second does not because Article 75(5) sustains him as a Minister for six consecutive months by the force of the Constitution itself. There is no need for a fresh oath. The oath ensures for this purpose.²⁶⁴

There are instances thus when Ministers who had ceased to be members of either House of Parliament had continued to be Ministers even thereafter.

Shri Sitaram Kesri's term of membership of the Rajya Sabha expired on 2 April 1980, and he was re-elected in June 1980; Shri Pranab Mukherjee's term of membership of the Rajya Sabha expired on 9 July 1981 and his new term commenced, on re-election, from 13 August 1981. Both of them continued to be Ministers.²⁶⁵ Again, the term of Shri Yogendra Makwana expired on 2 April 1988 but he continued to be a Minister till 1 October 1988, (*i.e.*, full six months).

A Minister can, however, be re-appointed as Minister when he is elected as a member of Parliament.

Shri Pranab Mukherjee was sworn-in as Minister on 18 January 1993. He was not a Member of Parliament at that time. He relinquished the office with effect from 9 July 1993.²⁶⁶ He was elected to the Rajya Sabha from West Bengal and his term commenced with effect from 19 August 1993. He was re-appointed as Minister on 31 August 1993.²⁶⁷

A Minister has the right to attend both the Houses and participate in their proceedings but he cannot vote in the House of which he is not a member. In other words a Minister who is a member of one House has the right to speak in and otherwise to take part in the proceedings of the other House, but has no right to vote there.²⁶⁸

When a Minister (a member of the other House) was speaking on a point of order raised regarding the Official Languages Bill, an objection was taken that the point of order was purely relating to the rights and privileges of the House and only members of the House should speak thereon. The Chairman over-ruled the point of order observing, "All Ministers are entitled to speak in either House."²⁶⁹

When a Minister who was a member of the other House wanted to raise a point of order, objection was taken in view of rule 258, which gave right to raise a point of order only to a member of the House. The Chairman ruled that in view of the earlier precedent and article 88 of the Constitution, which is a "super law" the Minister could raise a point of order.²⁷⁰

Summons for sessions of the Rajya Sabha is not issued to a Minister who is not a member of the House or a member of either House. Strictly speaking, a Minister who is not a member of the Rajya Sabha can speak in the House only in his capacity as a Minister and not in his personal capacity. However, there have been occasions in the Rajya Sabha where Ministers have expressed their views in their personal capacity and no objection seems to have been taken in the matter.

On 26 November 1954, the Minister for Food and Agriculture (Shri A. P. Jain) was intervening during the debate on private members' resolution. He stated that he had taken charge of the Ministry less than twenty-four hours ago and was not in a position to study the various implications of the resolution. Therefore, when he was speaking, it was more in his personal capacity and the official reply would be given by another colleague. No objection was taken.²⁷¹

Similarly, no objection was taken when the Minister of Human Resource Development (Shri Madhavrao Scindia) intervened during the discussion on the Bill on the Reservation of Posts for Women in Government Services to express his personal views.²⁷²

Individual Ministers are responsible for attending to the business as put down in the list of business for the day. If for any reason they are unable to be present in the House, courtesy and convention require that they inform the Chairman accordingly in advance and also make alternative arrangement for another Minister to handle the parliamentary work in their absence.²⁷³

On 18 November 1985, a point was raised regarding the absence of the Prime Minister due to his visit abroad during the session of Parliament. The Chairman observed:

As the custodian of the privileges of the House, I have to say a few words. The principle that the Prime Minister of India stays in the Capital during the session of Parliament is unassailable, it has been accepted and it has not been questioned or challenged. But this is not an inflexible rule. There have been occasions when exigencies of Government and administration have necessitated the Prime Minister and some Ministers going out for the purpose of furthering the interests of the country. In this case the Prime Minister has been good enough to write to me as Chairman of the House. He has said that he is one of the six Heads of State who have been invited and that there are going to be very fruitful discussion amongst the Heads of States whom he is going to meet. Moreover, as the Leader of the House has said, more than 2,00,000 Indians are employed there and a measure of goodwill has got to be maintained with that country. I, therefore, do not think any breach of propriety has been done in this case. I certainly endorse the view that the Prime Minister should normally be present in the Capital during the session of Parliament.²⁷⁴

The Minister of State in the Ministry of Parliamentary Affairs sought to move a motion for election of a member of the Central Advisory Committee for NCC on behalf of the Minister for Defence (R&D). An objection was taken whether the latter had given in writing to the Chairman authorising the former. The Chairman upheld the point. The motion was not taken up.²⁷⁵

In the case of important debates such as the Motion of Thanks on the President's Address, it is the Prime Minister who generally explains the position of the Government in respect of the points raised during the discussion thereon. However, it is expected that some senior Minister is always present during the major debates. There have been many instances when the Chair had to make observations on the absence of Ministers during important discussions. There have also been instances when the House had to be adjourned for a while due to absence of Ministers.²⁷⁶

Attorney-General for India

The Attorney-General is not a Member of Parliament or of the Council of Ministers. He has, however, the right to speak in, and otherwise to take part in the proceedings of either House, any joint sitting of the Houses and any Committee of Parliament of which he may be named a member, but he cannot, by virtue of this provision, vote.²⁷⁷ He is entitled to all the privileges and immunities of Members of Parliament.²⁷⁸

The President appoints a person who is qualified to be appointed a Judge of the Supreme Court²⁷⁹ to be the Attorney-General.²⁸⁰ He holds office during the pleasure of the President.²⁸¹

The Attorney-General is required to give advice to the Government of India upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the President. He also discharges the functions conferred on him by the Constitution²⁸² or any other law.²⁸³ In the performance of his duties, the Attorney-General has the right of audience in all courts in the country.²⁸⁴

There has not been any occasion so far when the Attorney-General has appeared before the Rajya Sabha. However, there have been occasions when members have demanded the presence of the Attorney-General in the House to give his opinion on certain aspects of the matter under the consideration of the House.²⁸⁵

When the Deputy Minister of Finance was laying on the Table a copy of the opinion of the Attorney-General on the constitutional validity of the Compulsory Deposit Bill, 1963, it was the general sense of the House that the Attorney-General should come to the Rajya Sabha also as he was to appear before the Lok Sabha. The Minister was, however, permitted to lay the paper on the Table.²⁸⁶ [The Attorney General was, however, not called to appear before the Rajya Sabha.]

