

CHAPTER—5

Relationship between the constituents of Parliament

President and Parliament

Under the Constitution, the executive power of the Union is vested in the President and is exercised by him either directly or through officers subordinate to him.¹ Under article 73(1), the executive power of the Union is co-extensive with the legislative power of Parliament. Parliament consists of the President and the two Houses of Parliament – the Council of States (Rajya Sabha) and the House of the People (Lok Sabha).² Thus the President is the Head of executive as well as a constituent part of Parliament.

The Committee of Privileges had an occasion to consider the scope of article 79 of the Constitution, in the context of a breach of privilege notice arising out of some reflections cast on the person of the then President of India, Giani Zail Singh which was referred to the Committee for examination, investigation and report. The Attorney-General of India whose opinion was sought by the Committee in the matter opined:

Under article 79 of the Constitution there shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People. There is a similar provision in article 168 of the Constitution. Under article 168, the Governor of a State is a component part of the Legislature of the State. The Supreme Court in *Heochest Pharmaceuticals Ltd. and another vs. State of Bihar and others* (AIR 1983 SC 1019 at 1048) has observed, *inter alia* as follows:

The Governor is made a component part of the Legislature of a State under article 168 because every Bill passed by the State Legislature has to be reserved for the assent of the Governor under article 200.

On the same reasoning, on the scope of article 79 my view is that the President is made a component part of the Parliament as every Bill passed by the Houses of Parliament has to be reserved for the assent of the President under article 111 or article 368 of the Constitution.³

Provisions regarding the President

Election

The President is elected by the members of an electoral college consisting of the elected members of the both Houses of Parliament and

the elected members of the Legislative Assemblies of the States, by secret ballot, in accordance with the system of proportional representation by means of the single transferable vote.⁴ The word “State” occurring in articles 54 and 55 would include the National Capital Territory of Delhi and the Union territory of Puducherry.⁵

The Constitution prescribes that as far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President. For the purpose of securing such uniformity among the States *inter se* as well as parity between the States and the Union, the number of votes which each elected Member of Parliament and the Legislative Assembly of each State is entitled to cast at such election, is determined in the following manner:

- (a) every elected member of the Legislative Assembly of a State has as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of the elected members of the Assembly;
- (b) if, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in (a) above is further increased by one; and
- (c) each elected member of either House of Parliament has such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislative Assemblies of the States under (a) and (b) above by the total number of the elected members of both Houses of Parliament, fractions exceeding one-half being counted as one and other fractions being disregarded.⁶

The Constitution (Eighty-fourth) Amendment Act, 2001 provides that until the relevant population figures for the first census to be taken after the year 2026 have been published, the population of the States for the purposes of calculated value of votes for the Presidential election shall mean the population as ascertained at the 1971 census.

To illustrate,

The representative capacity of an MLA from U.P. was fixed at 208 in the 2012 Presidential election by dividing 8,38,49,905 (being the total population of the State according to 1971 census) by 403 (No. of elected members of Vidhan Sabha) further divided by one thousand:

$$\frac{8,38,49,905}{403 \times 1000} = 208.06 = 208$$

Similarly, the value of vote of each member of the Sikkim Legislative Assembly was:

$$\frac{2,09,843}{32 \times 1000} = 6.55 = 7$$

Thereafter, in order to secure parity between the States as a whole and the Union, the total value of all the votes thus assigned to the elected members of the Legislative Assemblies was divided equally among 776 elected Members of Parliament.

The total value of votes assigned to the elected members of the Legislative Assemblies of the twenty-eight States, National Capital Territory of Delhi and Puducherry in the 2012 Presidential election came to 549474. This number was divided equally among the 776 elected members of Parliament (543 in Lok Sabha and 233 in Rajya Sabha). The value of vote of a Member of Parliament was thus ascertained to be 708.08, *i.e.*, 708.

The elections to the offices of the President and the Vice-President are regulated by the Presidential and Vice-Presidential Elections Act, 1952, and the rules made thereunder. For the purposes of these elections, it has been the established practice that the Secretary-General of the Lok Sabha or the Rajya Sabha with the approval of the Speaker, Lok Sabha/Chairman, Rajya Sabha, as the case may be, is appointed in rotation as the Returning Officer to conduct such an election. One or more Assistant Returning Officers are appointed at the Centre and the names are suggested by the Returning Officer with the approval of Speaker/Chairman as the case may be.

For the first (1952), third (1962), fifth (1969), seventh (1977), ninth (1987) and eleventh (1997) Presidential elections, the Secretary/Secretary-General, Lok Sabha was appointed as Returning Officer. For the second (1957), fourth (1967), sixth (1974), eighth (1982), tenth (1992), twelfth (2002) and fourteenth (2012) Presidential elections, the Secretary/Secretary-General, Rajya Sabha was appointed as Returning Officer.

In the year 2012, the Election Commission of India appointed Secretary-General, Rajya Sabha as Returning Officer to conduct the 14th Presidential election. The Secretary-General, Lok Sabha was appointed as Returning Officer to conduct the Vice-Presidential election in 2012. The Secretary-General, Rajya Sabha in 1997 was to be appointed as Returning Officer to conduct the Vice-Presidential election, as per established practice for these elections. However, a departure to the practice was made by Election Commission of India in appointing the Secretary, Ministry of Parliamentary

Affairs as Returning Officer for the election of Vice-President of India on 14 July 1997.⁷ Accordingly, Secretary, Ministry of Parliamentary Affairs conducted the whole process of Vice-Presidential election and Secretary-General, Rajya Sabha or Rajya Sabha Secretariat did not play any role in conducting the said election.

The various stages of the election, which are notified in the Official Gazette by the Election Commission are: (i) the last date for making nominations, which is the fourteenth day after the date of publication of the notification regarding the election; (ii) the date for the scrutiny of nominations, which is the day immediately following the last date for making nominations; (iii) the last date for the withdrawal of candidature, which is the second day after the date of the scrutiny of nominations; and (iv) the date of the poll, if necessary, which is a date not earlier than the fifteenth day after the last date for the withdrawal of the candidature. If any of the dates, either for making nominations or for their scrutiny or the withdrawal of candidature is a public holiday, the next succeeding day which is not a public holiday, is taken as the appropriate date for the purpose.⁸ The notification of an election to fill a vacancy caused by the expiration of the term of office of the President, is issued, on or as soon as convenient may be after the sixtieth day before the expiration of the term of office of the outgoing President notwithstanding the fact that at the time of such election the Legislative Assembly of a State was dissolved⁹ and the dates are so appointed that the election is completed at such time as will enable the President thereby elected to enter upon his office on the day following the expiration of the term of office of the outgoing President. In the case of an election to fill a vacancy occurring by reason of the President's death, resignation, removal or otherwise, the notification is required to be issued, as soon as may be, after the occurrence of the vacancy.¹⁰

The Act of 1952 provides that the nomination paper for the Presidential election should be subscribed by at least fifty electors as proposers and at least fifty electors as seconders and that no elector should subscribe, whether as proposer or seconder, more than one nomination at the same election.¹¹ The candidate is also required to deposit fifteen thousand rupees for being regarded as duly nominated for election.¹² For being eligible to contest the election to the office of the President, a candidate does not have to take oath/make affirmation, as a candidate standing for election to Parliament has to.¹³

Fourteen Presidential elections (1952-2012) have been held so far. The following table gives the detailed programme of elections and also the dates of assumption of office by the respective Presidents:

Table

| Name of the Elected Candidate and year | Date of Noti- fication | Last date for Nomi- nation | Date of Scrutiny | Last date for With- drawal | Date of Poll | Date of Counting & Declaration of Result | Date of Assum- ption of Office |
|--|------------------------|----------------------------|------------------|----------------------------|--------------|--|--------------------------------|
| 1. Dr. Rajendra Prasad | 1952 04.04.52 | 12.04.52 | 14.04.52 | 17.04.52 | 02.05.52 | 06.05.52 | 13.05.52 |
| 2. Dr. Rajendra Prasad | 1957 06.04.57 | 16.04.57 | 17.04.57 | 20.04.57 | 06.05.57 | 10.05.57 | 13.05.57 |
| 3. Dr. S. Radhakrishnan | 1962 06.04.62 | 16.04.62 | 18.04.62 | 21.04.62 | 07.05.62 | 11.05.62 | 13.05.62 |
| 4. Dr. Zakir Husain | 1967 03.04.67 | 13.04.67 | 15.04.67 | 18.04.67 | 06.05.67 | 09.05.67 | 13.05.67 |
| 5. Sh. V.V. Giri | 1969 14.07.69 | 24.07.69 | 26.07.69 | 29.07.69 | 16.08.69 | 20.08.69 | 24.08.69 |
| 6. Sh. Fakhruddin Ali Ahmed | 1974 16.07.74 | 30.07.74 | 31.07.74 | 02.08.74 | 17.08.74 | 20.08.74 | 24.08.74 |
| 7. Sh. N. Sanjiva Reddy | 1977 04.07.77 | 18.07.77 | 19.07.77 | 21.07.77 | 06.08.77 | 21.07.77 | 25.07.77 |
| 8. Giani Zail Singh | 1982 09.06.82 | 23.06.82 | 24.06.82 | 26.06.82 | 12.07.82 | 15.07.82 | 25.07.82 |
| 9. Sh. R. Venkataraman | 1987 10.06.87 | 24.06.87 | 25.06.87 | 27.06.87 | 13.07.87 | 16.07.87 | 25.07.87 |
| 10. Dr. Shanker Dayal Sharma | 1992 10.06.92 | 24.06.92 | 25.06.92 | 27.06.92 | 13.07.92 | 16.07.92 | 25.07.92 |
| 11. Sh. K.R. Narayanan | 1997 09.06.97 | 23.06.97 | 24.06.97 | 26.06.97 | 14.07.97 | 17.07.97 | 25.07.97 |
| 12. Dr. A.P.J. Abdul Kalam | 2002 11.06.02 | 25.06.02 | 26.06.02 | 28.06.02 | 15.07.02 | 18.07.02 | 25.07.02 |
| 13. Smt. Pratibha Devisingh Patil | 2007 16.06.07 | 30.06.07 | 02.07.07 | 04.07.07 | 19.07.07 | 21.07.07 | 25.07.07 |
| 14. Sh. Pranab Mukherjee | 2012 16.06.12 | 30.06.12 | 02.07.12 | 04.07.12 | 19.07.12 | 22.07.12 | 25.07.12 |

Qualifications

A person eligible for election as President should be a citizen of India, not less than thirty-five years in age, should be qualified to be a member of the Lok Sabha and should not hold an office of profit under the Government of India or a State Government or under any local or other authority subject to the control of any of the said Governments. The offices of the President, Vice-President, Governor of a State or the Minister for the Union or a State, are not offices of profit for this purpose.¹⁴ Certain offices of profit under the Government have also been declared as not to disqualify the holders thereof for being chosen as President under section 3 of the Parliament (Prevention of Disqualification) Act, 1959. A Member of Parliament or of a State Legislature including the respective Presiding Officers can seek election to the office of the President but if any one of them is elected President, he is deemed to have vacated his seat in Parliament or the State Legislature as the case may be, on the date on which he enters upon his office as President.¹⁵

Dr. S. Radhakrishnan (1962), Dr. Zakir Husain (1967), Shri R. Venkataraman (1987), Dr. Shanker Dayal Sharma (1992), and Shri K. R. Narayanan (1997) who contested election to the office of the President, did not resign from the office of the Vice-President. In 1969, however, Vice-President Shri V.V. Giri and Speaker Shri N. Sanjiva Reddy, and in 1977, Speaker Shri N. Sanjiva Reddy resigned their respective offices before filing their nomination papers for the Presidential elections.

