



सत्यमेव जयते

PARLIAMENT OF INDIA RAJYA SABHA

RAJYA SABHA - ITS CONTRIBUTION TO INDIAN POLITY





“BOOKLETS IN THIS SERIES”

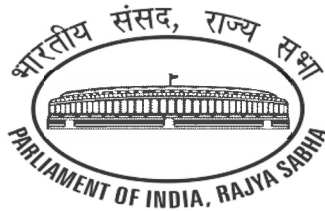
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RAJYA SABHA**

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TO INDIAN POLITY**



**RAJYA SABHA SECRETARIAT
NEW DELHI**

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PREFACE

This booklet is part of the series of booklets brought out for the benefit of the newly elected Members of Rajya Sabha. It covers briefly different aspects of functioning of Rajya Sabha and its contribution to Indian Polity. For detailed information, original sources may be referred to.

It is intended to serve as a handy guide for ready reference. I hope the Members will find the booklet useful.

New Delhi
July, 2020

DESH DEEPAK VERMA
Secretary-General

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INTRODUCTION

The *raison d'être* of a Second Chamber for a Parliament and of its status and role in the body politic has always remained a subject of animated and fierce debate for political scientists and constitutional experts. In the annals of constitution making, there are instances of great statesmen, writers and thinkers expressing divergent views and opinion on the utility of a Second Chamber. Some have contended that a Second Chamber is undemocratic and subversive of the will of the people expressed and articulated through the popularly elected Lower House, while others have stressed the need for such a House as, among other reasons, a safeguard against the tyranny of a single-chamber Legislature. For instance, we have on the one hand, the great French constitutional expert, Abbe Sieyes, who totally rejected the concept of a Second Chamber with his well-known and oft-quoted observation: "If a Second Chamber dissents from the first it is mischievous; if it agrees, it is superfluous"; on the other hand, we have Sir Henry Maine pleading that almost any kind of Second Chamber is better than none.

For George Washington, the function of a Second Chamber was to act as a check in the legislative machine, as is evident from a well-known incident in his life. Thomas Jefferson was one day protesting to George Washington at the breakfast table against the establishment of two Houses in the Legislature. Washington asked him, "Why do you pour that coffee into your saucer?" "To cool it", replied Jefferson. "Even so", said Washington, "we pour legislation into the senatorial saucer to cool it".

Thus, many authorities could be cited either in favour of or against the need or utility of a Second Chamber. The subject of merits and demerits of a Second Chamber or the controversy between the retentionists and abolitionists of a Second Chamber is age-old and recurs from time to time. While the debate about the utility and role of a Second Chamber goes on, the fact is that most of the modern States have adopted a bicameral system of Legislature. There are as many as 79 countries which have bicameral parliaments/ legislatures constituting 40.93 per cent of the world parliaments as per the Inter-Parliamentary Union (IPU).

In the Constituent Assembly, during the discussion on the need for a Second Chamber at the Centre, divergent views were expressed. The following reasons were cited in favour of a Second Chamber:

- (i) There is a need for sober and second look at legislation which may be the result of political passions of a momentary nature or tyranny of a majority in the popular House. The Upper House acts as a check on hasty and ill-conceived legislation.
- (ii) A Second Chamber provides for a more careful scrutiny of an issue in a calmer atmosphere which is not possible in the First Chamber.
- (iii) The Second Chamber can hold debates on matters of wide ranging public issues which otherwise may not be held in a Lower House as it is occupied with voluminous legislative and financial business.

- (iv) The Upper House may serve as a forum to give representation to the interests which remain unrepresented in the popular House.
- (v) The country may secure the services of its best talent by sending it to the Second Chamber since such persons of learning are generally shy of facing the rough and tumble of the hustings.
- (vi) Bicameralism is felt practically all over the world wherever there are federations of any importance.
- (vii) The Upper House can serve as a mechanism for promoting unity and integrity in a country composed of diverse castes, creeds, religions, languages and ethnic groups.

HISTORICAL BACKGROUND

When the Constitution of India was being framed and adopted, the framers of the Constitution were fully aware of, and took into consideration, all the points for and against having a Second Chamber and decided in favour of bicameralism at the Centre. The two chamber system was, however, optional in the States. For a decade before the transfer of power in August 1947, the constitutional framework in India was fragile with provincial autonomy under the Act of 1935 operating under a set-up at the Centre, based on the relevant provisions of the Government of India Act of 1919. The Central Legislature in India was constituted in accordance with the provisions of the Government of India Act, 1919; it consisted of the Governor General and the two Chambers, namely, the Council of State and the Legislative Assembly. The Council of State had 60 members and the Legislative Assembly 140. The Act of 1935 also envisaged a Legislature consisting of two Chambers, known respectively as the Council of State to be composed of 260 members and the House of the Assembly (or the Federal Assembly) to be composed of 375 members. Besides, it further consolidated the system of communal and class electorates. The federal scheme and the legislative institutions provided by the Act of 1935, however, never came into operation. In other words, the

structure and composition of the legislative institutions provided in the previous enactments did not furnish any satisfactory basis on which the Legislature of independent India under the new Constitution could be devised. The Constituent Assembly had, therefore, to give thought to this matter without any guidance from the past.