The Attorney-General was slated to appear before the Lok Sabha on 4 August 1993. There was a demand in the Rajya Sabha that the

Attorney-General should be called there also. The Deputy Chairman stated that she would convey the sentiments to the Chairman.²⁸⁷ The next day again the matter was raised. The Deputy Chairman informed that the Business Advisory Committee which was meeting that day would decide about it. The view of the Business Advisory Committee was that there was no need to call the Attorney-General to the House to give his opinion on the issue of the Election Commission's powers, etc.²⁸⁸

Members may give notice of a motion requesting the Attorney-General to be present in the House in connection with a Bill or business before the House. Such a notice is admitted and it is for the House to take a decision thereon.

The following motion was admitted under rule 170.²⁸⁹

“WHEREAS this House is about to consider the Joint Parliamentary Committee's Report on the Bofors deal;

AND WHEREAS the Report raises several issues of a legal nature;

THIS HOUSE, therefore, requests the Attorney-General of India to appear in this House and advise in respect of issues arising out of the said Report.”

Before the House took up the short duration discussion on the Joint Parliamentary Committee's Report on Bofors contract, the motion was moved, discussed and negatived by a division.²⁹⁰

Under the direction of the Chairman, references have also been made to the Attorney-General for his opinion on procedural matters or constitutional provisions.

The Constitution (Sixty-second Amendment) Bill, 1988, lowering the voting age from 21 to 18 years was taken up for consideration on 16 December 1988. The Bill was considered on 19 and 20 December 1988 and was finally passed on the latter date. On 19 December 1988 a member was permitted to make a special mention regarding the requirement of ratification of the Bill by one-half of State Legislatures. In the course of the special mention, the member contended that the Bill did not require ratification and if the Government still thought that it required ratification then the Attorney-General should be invited to appear before the House.²⁹¹ On 20 December 1988, the Minister of Law, while replying to the third reading of the Bill, stated that the Bill would need ratification as per the view taken by the Law Ministry²⁹² and conveyed to the Rajya Sabha Secretariat.²⁹³ However, on a written request of a member, the Chairman referred the matter to the Attorney-General for opinion.²⁹⁴ He confirmed the view of the Law Ministry.

On 27 December 1990, members of non-Congress (I) opposition groups raised an issue regarding continuance of Congress(I) Party as the opposition party in the Rajya Sabha in the context of the formation of Government by Janata Dal(S) with the support of Congress(I) Party. The Chairman informed members on 28 December 1990 that he would decide the matter with a judicial mind. The matter was, therefore, referred to the Attorney-General for opinion. On 2 January 1991, the Chairman made an announcement quoting an extract from Attorney-General's opinion.²⁹⁵

The Committees have also referred matters under their consideration to the Attorney-General for his opinion.

The Committee on Subordinate Legislation referred, through the Ministry of Law, a matter regarding the competence of a Cantonment Board to transfer any part of the proceeds of the taxes levied by it to the Government, under the Cantonments Act, 1924.²⁹⁶

The Committee of Privileges referred the following issues to the Attorney-General for opinion:

- (i) whether Parliament can exercise jurisdiction over foreign nationals for any breach of privilege or contempt committed by them while in India.²⁹⁷
- (ii) the precise scope of article 79 of the Constitution; whether aspersions cast on the President could be termed as derogatory to the institution of Parliament, thereby attracting its privilege jurisdiction; and adequacy of the existing law to punish derogatory and undignified writings against the person of the President.²⁹⁸
- (iii) Parliament's power to impose fine on a contemner (informal opinion).²⁹⁹

The Joint Committees on Bills have also invited the Attorney-General to express views on various aspects of the Bills referred to them. For instance, the Attorney-General appeared before the Joint Committee on the Contempt of Courts Bill, 1968,³⁰⁰ and the Code of Criminal Procedure Bill, 1970.³⁰¹

There have also been occasions when the Government has *suo motu* referred certain questions arising in the House to the Attorney-General for opinion and apprised the Chairman or the House, accordingly.

When a matter regarding continuance of certain Ministers after they ceased to be the members of the Rajya Sabha was raised, the Minister of Law apprised the House of the opinion of the Attorney-General obtained by the Prime Minister.³⁰²

During March-April 1989 (149th Session), there was a controversy in the House whether the Report of the Thakkar Commission laid on the Table of the House on 27th March 1989, was a complete Report or not, and the Opposition wanted the Chairman to direct the Government to place papers connected with the Report on the Table of the House. The Chairman observed that the Government informed him that certain papers, with the Attorney-General's advice, comprised documents available to the Commission and proceedings of the Commission, and not falling within the meaning of the word 'Report' under the Commission of Inquiry Act and were, therefore, not placed on the Table. In view of the Attorney-General's opinion having been conveyed, the Chairman declined to issue any direction to the Government in the matter.³⁰³

Whips

Another functionary which is central to the working of Parliament is the Whip. They are drawn from the party in power and the party or parties in opposition and form vital links in the internal organisation of a party inside Parliament. They are important office bearers of the parties in Parliament.

The word 'Whip' is derived from the 'Whippers-in' or 'Whips' employed by a hunt to look after the hounds and keep them together in the field.³⁰⁴ The Concise Oxford Dictionary describes a 'Whip' as an "official appointed to maintain discipline among, secure attendance of, and give necessary information to, members of his party". The word is also applied to the call or appeal made by such a person and in that sense is defined by the Dictionary as "the written notice (variously underlined with number of lines representing degrees of urgency) requesting attendance on particular occasion".

Each party has a whip or a number of whips depending on its numerical strength in the House. Under the Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Act, 1998, 'Recognised Party' means, in relation to the Council of States, every party which has a strength of not less than twenty-five members in the Council and 'recognised groups' means, in relation to the Council of States, every party which has a strength of not less than fifteen members.

Of all the duties that are common to whips of all parties, by far the most important duty devolves upon the Government Chief Whip, who is concerned with mapping out the time of the session, getting the Government's programme of the business through and arranging the business of a day's sitting. During the session of the House, the main function of the

Government Chief Whip is to ensure that the Government business is transacted in accordance with the planned programme. It is part of his duty to advise the Government on parliamentary business and procedure and to maintain a close liaison with Ministers in regard to business which affects their departments. In managing the smooth passage of Government business, the Government Chief Whip has to ensure majority in every division. He sends them advance intimation through the system of ordinary one line, two line or three line whips to indicate the degree of urgency attached to a particular measure before the House. He has also to keep a vigilant eye on the proceedings and be ready to meet any emergency that may arise on the spur of the moment. In short, he has to keep his hand most of the time on the pulse of the House. He organises and shapes the course of debate for he submits his party's list of speakers to the Chair.