Term of office

The President holds office for a term of five years from the date on which he enters upon his office.¹⁶ Notwithstanding the expiration of his term, he continues to hold his office until his successor enters upon the office. A person who holds, or has held, office as President is, subject to the other provisions of the Constitution, eligible for re-election to that office.¹⁷ The President may resign before the expiration of his term of office by writing under his hand addressed to the Vice-President. The resignation is forthwith required to be communicated to the Speaker of the Lok Sabha.

On the death of President, Dr. Zakir Husain, the Vice-President, Shri V.V. Giri was acting as President. Shri Giri resigned from the office of the Vice-President by addressing his resignation to the President, without stating, as advised by the Attorney-General, the office he was then holding and the resignation was deposited by him in the President's Secretariat. Copies of the letter of resignation were sent to the Prime Minister and the Chief Justice of India for information. The letter was also notified in the Gazette the same day.¹⁸ It was held that the resignation was a process of demitting office, that the office of President continued to exist even when its incumbent was not there, that the Constitution did not require the resignation to be accepted to make it effective and that the law envisaged the possibility of the Vice-President resigning even when there was no President.¹⁹

Impeachment

The President may also be removed from office before the expiration of his term by impeachment for violation of the Constitution.²⁰ When this is to be done, the charge has to be preferred by either House of Parliament.²¹ No such charge can be preferred unless—

- (a) the proposal to prefer such charge is contained in a resolution, which has been moved after at least fourteen days' notice in writing, signed by not less than one-fourth of the total number of members of the House, has been given of their intention to move the resolution; and

- (b) such resolution has been passed by a majority of not less than two-thirds of the total membership of the House.

When a charge has been so preferred by either House of Parliament, the other House is to investigate the charge or cause the charge to be investigated and the President has the right to appear and to be represented at such investigation. The conduct of the President may be brought under review by any court, tribunal or body appointed or designated by either House of Parliament for the investigation of such charge.

If as a result of the investigation a resolution is passed by a majority of not less than two-thirds of the total membership of the House by which the charge was investigated or caused to be investigated, declaring that the charge preferred against the President has been sustained, such resolution has the effect of removing the President from his office as from the date on which the resolution is so passed.²²

Oath of office

Before the President enters upon his office, an oath of office is administered to him in the Central Hall of Parliament or the Rashtrapati Bhawan by the Chief Justice of India or in his absence, by the senior-most Judge of the Supreme Court available, in the form set out in article 60 of the Constitution.

Succession to Presidency

The Constitution provides that where a vacancy in the office of the President occurs by reason of his death, resignation or removal or otherwise, the Vice-President acts as the President until the new President enters upon his office and the election is required to be held within six months from the date of occurrence of the vacancy.²³ The Constitution also provides that when the President is unable to discharge his functions owing to absence, illness or any other cause, the Vice-President shall discharge his functions until the date on which the President resumes his duties.²⁴ However, the Constitution does not provide for cases where a vacancy occurs in the offices both of the President and the Vice-President simultaneously, or where the Vice-President while acting as, or discharging the functions of, the President is unable to do so. The Constitution has, therefore, empowered Parliament to make such provisions as it thinks fit for the discharge of the functions of the President in any contingency not provided for in the Constitution.²⁵ Parliament has accordingly, enacted the President (Discharge of Functions) Act, 1969, whereunder in such cases, the Chief Justice of India or, in his absence, the senior-most Judge of the Supreme Court discharges the functions of the President.

When the Vice-President, Shri V.V. Giri, who was acting as the President in the vacancy caused by the death of the President, Dr. Zakir Husain, resigned from the office of the Vice-President with effect from the forenoon of 20 July 1969, the Chief Justice of India, Shri M. Hidayatullah, discharged the functions of the President from the forenoon of the said date.²⁶

Powers and functions in respect of Parliament

The Constitution confers several powers on the President in relation to Parliament. He summons from time to time each House of Parliament, may from time to time prorogue the Houses or either House and dissolve the Lok Sabha.²⁷ At the commencement of the first session after each general election to the Lok Sabha and at the commencement of the first session of each year, the President addresses both Houses of Parliament assembled together and informs Parliament of the causes of its summons.²⁸ He has also the right to address either House of Parliament or both Houses assembled together and send messages to either House, whether with respect to a Bill then pending in Parliament or otherwise.²⁹

The President appoints a *pro tem* Chairman of the Rajya Sabha³⁰ and *pro tem* Speaker of the Lok Sabha³¹ in certain circumstances. Every member of Parliament, before taking his seat in the House, is required to make and subscribe the oath or affirmation before the President or before the person appointed by him in that behalf.³² The President nominates to the Rajya Sabha twelve persons having special knowledge and practical experience in respect of such matters as literature, science, art and social service.³³ The President also nominates to the Lok Sabha not more than two members to represent the Anglo-Indian community, if he is of the opinion that the community is not adequately represented in the Lok Sabha.³⁴ The President also decides the question of disqualification of a Member of Parliament under article 102.³⁵

In the case of disagreement between the two Houses on a Bill (other than a Money Bill), the President summons a joint sitting of both Houses.³⁶ The President has, after consultation with the Chairman of the Rajya Sabha and the Speaker of the Lok Sabha, made rules (i) as to the procedure with respect to joint sittings of, and communications between, the two Houses³⁷ and (ii) regulating the recruitment and the conditions of service of persons appointed to the secretarial staff of the respective Houses. The latter rules are, however, subject to any law made by Parliament.³⁸

The President's recommendation is required for (i) introduction of Bills and for moving amendments relating to financial matters,³⁹ (ii) introduction of a Bill relating to formation of new States or alteration

of areas, boundaries or names of existing States,⁴⁰ (iii) introduction of a Bill or moving of an amendment affecting taxation in which States are interested,⁴¹ and (iv) consideration of a Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India.⁴²

After a Bill has been passed by the Houses of Parliament, it is presented to the President who may either assent to the Bill or withhold the assent. He may return the Bill, if it is not a Money Bill, to the Houses with a message for reconsideration of the Bill or any specific provision thereof and, in particular, for consideration of the introduction of any amendment he may recommend in his message. When a Bill is so returned the Houses have to reconsider the Bill accordingly. If the Bill is passed again by the Houses with or without amendment, the President cannot withhold assent therefrom.⁴³ The President causes to be laid before both Houses of Parliament in respect of every financial year, a statement of the estimated receipts and expenditure of the Government of India. (*i.e.*, Budget) for that year,⁴⁴ statements showing supplementary or additional grants (and before the Lok Sabha, excess grants),⁴⁵ reports of constitutional functionaries or bodies such as Comptroller and Auditor-General of India,⁴⁶ Finance Commission,⁴⁷ Union Public Service Commission,⁴⁸ Commissioner for the Scheduled Castes and Scheduled Tribes,⁴⁹ Backward Classes Commission⁵⁰ and Commissioner for Linguistic Minorities.⁵¹

If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require. An Ordinance so promulgated has the same force and effect as an Act of Parliament and is required to be laid before both Houses of Parliament. It ceases to operate at the expiration of six weeks from the reassembly of Parliament, or if before the expiry of that period, resolutions disapproving the Ordinance are passed by both Houses, then upon the passing of the second of those resolutions. It can be withdrawn at any time by the President.⁵²

If the President is satisfied that a grave emergency exists whereby the security of India or any part of its territory is threatened, whether by war or external aggression or armed rebellion,⁵³ or there is a failure of constitutional machinery in a State,⁵⁴ or a situation has arisen whereby the financial stability or credit of India or of any part of its territory is threatened,⁵⁵ he issues a Proclamation for the purpose. These Proclamations are required to be laid before both Houses of Parliament and are subject to approval by them.

Procedural restrictions in the House

One of the rules to be observed by members while speaking in the House is that a member shall not use the President's name for the purpose of influencing the debate⁵⁶ and another rule forbids a member from reflecting upon the conduct of persons in high authority. The President is one of such persons whose conduct can only be discussed on a substantive motion drawn in proper terms under the Constitution (*i.e.*, impeachment). Yet another rule provides that a question shall not reflect on the character or conduct of any person whose conduct can only be challenged on a substantive motion.

During the course of discussion on the Finance Bill, 1970, a member brought in the name of the President. The Vice-Chairman stated that the conduct of the President should not be discussed. When another member tried to make a distinction between the office of the President and his person and stated that a member was free to criticise the President in his individual capacity, the Vice-Chairman, *inter alia*, ruled: "...I think it will be a very dangerous precedent if I hold that a person so long as he occupies that position should be separate from the office. So neither by the name of the President nor, so long as he is the President, by the name...should we discuss his conduct."⁵⁷

The rules mentioned above are, therefore, intended to respect and honour the institution and keep the office of the President above controversy.