There was a considerable volume of opinion against having a Second Chamber which might prove to be a ‘clog in the wheel’ of progress¹. Replying to this criticism, Shri N. Gopaldaswami Ayyangar pointed out that the need for a Second Chamber had been felt practically all over the world wherever there were federations of any importance. He said²:

After all, the question for us to consider is whether it performs any useful function. The most that we expect the Second Chamber to do is perhaps to hold dignified debates on important issues and to delay legislations which might be the outcome of passions of the moment until the passions have subsided and calm consideration could be bestowed on the measures which will be before the Legislature; and we shall take care to provide in the Constitution that whenever on any important matter, particularly matters relating to finance, there is conflict between the House of the People and the Council of States, it is the view of the House of the People that shall prevail. Therefore, what we

¹ Prof. Shibban Lal Saksena, C.A. Deb., Vol. IV, 28.07.1947, p. 875.

² *Ibid.*, p. 876.

really achieve by the existence of this Second Chamber is only an instrument by which we delay action which might be hastily conceived, and we also give an opportunity, perhaps, to seasoned people who may not be in the thickest of the political fray, but who might be willing to participate in the debate with an amount of learning and importance which we do not ordinarily associate with a House of the People. That is all that is proposed in regard to this Second Chamber. I think, on the whole, the balance of consideration is in favour of having such a Chamber and taking care to see that it does not prove a clog either to legislation or administration.

The motion was adopted by the Constituent Assembly on 28 July 1947, which agreed in principle, to have two Chambers in the federal legislature, namely, the Council of States and the House of the People. The Constituent Assembly discussed provisions relating to the various aspects of the constitution of the Council of States and its powers at its sittings held on 3-4 January, 18-20 and 23 May and 8-9 June 1949. First election to the Council of States was held in March 1952 and the House was constituted on 3 April the same year. The 'Rajya Sabha', the Hindi nomenclature of the 'Council of States', was adopted on 23 August, 1954.³

³ R.S. Deb., 23.08.1954, c. 36-37.

CONSTITUTIONAL PROVISIONS IN RESPECT OF THE RAJYA SABHA

The Rajya Sabha and the Lok Sabha together with the President of India constitute 'Parliament of India'. The strength of the Rajya Sabha has been fixed at a maximum of 250 members including the 12 nominated members. The total number of members in the Rajya Sabha, as presently constituted, is 245. The allocation of seats to the various States is provided in the Fourth Schedule to the Constitution. Unlike the Lok Sabha, the Rajya Sabha is not subject to dissolution as a body, but one-third of its members retire every two years. The Vice-President of India (who is elected by an electoral college consisting of members of both Houses of Parliament in accordance with the system of proportional representation by means of the single transferrable vote and the voting at such elections is by secret ballot) is the *ex-officio* Chairman of the Rajya Sabha. When the Vice-President acts as the President of India or otherwise performs the duties of the President, the duties of the Chairman of the Rajya Sabha are performed by the Deputy Chairman who is elected by the members of the Rajya Sabha from amongst themselves. The Deputy Chairman presides over the sittings of the Rajya Sabha in the absence of the Chairman. In absence of Chairman and Deputy Chairman, the House is presided over by a Member from the Panel of Vice-Chairmen.

Except in certain financial matters which are to be the sole concern of the Lok Sabha, the Rajya Sabha enjoys co-equal status in all respects. A Money Bill cannot be

introduced in the Rajya Sabha. It has to be introduced only in the Lok Sabha and after it is passed by that House, it has to be transmitted to the Rajya Sabha for its recommendations. The Lok Sabha has the power of either accepting or rejecting the recommendations, if any, made by the Rajya Sabha. If a Money Bill is not returned by the Rajya Sabha to the Lok Sabha, within fourteen days of its receipt, it will be deemed to have been passed by both Houses after the expiry of the said period. Certain categories of Financial Bills also cannot be introduced in the Rajya Sabha but there is no other limitation on the power of the Rajya Sabha with regard to such Bills and the Rajya Sabha has full powers to reject or amend a Financial Bill as it has in respect of any Bill other than a Money Bill. From this it will not, however, be correct to assume that the Rajya Sabha has nothing to do with any matter relating to finance. The Annual Budget of the Government of India has to be laid before the Rajya Sabha as well and members have the right to discuss the same as in the Lok Sabha. Though the Rajya Sabha does not vote on Demands for Grants of various Ministries—a privilege exclusively reserved for the Lok Sabha—no money can be withdrawn from the Consolidated Fund of India unless the Appropriation Bill is passed/ returned by the Rajya Sabha. Similarly, the Annual Finance Bill also passes through the Rajya Sabha.

In the legislative field, except in regard to financial legislation, the Rajya Sabha enjoys real and substantial power, both as an originating chamber and as a revising chamber. The Constitution provides that in case of Bills other than Money Bills and the Constitution Amendment Bills, final disagreement between the two Houses should be resolved through a joint sitting of the two Houses. There have been three instances of

a joint sitting of the two Houses being convened, namely in regard to the Dowry Prohibition Bill, 1959, the Banking Service Commission (Repeal) Bill, 1977 and the Prevention of Terrorism Bill, 2002. Under the Constitution, the Rajya Sabha possesses equal authority and power with regard to the amendment to the Constitution. A Bill to amend the Constitution has to be passed by both the Houses of Parliament separately and in case one House fails to do so, the Bill falls through.

In addition, there are two special powers of the Rajya Sabha under the Constitution. Article 249 provides that the Rajya Sabha may pass a resolution, by a majority of not less than two-thirds of the members present and voting, to the effect 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. If such a resolution is adopted, Parliament will be authorised to make laws on the subject specified in the resolution, for the whole or any part of the territory of India. Such a resolution will remain in force for a period not exceeding one year, but this period can be extended by one more year at a time by passing further resolution.