The other important function of the Government Whips is "to make a House and to keep a House". To keep a House is to ensure that there is always sufficient attendance of members to form a quorum and more particularly to give support to their own chosen speakers.³⁰⁵ To ensure that the Government business gets through, the Government Whip and all other Whips have to remain in touch with one another. The day-to-day working arrangements and compromises are made through what are called the "usual channels", a parliamentary phrase which covers the close working relationships between the whips of different parties. In order, principally, to prevent any possible breach of friendly relations which exist between them, the whips do not take part in debates. Apart from formal motions, the Government Whips remain silent during the proceedings.

Each Leader, Deputy Leader and each Chief Whip of a recognised group and a recognised party is entitled to telephone and Secretarial facilities from the Secretariats of Parliament of India as per the Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Act, 1998 and the rules made thereunder.

In Indian Parliament, the Minister of Parliamentary Affairs is the Chief Whip of Government. He is assisted by a few Ministers of State drawn from both the Houses. In the Rajya Sabha, the Minister(s) of State in the Ministry of Parliamentary Affairs holds (hold) the position of the Government Whip. Some of the important functions performed by the Chief Whip are: to decide about spacing of Parliament session, adjust the sessional programme between the two Houses, finalise the Government business in consultation with Ministries, ensure that the Government legislative and non-legislative and financial business is transacted as per schedule, announce weekly the Government business, send notices to members, *i.e.*, whip indicating the urgency and importance of the business, prepare roster to ensure presence

of some Ministers all the time in the two Houses, assist members by feeding them with material and provide them general guidance, supply list of speakers on Bills and other business in the House to enable the Chair to call members to speak, suggest names of members for appointment on various parliamentary committees and other bodies or for inclusion in various parliamentary delegations, attend meetings of the Business Advisory Committee for discussion and allotment of time for various items of the Government business. The Whips of the Government and of parties in opposition come into contact with each other to sort out matters of common interest and to understand and accommodate each other on many crucial occasions. Whips of the ruling party, as well as those of the Opposition, thus play a significant role in the smooth and efficient functioning of parliamentary democracy.

Under the Constitution (Fifty-second Amendment) Act, a member who votes or abstains from voting contrary to the whip (called 'Direction' in the Act), runs the risk of losing his seat in the House. Thus, the document or written notice which a whip sends to members has assumed a constitutional status.

It may be worthwhile to refer to the observations made by Hon'ble Vice-President of India and Chairman, Rajya Sabha, Shri M. Hamid Ansari, on the significant and multiple functions performed by the Whips in parliamentary democracy. He said that Whips 'facilitate the functioning of the legislature and optimise its output; be the channel for communicating party policy, on a day-to-day basis, to the rank and file of the party in the legislature and function as barometer for gauging their opinion; act as counsellors to their members and advisors to party leaderships'. He further said, 'Any commentary on the functioning of our parliamentary system is therefore, by implication, a comment on the efficacy or otherwise of the institution of Whips'. On the issue of recurrent disruptions of the proceedings of legislatures, he observed that 'The Chair should take up with the Whips, on a daily basis, incidents of violation of behavioural norms by members'. He also observed, 'the functioning of parliamentary democracy depends in great measure on the manner in which (Whips) shoulder (their) responsibilities'.³⁰⁶

Secretary-General

Next to the Chairman and the Deputy Chairman, the third important officer in the Rajya Sabha is the Secretary-General.³⁰⁷ He is the adviser to the Chairman and through him to the House. He discharges all administrative and executive functions on behalf of and in the name of the Chairman.

No two persons are more closely associated in their work with regard to the House than the Chairman and the Secretary-General. A relationship of utmost confidence exists between them. The Secretary-General's role in the parliamentary set up is a vital one and of high responsibility. He is the repository of the accumulated decisions and precedents of the House, the custodian of its conventions and traditions and a link between changing membership of the Rajya Sabha.

The Secretary-General is a permanent officer of the House and is chosen and appointed by the Chairman from amongst those who have made their mark by long years of service in the Parliament or State Legislatures or the Civil Services. In the warrant of precedence, he holds the rank as prescribed for corresponding officers of the Government of India.³⁰⁸ The Secretary-General is responsible and answerable to the Chairman alone for his functions. He occupies a seat just below the Chairman's seat in the Chamber of the Rajya Sabha and is constantly available for consultation and advice and resolution of a procedural doubt or interpretation of a rule, equipped as he is with experience and knowledge of parliamentary procedures, practices and precedents.

The functions of the Secretary-General are two fold: parliamentary and administrative. It is the former, which are more important. The most crucial hour of the day of parliamentary work commences with the daily meeting of the Secretary-General with the Chairman before the House meets at 11.00 a.m. A spate of notices of urgent matters of public importance received from members are discussed and disposed in the Chairman's Chamber in an expeditious manner. In the House also, the Secretary-General is readily available with his advice and suggestions, as and when asked for by the Presiding Officer. The Secretary-General's advice is also available to all members irrespective of party-affiliations. The advice, when asked for, is objective, impartial, full and frank.

Some of the parliamentary duties of the Secretary-General are laid down in the Rules of Procedure and Conduct of Business in the Rajya Sabha but many others depend on several practices and conventions. When the President arrives to address both Houses of Parliament assembled together, the Secretaries-General of the two Houses along with the Chairman, Rajya Sabha, Speaker, Lok Sabha, Prime Minister and Minister of Parliamentary Affairs receive the President at the gate of the Parliament House and come to the Central Hall in a procession along with the President. Similarly, they join the procession when the President departs. After the conclusion of the President's Address, the Secretary-General lays on the Table a copy each

of the Hindi and English versions of the Address duly authenticated by the President. For the purpose of elections to the offices of the President and the Vice-President, the Secretaries-General of the Rajya Sabha and the Lok Sabha are alternately appointed as returning officers.