However, there have been instances and occasions when matters relating to the President have been raised in the Rajya Sabha, sometimes touching upon constitutional aspects or at some other times concerning the office or person of the President. Such instances are mentioned below:

Dr. Rajendra Prasad had delivered a speech at the Indian Law Institute in November 1960 wherein he had asked lawyers to study scientifically to what extent and in respect of which matters the powers and functions of the President of India differed from those of the British Crown. While speaking on the Motion of Thanks on the President's Address a member referred to that speech and said that the President should not have raised such issue as it was likely to give rise to very serious political controversies. The Minister of Home Affairs asked whether it was open to the Council to discuss any statement made by the President outside or any action taken by the President as such. Thereupon the Deputy Chairman, who was then in the Chair, ruled: "We are not concerned with what the President had said elsewhere, and you cannot discuss it here, nor can you cast any reflections."⁵⁸

On the morning of 13 March 1987, a Delhi-based newspaper published what purported to be the text of a letter written by the President to the Prime Minister. The Chairman permitted three opposition members to mention the matter in the House that day.⁵⁹ The matter was raised again on 17 March 1987, when the Chairman informed that he would go into the matter in depth.⁶⁰ On 20 March 1987, the Chairman permitted leaders of opposition groups to express their views and thereafter gave an elaborate ruling, quoting from the Constituent Assembly Debates, alluding to the Supreme Court decisions and the House of Commons practice, on the question whether any matter communicated or purported to be communicated by the Head of the State to the Head of the Government and *vice versa* could be raised in the Houses of Parliament. He did not permit any discussion on the issue on the floor of the House, as demanded by the members “in view of the express provision, background, philosophy and provisions of the Constitution, the corroborative position in the House of Commons and the evolution of convention in this regard.”⁶¹

On 13 September 1991, at the commencement of Question Hour, a member referred to the refusal by the President to meet a delegation of SC/ST M.Ps. at Rashtrapati Bhawan and stated that due to this humiliation they were boycotting the proceedings of both Houses of Parliament that day.⁶² The matter was raised again the next day. Although some views were expressed, at one stage the Vice-Chairman stated, “we cannot discuss about the President...that is our convention.”⁶³

On 9 May 1984, a member drew the attention of the House to “a most libellous statement made against our President” in the Sunday Observer of 29 April 1984, and demanded that action should be taken against the author, editor, printer and publisher for maligning the Head of the State.

The Leader of the House, *inter alia*, stated, “we have to examine what is possible to be done within the framework of the existing law. If we find that it is not adequate, definitely, to protect the prestige, honour of the high office, something has to be done. If the existing legal arrangement is found not adequate, we will have to think of even going for a legislation and bringing some sort of Act.”⁶⁴ Subsequently, the member gave notice of breach of privilege against the magazine since he was also referred to in the article in an objectionable manner. The matter was referred to the Committee of Privileges. While stating that no breach of privilege of the member concerned was involved, the Committee observed: “The writer has denigrated and demeaned the person of the President. Such an act and the article deserve to be strongly condemned by all.” The Committee had no doubt that the Government would take suitable action against the writer, etc. as stated by the Leader of the House.⁶⁵

The matter of reflection on the person of the President again came up in the House in the context of a statement reported to have been made by a functionary of a political party and published in a newspaper under the caption: "Zail part of plot to destabilise Government". The Chairman referred the matter to the Committee of Privileges to specifically address itself, *inter alia*, to the scope of article 79 of the Constitution and whether aspersions cast on the President could be termed as derogatory to the institution of Parliament, whether the impugned remarks had a tendency, directly or indirectly to bring the institution of Parliament, into disrepute and amounted to breach of privilege of the House. The Committee of Privileges obtained the information in respect of U.K., Canada and Australia and also the opinion of the Attorney-General in the matter. The latter was of the view that in terms of article 105(3) of the Constitution, privileges were conferred not on the Parliament as such but only on each House of Parliament and on members and Committees of each House. No powers, privileges or immunities as such had been conferred on the President as a component part of Parliament. The Committee, however, did not express any opinion on the issues referred to it. In view of the change of circumstances which had occurred since four years when the matter was referred to the Committee, it recommended that the matter might be treated as closed.⁶⁶

Disturbances during the Address

On 18 February 1963, during the President's Address a member of the Rajya Sabha caused interruption and walked out of the Central Hall. Next day all sections of the House expressed regret over the incident and desired that the sentiments be conveyed to the President, which was done by the Chairman. The President also in his letter to the Chairman appreciated the sentiments expressed by the Rajya Sabha.⁶⁷ Reflecting on that particular incident, Shri Jawaharlal Nehru in one of his letters to the Chief Ministers wrote:

'This incident, the first of its kind in Parliament, lasted only two or three minutes or less. Nevertheless, it was most regrettable. It appears that the Socialist Party in particular is bent on creating trouble in Parliament, and thus bringing the whole process of democratic parliamentary procedure into disrepute.'⁶⁸

On 23 March 1971, again three members of the Rajya Sabha created obstructions at the President's Address. On 7 April 1971, the Rajya Sabha discussed a motion condemning "undesirable, undignified and unbecoming behaviour" of the concerned members. The discussion, however, remained inconclusive and was not resumed.⁶⁹

Relations between the Houses

The Constitution envisages that both Houses have equal status and position. The two Houses have to function within the areas allotted to them under the Constitution. While the Lok Sabha has been given certain special powers in certain matters, the Rajya Sabha too has been invested with some other special powers. The Lok Sabha has three special or exclusive powers, namely, that the Council of Ministers is collectively responsible to that House,⁷⁰ the demands for grants are submitted to the Lok Sabha and it has the power to assent, or to refuse to assent, to any demand or to assent to any demand subject to a reduction of the amount specified therein⁷¹ and a Money Bill or a Financial Bill containing money-clauses cannot be introduced in the Rajya Sabha or in other words such a Bill can be introduced only in the Lok Sabha.⁷²

The Rajya Sabha also has three special or exclusive powers which are contained in articles 249, 312, 352, 356, and 360. Under article 249, the Rajya Sabha can pass a resolution by a majority of not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List. Similarly, if Rajya Sabha passes a resolution under article 312 for the creation of one or more all-India services common to the Union and the States, Parliament has the power to create by law such services. Under articles 352, 356, and 360, the Rajya Sabha can approve the Proclamations initially or extend them subsequently while the Lok Sabha has been dissolved or dissolution takes place within the period allowed for its approval.

Barring these matters, there exists a perfect equality between the two Houses. The Constitution requires the laying of a number of papers on the Table in both the Houses, notably amongst them are the Budget, supplementary demands for grants, Ordinances and Proclamations issued by the President, reports of Constitutional functionaries such as the Comptroller and Auditor-General, the Finance Commission, the Commissioner for the Scheduled Castes and Scheduled Tribes, the Backward Classes Commission, the Commissioner for Linguistic Minorities.⁷³ Both Houses also participate in matters of elections of the President and the Vice-President, impeachment of the President, removal of the Vice-President, a Judge of the Supreme Court or of a High Court.⁷⁴

The relationship between the Houses is further laid down in the rules made by the President, after consultation with the Chairman, Rajya Sabha and the Speaker, Lok Sabha, in pursuance of article 118(3) of the Constitution, with respect to joint sittings of, and communications between, the two Houses.⁷⁵

Communications between the Houses

Communication between the Houses is by means of a written message from one House to another, signed by its Secretary-General. The message is reported to the House by the Secretary-General concerned, at the first convenient opportunity after its receipt, if the House is in session. If the House is not in session, members are informed of the message through a paragraph in the Bulletin of the House. The subject-matter of the message is dealt with according to the Rules of Procedure and Conduct of Business.⁷⁶

The occasions for communication of messages arise in cases of Bills, motions and resolutions. In respect of Bills, messages are sent by the Rajya Sabha to the Lok Sabha in the following eventualities:

- (1) A Bill introduced in and passed by the Rajya Sabha is transmitted to the Lok Sabha for concurrence.⁷⁷
- (2) A Bill transmitted to the Lok Sabha for concurrence is returned to the Rajya Sabha with amendment and the Rajya Sabha agrees or does not agree to the amendment or proposes further or alternative amendment.⁷⁸
- (3) A Bill originating in and passed by the Lok Sabha and transmitted to the Rajya Sabha for concurrence is passed by the Rajya Sabha without or with amendment.⁷⁹
- (4) A Bill passed by the Lok Sabha is returned to that House with amendment by the Rajya Sabha and the Lok Sabha does not agree with the amendment made by the Rajya Sabha or proposes further amendments and the Rajya Sabha agrees to the Bill as originally passed in the Lok Sabha or as further amended by it or insists on an amendment or amendments to which the Lok Sabha has disagreed.⁸⁰
- (5) A Money Bill passed by the Lok Sabha is returned to that House without making any recommendations or with amendments recommended.⁸¹

Messages are also sent to other House in respect of motions and resolutions:

- (1) Motion seeking to withdraw a Bill passed by the Lok Sabha and pending in the Rajya Sabha.⁸²
- (2) Motion referring a Bill to a Joint Committee of Houses for concurrence and communication of names of members of the Lok Sabha to serve on the Committee.⁸³

- (3) Motion communicating the extension of time for the presentation of a report of the Joint Committee.⁸⁴
- (4) Motion requesting the Lok Sabha to appoint members to fill the vacancies occurring in the Joint Committee either by death, resignation, or otherwise of members of that House serving on the Joint Committee.
- (5) Communication of names of members of the Rajya Sabha to serve on the Committee on Public Accounts, Committee on Public Undertakings, Railway Convention Committee and other Joint Parliamentary Committees.
- (6) Amendments made in any rule, regulation, etc. (statutory instrument) for concurrence of the Lok Sabha.
- (7) Resolution amending a “President’s Act” made under a State Legislature (Delegation of Powers), Act in respect of a State under President’s Rule, for concurrence of the Lok Sabha.

Joint sitting of the Houses

The Constitution of India envisages a mechanism for resolving disagreement between the two Houses in respect of a Bill, other than a Money Bill or a Constitution Amendment Bill. In case of a Money Bill, the powers of the Rajya Sabha are limited to retaining or delaying the Bill passed by the Lok Sabha for a period of fourteen days only and recommending an amendment or amendments in the Bill which may or may not be accepted by the Lok Sabha. In case of a Constitution Amendment Bill, if both Houses do not pass such a Bill in identical terms, in accordance with article 368, that is the end of that Bill.