Another exclusive power of the Rajya Sabha is contained in article 312 of the Constitution whereunder if the Rajya Sabha passes a resolution by a majority of not less than two-thirds of the Members present and voting declaring that it is necessary or expedient in the national interest to create one or more All-India Services common to the Union and the States, Parliament will have the power to create by law such services.

Yet another special power of the Rajya Sabha relates to the Proclamation of Emergency. The proviso to clause (4)

of article 352 of the Constitution, *inter alia*, provides that if a Proclamation of Emergency is issued when the House of the People remains dissolved and a resolution approving the Proclamation is passed by the Council of States, the Proclamation would be legally effective upto a maximum period of 30 days from the date on which the House of the People first sits after its reconstitution. The proviso to clause (3) of article 356 of the Constitution which relates to the Proclamation to be issued by the President in case of failure of constitutional machinery in a State, contains a similar stipulation.

There are some important matters in respect of which the Constitution has placed both Houses of Parliament on an equal footing as may be seen from the following list:

1. Equal right with the Lok Sabha in the election and impeachment of the President (Articles 54 and 61);
2. Equal right with the Lok Sabha in the election of the Vice-President (Article 66);
3. Equal right with the Lok Sabha to make law defining parliamentary privileges and also to punish for contempt of the House (Article 105);
4. Equal right with the Lok Sabha to approve the Proclamation of Emergency (issued under Article 352), Proclamations regarding failure of the Constitutional machinery in States (issued under Article 356); and
5. Equal right with the Lok Sabha to receive reports and papers from various statutory authorities, namely:

- (a) Annual Financial Statement [Article 112(1)];
- (b) Audit Reports from the Comptroller and Auditor General of India [Article 151(1)];
- (c) Reports of the Union Public Service Commission [Article 323(1)];
- (d) Report of the Commission to investigate the conditions of the Backward Classes [Article 340(3)]; and
- (e) Report of the Special Officer for Linguistic Minorities [Article 350B(2)].

THE ROLE OF THE RAJYA SABHA

In reply to the felicitations offered to him on his assumption of the office of Chairman of the Rajya Sabha in 1952, Dr. S. Radhakrishnan said⁴:

There is a general impression that this House cannot make or unmake governments and, therefore, it is a superfluous body. But there are functions which a revising Chamber can fulfil fruitfully. Parliament is not only a legislative but a deliberative body. So far as its deliberative functions are concerned it will be open to us to make very valuable contributions and it will depend on our work whether we justify this two-Chamber system, which is now an integral part of our Constitution, so it is a test to which we are submitted. We are for the first time starting, under the new Parliamentary system, with a Second Chamber in the Centre, and we should try to do everything in our power to justify to the public of this country that a Second Chamber is essential to prevent hasty legislation.

In the light of this observation it would be instructive to review the role played by the Rajya Sabha in the Indian constitutional system since its inception.

Rajya Sabha as a Legislative Body

Since 1952 till the end of 251st (up to 23.03.2020) Session a total of 945 Government Bills were introduced in

⁴ C.S. Deb., 16.05.1952, c. 43.

the Rajya Sabha. Considering that a large part of the legislative business of Parliament is financial, as a House of initiation, the Rajya Sabha's record is not unimpressive. An analysis of the subject matter of the Bills introduced in the Rajya Sabha would reveal that many of them were of immense public importance. The entire Hindu Law enactments, Bills for the Abolition of Whipping, Prevention of Corruption, Slum Areas (Improvement and Clearance), Foreign Marriage and Children were some of the Bills of social importance introduced in the Rajya Sabha.

Amongst the Bills relating to labour welfare initiated in the Rajya Sabha, mention may be made of the Beedi and Cigar Workers (Conditions of Employment) Bill, the Bonded Labour System (Abolition) Bill, the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Bill, the Participation of Workers in Management Bill, 1990, the Trade Union (Amendment) Bill, the Indian Boilers (Amendment) Bill, 2007, the Unorganised Sector Workers' Social Security Bill, 2007, the Child Labour (Prohibition and Regulation) Amendment Bill, 2012 and the Building and Other Construction Workers related Laws (Amendment) Bill, 2013.

Another very important legislation relating to trade and industry which was initiated in the Rajya Sabha was the Monopolies and Restrictive Trade Practices Act, 1969. Similarly, some important Bills introduced in the Rajya Sabha relating to health sector were: the Drugs and Magic Remedies (Objectionable Advertisements) Bill, 1954, the Medical Termination of Pregnancy Bill, 1971, the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and

Distribution) Bill, 2003, the National Commission for Human Resources for Health Bill, 2011, the Mental Health Care Bill, 2013 and the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Bill, 2014. Bills related to security and defence were the Sashastra Seema Bal Bill, 2007 and the Armed Forces Tribunal Bill, 2007.

In the field of education, important Bills were the Bills establishing the Jawaharlal Nehru University, the Central Institute of English and Foreign Languages University, the Pondicherry University, the Indira Gandhi National Open University, the Tripura University (2006), the Rajiv Gandhi University (2006), the Sikkim University (2006), the National Institute of Technology (2007), the Rajiv Gandhi Institute of Petroleum Technology (2007), the Jawaharlal Institute of Post-Graduate Medical Education and Research, Pondicherry (2008), the Indian Maritime University (2008), the Central Universities (2009), the South Asian University (2008), the Right of Children to Free and Compulsory Education (2009), the Nalanda University (2010), the Higher Education and Research (2011), the National Institute of Design (2013), the Rani Lakshmi Bai Central Agricultural University (2014) and the Dr. Rajendra Prasad Central Agricultural University (2016).