Whenever a session of the House is called, the Secretary-General issues, on the basis of the Summoning Order of the President, summons to each member to attend the session.³⁰⁹

He keeps a Roll of Members of the House which must be signed, in his presence, by every newly-elected member before taking his seat.³¹⁰ He also causes to send to every member notice of the date for the election of the Deputy Chairman and receives notices which any member may give proposing names for this office.³¹¹

He is responsible for the arrangement of the Government business in such order as the Chairman may, after consultation with the Leader of the House, determine³¹² and for the preparation of a list of business for each day of the session.³¹³ He circulates the list of business, lists of admitted questions as also every Bulletin, list of amendments, notice or other paper which is required to be made available to members under the rules.³¹⁴ The rules also provide that every notice like notice of a question, motion, resolution, Bill, amendment, question of privilege, calling attention or short duration discussion, etc., has to be given by members in writing addressed to the Secretary-General.³¹⁵

Where the prior sanction or recommendation of the President is required under the Constitution for the introduction or consideration of a Bill or moving of an amendment thereto, the Minister or member concerned has to communicate in writing to the Secretary-General, the President's sanction or recommendation.³¹⁶

The Secretary-General signs messages to be sent from the Rajya Sabha to the Lok Sabha, reports to the House messages received from the Lok Sabha and also lays on the Table copies of the Bills received through such messages, if the House is in session, or otherwise, forwards such messages to members through the Bulletin. In the latter case copies of the Bills received through such messages are laid on the Table by him when the House meets again.³¹⁷ The Secretary-General also certifies all Bills to be transmitted or returned to the Lok Sabha. In case of urgency, he authenticates Bills in the absence of the Chairman before they are presented to the President for assent³¹⁸ and lays them on the Table of the House after they are assented to by the President or returned by him.³¹⁹

The Secretary-General also lays on the Table copies of the communication between the Prime Minister and the President regarding resignation of the Government.

The Secretary-General laid on the Table copies of the communication between the Prime Minister and the President regarding resignation of the Government on 7 March 1991. On an earlier occasion also, on 16 July 1979, the Secretary-General was called to lay the copies of such a communication but could not do so due to interruptions.³²⁰

The Secretary-General receives petitions, documents and papers addressed to or intended for the House and reports to the House any such petitions, etc. received by him and admitted by the Chairman.³²¹ If a member wants to present a petition, he has to give advance intimation thereof to the Secretary-General.³²² He has the custody of all records, documents and papers of the House or any of its committees and of the Secretariat and does not permit any such paper to be taken out from the Parliament House without the permission of the Chairman.

A Minister wishing to correct any inaccuracy in the information given by him in answer to a starred or unstarred or short notice or supplementary question or in a debate, has to give notice to the Secretary-General of his intention to correct it, accompanied by a copy of the Statement in regard thereto.

In the case of a member resigning his seat in the House or where a seat is declared vacant by the House, the Secretary-General causes the information to be published in the Gazette and forwards a copy of the notification to the Election Commission for taking steps to fill the vacancy thus caused.³²³ Visitors are admitted to the Galleries on Visitors' Cards issued in the name of the Secretary-General. Similarly, Identity Cards-*cum*-Railway passes to members and their spouses are also issued in the name of the Secretary-General.

By virtue of being the Secretary-General of the Rajya Sabha, he functions as the Secretary-General of all parliamentary committees and may attend the meetings of such committees himself or require officers to attend them. In the case of a select or joint committee on a Bill, he fixes its meeting in consultation with the Minister-in-Charge of the Bill if the Chairman of the Committee is not readily available.³²⁴ When it is considered necessary to take evidence of a witness, the Secretary-General issues summons to him to appear before the House or a committee thereof.³²⁵ If a parliamentary committee completes its report and the Lok Sabha is dissolved in the meantime, the Secretary-General, Rajya Sabha lays that

report on the Table of the House at the first convenient opportunity. This also applies in the case of a report of a committee which ceases to exist after the presentation of the report to the Chairman, Rajya Sabha.³²⁶

The Secretary/Secretary-General laid on the Table a copy each of the 67th to the 72nd Reports of the Public Accounts Committee and the 35th to the 40th Reports of the Committee on Public Undertakings which were presented by their Chairmen to the Speaker of the Third Lok Sabha before its dissolution on 3 March 1967, as received from the Lok Sabha Secretariat. He also laid on the Table 142nd, 165th, 172nd, 173rd, 176th Reports of the Public Accounts Committee (1974-75). Similarly, the Secretary-General laid on the Table a copy each of the 98th to the 101st Reports of the Committee on Public Undertakings and 59th and 60th Reports of the Committee on the Welfare of the Scheduled Castes and Scheduled Tribes which were presented by their Chairmen to the Speaker of the Seventh Lok Sabha, before its dissolution on 31 December 1984, as received from the Lok Sabha Secretariat.³²⁷

The Secretary-General laid on the Table, under paragraph 8(2) of the Tenth Schedule to the Constitution of India, a copy (in English and Hindi) of the Members of Rajya Sabha (Disqualification on ground of Defection) Rules, 1985, made by the Chairman, Rajya Sabha, as directed by the General Purposes Committee.³²⁸

If there is no quorum at the time appointed for commencement of the sitting of the House even after the quorum bell has been rung for quite sometime, the Secretary-General brings the matter to the notice of the Presiding Officer and under his orders informs the members present in the House about the time when the House will meet next.

On Friday, the 8 December 1995, after the lunch-recess, when there was no quorum even after the quorum bell had been rung for quite sometime, the Secretary-General announced that since there was no quorum, the Deputy Chairman had directed that the Rajya Sabha would meet at 11.00 a.m. on Monday, the 11 December 1995.³²⁹

The Secretary-General causes to be prepared a full report of the proceedings of the House at each of its meetings and publishes it in such form and manner as the Chairman may from time to time, direct.³³⁰

When the division takes place on any issue, the Secretary-General sets the process of division in motion, explains, if so directed by the Chairman, the process thereof and presents the totals of "Ayes" and "Noes" to the Chairman.³³¹

The Secretary-General heads the Rajya Sabha Secretariat which functions under the overall direction of the Chairman. As the administrative head of the Secretariat of the House, the Secretary-General exercises powers

vested in the Chairman, including the determination of the strength, method of recruitment and of qualifications, etc. for the various categories of posts. He is the appointing, punishing and appellate authority for certain classes of officers and staff of the Secretariat. He exercises financial powers and initiates budget proposals relating to the Rajya Sabha and its Secretariat. He is the chief accounting authority for the money sanctioned by the House for expenditure under the Demands for Grants of the Rajya Sabha and its Secretariat and the responsibility is discharged by him through and with the assistance of the Pay and Accounts Officer who works in direct relation with him.