When a Bill, other than a Money Bill or a Constitution Amendment Bill, passed by one House is rejected by the other House or the Houses have finally disagreed as to the amendments to be made in the Bill or more than six months elapse from the date of the receipt of the Bill by the other House without the Bill being passed by it, the President may, unless the Bill has lapsed by reason of dissolution of the Lok Sabha, notify to the Houses by message, if they are sitting, or by public notification, if they are not sitting, his intention to summon them to meet in a joint sitting for the purpose of deliberating and voting on the Bill.⁸⁵

When the President has notified his intention of summoning the Houses to meet in a joint sitting, neither House shall proceed further with the Bill and the President may thereafter issue an order summoning the Houses to meet in a joint sitting.⁸⁶ Once the President has notified his intention to

summon the Houses for a joint sitting, it may be held and a Bill passed thereat, notwithstanding that a dissolution of the Lok Sabha has intervened since then.⁸⁷

Secretary-General of the Lok Sabha, who acts as the Secretary-General at the joint sitting issues a summon to each member of the Lok Sabha and the Rajya Sabha specifying the time and place fixed by the President for the joint sitting.⁸⁸ The Speaker and in his absence the Deputy Speaker of the Lok Sabha or if he is also absent, the Deputy Chairman of the Rajya Sabha or if, he/she too is absent, such other person as may be determined by the members present at the sitting, presides over the joint sitting.⁸⁹ The procedure of the Lok Sabha applies at a joint sitting with such modifications and variations as the Speaker may consider necessary or appropriate. The Speaker also determines the hour upon which a joint sitting shall adjourn and the day and hour or the part of the same day to which it shall be adjourned. The quorum to constitute a joint sitting is one-tenth of the total number of members of the two Houses.⁹⁰

If at a joint sitting, the Bill referred to it, with such amendments, if any, as are agreed to in the joint sitting is passed by a majority of the total number of members of both Houses present and voting, it is deemed, for the purposes of the Constitution, to have been passed by both Houses. At a joint sitting no amendment can be proposed to the Bill, other than such amendments, if any, as become necessary by the delay in its passage and such other amendments as relate to matters with respect to which the Houses have not agreed. The decision of the person presiding as to the admissibility of amendments is final.⁹¹ At a joint sitting, the Speaker or the person presiding as such shall not vote in the first instance, but shall have and exercise a casting vote in the case of equality of votes.⁹²

Joint sittings held so far

The first occasion arose when there was a disagreement between the two Houses in respect of certain amendments to be made in the Dowry Prohibition Bill, 1959. The Rajya Sabha made the following three amendments in the Bill as passed by the Lok Sabha:

- (i) The Bill originally defined the term 'Dowry' in clause 2, to mean any property or valuable security given or agreed to be given by one party to the marriage to the other party or by parents of either party or by any other person to either party to the marriage or to any other person at or before or after the marriage, as consideration for the

marriage. The Rajya Sabha added the words “either directly or indirectly” to make the definition read, *inter alia*, as ‘dowry’ means any property or valuable security given or agreed to be given either directly or indirectly... etc.

- (ii) By the Second amendment the Rajya Sabha deleted Explanation 1 to clause 2 which declared that any presents made at the time of marriage in the form of cash, ornaments, etc. would not be deemed to be dowry unless they were made as consideration for marriage.
- (iii) Clause 4 of the Bill provided for punishment of imprisonment extending to six months or fine extending to five thousand rupees or with both. The Rajya Sabha’s amendment deleted this clause.⁹³

The Lok Sabha considered these amendments but did not agree to any of them⁹⁴ and sent a message to the Rajya Sabha accordingly.⁹⁵ While returning the Bill, the Lok Sabha also made formal amendments to the enacting formula and clause 1 of the Bill and requested Rajya Sabha’s concurrence therefor.

The Rajya Sabha reconsidered its amendments and considered the formal amendments made by the Lok Sabha.⁹⁶ After adoption of the Motion for consideration of the amendments, the Minister of Law moved that the House did not insist on the amendments of clauses 2 and 4 (separate motions were moved in respect of all the three amendments) and agreed with the two amendments made by the Lok Sabha. While the motions in respect of amendments were negatived, the one relating to formal amendments of the Lok Sabha was adopted.⁹⁷

Two messages were accordingly sent to the Lok Sabha; one, informing that the Rajya Sabha had agreed to the amendments made by the Lok Sabha and the second, that the Rajya Sabha had insisted on the amendments made by it to which the Lok Sabha had disagreed.⁹⁸ Thus, the Houses were deemed to have finally disagreed to the amendments,⁹⁹ attracting the provision of article 108.

The President, therefore, notified his intention to summon the Rajya Sabha and the Lok Sabha to meet in a joint sitting for the purpose of deliberating and voting on the Bill. The message of the President was conveyed by the Chairman to the House.¹⁰⁰ The joint sittings were accordingly held in the Central Hall of Parliament on 6 and 9 May 1961 and the Bill was passed on the latter day with the first amendment to clause 2 (namely, insertion of words “either directly or indirectly” in the definition of dowry) suggested by the Rajya Sabha being accepted and the second one suggesting deletion of Explanation 1 to that clause not having been agreed. In respect

of the third amendment suggesting omission of clause 4, the joint sitting did not agree; however, a proviso was added to the clause barring the jurisdiction of courts to take cognizance of any offence except with the previous sanction of State Government or its specified officer. The formal amendments were also adopted and the Bill, as amended, was passed.¹⁰¹

The second occasion arose following the rejection of the Banking Service Commission (Repeal) Bill, 1977 by the Rajya Sabha. The motion for consideration of the Bill as passed by the Lok Sabha was negatived by the Rajya Sabha on 8 December 1977, and a message was communicated to the Lok Sabha to that effect. The President by his message notified his intention to summon the Rajya Sabha and the Lok Sabha to meet in a joint sitting for the purpose of deliberating and voting on the Bill. The message of the President was conveyed to the House by the Chairman.¹⁰² Accordingly, a joint sitting was held on 16 May 1978 in the Central Hall of Parliament and the Bill as amended was passed.¹⁰³

The third occasion arose when the Rajya Sabha in its sitting held on 21 March 2002¹⁰⁴ adopted the statutory resolution moved by a member disapproving the Prevention of Terrorism (Second) Ordinance, 2001 promulgated by the President on 30 December 2001 and negatived the motion for consideration of the related Bill, namely, the Prevention of Terrorism Bill, 2002 as passed by the Lok Sabha moved by the Minister of Home Affairs. Following rejection of the Bill by the Rajya Sabha a message was transmitted to the Lok Sabha to that effect.

The Bill having been passed by the Lok Sabha and its rejection by the Rajya Sabha, thus attracted the provision of clause (a) of article 108 of the Constitution. The President notified his intention to summon the Rajya Sabha and the Lok Sabha to meet in a joint sitting for the purpose of deliberating and voting on the Bill which was conveyed to the Rajya Sabha by the Minister of Parliamentary Affairs.

The Chairman on 22 March 2002¹⁰⁵ made an announcement in the House about the message of the President. Accordingly, a joint sitting of both the Houses was held on 26 March 2002 in the Central Hall of Parliament and the Bill was passed in the manner it was passed by the Lok Sabha.

As may be seen from the wordings of article 108, the provision of calling a joint sitting is only an enabling one, empowering the President to take steps for resolving legislative deadlock between the Houses. It is not obligatory upon the President to resort to the said provision. Moreover, the provision does not bar the second House from passing a Bill after lapse of six months provided that it has not lapsed due to dissolution of the

Lok Sabha or the President has not already notified his intention to convene a joint sitting. There are instances when a House of Parliament has passed the Bill after a lapse of six months from its receipt from the originating House. A few instances of such Bill are mentioned below:

The Representation of the People (Second Amendment) Bill, 1964 (passed by the Lok Sabha on 27 November 1964 and the Rajya Sabha on 2 September 1965); the Warehousing Corporations (Supplementary) Bill, 1964 (passed by the Lok Sabha on 27 November 1964 and the Rajya Sabha on 6 September 1965); the Architects (Amendment) Bill, 1980 (passed by the Rajya Sabha on 3 December 1980 and the Lok Sabha on 29 April 1982); the Sales Promotion Employees (Conditions of Service) Amendment Bill, 1980 (passed by the Rajya Sabha on 11 December 1980 and the Lok Sabha on 16 October 1982); the Special Courts (Repeal) Bill, 1980 (passed by the Rajya Sabha on 19 August 1981 and the Lok Sabha on 29 July 1982); the Dock Workers (Safety, Health and Welfare) Bill, 1986 (passed by the Lok Sabha on 2 December 1985 and the Rajya Sabha on 10 November 1986); the Repealing and Amending Bill, 1986 (passed by the Rajya Sabha on 28 July 1986 and the Lok Sabha on 23 February 1988); the Prevention of Corruption Bill, 1987 (passed by the Lok Sabha on 7 May 1987 and the Rajya Sabha on 11 August 1988); the National Institutes of Technology (Amendment) Bill, 2012 (passed by the Lok Sabha on 19 August 2011 and the Rajya Sabha on 30 April 2012. Formal amendments made by Rajya Sabha were agreed to by Lok Sabha on 11 May 2012); and the Institutes of Technology (Amendment) Bill, 2012 (passed by the Lok Sabha on 24 March 2011 and the Rajya Sabha on 30 April 2012. Formal amendments made by Rajya Sabha were agreed to by Lok Sabha on 11 May 2012).

Inter-relationship through practice and procedure

Apart from the constitutional provisions, Rules of Procedure also contribute to the development of healthy and smooth relationship between the two Houses.

For instance, one of the rules which a member has to observe while speaking in the House is that he should not use offensive expression about the conduct or proceedings of the other House (as well as one's own House).¹⁰⁶

In August 1977, when the Lok Sabha rejected the recommendation made by the Rajya Sabha for an amendment in the Finance Bill,¹⁰⁷ a member used a couple of strong words to criticise the attitude of the Lok Sabha but was careful about the dignity of the Lok Sabha when at the very outset he said, ...“we are fully conscious of the fact that the Constitution gives a special status in regard to Finance Bills or Money Bills of this type to the Lok Sabha which is a directly elected

body. Therefore, Sir, what I may say in this connection would in no way be any manner of reflection on the Lok Sabha, its prestige and dignity, much less of its members collectively.”¹⁰⁸

There also exists a long tradition in the House of not referring to any incident in the other House or even not quoting from the proceedings of the other House. However, a slight departure has been made in the House in this regard:

On an occasion, a Member while speaking on the Salaries and Allowances of Officers of Parliament Bill, 1953 quoted extensively from the speeches made in the Lok Sabha. The Vice-Chairman observed:

It will be better if you do not refer to the speeches in the other House, but make an observation on them...That is the usual convention...You relate it in your own words.¹⁰⁹

Again, when a Member was making his speech on a short duration discussion on the purchase of guns from Bofors of Sweden, he referred to what happened in the Lok Sabha, the previous day.

Disallowing the member to make any reference to what happened in the other House, the Chairman observed:

I want to tell the member, except points of policy, etc., you don't discuss what happened in the other House in this House.¹¹⁰

Another rule provides that no allegation of a defamatory or incriminatory nature should be made by a member against any member of the other House.¹¹¹ It is also a convention that a member of one House is not criticised by the name in the other House, all reference to the members of the other House are scrupulously avoided.