Some other important legislations introduced in the Rajya Sabha are the Gram Nyayalayas Bill, 2008, the Limited Liability Partnership Bill, 2008, the Collection of Statistics Bill, 2008, the Legal Metrology Bill, 2009, the National Identification Authority of India Bill, 2010, the Protection of Children from Sexual Offences Bill, 2011, the Indecent Representation of Women (Prohibition) (Amendment)

Bill, 2012, the Copyright (Amendment) Bill, 2012, the Representation of the People (Amendment) Bill, 2013, the Marriage Laws (Amendment) Bill, 2013, the Registration of Births and Deaths (Amendment) Bill, 2013, the Citizenship (Amendment) Bill, 2013, the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies Bill, 2013, the Judicial Appointments Commission Bill, 2013, the Prevention of Corruption (Amendment) Bill, 2013, the Real Estate (Regulation and Development) Bill, 2013, the Rights of Persons with Disabilities Bill, 2014, the Wakf Properties (Eviction of Unauthorised Occupants) Bill, 2014, the Tribunals, Appellate Tribunals and other Authorities (Conditions of Service) Bill, 2014, the Anti-Hijacking Bill, 2014, the Sikh Gurdwaras (Amendment) Bill, 2016, the Maternity Benefit (Amendment) Bill, 2016, the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities (Amendment) Bill, 2018, the Protection of Children from Sexual Offences (Amendment) Bill, 2019 and the Jammu and Kashmir Reorganization Bill, 2019.

As a revising Chamber, the Rajya Sabha has revised a number of Bills. Among the important Bills revised are the Income-tax (Amendment) Bill, 1961 and the National Honour Bill, 1971 wherein some very substantial amendments suggested by the Rajya Sabha were accepted by the Lok Sabha. The Dowry Prohibition Bill was another legislation in which the Rajya Sabha's insistence on its amendments led to the convening of joint sitting of the two Houses and in that sitting one of the amendments suggested by the Rajya Sabha was adopted without a division. The Urban Land (Ceiling and Regulation) Bill, 1976 was revised in eight

clauses and the schedule. Substantial amendment amounting to major revisions in the Government of Union Territories (Amendment) Bill, 1977, and the Delhi Administration (Amendment) Bill, 1977, were carried by the Rajya Sabha by divisions. The Special Courts Bill saw the Rajya Sabha playing a major revisory role when on 21 March, 1979, it made two major amendments of far-reaching importance in the Bill. Similarly, the Delhi Apartment Ownership Bill, 1986, the Goa, Daman and Diu Reorganisation Bill, 1987, the Prevention of Corruption Bill, 1988, the Bharat Petroleum Corporation Limited (Determination of Conditions of Service of Employees) Bill, 1988, and the Commissions of Inquiry (Amendment) Bill, 1990, the Prasar Bharati (Broadcasting Corporation of India) Bill, 1990, the Code of Criminal Procedure (Amendment) Bill, 1990, the Constitution (Scheduled Tribes) Order (Amendment) Bill, 1991, the Advocates (Amendment) Bill, 1992, the Passports (Amendment) Bill, 1993, the Bihar Reorganisation Bill, 2000, the Uttar Pradesh Reorganisation Bill, 2000, the Madhya Pradesh Reorganisation Bill, 2000, the Indian Council of World Affairs Bill, 2001, the Prevention of Terrorism Bill, 2002, the Delimitation Bill, 2002, the Haj Committee Bill, 2002, the Multi State Co-operative Societies Bill, 2002, the Fiscal Responsibility and Budget Management Bill, 2003, the Central Vigilance Commission Bill, 2003, the Electricity Bill, 2003, the Representation of the People (Amendment) Bill, 2003, the Chartered Accountants (Amendment) Bill, 2005, the Cost and Works Accountants (Amendment) Bill, 2005, the Company Secretaries (Amendment) Bill, 2005, the Special Economic Zones Bill, 2005, the Agricultural and Processed Food Products Export Development Authority (Amendment) Bill, 2009, the Academy of Scientific and

Innovative Research Bill, 2011, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill, 2013, the Wakf (Amendment) Bill, 2013, the Lokpal and Lokayuktas Bill, 2013, the Negotiable Instruments (Amendment) Bill, 2015, the Appropriation Acts (Repeal) Bill, 2016, the Enemy Property (Amendment and Validation) Bill, 2016, the Repealing and Amending Bill, 2016, the National Medical Commission Bill, 2019 and the Motor Vehicles (Amendment) Bill, 2019 were also amended by the Rajya Sabha in the past.

Further as revising Chamber, in recent years the Rajya Sabha has referred important Bills to Select Committees. Some important Bills referred to the Select Committees were: the Motor Vehicle (Amendment) Bill, 2017; the Constitution (One Hundred and Twenty-second) Amendment Bill, 2017, pertaining to Goods and Services Tax, the Constitution (One Hundred and Twenty-third) Amendment Bill, 2017 pertaining to the National Commission for Backward Classes, the Insurance Laws (Amendment) Bill, 2008; the Real Estate (Regulation and Development) Bill, 2013; the Lokpal and Lokayuktas Bill, 2011; the Waqf (Amendment) Bill, 2010; the Mines and Minerals (Development and Regulation) Amendment Bill, 2015; the Enemy Property (Amendment and Validation) Bill, 2016; the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018 and the Surrogacy (Regulation) Bill, 2019.