The Secretary-General corresponds directly with the Ministries and Departments of the Government of India and members in connection with the business of the House or any matter likely to come up before the House. He also organises orientation programmes for the newly elected/nominated members in the Rajya Sabha, biennially.

Under section 8A(1) of the Representation of the People Act, 1951, the Secretary-General has been specified as an authority to accept petitions about corrupt practices in relation to an election to the Rajya Sabha.³³²

Whether sitting at the Table, assisting in committees or dealing with the day-to-day business of the House, the Secretary-General becomes very well-known to members who turn to him for advice on points of law and procedures, irrespective of their party affiliations. He is in the midst of members of various political persuasions yet by training, he remains detached. This detachment helps him enjoy the confidence of all. Because of the difficult and delicate nature of the functions performed by the Secretary-General, his work has been publicly recognised and eulogised by the Chairman and by all the political groups on the floor of the House. They have all given expression to their appreciation of the arduous nature of the functions entrusted to him daily which bear the imprint of, and are characterised by, the great spirit of devotion and attachment to the parliamentary institution and have sometimes to be carried out in difficult conditions. Anonymity and amiability are the hallmark of the Secretary-General's office. Chaucer's description of a functionary at Oxford applies equally to the Secretary-General: "He never spoke a word more than was needed. Formal at that, respectful in the extreme. Short, to the point, and lofty in his theme... sitting mum at Table." By his outstanding ability, devoted service and unfailing courtesy, the Secretary-General makes his own place in the estimation of the House.

Between the date of the first constitution and the date of the first sitting of the Rajya Sabha (April-May 1952) Shri B.N. Kaul, Principal Private

Secretary to the then Prime Minister Shri Jawaharlal Nehru, was appointed to work as Secretary, Council of States.³³³

Thereafter the following have been the Secretaries/Secretaries-General of the Rajya Sabha:

Shri S.N. Mukherjee (13.5.1952-8.10.1963), was earlier Chief Draftsman of the Constitution in the Constituent Assembly. Glowing tributes were paid to him in an obituary reference on his death while he was still in office.³³⁴

Shri B.N. Banerjee (9.10.1963-31.3.1976), before joining the Rajya Sabha Secretariat, was Legal Adviser to the High Commissioner for India in London. On retirement as the Secretary-General, he was nominated to the Rajya Sabha by the President.³³⁵

Shri S.S. Bhalerao (1.4.1976-30.4.1981), had earlier been Secretary of the Maharashtra Legislative Assembly. Tributes were paid to him in the House on his retirement as the Secretary-General.³³⁶

Shri Sudarshan Agarwal (1.5.1981-30.6.1993), belonged to Judicial Service and worked as District and Sessions Judge prior to joining the Rajya Sabha Secretariat. As a special gesture he was seated in the Special Box of the Chamber of the Rajya Sabha when tributes were being paid to him in the House on his retirement as the Secretary-General.³³⁷

Shrimati V.S. Rama Devi (1.7.1993-25.7.1997), belonged to Indian Legal Service and had, prior to her appointment as the Secretary-General, held various judicial and other offices such as Judicial Member of the Central Excise, Customs and Gold Control Tribunal; Honorary Adviser to the National Commission for Women; Member-Secretary, Law Commission; Secretary (Legislative Department), Government of India; and for a short while, Chief Election Commissioner. The House made appreciative references on her appointment.³³⁸

Shri S.S. Sohoni (25.7.1997-2.10.1997), officiated as Secretary-General and was holding the post of Additional Secretary in the Rajya Sabha Secretariat. He belonged to the Indian Administrative Service and joined as Additional Secretary in the Secretariat on permanent absorption w.e.f. 22 February 1992.

Shri Ramesh Chandra Tripathi (3.10.1997-31.08.2002), started his career as a Lecturer/Assistant Professor in the University of Allahabad in 1958 and entered the Indian Administrative Service in 1964 and prior to his appointment as the Secretary-General, Rajya Sabha, held various posts such as Secretary to Government of India, Ministry of Parliamentary Affairs; Adviser (Education), Planning Commission,

New Delhi; Principal Secretary, Department of Energy, Government of U.P.; Principal Secretary and Director-General, Department of Public Enterprises, Government of U.P.; Joint Secretary, Department of Culture, Government of India; Director-General, Archaeological Survey of India, etc.

Dr. Yogendra Narain (1.9.2002-14.9.2007), entered the Indian Administrative Service in 1965 and prior to his appointment as the Secretary-General, Rajya Sabha, held various posts such as Chief Secretary, Government of U.P., Secretary to Government of India, Ministry of Defence, etc.

Dr. V.K. Agnihotri (29.10.2007-30.9.2012), joined the Indian Administrative Service (IAS) in 1968 and prior to his appointment as the Secretary-General, Rajya Sabha, held various posts such as Secretary, Ministry of Parliamentary Affairs and Secretary, Ministry of Panchayati Raj, Government of India; Joint Director, Lal Bahadur Shastri National Academy of Administration, Mussoorie; Member (Administration), Central Administrative Tribunal (Principal Bench), New Delhi.

Shri Shumsher K. Sheriff (1.10.2012-till date), started his career as a Lecturer in University of Delhi in 1974 and joined the Indian Administrative Service in 1977. Prior to his appointment as the Secretary-General, Rajya Sabha, held various posts in Union Territories Governments including Principal Secretary (Home), Government of NCT of Delhi; Chief Secretary, Andaman & Nicobar Administration. Served as Senior Adviser to Executive Director, Asian Development Bank, Manila. In Government of India, held posts in the Ministry of Finance; Secretary to the Vice-President of India; Joint Secretary to the President of India (held charge of Secretary to President from August 2000 to July 2002). In 2011, became Secretary to Government of India.

NOTES AND REFERENCES

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2. Art. 65(1).
3. Art. 65(2).
4. Art. 62(2).
5. Valmiki Choudhary, *Dr. Rajendra Prasad-Correspondence and Select Documents*, Vol. 21, pp. 500-01.
6. Bn. (II), 24.3.1977.
7. *Ibid.*, 11.10.1982, 16.10.1982, 18.10.1982, 20.10.1982 and 30.10.1982.
8. Art. 65(3).
9. Art. 64.
10. Art. 66(1).
11. Constitution (Eleventh Amendment) Bill, 1961, Statement of Objects and Reasons.
12. Art. 66(2).
13. Art. 66(3).