On an occasion, a member made certain allegations against a member of the Lok Sabha. The Chairman asked the member alleging to substantiate the allegation. While closing the matter thereafter, the Chairman, *inter alia*, observed: "...members who are not in a position to substantiate charges... should not make such statements. Allegations and counter-allegations.... detract from the dignity of Parliament... I would like to add that it would be a good rule to observe that members of one House should not use the freedom of speech on the floor of the House to make allegations or charges against members of the other House.”¹¹²

While participating in the discussion on the Appropriation Bill, 1970, a member took the names of certain members of the Lok Sabha and alleged that there were rumours that those members were trying to

purchase M.Ps.¹¹³ Next day, when the matter was again raised, the Deputy Chairman left it to the member concerned to withdraw the objectionable remarks, and if he did not withdraw it, he stated further that if the allegations were not true any member was at liberty to take the next step according to the Rules of Procedure and Conduct of Business of the House.¹¹⁴ When the matter was raised on the third day also, the Deputy Chairman deprecated the observations of the concerned member.¹¹⁵ The issue was also raised in the Lok Sabha.¹¹⁶ Thereafter, the Speaker, Lok Sabha addressed a letter to the Chairman inviting his attention to the matter and observing, *inter alia*, “you will agree that it is not desirable for members of one House to make allegations or cast reflections on the floor of the House on the members of the other House”. In his reply, the Chairman expressed his agreement with the Speaker and informed him that the Deputy Chairman had already deprecated the observations of the member making allegations.¹¹⁷

Again, when in the course of a discussion on a calling attention regarding serious allegations of use of money power in the biennial elections to the Rajya Sabha, a member mentioned the name of a member of the other House, the Chairman observed:

...it is not right that names should be mentioned of those who are not present here to protect themselves. It is not fair to them especially to those who are in the other House... it is not right to cast reflections on them.

The Chairman also informed that in this connection he had received a letter from the Speaker. The Chairman, therefore, appealed to the members not to mention the names of members of the other House in a manner which might cause acrimony or which might in any manner cast reflections on them.¹¹⁸

On another occasion, a member made certain allegations on the floor of the House alleging offer of bribe to members in connection with voting against a Bill in the Lok Sabha.¹¹⁹ The matter was raised in the Lok Sabha.¹²⁰ The Speaker addressed a letter to the Chairman in that regard. The Chairman, *inter alia*, observed in his reply to the Speaker's letter:

I have always held the view that members of one House should not make allegations or cast reflections on the floor of the House, or outside, on the members of the other House. In the Rajya Sabha the Chair has invariably deprecated such conduct on the part of any member.¹²¹

A member may not allude to debates in the other House.¹²² In particular, critical reference to debates in the Lok Sabha by the members of the Rajya Sabha are to be avoided.

When a member, speaking on a motion on the international situation, made some critical reference to the debates on the subject which took place in Lok Sabha. The Prime Minister, Shri Jawaharlal Nehru suggested that it should not be made a practice in the Council to refer to the debates in Lok Sabha and... it was a bad practice, Lok Sabha discussing the Council and the Council discussing Lok Sabha leading to trouble between the two Houses. The Chairman observed:

“I would ask you not to refer to that House... The reference that you have made to the other House will be expunged from the proceedings.”¹²³

However, relaxation is permitted for reference to Government statements in the other House.¹²⁴ A member can also quote from the speeches made by the Ministers in the Lok Sabha.

“When the Mines and Minerals Bill, 1957 was under discussion, a member quoted from a speech made in Lok Sabha by Shri K.D. Malaviya, the Minister of Mines and Oil, another member asked to know whether the member could read from the proceedings of the other House. The Deputy Chairman ruled:

A statement made by the Hon'ble Minister, he can quote.”¹²⁵

Similarly, an answer to a question in the Rajya Sabha cannot refer to the answer to a question or proceedings in the other House during a current session.¹²⁶

These rules of debate are thus intended to preserve the sanctity and dignity of proceedings of the Houses by mutual restraint and regard. These rules also recognise the independence of each House.

When the Secretary-General reported to the House a message from the Lok Sabha extending the time for presentation of the report of the Joint Parliamentary Committee on Bofors, some opposition members who had given prior intimation, wanted to make submissions. The Deputy Chairman did not permit and giving a ruling, *inter alia*, observed that there was no practice of discussing such message or offering any comment on the contents of the message. Among the reasons for not doing so given in the ruling was that it was a message of the other House and nothing should be said which would reflect upon the decision of the other House conveyed through a message. For all practical purposes the Committee functioned under the direction and control of the Speaker and any comment on the working of the Committee would, therefore, amount to reflecting, even though indirectly, on the functioning of the Speaker himself.¹²⁷

However, in an early instance, some comments were made by a member when a message of the Lok Sabha regarding rejection of the recommendation made by the Rajya Sabha on the Finance Bill, 1978, was reported but the member was careful to say that what he would say should not be considered as reflection on prestige or dignity of the Lok Sabha.¹²⁸

Certain observations of the Prime Minister about opposition parties made in the Lok Sabha was the issue in the Rajya Sabha where opposition members wanted that Question Hour should be suspended to discuss the same. The Chairman, however, did not permit, ruling that there was a well-established convention of not discussing in the House what had been raised in the other House.¹²⁹

When some members wanted to raise an issue of reported threat of arrest of the Speaker, Lok Sabha by a Minister who was a member of the Rajya Sabha, the Deputy Chairman did not permit as the matter concerned the other House.¹³⁰

However, on 24 July 1989, the House spent nearly five hours almost discussing about the resignations of opposition members of the Lok Sabha.

In addition, there is a certain in-built mechanism, partly emanating from the Constitution and partly evolved through practices and conventions which generates and regulates the smooth relationship between the Rajya Sabha and the Lok Sabha. Reference has already been made to the constitutional mechanism for conflict resolution in the legislative field. Each House, its members and committees have been granted by the Constitution, the same powers, privileges and immunities. In the matter of fixing rotation of Ministers for answering questions in the House, care is taken that the same Minister is not required to appear on the same day, at the same time at both the places. By convention, membership of the Rajya Sabha and the Lok Sabha in several committees like the Committee on Public Accounts, Committee on Public Undertakings, Railway Convention Committee, Committee on the Welfare of Scheduled Castes and Scheduled Tribes, Committee on Welfare of Other Backward Classes, Committee on Offices of Profit, Salaries and Allowances and the twenty four Department-related Parliamentary Standing Committee is fixed in the ratio of 2:1.

Controversies between the Houses

It will thus be seen that the various provisions of the Constitution, rules of procedures and conventions all point towards mutual respect and regard, a sense of cordiality and cooperation in matters concerning business of Parliament between the two Houses. However, during early years, there

had occurred a few instances of controversies which seemed to sour the relationship between the Houses or create feelings of resentment or tension between the two. They arose primarily in financial and privilege matters and also in regard to the constitution of financial committees. But they were resolved in a spirit of mutual accommodation and deference as may be seen in the following cases:

(a) *Income-Tax Amendment Bill*

The first controversy occurred when the Rajya Sabha took up for consideration the Indian Income-Tax (Amendment) Bill, 1953, which was certified by the Speaker as Money Bill, on 29 April 1953. A point was raised whether it was a Money Bill and it was contended that the House was competent to refer the Bill back to the Speaker and to enquire the circumstances under which the Bill had been certified as a Money Bill. The then Law Minister who was also the Leader of the House (Shri C.C. Biswas), responding to the points stated, *inter alia*, that according to the information available, the Bill was treated probably “by the Secretariat of the other House, as a Money Bill and placed before the Speaker as such... and the Speaker appended a certificate” as required under the Constitution. He, therefore, suggested that it might be found out whether the certificate was given as a matter of form or it was given on any question raised that it was not a Money Bill.¹³¹ Next day, *i.e.*, 30 April 1953, exception was taken in the Lok Sabha to these remarks of the Law Minister in the Rajya Sabha. The remarks were described in the Lok Sabha as “thoroughly unjustifiable and inconsistent with the dignity of the Speaker.” The Chair observed that the matter might be brought up for discussion the next day when the Law Minister would be present in the House (Lok Sabha).¹³²

The issue of the Law Minister being asked to be present in the Lok Sabha was raised in the Rajya Sabha on 1 May 1953, and after some discussion, the Rajya Sabha adopted the following resolution moved by a member:

That this Council is of the opinion that the Leader of the Council be directed not to present himself in any capacity whatsoever in the House of the People when the matter sought to be raised by Pandit Thakur Das Bhargava with reference to the speech of the Leader of the Council, regarding the certificate of the Speaker endorsed on the Indian Income-Tax (Amendment) Bill, 1953, is under discussion in that House.¹³³

At the same time, the Secretary, Rajya Sabha sent a message to the Secretary, Lok Sabha, forwarding a copy each of the statements made by

the Chairman and the Leader of the House and also conveyed the passage of resolution by the House. The Chairman in his statement, *inter alia*, observed:

It was nobody's intention, least of all, of the Leader of the Council to cast aspersions on the integrity and impartiality of the Speaker. It is our anxiety in this Council to do our best to uphold the dignity of the Speaker and the privileges of the other House as we expect the other House to protect our interests and privileges.

The Leader of the House stated, *inter alia*, that he never cast any slur upon the Speaker in what he said nor was it ever his intention to do so. He stated that he would go to the Lok Sabha at the invitation of the Deputy Speaker "as a matter of courtesy – not as a matter of constitutional obligation – that I should be there to show as an example of good behaviour."¹³⁴ The Chairman, therefore, suggested that further discussion on the matter was perhaps not called for.

In the Lok Sabha, while further proceedings on the matter sought to be raised by Pandit Thakur Das Bhargava were dropped, the propriety of the resolution passed by the Rajya Sabha was called in question in the context of the Law Minister's clear responsibility to the Lok Sabha under the Constitution.¹³⁵

As this incident "somewhat disturbed the normal serenity of the work of Parliament", the Prime Minister (Shri Jawaharlal Nehru) made a statement in the Rajya Sabha, explaining the whole position. He, *inter alia*, observed:

Under our Constitution, Parliament consists of our two Houses each functioning in the allotted sphere laid down in that Constitution. We derive authority from that Constitution. Sometimes we refer back to the practice and conventions prevailing in the Houses of Parliament of the United Kingdom and even refer erroneously to an Upper House and a Lower House. I do not think that is correct. Nor is it helpful always to refer back to the procedure of the British Parliament which has grown up in the course of several hundred years and as a result of conflicts originally with the authority of the King and later between the Commons and the Lords. We have no such history behind us, though in making our Constitution we have profited by the experience of others. Our guide must, therefore, be our own Constitution which has clearly specified the functions of the Council of States and the House of the People. To call either of these Houses an Upper House or a Lower House is not correct. Each House has full authority to regulate its own procedure within the limits of the Constitution. Neither House, by itself, constitutes Parliament. It is the two Houses together that are the Parliament of India.