As already stated, under the Constitution, both Houses have got equal power with regard to amending the Constitution. In order to amend the Constitution, a Bill must be passed by both the Houses of Parliament separately and there is

no provision for a joint sitting to resolve a disagreement between the two. The following are some of the important Constitution Amendment Bills introduced in Rajya Sabha:

- The Constitution (Twenty-first Amendment) Bill, 1967. It aimed to add Sindhi as a language in the Eighth Schedule.
- The Constitution (Fifty-ninth Amendment) Bill. This Bill was about the imposition of emergency in Punjab.
- The Constitution (Sixty-second Amendment) Bill, 1989. The Bill sought to amend Article 334 of the Constitution proposing to continue reservation for a further period of ten years beyond January 26, 1990, for the members of Scheduled Castes and Scheduled Tribes in the legislatures.
- The Constitution (Seventy-sixth Amendment) Bill, 1992. It aimed at providing representation to the legislators of the legislatures in the Union Territories in the matter of election of the President.
- The Constitution (Eighty-first Amendment) Bill, 1994. The Bill sought to include land reform laws of various States in the Ninth Schedule.
- The Constitution (Eighty-fifth Amendment) Bill, 1994. It enabled continuance of 69 per cent reservation in Tamil Nadu by including the

relevant Tamil Nadu Act under Ninth Schedule of the Constitution.

- The Constitution (Eighty-sixth Amendment) Bill, 1999. The Bill sought to strengthen the Panchayati Raj Institutions.
- The Constitution (Eighty-eighth Amendment) Bill, 1999. It permitted relaxation of qualifying marks and other criteria in reservation in promotion for Scheduled Castes and Scheduled Tribes candidates.
- The Constitution (One hundred and eighth Amendment) Bill, 2008. It provided for the reservation of women in House of the People and in the Legislative Assemblies of the States.
- The Constitution (One hundred and ninth Amendment) Bill, 2009. The Bill sought to extend the reservation of seats for Scheduled Castes and Scheduled Tribes and the representation of Anglo- Indian Community in the Lok Sabha and State Assemblies from 60 to 70 years.
- The Constitution (One hundred and seventeenth Amendment) Bill, 2012. It provided for impediment-free reservation in provision to the Scheduled Castes and Scheduled Tribes with retrospective effect, *i.e.* from 17 June, 1995.
- The Constitution (One hundred and nineteenth Amendment) Bill, 2013 provided to give effect

to the acquiring of territories by India and transfer of certain territories to Bangladesh in pursuance of the agreement and its protocol entered into between the Governments of India and Bangladesh.

- The Constitution (One hundred and twentieth Amendment) Bill, 2013. The Bill proposed to constitute National Judicial Appointments Commission for making recommendations with respect to the appointment of Judges in higher Judiciary.
- The Constitution (One hundred and twenty-fifth Amendment) Bill, 2019. It seeks to amend article 280 of the Constitution enabling the Finance Commission to recommend measures needed to augment the Consolidated Fund of the States to supplement resources of the Sixth Schedule Autonomous Councils, Village Councils and Municipal Councils and also to amend the Sixth Schedule to the Constitution.

On the following occasions, the Rajya Sabha asserted its constituent powers:

The Constitution (Twenty-fourth Amendment) Bill, 1970, which was intended to abolish Privy Purses and which was passed by an overwhelming majority in the Lok Sabha was defeated in the Rajya Sabha by only a fraction of a vote and consequently, the Bill fell through. In the Constitution (Forty-fifth Amendment) Bill, 1978 as passed by the Lok Sabha, the Rajya Sabha deleted as many as five vital clauses

and the Lok Sabha later agreed to the deletions made by the Rajya Sabha. It became the Constitution (Forty-fourth Amendment) Act, 1978. Similarly, the Constitution (Sixty-fourth Amendment) Bill, 1989, and the Constitution (Sixty-fifth Amendment) Bill, 1989, though passed by the Lok Sabha, fell through in the Rajya Sabha. These Bills sought to provide more autonomy, both financial and administrative, to the Village Panchayats and Nagar Palikas, respectively. In case of the Constitution (One Hundred and Twenty-third Amendment) Bill, 2017 giving constitutional status to the National Commission for Backward Classes, the Rajya Sabha though voted to amend clause 3 of the Bill but the amended clause could not be incorporated with a requisite majority of two-third Members present and voting. The Bill as amended was returned to the Lok Sabha. However, the alternate and further amendments *inter alia* restoring clause 3 made by the Lok Sabha were agreed to by the Rajya Sabha. It became the Constitution (One Hundred and Second Amendment) Act, 2018.

