



- The Lok Sabha has a Speaker as its principal presiding officer & a deputy speaker to assist her & manages as presiding officer in the absence of the speaker.
- The Rajya Sabha is presided by the Chairperson, assisted by a deputy chairperson.
- The latter performs all the duties & functions of the former in case of his/her absence.

#### THE SPEAKER

##### HISTORY

- Though the legislature came into existence under the charter act of 1853 the meetings of these bodies till 1920 were presided over by governor general.
- The first elected president of the central assembly was Vitthalbhai Patel who held his office from 1925 to 1930
- GOI Act 1935 provided the office of the speaker & deputy speaker but due to non implementation of the middle path of act this provision could not be implemented
- It was only in 1946 that GV Mavalankar elected as speaker of the legislative assembly & continued till 1956.
- In 1921 - called as President & deputy President till 1947
- 1921 Fredrick White & Sachidanand Sinha appointed as first speaker & deputy speaker of central assembly
- 1925 – Vitthalbhai J. Patel - first Indian elected speaker of central legislative assembly
- GOI act 1935 changed nomenclature but same nomenclature was continued till 1947 as the federal part of GOI Act 1935 was not implemented
- G.V. Malvankar & Ananthasayanam Ayyangar first speaker & deputy speaker

##### FUNCTIONS

- The position of the Speaker of the Lok Sabha is more or less similar to the Speaker of the English House of Commons.
- The office of the Speaker is a symbol of high dignity and authority.
- Once elected to the office, the speaker does not have affiliation to any party but works in an impartial manner.
- He/ She acts as the guardian of the rights and privileges of the members.

- She has the power to ensure an orderly and efficient conduct of the proceedings of the House.
- He/She conducts the proceedings of the house, maintains order and decorum in the house & decides points of order, interprets and applies rules of the house.
- The Speaker's decision is final in all such matters.
- The Speaker certifies whether a bill is money bill or not
- He/she also authenticates that the house has passed the bill before it is presented to the other House or the President for his assent.
- The Speaker in consultation with the leader of the house determines the order of business.
- He/she also decides on the acceptability of questions, motions & resolutions.
- The Speaker does not vote in the first instance but can exercise a casting vote in case of a tie.
- The Speaker appoints the chairpersons of all the Committees of the House & exercises control over the Secretarial staff of the house.
- The Speaker's conduct cannot be discussed in the House except in a substantive motion.
- His/Her salary & allowances are charged to the Consolidated Fund of India.
- When the House is dissolved, the Speaker does not vacate his/her office. He/She continues in office until the new House elects a new Speaker.
- In the absence of the Speaker, the Deputy Speaker presides the House.
- Acts as ex-officio chairman of Parliamentary groups & inter-parliamentary union.
- Speaker – Chairman of Business Advisory committee, Rules committee & General Purpose committee.
- Speaker can be removed only by a resolution passed by LS by absolute majority – this motion can be discussed only when it has support of at least 50 members
- Her power of regulating procedure or conducting business or maintaining order in the house are not subject to jurisdiction of any court .
- Her place is sixth rank along with CJI means higher rank than all cabinet ministers except PM or deputy PM .
- In Britain speaker is a non-party man – speaker has to resign from party & remain politically neutral.

- Article 93 is responsible for the position of speaker & deputy speaker. Election of speaker to be held on the very first sitting of the house under the precedence of pro-tem-speaker (senior most member)
- Speaker & Deputy speaker elected separately on motion moved by the respective party leaders
- Convention is gradually developing whereby the candidate sponsored by ruling party is elected unopposed to the office of the speaker & the candidate for the post of deputy speaker is generally from the opposition.
- Speaker is the custodian of the rights and privileges of members of the Lok Sabha. She certifies whether a particular bill is a money bill or not.
- During question hour speaker decides which question should be admitted.
- Speaker allows "half an hour discussion" & admits "adjournment motions" as well as "no confidence motion" against government.
- Speaker is the head of the Lok Sabha secretariat without her permission no officer or employee of the Lok Sabha can appear as a witness in any court of law.
- Speaker is the channel through which all communications between house & President must pass.
- British tradition of speaker - the speaker's constituency be left uncontested or that once a speaker always a speaker.
- An unhealthy trend is developing & speakers are brought into active politics and offered governorships.
- With no security in the continuity of office, the Speaker is dependent on his or her political party for reelection.
- This makes the Speaker susceptible to pulls & pressures from her/his political party in the conduct of the proceedings of the Lok Sabha.
- Speaker draws powers from – constitution, rules of procedures & conduct of business of LS & Parliamentary convention i.e. unenumerated residuary powers.
- Speaker maintains order & decorum of house, final interpreter of the provisions of constitution, rules procedure & conduct of business of LS & parliamentary precedence of house
- Can allow a secret meeting on request of leader of house – decides whether is a money bill
- Final decision on disqualification but amounts to judicial review on such disqualification
- 'Ultimate interpreter & arbiter of those provisions which relate to the functioning of the House.

- Decides the duration of debates, can discipline members and even override decisions by committees.
- The Speaker in consultation with the leader of the house determines the order of business.
- She decides on the admissibility of questions, motions and resolutions.
- The Speaker has power to quell disorderly behaviour. But thereafter, the House is the master. It can overrule the Speaker (Rule 374A).
- The Speaker can adjourn the House or suspend a sitting. The Speaker has no power to refuse a debate unless an undertaking is given for good conduct in future.
- In the event of grave disorder, the Speaker may adjourn the House or suspend the sittings. He cannot stipulate good behaviour as condition for debate.