The successful working of our Constitution, as of any democratic structure, demands the closest co-operation between the two Houses. They are in fact parts of the same structure and any lack of that spirit of co-operation and accommodation would lead to difficulties and come in the way of the proper functioning of our Constitution. It is, therefore,...to be regretted that any sense of conflict should arise between the two Houses. For those who are interested in the success of the great experiment in nation-building that we have embarked upon, it is a paramount duty to bring about this close co-operation and respect for each other. There can be no constitutional differences between the two Houses because the final authority is the Constitution itself. That Constitution treats the two Houses equally, except in certain financial matters which are to be the sole purview of the House of the People. In regard to what these are, the Speaker is the final authority.¹³⁶

The Law Minister also associating himself with the statement of the Prime Minister expressed regret and offered apology for the incident. In the Lok Sabha also he offered his apology.¹³⁷ Thus, the curtain was finally rung down on the episode.

(b) Other Financial Bills

On another occasion, some points were again raised in the Rajya Sabha in the context of Financial Bills under article 117(1). The Major Port Trusts Bill, 1963, was referred by the Lok Sabha to its Select Committee and not to a Joint Committee of both Houses. When the Bill came up before the Rajya Sabha for consideration, the matter regarding Rajya Sabha not being associated with the Committee was raised. The Minister of Transport pointed out that since there was a ruling of the Speaker that a Financial Bill under article 117(1) could not be referred to a Joint Committee, the Bill was referred only to Select Committee of the Lok Sabha. There was some discussion about the rights of the Rajya Sabha in financial matters. However, in view of the urgency of the Bill the matter was not pursued further; but to assert its right, the Rajya Sabha referred the Bill to its own Select Committee to report within three days.¹³⁸

Again, a similar situation arose in the Rajya Sabha when the Banking Laws (Amendment) Bill, 1968, as passed by the Lok Sabha came up for consideration. The Bill was referred by the Lok Sabha to its Select Committee, and not to the Joint Committee of Houses. In the Rajya Sabha, members referring to the precedent of the Major Port Trusts Bill, contended that the Bill ought to have been referred to the Joint Committee. The Minister concerned stated that since the Bill attracted some of the matter specified in the article 110 of the Constitution it

was not referred to the Joint Committee.¹³⁹ He, however, conceded the right of the House to refer it to a Select Committee for which a member had given amendment. Accordingly, the Bill was referred to the Select Committee of the Rajya Sabha.¹⁴⁰

(c) *Privilege matter (N.C. Chatterjee's case)*

On 11 May 1954, a member raised a question of privilege in the Rajya Sabha alleging that Shri N.C. Chatterjee, member of the Lok Sabha, remarked in a public speech at Bombay about the Rajya Sabha that “the Upper House, which is supposed to be a body of elders, seems to be behaving irresponsibly like a pack of urchins”, in the context of the Special Marriage Bill which was under consideration of the Rajya Sabha, thereby casting reflection on the proceedings of the Rajya Sabha.¹⁴¹ A question of privilege arising out of a notice issued to the member by the Secretary of Rajya Sabha was raised by Shri Chatterjee in the Lok Sabha.¹⁴² The question as to what procedure should be followed when a member of one House commits a breach of privilege of the other was referred to a Joint Sitting of the Committees of Privileges of the two Houses.¹⁴³ The Committees evolved an acceptable procedure in such cases.¹⁴⁴

(d) *Representation on Public Accounts Committee*

Another instance where relationship between the two Houses became sour was when the Rajya Sabha wanted the Committee on Public Accounts to be a Joint Committee of both Houses and also wanted representation on the Committee on Estimates of the Lok Sabha.

The Rules Committee of the Rajya Sabha in its report submitted to the Chairman on 24 December 1952, stated that the members of the Rajya Sabha should have representation on the Public Accounts Committee and it should be a Joint Committee of both Houses of Parliament, “to avoid unnecessary duplication of work”. The Committee also formulated a set of rules for the purpose and it was provided therein, among other things, that the proposed representation of the Lok Sabha and the Rajya Sabha on the Committee should be in the proportion of 2:1. The Rules Committee also requested the Chairman to take up with the appropriate authority the question of representation of members of the Rajya Sabha on the Estimates Committee. The Secretary of the Rajya Sabha accordingly took up the matter with his counterpart in the Lok Sabha, under the direction of the Chairman. The Speaker referred the matter to the Lok Sabha Committee on Rules for consideration, and the Chairman of the Public Accounts Committee for his reaction.¹⁴⁵

The Committee on Public Accounts passed a unanimous resolution that the suggestion for setting up a Joint Committee on Public Accounts or a separate Public Accounts Committee of the Rajya Sabha, being against the principles underlying the Constitution, was not acceptable to it. The Rules Committee of the Lok Sabha also in its report gave detailed arguments for its view that there should not be any Joint Committee of the two Houses on any financial matter.¹⁴⁶

There was a deadlock, but discussions went on behind the scene as there was eagerness in the members of both the Houses to find a solution, which was acceptable to both the Houses in the context of the constitutional provisions to preserve the supremacy of the Lok Sabha in financial matters and at the same time to provide for opportunities to the members of the Rajya Sabha to give their counsel in financial matters. Ultimately, it was decided that if the Lok Sabha passed an annual resolution of its own will to seek the association of the members of the Rajya Sabha with the Public Accounts Committee, both the objectives might be realised.¹⁴⁷

On 12 May 1953, Prime Minister Shri Jawaharlal Nehru, moved the following Motion in the Lok Sabha:

That this House recommends to the Council of States that they do agree to nominate seven members from the Council to associate with the Public Accounts Committee of this House for the year 1953-54 and to communicate to this House the names of the members so nominated by the Council.¹⁴⁸

There was opposition to this proposal in the Lok Sabha. Members felt that this was an intrusion on the exclusive rights and privileges of the Lok Sabha under the Constitution. Members in particular referred to the fact that the powers of the Rajya Sabha were limited with regard to Money Bills and financial matters. There was debate in the Lok Sabha for two days. On 13 May 1953, the Prime Minister gave a very comprehensive reply touching on the different aspects of the question. To the charge that the powers of the Lok Sabha were sought to be eroded by the motion moved by him, he said:

Great stress is laid on the powers of the House as if somebody was challenging them or making an attack on them. There is no doubt about what the powers of this House are in regard to money and financial matters. It is on that basis that we proceed. There the matter ends... The second point is whether this innovation...that my motion suggests – interferes with those powers in any way... If it interferes with those powers in any way...then it is a wrong motion. I accept that position if it is likely to interfere with those powers then we should be wary and see that we should not do so.¹⁴⁹

As regards the association of members of the Rajya Sabha with the Committee as proposed in the Motion, he observed:

Then again, something has been said about associate members. Who are these associate members? The motion is a very simple one, inviting the Council of States to associate seven of its members with this Public Accounts Committee. It is not for us to say how the Council of States will choose them. It is patent that they will choose them by election; they cannot choose them in any other way. We know that it is for them to decide. Naturally, they will choose election by proportional representation and all that. If they come to the Committee, as the major function of the Committee is scrutinising, there is no question of two grades of members. They have the same grade and status.

It is true, it is my desire and I think it should be the desire of the House to cultivate to the fullest extent possible co-operation and friendly relations with the other House, because in the nature of things and in the nature of the Constitution that we have, if we have not got co-operative relations, each can hamper and delay public work. There is no doubt about it. Each has the capacity for good certainly, but also for delay, and for just irritating and annoying by delaying tactics, the other House. The conception of the Constitution is that Parliament is an integrate whole. I regret, as my hon'ble friend on this side regretted, describing a member of the other House as an outsider. In a narrow sense you may use that but the conception behind it is not a happy one and we are all joined together in Parliament, shouldering the burden of Parliament, and looked up to by the people of India. I do submit that the motion that I have made does not in the slightest degree infringe on the powers or the authority of this House but is a desirable thing from the point of view of co-operative effort of the two Houses, from the point of a view of showing an example to the other countries and other Parliaments, as to how this complicated structure of our Constitution can be made to work smoothly and effectively and with goodwill.¹⁵⁰

Finally, the Motion was adopted by the Lok Sabha on 24 December 1953.¹⁵¹

The Rajya Sabha considered a motion moved by the Minister of Parliamentary Affairs on 13 May 1954, for concurrence in the motion of the Lok Sabha and nomination of seven members on the Committee for the year 1954-55.¹⁵² During the course of discussion, members raised the issue of their status in the Committee. The motion, however, was adopted with the following observations of the Chairman:

...I think members know the history of this motion and I need not repeat it. There is a well-known Biblical saying: "All things may be

lawful, but not all things are convenient.” We are there in pursuance of a motion which was submitted to us in December last in the very same words which are used today: “That the Council of States do agree to nominate seven members from the Council to associate with the Public Accounts Committee.” That was the motion which came to us last time. So it is not a matter of any concession or sufferance. It is a matter of right in accordance with the motion of Parliament accepted by this House. It has also been made quite clear by the Minister for Parliamentary Affairs that we work in that Committee on terms of absolute equality with other members. In the uncorrected report of the proceedings of the House of the People, the Speaker has said, “So far as the deliberations, voting and other things are concerned, they are of the same status.” So the statement made by Shri Satya Narayan Sinha is the same as that by the Speaker or the statement made by the Speaker has been repeated by Shri Satya Narayan Sinha. So we have a right to sit there now and our rights are absolutely the same as the rights of the other members. The point is that the rules which govern the deliberations of this Committee will be the rules of the other House. Therefore, it is that all this confusion has arisen. What I would deprecate very much is accentuation of small differences. I would advise the House to accept the motion and use their rights to the best advantage.¹⁵³

(e) *Membership of Committee on Public Undertakings*

As regards the Committee on Public Undertakings, similar situation arose in the context of the representation of the Rajya Sabha on that Committee. On 24 November 1961, a motion was moved in the Lok Sabha setting up this Committee for the first time. The motion moved by the Minister of Industry spelt out the detailed functions of the Committee which was to consist of ten members of the Lok Sabha and five members of the Rajya Sabha. One of the paragraphs of the motion recommended to the Rajya Sabha “that the Rajya Sabha do join in the said Committee.” During the discussion in the Lok Sabha on the motion, objection was taken to this phrase, which members thought, was a departure from the procedure adopted in the case of the Public Accounts Committee where members were only “associate” members.¹⁵⁴ Subsequently, on 21 September 1963, two separate motions were moved in the Lok Sabha – one regarding the constitution of a Committee on Public Undertakings and another recommending to the Rajya Sabha to nominate five members to associate with the Committee. The motions were adopted in the Lok Sabha on 20 November 1963.¹⁵⁵ In the Rajya Sabha the matter regarding rights of the Rajya Sabha was raised on 27 August 1962. The House considered the motion concurring in the setting up of the Committee on 26 November and 2 December 1963, and adopted the same on the latter day.