14. Art. 66(4).
15. *Ibid.*, Expln.
16. Presidential and Vice-Presidential Elections Act, 1952, s. 4(1).
17. *Ibid.*, s. 4(3).
18. *Ibid.*, s. 4(4).
19. *Ibid.*, s. 5B(1)(b).
20. *Ibid.*, s. 5C.
21. *Ibid.*, s. 5B(5).
22. Art. 67.
23. Art. 69.
24. Art. 71(1).
25. Art. 71(2).
26. Presidential and Vice-Presidential Elections Act, 1952, s. 14A.
27. *Ibid.*, s. 18.
28. Art. 71(4).
29. Presidential and Vice-Presidential Elections Act, 1952, s. 19.
30. Art. 64.
31. Art. 112(3).
32. R.S. Deb., 20.4.1987, c. 174.
33. R. 221.
34. R. 21.
35. R. 222.
36. R.S. Deb., 21.4.1964, c. 51-52; and 24.4.1964, c. 358-59.
37. *Ibid.*, 9.5.1974, c. 121.
38. *Ibid.*, 6.11.1987, c. 244.
39. C.S. Deb., 19.5.1952, c. 50-51.
40. *Parliamentary Privileges—Digest of Cases (1950-85)*, pp. 745-46.
41. *Ibid.*, pp. 747-48.
42. R.S. Deb., 21.11.1983, c. 415-18; and F. No. 35/17/83-L.
43. Art. 100(1).
44. Art. 92(1).
45. Art. 92(2).
46. Art. 100(4).
47. Art. 101(3), *Proviso*.
48. Tenth Sch., para. 6(1).
49. *Ibid.*, para. 8(1).
50. *Ibid.*, para. 8(3).
51. Art. 120(1), *Proviso*.
52. C.S. Deb., 17.7.1952, c. 1331.
53. R.S. Deb., 7.5.1981, c. 282-87.
54. Bn. (II), 24.11.1995.
55. C.S. Deb., 19.5.1952, c. 78-81.
56. Bn. (I), 31.8.1978.
57. For details see Chapter 6.
58. Rs. 187 and 203.
59. R. 30(2).
60. R. 217(2).
61. R. 279(1).
62. R.S. Deb., 11.9.1981, c. 337-39.
63. R. 240.
64. R. 261.
65. R. 255.
66. R. 256(1).
67. R. 257.

68. For details, see Chapter 16.
69. R. 108 and C.S. Deb., 6.5.1954, c. 5291.
70. R. 135.
71. R. 266.
72. Art. 98.
73. R. 222A.
74. R. 222B.
75. Salary, Allowances and Pension of Members of Parliament Act, 1954, s. 9(4).
76. Judges (Inquiry) Act, 1968, s. 3(2).
77. *Ibid.*, s. 7(5).
78. Press Council Act, 1978, s. 5(2).
79. For details, see brochure entitled *Committees of Rajya Sabha and other Parliamentary Committees and Bodies on which Rajya Sabha is represented*.
80. R.S. Deb., 10.8.1978, c. 446-47; 17.8.1978, c. 165-66; 24.8.1978, c. 190-91; and 29.8.1978, c. 6-7.
81. *Ibid.*, 3.3.1987, c. 36-37; and 6.5.1987, c. 279-84.
82. *Ibid.*, 2.8.1995; and Bn. (I) 9.8.1995.
83. Art. 89(2).
84. R. 7(1).
85. R. 7(2).
86. *Ibid.*, *Proviso*.
87. See, for instance, Bn. (II), 6.7.1992.
88. R. 7(3) and (4).
89. R.S. Deb., 17.12.1969, c. 4517-19.
90. *Ibid.*, 29.7.1980, c. 139-53.
91. *Ibid.*, 30.7.1980, c. 165-66.
92. Art. 90(a).
93. Art. 90(b).
94. Art. 90(c).
95. Art. 112(3)(b).
96. F. No.1/32/2/99-Cab.
97. No. RS 31/2014-T and Circular No. RS 31/2014-T dated 5.3.2014.
98. Art. 91(1).
99. Art. 91(2).
100. R. 9.
101. R.S. Deb., 3.1.1991.
102. *Ibid.*, 11.3.1991.
103. The Houses of Parliament (Joint Sittings and Communications) Rules, R. 5.
104. Art. 100(1).
105. Bn. (II), 20.10.1984 and 1.3.1985.
106. R. 30(1).
107. R. 217(1).
108. See, for instance, Bn. (II), 6.6.1994.
109. R. 30(4) and 217(5).
110. 3 Rpt. COR, pp. 3 and 5.
111. See, for instance, R. 73(1), *Proviso*.
112. Protection of Human Rights Act, 1994, s. 4.
113. Art. 91(1).
114. Bn. (II), 24.3.1977.
115. Bn. (I), 28.3.1977.
116. Bn. (II), 28.3.1977.
117. Bn. (I), 30.3.1977.
118. Provisional Calendar of Sittings, *f.n.*
119. R. 8(1).