Rajya Sabha's role in scrutinising the performance of the Executive or ventilating public grievances

How effective and assertive the Rajya Sabha is in the matter of reflecting people's problems and highlighting public issues, can be gauged by watching the House during the 'Question Hour' any day. Through the device of questions, important matters on which public mind is agitated are raised. This device has been used not only to elicit information and ventilate public grievances but also to goad and force Government to admit executive lapses or to investigate into

them. The House has been able to secure important assurances and policy statements in some cases and has compelled the Government to review their decisions in some others. To illustrate, subjects like cases of corruption against Chief Ministers/ Ministers in States, loans advanced to the Jayanti Shipping Company, some LIC deals, activities of some business houses, etc. were exposed in the Rajya Sabha during the Question Hour. The raising of questions had resulted in the appointment of commissions/courts of inquiry into policies and programmes in some of them. The license scandal case of Tulmohan Ram was raised first in the Rajya Sabha during the question time. Needless to say, the Question Hour has played a very significant role in the working of the Rajya Sabha. Every day, 15 Starred Questions are admitted for oral reply on which maximum 5 supplementary questions can be asked. In addition, 160 Questions for written reply are also listed every day.

Another procedural device which has become popular and purposeful is the Calling Attention. This procedure has acquired importance in the Rajya Sabha due to concerted efforts on the part of its Members to make the best use of it, in the absence of the provision for adjournment motion. Due to the practice of calling one member from each party to speak on the subject of calling attention, the discussion becomes an occasion for political parties to register their views on various issues and not merely a device to secure a statement from the Government. For instance, in December, 1983, the House discussed a calling attention on the re-promulgation of Ordinances in some States. This device provided a good opportunity to the House to discuss the constitutional aspects of this important issue. Again in November, 1985, there was a calling attention regarding the

delay in assenting to Bills passed by the State Legislatures and reserved for consideration of the President under article 200 of the Constitution. Both the subjects were discussed in the Rajya Sabha for the first time and highlighted the constitutional issues involved.

More recently, some issues of vital importance, such as utilization of land for non-farming purposes, irregularities in functioning of Medical Council of India (MCI), discrimination and racial profiling faced by students from North Eastern States; strike of workers of organized and unorganized sectors, misuse of social media platforms to spread rumours and fake news leading to rising incidents of violence and lynching in the country, situation arising out of climate change in the country and the steps taken by the Government in regard thereto, etc. were discussed in the Rajya Sabha through the device of calling attention.

The procedural device of ‘Special Mention’ has been incorporated in the Rules of Procedure of Rajya Sabha under the rules 180A to 180E since July, 2000. It is a convenient mechanism for the Members to highlight or to bring to the notice of the House and the Government, matters of urgent public importance. It provides an opportunity to the Members to raise such matters from the pre-approved text, not exceeding 250 words. The added advantage of this procedure is that Members get written replies to their special mentions from the concerned Ministers.

Apart from these, there are well established procedural devices such as ‘short duration discussion’, ‘half- an-hour discussion’, ‘motions’, etc. which have been used in the Rajya Sabha from time to time to raise issues of public importance. The Members can also seek suspension of rules under Rule

267 to discuss urgent issues, though the Chair usually advises Members to seek discussion under any other Rule without having to suspend the rules under Rule 267. As per the practice, Members can also raise matters of recent and urgent public importance with the permission of the Chair (Zero Hour Submissions) subject to a maximum of 15 such matters. A Member has to make his submission within three minutes. The optimum use of these parliamentary devices by the Members in raising issues of public importance has contributed in making the Rajya Sabha fulfil its deliberative functions, assess the performance of the Executive, oversee the administration and ventilate public grievances and reflect popular will.

Rajya Sabha as a Debating Chamber

The Bryce Conference had observed that it would be more useful if discussion on important questions were carried on in a House where the results of such discussions would not involve the fall of the Government. Shri N. Gopalaswami Ayyanagar, one of the founding fathers of the Constitution expressed the opinion that “the most that we expect the Second Chamber to do is perhaps to hold dignified debates on important issues.”⁵ Usually, the debates in the Rajya Sabha have been of a high order. Though the Rajya Sabha does not vote on the Demands for Grants, a new practice has been started since 1970, to discuss the working of few selected Ministries every year. As these debates on Ministries entail no risks for the Government, their nature, character and efficacy differ vitally from those in the other House. The discussions held in the Rajya Sabha are thorough and dispassionate, contributing significantly to its profile as an important deliberative chamber.

⁵ C.A. Deb., Vol. IV, 28.07.1947, p. 876.

Rajya Sabha as a Federal Chamber

Except for the twelve members nominated by the President for their special knowledge or practical experience in respect of such matters as literature, science, art and social service, the remaining members are elected by the elected members of the State Legislative Assemblies by a system of proportional representation by means of the single transferable vote. The above four identified fields for the nomination may seem limited but in practice these are vast and diverse to include talents from any field. The nominations of eminent sportspersons such as Shri Sachin Ramesh Tendulkar, Smt. M.C. Mary Kom, etc. amplify the flexibility of the constitutional provision regarding nomination. Although equality of seats for each State has not been provided for, the Rajya Sabha is generally taken to represent the constituent States.

The Rajya Sabha has been assigned special powers on the subjects relating to States. These relate to the passing of resolutions (i) to enable Parliament to make a law on a State subject for the whole of India or any part thereof (article 249); (ii) to enable Parliament to create by law an All-India Service (article 312) and (iii) to extend the life of a Proclamation issued under articles 352, 356 and 360 in the events of the dissolution of the Lok Sabha.