(f) *Status of Rajya Sabha members on financial committees*

Notwithstanding the clear and categorical exposition about the status of members of the Rajya Sabha on the Committee on Public Accounts and the Committee on Public Undertakings, the controversy cropped up in both the Houses again on two occasions entirely in different contexts.

On 28 April 1975, when a copy of the 159th report of the Public Accounts Committee was being laid on the Table of the Rajya Sabha, a member (who was also a member of the Committee) raised an objection that the report was not properly adopted by the Committee.¹⁵⁶ The next day objection was taken in the Lok Sabha to the report of the Public Accounts Committee being questioned in the Rajya Sabha.¹⁵⁷ Again on 30 April 1975, the proceedings of the Lok Sabha of the previous day, when some unsavoury remarks were made about the Rajya Sabha, came up in the Rajya Sabha. The Minister of State in the Department of Parliamentary Affairs stated, *inter alia*, that this matter should not be looked upon as some dispute between the rights and privileges of the Lok Sabha and the Rajya Sabha and that it was well-established all these years that members of the Rajya Sabha enjoyed equal rights including the right to vote and status with the members of the Lok Sabha. The Deputy Chairman made the following observations at the end:

As far as we are concerned, there have been quotations here both from what Dr. Radhakrishnan had said when this matter of the membership of the Public Accounts Committee was first raised in this House and also what the then Speaker had said at that time. Even Mr. Satya Narayan Sinha who moved the motion at that time, made it very clear. I will quote his words:

I would like to say that so far as the power, function or status of member is concerned, there is absolutely no difference between the members of this House and that House.

It was made absolutely clear at that time that as far as the membership is concerned, they are members of a Committee and there cannot be two different kinds of membership of a Committee. Whether they come from this House or the other House, once they become members, they are members of the Committee and there is absolutely no difference between their rights and status. That is absolutely clear.

As far as the discussion that has gone on there yesterday is concerned, I would only say that instead of quoting what has been said there and what some individual members had said there, it would be more dignified for us and for the members of the other House also to see that we act as one Parliament. Both the Houses constitute the

Parliament. The President and the two Houses of Parliament constitute the Parliament. Therefore, I think that to have any such feelings about the other House or this House will be out of place. I think both the Houses should actually work in harmony and protect the rights of each other. I think, this unfortunate thing will end here and now.¹⁵⁸

Again on 2 May 1975, when the Minister of State in the Department of Parliamentary Affairs was moving a motion for nomination of the Rajya Sabha members to the Committee on Public Accounts for 1975-76, a member observed, "I would not like to send anybody to any Committee of Parliament unless he has full right and full dignity to function on behalf of the House." The Deputy Chairman referred to his previous observations (*quoted above*) and stated, "I am setting the whole matter at rest... I am just making it clear that as far as the members of the Committee are concerned, whatever may be the process of their election, once they are members of the Committee, they are on equal footing with other members of the Committee."¹⁵⁹

Once again on 14 July 1982, when a copy of the minutes of the sittings of the Committee on Public Undertakings relating to its forty-seventh report was being laid on the Table of the Rajya Sabha, some members contended that the minutes as laid on the Table of the House were distorted and not true to facts, did not faithfully reflect what transpired at the meeting of the Committee relating to H.S.D. deal and that the Government had obstructed the Committee by not making available files relating to the deal. A series of privilege matters arose out of the issue. The Chairman in his first ruling observed that a privilege question had to be only in respect of the Committee of the Rajya Sabha and since the Committee on Public Undertakings functioned under the direction and control of the Speaker of the Lok Sabha and was provided for in the rules of that House, the Rajya Sabha did not have jurisdiction to entertain a complaint of breach of privilege in respect of that Committee. Members made submissions on this interpretation.

On 26 July 1982, the Chairman gave a detailed reasoning for his earlier ruling. Subsequently, certain articles appeared in some newspapers commenting on the ruling, which gave rise to privilege notices against them. The Chairman by his ruling on 2 August 1982, clarified that:

What I considered as the basis of my decision was the fact whether the Committee on Public Undertakings can fit in rule 187 of our rules as a Committee of our House. After considering the matter with great care and attention I came to the conclusion that it did not. Perhaps, my meaning was not appreciated and it has led to all kinds of misunderstandings. I reached the conclusion without meaning any

reflection upon the members of my House. I have always been very zealous of the honour and rights of the hon'ble members of my House. On more than one occasion I have said so. This anomalous position that some of those who work in the Committee should be able to raise every issue of privilege while the members of this House cannot except in some cases mentioned by me, troubled me not a little. It was only out of solicitude for the rights of this House in such Committees where they sit with Lok Sabha members but are not full members themselves that I said what I felt was necessary. It seems that this question troubled this House earlier also. The very fact that Pandit Nehru and Mr. Kanungo had to assure of 'equal status and grade' shows that this did not arise as of right.

While the Chairman suggested that rules could be framed to deal with such situations and remove whatever anomaly existed in regard to 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. The matter was thus agreeably settled.

In the context of this issue, on 28 July 1982, the Speaker quoting observations of Shri Jawaharlal Nehru stated in the Lok Sabha:

The members from Rajya Sabha have been associated with the Committee on Public Accounts and Committee on Public Undertakings since 1954 and 1964, respectively. As is well known, the hon'ble members from Rajya Sabha have been a source of great strength to the Financial Committees and have contributed greatly to the quality of their deliberations. The hon'ble members from Rajya Sabha have always enjoyed great respect and esteem and have been appointed as Conveners of the Sub-Committees/Study Groups of these Financial Committees which are charged with the onerous responsibility of detailed examination of important subjects. It has been our ceaseless endeavour that the sagacious counsel of Pandit Jawaharlal Nehru, the chief architect and consolidator of the parliamentary institutions in India, when he spoke on 13 May 1953, in support of the motion for association of members of Rajya Sabha with the Public Accounts Committee, should be lived up to in letter and spirit.¹⁶⁰

The above incidents of controversies touched upon constitutional aspects of the functioning of Parliament. However, some other controversies also occurred which may be mentioned as under:

(i) *Whether "Parliament" includes Council of States*

On 24 November 1952, a member brought to the notice of the House that just at the entrance of the Parliament House, he saw a room designated

“Parliamentary Notice Office” which, in fact, displayed notices belonging to the House of the People and not the Council of States. He considered it “a serious infringement of the liberty and the freedom of our Council.” He, therefore, requested the Chair to take up the matter with the Government and see that the Parliament of India “consists really of the Council of States and the House of the People.” The Deputy Chairman informed that there had been some confusion in this regard and the matter had already been brought to the notice of the Speaker and “by mutual understanding, we will come to some understanding.”¹⁶¹ Another member again raised the issue after three days. Thereupon, the Prime Minister Shri Jawaharlal Nehru, who was present in the House made the following observations:

“There is no doubt at all, Sir, that this House is very much a part of Parliament. If any kind of notice board—of which I am totally unaware—creates some confusion and some re-arrangements are necessary, I am quite sure, Sir, that you can very well safeguard the interests of this House.”¹⁶²

(ii) *Discussion on the General Budget first in Rajya Sabha*

On 2 March 1963, a point was raised in the Lok Sabha taking exception to the Rajya Sabha discussing the Budget before it was discussed in the Lok Sabha. It was even suggested that after the President’s Address, the Rajya Sabha should adjourn and meanwhile after the Lok Sabha had discussed these matters, the Rajya Sabha should discuss them after recess.¹⁶³ After the issue was raised in the Rajya Sabha, the Minister of Parliamentary Affairs explained the position. Then the Chairman, *inter alia*, observed:

...As you have all made out, the constitutional position is quite clear. There is no superiority or inferiority in anything. We are two different Houses; we have prescribed functions to perform. There is no question of any House being superior to the other House. That point is incontrovertible. Then, I cannot understand why that question was raised there. It might have arisen on account of a misunderstanding. On account of the special privilege of the Lok Sabha in the case of Money Bills, they have probably the impression that the matter should not be discussed here first, which is wrong. That must have been the reason and no insult, in my opinion, was involved.¹⁶⁴

Again a similar matter was raised in the Lok Sabha on 12 March 1965.¹⁶⁵ On 15 March 1965, a member raised the issue in the Rajya Sabha and referred to the following observations of the Speaker made on 12 March:

We should not in any manner show or appear that we grudge their exercising their own rights. But there are certain rights which are

vested in this House. That also must be taken into consideration. If the Constitution has vested certain privileges in this House alone, then it is our duty that we should not curtail them. The hon'ble Minister quoted certain observations to show that the Government has power to vary taxes and other things. That they are allowed under the law. They can always do it. But when the discussion takes place in that House, it may become necessary, sometimes—I do not say this time or next time—but on certain occasions and the Minister might feel persuaded to make any announcement so far as that taxation is concerned. That position would rather be a queer one because it is only this House which can urge for those things and the Minister can make concessions in response to that.