120. C.S. Deb., 16.5.1952, c. 45-46.
121. *Ibid.*, 16.5.1952, c. 46.
122. 3 Rpt. COR, pp. 1-2.
123. Bn. (II), 7.7.1992 and 9.7.1992.
124. *Ibid.*, 22.2.1990, 2.5.1990, 17.7.1990, 27.4.1992, 7.7.1992, 1.12.1992, 11.5.2006, 21.7.2006, 17.7.2012, 19.7.2012 and 7.8.2012.
125. Bn. (I), 27.2.1997 and 1.8.1997.
126. For details, see Chapter 11.
127. R.S. Deb., 18.9.1981, c. 507-08.
128. R. 9.
129. Art. 100(1).
130. R. 229(2).
131. R.S. Deb., 5.8.1981, c. 177-81.
132. R. 8(2).
133. Bn. (II), 15.9.1994.
134. R.S. Deb., 31.3.1969, c. 6536.
135. *Ibid.*, 19.5.1969, c. 3723.
136. Art. 91(2).
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138. *Ibid.*, 24.3.2005, 18.3.2006, 20.8.2010 and 21.8.2010.
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140. R.S. Deb., 31.3.1967, c. 1797.
141. *Ibid.*, 3.4.1967, c. 1934-36.
142. *Ibid.*, 2.12.1968, c. 2261-62.
143. *Ibid.*, 3.12.1968, c. 2425-27.
144. *Ibid.*, 30.6.1980, c. 175.
145. *Ibid.*, 1.7.1980, c. 125-26.
146. *Ibid.*, 22.12.1980, c. 461.
147. *Ibid.*, 23.12.1980, c. 1-5, 34-35.
148. *Ibid.*, c. 4.
149. *Ibid.*, 2.7.1980, c. 195.
150. *Ibid.*, 3.7.1980, c. 1-4.
151. *Ibid.*, 25.8.1981, c. 345-46.
152. *Ibid.*, 26.8.1981, c. 145-49.
153. See, rules regarding various Committees.
154. Bn. (I), 28.7.1989.
155. See, for instance, R. 207(2).
156. R. 90(5).
157. R. 90(7).
158. R. 211.
159. R.S. Deb., 8.5.1981, 17.9.1981 and 26.3.1982.
160. Housing and Telephone Facilities (Members of Parliament) Rules, 1956, R. 4(2).
161. Salary, Allowances and Pension of Members of Parliament Act, 1954, s. 2(d) read with s. 3.
162. Sir Ivor Jennings, *Parliament*, 2nd Edn., 1970, pp. 73-74.
163. Gladstone, quoted in May, p. 201.
164. Herbert Morrison, *Government and Parliament*, pp. 117-18.
165. *An Encyclopaedia of Parliament*, p. 427.
166. Sir Ivor Jennings, *Parliament*, 2nd Edn., 1970, pp. 73-79.
167. Report of the Committee of Presiding Officers (Page Committee), para. 47.
168. C.S. Deb., 21.5.1952, c. 245.
169. *Ibid.*, 18.2.1953, c. 615.
170. *Ibid.*, 24.11.1952, c. 36-37.
171. *Ibid.*, 3.12.1952, c. 802.

172. C.S. Deb., 6.12.1952, c. 988-89.
173. *Ibid.*, 13.5.1952, c. 2; 19.4.1954, c. 3303; R.S. Deb., 29.4.1968, c. 1; and 17.8.1981, c. 1-2.
174. R.S. Deb., 24.5.1996, c. 1.
175. *Ibid.*, 23.7.2002, c. 1.
176. R. 23.
177. R. 14 and 20.
178. R. 24.
179. R. 172.
180. R. 177.
181. R. 186(2).
182. GPC mts., 1.9.1972; and Bn. (II), 10.11.1972.
183. R.S. Deb., 25.6.1980, c. 1-2.
184. *Ibid.*, 7.3.1961, 1.3.1963, 29.5.1964, 14.2.1966, 5.5.1969, 28.2.1977, 17.7.1986 and 27.7.1987.
185. *Ibid.*, 29.5.1964, 5.5.1969 and 28.2.1977.
186. *Ibid.*, 27.7.1970, c. 157-60.
187. *Ibid.*, 25.7.1966, 16.11.1966 and 14.12.1967.
188. Present rule 191 corresponding to old rule 167 was again amended in 1981, on the recommendation of the Rules Committee (Third Report) so that a motion to refer the question to the Committee may be moved by a member who has raised the matter or by any other member. In other words, the reference to the Leader of the House has now been omitted from the rule.
189. See, 7, 9 and 13 Rpts., COP.
190. R.S. Deb., 21.12.1967, c. 5236-56.
191. *Ibid.*, 18.3.1982, c. 202-33.
192. *Ibid.*, 21.11.1983, c. 415-18.
193. R. 215(1).
194. Bn. (I), 21.12.2000.
195. See, Chapter 15.
196. C.S. Deb., 19.5.1952, c. 83-84.
197. R.S. Deb., 3.4.1970, c. 58-118.
198. *Ibid.*, 14.5.1970, c. 200.
199. *Ibid.*, 2.12.1992, c. 3.
200. *Ibid.*, 2.8.1982, c. 145-157.
201. *Ibid.*, 7.5.1985, c. 171-72.
202. *Ibid.*, 22.4.1981.
203. *Ibid.*, 20.8.1979 and 6.3.1991. See also R.S. Deb., 14.5.1985, 20.12.1989 and 4.9.1991.
204. *Ibid.*, 15.4.1999, c. 1-2.
205. *Ibid.*, 15.3.1965, c. 3443.
206. *Ibid.*, 3.5.1966, c. 62-80.
207. *Ibid.*, 31.7.1987, c. 299-301.
208. *Ibid.*, 22.2.1983, c. 392-94.
209. *Ibid.*, 16.12.1992, c. 1048-50.
210. *Ibid.*, 2.3.2001, p. 194.
211. *Ibid.*, 18.3.2002, p. 279.
212. C.S. Deb., 24.11.1952, c. 36-37.
213. R.S. Deb., 10.8.1959, c. 65.
214. C.S. Deb., 1.5.1952, c. 4625.
215. R.S. Deb., 26.4.1978, c. 141-49.
216. Sir Ivor Jennings, *Parliament*, p. 79.
217. *Ibid.*, *Cabinet Government*, Chapter XV.
218. *Ibid.*
219. *Ibid.*, p. 472.