Under article 249, Provisional Parliament had passed a resolution in 1950 and continued it by another resolution in 1951, conferring power on Parliament to legislate with respect to (i) trade and commerce within the State and (ii) production, supply and distribution of goods. Accordingly, Parliament enacted the Supply and Prices of Goods Act, 1950. In order to continue the same, a resolution was passed by the

Rajya Sabha (which had by that time come into being under the Constitution) in July, 1952. For the first time after its constitution, the Rajya Sabha adopted in August, 1986 by a special majority a resolution under article 249, conferring power on Parliament to make laws to deal with terrorism in Punjab. Under article 312 of the Constitution, Parliament is empowered to create by law one or more All India Services common to Union and the States, if the Rajya Sabha passes the requisite resolution. The Rajya Sabha passed such resolutions in 1961 and 1965 for the creation of the Indian Service of Engineers, the Indian Medical and Health Service, the Indian Forest Service, the Indian Agriculture Service and the Indian Educational Service⁶. As regards the extension of life of a proclamation in respect of a State under President's Rule, a two-day Special Session of the Rajya Sabha was called on 28 February and 1 March, 1977, to approve the continuance of the proclamations issued by the President in respect of Nagaland and Tamil Nadu since the Lok Sabha had already been dissolved. Again on 3 and 4 June, 1991, a Session of the Rajya Sabha was convened due to the dissolution of the Lok Sabha, to approve the proclamation issued by the President under article 356 of the Constitution, in relation to the State of Haryana.

⁶ R.S. Deb., dated 06.12.1961, c. 1280-1305 and 30.03.1965, c. 5010-91.

THE CHAIRMEN AND SOME LEADING LUMINARIES OF THE RAJYA SABHA

All these years, the Rajya Sabha has been fortunate in having as its Chairman, persons of great eminence. Dr. S. Radhakrishnan, the first Chairman was a philosopher and statesman of world repute. He was followed by Dr. Zakir Husain, who was an educationist and a scholar of eminence and a man with a gracious personality. Dr. Zakir Husain was first nominated to the House in 1956. He was the only nominated Member of the House to have become its Chairman (1962-67). The third Chairman, Shri V.V. Giri, was a famous labour leader, a person with socialist outlook and a true representative of the common man. First three Chairmen of the House were recipient of highest civilian honour 'Bharat Ratna'. Shri G.S. Pathak, who succeeded Shri Giri was an eminent legal luminary having the distinction of being a Judge at Allahabad High Court (1945-46). He was followed by Shri B.D. Jatti, a distinguished social and political worker. Shri M. Hidayatullah, the leading light of law and former Chief Justice of India, was the sixth Chairman. Shri R. Venkataraman, an able and experienced administrator, was the seventh Chairman of the Rajya Sabha. Dr. Shanker Dayal Sharma, a scholar of eminence and an able administrator was the eighth Chairman of the Rajya Sabha. Shri K.R. Narayanan, a career diplomat and a renowned scholar was the ninth Chairman of the Rajya Sabha. Shri Krishan Kant, a freedom fighter and a prolific writer, was the tenth Chairman of the Rajya Sabha. Shri Bhairon Singh

Shekhawat, the eleventh Chairman of the Rajya Sabha, was an agriculturist with vast legislative and administrative experience. Shri Mohammad Hamid Ansari, a distinguished diplomat, an eminent academician and an ardent advocate of the cause of the minorities was the twelfth Chairman. He became the second Chairman after Dr. S. Radhakrishnan to have been elected for two successive terms. The thirteenth Chairman, Shri M. Venkaiah Naidu is the first sitting Member of the Rajya Sabha to become its Chairman. He is an eminent parliamentarian with vast experience in public life. His deep and abiding commitment to the cause of farmers, poor and the rural masses is widely acknowledged.

All of them have given an aura of dignity to the House by conducting its proceedings with judicious combination of firmness, fairness and flexibility. They have enhanced the stature of the House and helped the Rajya Sabha to play its constitutional role in the Indian Parliamentary System.

Article 80 of the Constitution provides for nomination of 12 Members to the House from the field of art, literature, science and social service. This has contributed to the maintenance of high level of debate and dignified character of the House as very eminent personalities from diverse fields of national activities have been members of the Rajya Sabha. They have added strength and lusture to this body. It would be a matter of pride for any legislative chamber in the world to have such illustrious members as Dr. Zakir Husain, Prof. Satyendranath Bose, Shrimati Rukmini Devi Arundale, Shri Kakasaheb Kalelkar, Shri Maithilisharan Gupta, Dr. Radha Kumud Mookerji, Dr. Harivansh Rai Bachchan, Shri Prithviraj Kapoor, Sardar K.M. Pannikar, Dr. Salim Ali and many others to adorn its seats. This galaxy of eminent