The member contended that the above observations derogated the rights granted by the Constitution. The Leader of the House (Shri M.C. Chagla) in reply observed:

The Constitution has clearly demarcated the powers of the Lok Sabha and the Rajya Sabha with regard to financial matters. But all that I would appeal to this House is that we should try and avoid any friction or conflict with the other House and I have no doubt that the privileges and the rights of this House are safe in the hands of our Chairman. The constitutional position is quite clear. We have every right to discuss the Financial Statement as the Lok Sabha has under the Constitution and there is no doubt whatsoever. The two Houses constitute the Parliament.¹⁶⁶

(iii) *Scrutiny of Budget estimates of Rajya Sabha*

On 3 May 1966, a member brought up a matter on the basis of a press report that a proposal had been mooted to constitute a Joint Committee of both the Houses of Parliament to examine the Budget estimates of the Rajya Sabha. He stated that such a proposal might adversely affect the cordial and harmonious relations that exist between the two Houses. Members expressed their views in the matter. The Leader of the House (Shri M.C. Chagla) stated that the convention, which had so far been maintained was a very good convention namely, that it was left to the Presiding Officer of each House to settle the estimates and each House had the full confidence in him. The estimates were never discussed either in the Lok Sabha or the Rajya Sabha. If, however, any change of procedure was to be made, two principles should be kept in mind. The first principle was that, as far as possible, the two Houses should function in harmony, goodwill and understanding between each other. The second principle was that the dignity of this House should be fully maintained. He, therefore, offered to convey to the Speaker or to the other House the wish of the Rajya Sabha, which was: 'either the present convention should continue or if that convention

was to be departed from, we must have our own committee to look into our own estimates and scrutinise them. If there was going to be a Joint Committee, it should scrutinise estimates of the Rajya Sabha and also of the Lok Sabha.' The Chairman closed the discussion with the following observations:

Last year the Speaker of the Lok Sabha discussed with me the possibility of appointing a Committee to look into the accounts of the Rajya Sabha also as he has appointed a Committee to look into the accounts of the Lok Sabha. I thought it proper to consult the leaders of the various parties in the House and we had informal discussion. Then I took up the matter with the Speaker and I gave him two alternatives because that was what I was commissioned to do. I said that we would be very happy if we had two Committees, the Lok Sabha has its Committee and we have our own Committee. Their Committee looks into the accounts of the Lok Sabha and our Committee looks into the accounts of the Rajya Sabha. Failing that, if for some reason that is not possible or not advisable, we would also agree to a Joint Committee, provided the Joint Committee looks into the accounts of both the Houses, the Joint Committee of both the Houses to look into the accounts of the Lok Sabha and the Rajya Sabha together. The Speaker has not found it possible to accept any of these proposals. We have been discussing it. I have had several discussions with him but we could not come to any conclusion. But this discussion has been very helpful to me. After all, negotiations will be going on and I will be able to be guided by this discussion.¹⁶⁷

(iv) *Resolutions in Lok Sabha for abolition of Rajya Sabha*

There had been two occasions in the past when resolutions were moved in the Lok Sabha seeking to abolish the Rajya Sabha. One resolution was moved on 18 March 1954, and it was negatived.¹⁶⁸ Another resolution was moved on 30 March 1973. Of the seven members, besides the mover, who participated in the debate only one member supported the resolution and all others opposed it. Eventually, the resolution was negatived.¹⁶⁹ On 31 March 1973, some remarks attributed to the mover of the resolution in the Lok Sabha, as per a press report, were strongly resented by several members in the Rajya Sabha. It was contended that the impugned remarks lowered the dignity and the prestige of the Rajya Sabha and as such, involved the question of breach of privilege of the House. The Chairman, while pointing out the tradition that both Houses of Parliament and their members should treat each other with utmost respect and consideration, and best relations should prevail between the Houses and the respective members thereof, informed that he would communicate the views expressed by the members to the Speaker, Lok Sabha. Accordingly, the Chairman

wrote to the Speaker enclosing the relevant extracts of the proceedings of the House for such action as he might think appropriate.¹⁷⁰ On 30 April 1973, the Chairman made an announcement giving the background of the case and read out to the House the reply of the Speaker dated 5 April 1973, stating, *inter alia*, that the concerned member did not say in his speech what was attributed to him in the caption of the newspaper report. The Speaker also observed:

I fully share your views about the cordial relations between the two Houses of Parliament and also their members... I also appreciate the concern as shown in the speeches of the hon'ble members of your House. Please assure them on behalf of the Lok Sabha and also myself that we hold them in utmost respect and high regard.

The Chairman also informed that he had received another communication from the Speaker on 22 April 1973, with which he forwarded a copy of the announcement he had made in the Lok Sabha on 19 April 1973. At the end of the announcement, the Speaker had observed:

May I take this opportunity to appeal to the hon'ble members to use necessary restraint and not say anything in this House which may bring disharmony between this House and Rajya Sabha.

Thereafter, the Chairman treated the matter as closed.¹⁷¹

(v) *Member of Rajya Sabha appointed as Finance Minister*

In the Lok Sabha, on 19 February 1982, when the second question addressed to the Minister of Finance was called, a member raised a point of order (which was permitted by the Speaker as a special case since the point of order pertained to the question) that the Finance Minister (Shri Pranab Mukherjee), who was a member of the Rajya Sabha had no *locus standi* to preside over the Finance Ministry since the over-riding authority in financial matter lay with the Lok Sabha. The Speaker after listening to various arguments and referring to articles 75, 77 and 80 of the Constitution, *inter alia*, ruled out the point of order and concluded his ruling by saying, "the fact that we have not had a Minister of Finance from the other House does not preclude a member of the Rajya Sabha from being appointed a Minister of Finance."¹⁷²

On 23 February 1982, the matter was raised in the Rajya Sabha by a member who contended that during the discussion in the Lok Sabha "indirectly a slur or aspersion" was cast on the Rajya Sabha. The Chairman thereafter, made the following observations:

...there is no bar in the Constitution against the nomination of a member of this House as Finance Minister. Indeed the Constitution seems to suggest without making any exceptions that Ministers may be from either House. The only embargo is that they cannot vote in the House to which they do not belong. This is, of course, the first time a Finance Minister from our House has been chosen. Speaking for myself, I feel glad that the Leader of the House has that honour. We have reason to be happy than otherwise. Whether an inveterate practice had grown in the past is not easy to say because the practice that the Prime Minister is a member of the Lok Sabha had been broken once, the analogy of the British Parliament cannot be invoked because here we have a written Constitution and...a provision which points in a different way. I do not think this is a matter for this House to concern itself with. And the other House has already accepted him. If they had not, perhaps we may have had something to say.¹⁷³

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3. 27 Rpt., COP, pp. 22-23.
4. Arts. 54 and 55(3).
5. Art. 54, Explanation inserted by the Constitution (Seventieth Amendment) Act, 1992, s. 2.
6. Art. 55(2).
7. Election Commission's Order No. 480/2/97(1), 14.7.1997.
8. Presidential and Vice-Presidential Elections Act, 1952, s. 4(1).
9. AIR 1974 SC 1682.
10. Presidential and Vice-Presidential Elections Act, 1952, s. 4(3) and (4).
11. *Ibid.*, s. 5B.
12. *Ibid.*, s. 5C.
13. *Baburao Patel v. Dr. Zakir Husain*, AIR 1968 SC 904.
14. Art. 58.
15. Art. 59(1).
16. Art. 56.
17. Art. 57.
18. Gaz. Ext. (II-3), 20.7.1969.
19. L.S. Deb., 1.8.1969, c. 258-59.
20. Art. 56(1)(b).
21. Art. 61(1).
22. Arts. 61(2), 61(3), 361, 1st Proviso and 61(4).
23. Art. 65(1) read with 62(2).
24. Art. 65(2).
25. Art. 70.
26. Gaz. Ext. (II-3), 20.7.1969.
27. Art. 85.
28. Art. 87.
29. Art. 86.
30. Art. 91(1).
31. Art. 95(1).
32. Art. 99.
33. Art. 80.

34. Art. 331.
35. Art. 103.
36. Art. 108(3).
37. Art. 118(3).
38. Art. 98.
39. Art. 117(1).
40. Art. 3, *Proviso*.
41. Art. 274(1).
42. Art. 117(3).
43. Art. 111.
44. Art. 112.
45. Art. 115.
46. Art. 151(1).
47. Art. 281.
48. Art. 323(1).
49. Art. 338(2).
50. Art. 340(3).
51. Art. 350B(2).
52. Art. 123.
53. Art. 352.
54. Art. 356.
55. Art. 360.
56. R. 238(vi) and R.S. Deb., 7.6.1971, c. 23.
57. R.S. Deb., 12.5.1970, c. 169.
58. *Ibid.*, 20.2.1961, c. 499-501.
59. *Ibid.*, 13.3.1987, c. 202-05.
60. *Ibid.*, 17.3.1987, c. 220-22.
61. *Ibid.*, 20.3.1987, c. 240-66.
62. *Ibid.*, 13.9.1991, c. 1.
63. *Ibid.*, 14.9.1991, c. 17-23.
64. *Ibid.*, 9.5.1984, c. 147-50.
65. 26 Rpt., COP.
66. 27 Rpt., COP.
67. R.S. Deb., 19.2.1963, c. 81-91; and 20.2.1963, c. 232-33.
68. Jawaharlal Nehru, *Letters to the Chief Ministers*, Vol. 5 (1958-1964), p. 577.
69. R.S. Deb., 7.4.1971, c. 109-209 [For details see Chapter 7].
70. Art. 75(3).
71. Art. 113(2).
72. Art. 109(1) and 117(1).
73. References 43-54, *supra*.
74. Arts. 54, 60, 61 and 67(b).
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78. R. 115.
79. Rs. 127 and 128.
80. Rs. 131 and 132.
81. R. 186(6).
82. R. 118.
83. Rs. 69(iii) and 70(2).
84. R. 90(1), 2nd *Proviso*.
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89. Art. 118(4).
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91. Art. 108(4).
92. Art. 100(1).
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96. *Ibid.*, 10.3.1960, c. 3456-80.
97. Bn. (I), 30.11.1960.
98. L.S. Bn. (I), 13.12.1960.
99. R. 116.
100. Bn. (I), 19.4.1961.
101. Joint Sitting of Houses of Parliament Debates, 9.5.1961, c. 282-314.
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110. *Ibid.*, 21.7.1987, c. 259.
111. R. 238A.
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114. *Ibid.*, 31.3.1970, c. 147.
115. *Ibid.*, 1.4.1970, c. 53, 61.
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117. PD, 1950-1985, p. 571.
118. R.S. Deb., 4.4.1970, c. 10-11.
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121. PD, 1950-1985, p. 97.
122. May, p. 375; and R. 354, L.S.R.
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125. *Ibid.*, 24.12.1957, c. 4011-12.
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130. *Ibid.*, 2.1.1991, c. 740-50.
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144. Report of the Joint Sitting of the Committees of Privileges of the House of the People and the Council of States (1954). For details, See Chapter 8, *infra*.
145. F. No. CS-3/53-L; see also C.S. Deb., 9.4.1953, c. 2501-03.
146. F. No. CS-3/53-L.
147. S.L. Shakhder, 'Relationship between the two Houses' in *Second Chamber—Its Role in Modern Legislatures—Twenty-five Years of Rajya Sabha*, Rajya Sabha Secretariat, 1977, p. 299.
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149. *Ibid.*, 13.5.1953, c. 6592.
150. *Ibid.*, c. 6596-97.
151. H.P. Bn. (I), 24.12.1953.
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164. R.S. Deb., 4.3.1963, c. 1614-24.
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167. *Ibid.*, 3.5.1966, c. 62-80.
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