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220. Sir Ivor Jennings, *Cabinet Government*, p. 499.
 221. *Ibid.*, p. 500.
 222. Select Committee on Procedure, HC 161 of 1931, Evidence of Prime Minister Ramsay Mac Donald.
 223. Campion, *British Government since 1918* (Ed.), pp. 20-21.
 224. *Ibid.*, *Parliament : A Survey* (Ed.), pp. 29-31.
 225. Sir Ivor Jennings, *Cabinet Government*, p. 500.
 226. *Ibid.*, *Parliament*, p. 84.
 227. R.S. Deb., 18.12.1969, c. 4775-97.
 228. *Ibid.*, 17.11.1969, c. 107-24.
 229. *Ibid.*, for instance, 24.3.1971, c. 6; 31.3.1971, c. 131; and 1.4.1971, c. 205.
 230. Salary and Allowances of Leaders of Opposition in Parliament Act, 1977, s. 2.
 231. *Ibid.*, Expln. to s. 2.
 232. *Ibid.*
 233. Bn. (I), 30.3.1977.
 234. F. No. 19/78-T.
 235. Bn. (II), 18.2.1978.
 236. Bn. (I), 24.2.1978, *see also*, Bn. (II), 3.3.1978.
 237. *Ibid.*, 23.3.1978, *see also*, Bn. (I), 8.3.1978.
 238. Bn. (II), 22.4.1978.
 239. F. No. 19/80-T.
 240. Bn. (II), 22.1.1980.
 241. *Ibid.*, 29.4.1980.
 242. *Ibid.*, 19.12.1989.
 243. *Ibid.*, 3.1.1991.
 244. R.S. Deb., 27.12.1990, c. 7-53.
 245. *Ibid.*, 2.1.1991, c. 835-43.
 246. F. No. 12/91/T; Bn. (II), 1.7.1991; and R.S. Deb., 1.7.1991.
 247. *Ibid.*, Bn. (I), 24.7.1991.
 248. F. No. 12/92/T and Bn. (II), 1.7.1992.
 249. F. No. 12/92/T and Bn. (II), 7.7.1992.
 250. Art. 74(1).
 251. Art. 75(1).
 252. Salaries and Allowances of Ministers Act, 1952, s. 2.
 253. Art. 75(2).
 254. Art. 75(3).
 255. L.S.R. 56-63, 198 and 199.
 256. R.S. Deb., 31.3.1967, c. 1554.
 257. *Ibid.*, 20.12.1989.
 258. *Ibid.*, 25.1.1980, c. 59-60.
 259. *Ibid.*, 28.12.1990, c. 1-17.
 260. Art. 75(5).
 261. R.S. Deb., 3.4.1970, c. 58-118.
 262. *Ibid.*, 4.4.1970, c. 53-67.
 263. *Ibid.*, 27.4.1982, c. 3-5.
 264. *Ibid.*, 5.5.1982, c. 193-95.
 265. *Ibid.*, 27.4.1982, c. 5.
 266. Cabinet Sectt. OM No. 55/1/1/93/Cab. (i), 18.1.1993 and 9.7.1993.
 267. *Ibid.*, 1.9.1993.
 268. Art. 88.
 269. R.S. Deb., 2.5.1963, c. 1828, *see also*, R.S. Deb., 15.12.1980, c. 207-15.
 270. *Ibid.*, 25.1.1980, c. 52-56.
 271. *Ibid.*, 26.11.1954, c. 41-42.
 272. *Ibid.*, 1.12.1995.

273. R.S. Deb., 28.3.1980, c. 160.
274. *Ibid.*, 18.11.1985, c. 356-57.
275. *Ibid.*, 31.7.1986, c. 131.
276. See Chapters 7 and 11.
277. Art. 88.
278. Art. 105(4).
279. Art. 124(3).
280. Art. 76(1).
281. Art. 76(4).
282. For instance, Art. 139A.
283. Art. 76(2); The Law Officers (Appointment and Conditions of Service) Rules, 1963.
284. Art. 76(3).
285. R.S. Deb., 8.5.1986, c. 228.
286. *Ibid.*, 29.4.1963, c. 1210-14.
287. *Ibid.*, 4.8.1993, c. 268-70.
288. *Ibid.*, 5.8.1993, c. 276-77; and BAC mts., 5.8.1993.
289. Bn. (II), 10.5.1988.
290. R.S. Deb., 11.5.1988, c. 339-64.
291. *Ibid.*, 19.12.1988, c. 8-15.
292. *Ibid.*, 20.12.1988, c. 153-54.
293. F. No. 1/67/88-B.
294. *Ibid.*
295. R.S. Deb., 2.1.1991, c. 835-43.
296. 10 Rpt., COSL, p. 4 and Appendix II.
297. 25 Rpt., COP, p. 2 and Appendix IV.
298. 27 Rpt., COP, p. 4 and Appendix II.
299. 19 Rpt. COP mts., p. 16 and 17.
300. Report of Jt. Committee on Contempt of Courts Bill, 1968, mts., 12.10.1969.
301. Report of Jt. Committee on Code of Criminal Procedure Bill, 1970, mts., 15.10.1971.
302. R.S. Deb., 3.4.1970, c. 58-118.
303. *Ibid.*, 4.4.1989, c. 52-53.
304. Abraham & Hawtray, *A Parliamentary Dictionary*.
305. Ivor Bulmer Thomas, *The Party System in Great Britain*, p. 110.
306. Address of the Hon'ble Chairman, Rajya Sabha at the inauguration of the Fourteenth All India Whips' Conference in Mumbai on 4 February 2008.
307. Until November 1973, he was designated as Secretary. For announcement of the change in the designation, see R.S. Deb., 15.11.1973, c. 153-54.
308. Secretary-General is placed in article 23 of the Warrant of Precedence.
309. R. 3.
310. R. 6.
311. R. 7.
312. R. 23.
313. R. 29.
314. R. 95(2) and 160(3).
315. R. 223.
316. R. 63 and 98.
317. Bn. (II), 21.5.1993 and 18.5.1994; Bn. (I), 26.7.1993 and 13.6.1994.
318. R. 135.
319. R.S. Deb., 13.3.1991 and 17.9.1991. The Indian Post Office (Amendment) Bill, 1986 was returned by the President and laid on the Table on 12.3.1990.
320. Bn. (I), 7.3.1991; and R.S. Deb., 16.7.1979, c. 3.
321. R. 145.
322. R. 144.
323. R. 213(6).

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324. R. 79.
325. R. 84(2), 196(2), 208(2), 212E(2) and 212L(2).
326. Direction by the Chairman, Bn. (II), 25.1.1996; for Reports laid in pursuance of the Direction, see Bn. (I), 27.8.1996.
327. Bn. (I), 20.3.1967, 28.3.1967, 29.3.1967, 7.4.1967, 6.5.1978, 18.1.1985 and 22.1.1985.
328. *Ibid.*, 16.12.1985; GPC mts., 12.12.1985.
329. *Ibid.*, 8.12.1995.
330. R. 260.
331. R. 253(2) and 254(2).
332. Not. No. SO 367(E), 25.5.1976 (*Manual of Election Law*, Vol. I, p. 166).
333. Bhalerao, S.S., *The Second Chamber*, pp. 408-434.
334. R.S. Deb., 18.11.1963, c. 84-86.
335. *Ibid.*, 2.4.1976, c. 75-83.
336. *Ibid.*, 4.5.1981, c. 205-17.
337. *Ibid.*, 26.7.1993, c. 153-78.
338. *Ibid.*