people was later joined by Shri M.F. Hussain, the famous painter, Pt. Ravi Shankar, the internationally renowned sitarist, Shri R.K. Narayan, novelist, Shrimati Amrita Pritam, poetess, Shrimati Ela Ramesh Bhatt, the social worker and Magsaysay Award winner, Shrimati Nargis Dutt, noted actress, Shrimati Vyjayantimala Bali, famous danseuse and veteran cine artiste, Dr. Raja Ramanna, atomic scientist, Shrimati Shabana Azmi, noted film personality and social worker, Dr. C. Narayana Reddy, a renowned Telugu poet, Prof. Rasheeduddin Khan, eminent academician, Shri Khushwant Singh, prominent author, Shri Kuldip Nayar, a well-known journalist, author and human rights activist, Shri Mrinal Sen, a well-known film maker, Ms. Lata Mangeshkar, a renowned singer, Shri Fali S. Nariman, a reputed lawyer, Shri Cho S. Ramaswamy, a noted journalist, Shri Nana Deshmukh, a well-known social worker, Dr. K. Kasturirangan, scientist and technocrat, Shri Bimal Jalan, an economist, Shri Vidya Nivas Misra, a well-known writer, Dr. Chandan Mitra, a noted journalist, Kumari Nirmala Deshpande, a dedicated social worker, Shrimati Hema Malini, noted film personality, Shri Dara Singh, a cine artiste and sportsperson, Shri V.T. Krishnamachari, noted administrator, Prof. S. Nurul Hasan, distinguished historian and statesman, Shri M.N. Kaul, noted civil servant and expert in parliamentary practice and procedures, Dr. Narayan Singh Manaklao, a renowned social worker, Shri Shyam Benegal, a noted producer/film maker, Shri Ram Jethmalani, an eminent lawyer/advocate, Dr. (Smt.) Kapila Vatsyayan, noted educationist/ writer, Shrimati Shobhana Bhartia, reputed publisher, Prof. M.S. Swaminathan, an agriculture scientist, Dr. C. Rangarajan, an economist, Shri H.K. Dua, well-known journalist, Dr. Ashok S. Ganguly, corporate manager, Dr. Bhalchandra Mungekar, a social worker and economist,

Shri Sachin Ramesh Tendulkar, a renowned cricketer, Ms. Rekha, an eminent film artiste, Shri Mani Shankar Aiyar, a diplomat, journalist/writer and political and social worker, Shri Javed Akhtar, noted script writer, lyricist and poet, Shrimati B. Jayashree, an artiste/director, Prof. Mrinal Miri, a teacher and an educationist, Ms. Anu Aga, an eminent social worker, Shri K.T.S. Tulsi, Senior Advocate, Supreme Court of India, Shri K. Parasaran, an eminent lawyer/advocate, Shri Swapan Dasgupta, an eminent journalist and writer, Dr. Narendra Jadhav, a noted economist, writer and educationist, Shrimati M.C. Mary Kom, a renowned sports person, Shri Navjot Singh Sidhu, a well-known cricketer and a public figure, Shri Suresh Gopi, veteran cine artiste, Dr. Subramanian Swamy, an eminent teacher, educationist and economist, Shri Sambhaji Chhatrapati, an eminent social worker, Shrimati Roopa Ganguly, a noted artiste, Shri Ram Shakal, an eminent public figure and farmers' leader, Shri Rakesh Sinha, prominent author, columnist and academician, Dr. Sonal Mansingh, a noted exponent of Indian classical dance, a well known choreographer and social activist, Shri Raghunath Mohapatra, a renowned authority on stone carving and Shri Ranjan Gogoi, legal luminary and former Chief Justice of India. The presence of these persons of experience and expertise has made the Rajya Sabha a body to be looked upon with reverence and expectation.

RELATIONSHIP BETWEEN THE TWO HOUSES

In Indian constitutional literature, the Rajya Sabha is regarded as the Second Chamber. However, the Rajya Sabha does not play a secondary role. It is not a replica of the other House either. At the same time, barring a few instances of discord between the two Houses, the relationship between the two Houses has all along been smooth. Both the Houses have developed their distinct personality and functional identity and yet at the same time worked in cooperation rather than confrontation, in harmony rather than as hindrance to each other. They have lived up to the ideal as propounded by Pandit Jawaharlal Nehru⁷:

Our guide must be our own Constitution which has clearly specified the functions of the Rajya Sabha and the Lok Sabha. 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 Constitution treats the two Houses equally except in certain financial matters which are to be the sole purview of the House of the People.

⁷ R.S. Deb., 06.05.1953, c. 5038-39.

Apart from the constitutional provisions, Rules of Procedure also contribute to the development of healthy and smooth relationship between the two Houses. These rules are intended to preserve the sanctity and dignity of proceedings of the Houses by instilling mutual restraint and regard and recognising the independence of each House. In addition, there is a certain in-built mechanism, partly emanating from the Constitution and partly evolved through years of practices and conventions, which generates and regulates the smooth relationship between the two Houses.

CONCLUDING OBSERVATIONS

As a matter of fact, the Rajya Sabha is one of the few active Upper Houses in the world. As a legislative chamber, it has acquitted itself well in its revisory role. Despite some functional constraints, the Rajya Sabha has kept its constant guard on the national and general public interest. This has made it, at times, the most vibrant House pulsating with animated debates. Although the Rajya Sabha does not enjoy any power either with regard to Government formation or to its continuation in office, it has shown on many occasions its moral prowess and the strength of its collective will to hold the Executive accountable for its lapses, corruption, irregularities and malpractices in administration. The proceedings of the House are replete with glorious instances of the Rajya Sabha's irrepressible will and considerable power of intervention in matters concerning public life and general good of the people. It has always displayed ample and sustained concern for the less privileged, the oppressed and the deprived. It has made full use of all the parliamentary devices such as questions, calling attention, etc., for raising matters of urgent public importance and securing public good.

It is difficult to recapitulate all the achievements and work done by the Rajya Sabha ever since its inception. But there is no doubt that as a legislative chamber, the Rajya Sabha has developed a vigorous and unique personality of its own. As a deliberative House, it has contributed to the public debate on issues of national and international importance. As a nation's apex parliamentary institution, it

has endeavoured to promote and foster feelings of national unity and integrity. By discussions and decisions, the Rajya Sabha has contributed to improving the quality of life of our people and strengthening their faith in our parliamentary democracy.

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