#### DEPUTY SPEAKER

- Date of election of deputy speaker is fixed by speaker – can be removed by a resolution passed by LS – with a 14 day advance notice .
- Performs duties of speaker's when it is vacant or when speaker is absent – presides joint sitting when speaker is absent
- Deputy speaker is not subordinate of speaker . He is directly responsible to LS .
- Whenever he is appointed as member of parliamentary committee he automatically becomes its chairman .
- While presiding over the house cannot vote in the first instance but can vote only in case of tie .
- When speaker presides over the house ,the deputy speaker is like ordinary member of the house . She can speak, participate in proceedings & vote on any question before house
- Since 11<sup>th</sup> LS there has been consensus that post of deputy speaker goes to main opposition party
- No separate oath or affirmation
- Panel of chairpersons of LS – speaker nominates a panel of ten members – any of them can preside over the house in the absence of speaker & deputy speaker .
- If the whole panel is absent any person as determined by house acts as speaker .
- Member of panel of Chairpersons cannot preside over the house when office of speaker & deputy speaker is vacant – President can appoint any member for such purpose
- Speaker Pro Tem – President appoints the senior most member usually – President administer oath to the Pro tem speaker – has all powers of speaker –presides over the first sitting of newly appointed LS – main duty is to administer oath to new members.

- Post of Deputy Speaker of the Lok Sabha vacant since 2019, according to Delhi High Court, is a violation of Article 93 of the Constitution.
- In terms of precedence, the Deputy Speaker is in the tenth place along with the Deputy Chairman of the Rajya Sabha, Ministers of State of Union and members of the Planning Commission.
- Though it has not been mandated by law, it is a parliamentary convention that a member of the Opposition assumes the Deputy Speaker's post. This ensures a balance in the proceedings and offers the Opposition a fair chance to voice their opinions in the House.
- In the fourth and fifth Lok Sabha (1969-1977), Mr. G.G. Swell of the Meghalaya-based All Party Hill Leaders Conference was elected as the Deputy Speaker, when the Indira Gandhi-led Congress was in power. The tradition continued post-Emergency, when the Janata Party swept into power. Congress' Godey Murahari was elected to the post between 1977-79.
- The tradition was first altered between 1980 and 1989.
- In the seventh Lok Sabha (1980-84), Congress, which swept back to power, elected Mr. G Lakshmanan belonging to its alliance party Dravida Munnetra Kazhagam (DMK) as Deputy Speaker.
- However, in 1984, Congress joined hands with DMK's rival – All India Anna Dravida Munnetra Kazhagam (AIADMK) and was awarded a landslide victory.
- Mr. M. Thambidurai of the AIADMK was elected as Deputy Speaker.

#### CHAIRPERSON OF RAJYA SABHA

- The Vice-President of India is the ex-officio chairperson of the Rajya Sabha.
- When the Vice-President acts as a President he/she does not perform the duties as a presiding officer of the Rajya Sabha.
- The Vice-President is elected by the members of both the Houses of Parliament assembled at a joint meeting, by the system of proportional representation by means of single transferable vote and the voting at such elections is by secret ballot.
- The Vice-President is not a member of either House of Parliament or a House of the Legislature of any State.
- She/He holds office for a term of five years from the date on which he enters upon his office or until she resigns or is removed from his office by a resolution passed by a majority of members of the Rajya Sabha & agreed by the Lok Sabha.

- The functions & duties of the Chairperson of the Rajya Sabha are the same as those of the Speaker of the Lok Sabha.

#### DEPUTY CHAIRMAN OF RAJYA SABHA

##### ELECTION OF DEPUTY CHAIRPERSON OF RAJYA SABHA

- Any Rajya Sabha MP can submit a motion proposing the name of a colleague for this constitutional position.
- The motion has to be seconded by another MP.
- Additionally, the member moving the motion has to submit a declaration signed by the MP whose name s/he is proposing stating that the MP is willing to serve as the Deputy Chairperson if elected.
- If there are motions that propose the names of more than one MP, then the majority of the House will decide who gets elected as the Deputy Chairperson.
- But if the political parties arrive at a consensus candidate, then that MP will be unanimously elected as the Deputy Chair.
- Resigns to Chairman – can be removed by passing a resolution on 14 days of advance notice – operates all functions of chairman when office is vacant
- Deputy chairman is not subordinate to chairman – is directly responsible to RS – cannot vote at first instance but can vote at the time of tie .
- When removal resolution is under consideration he cannot preside over sitting of house .
- When chairman presides over house deputy chairman is like any other ordinary members – can vote on any issue
- Panel of vice-chairpersons of RS – Chairman nominates – presides in the absence of chairman & deputy chairman – cannot preside when office of chairperson is vacate

##### MONEY BILL & FINANCE BILL

- It has its origin in the U.K., where in 1911 the powers of the unelected House of Lords over the Budget were curtailed.
- The Budget was required to be passed only by the House of Commons that reflected the will of the people.
- Procedurally, bills can be divided into four parts. They are ordinary bills, money bills & finance bills, Ordinance Replacing Bills & Constitutional amendment bills.
- Constitutionally, a money bill contains the imposition, abolition, remission, alteration or regulation of any tax.
- But the imposition of local taxes doesn't come under the purview of the money bill.
- The regulation of the borrowing of money by the Union govt also comes under its ambit.

- The payment of moneys into or the withdrawal of moneys from Consolidated Fund or the Contingency Fund of India also come under this bill.
- While the contingency fund is an emergency fund.
- The appropriation of money out of the Consolidated Fund of India & the declaring of any expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure comes under money bill.
- Any matter “incidental” to any of the matters specified above also comes under the money bill.
- There is no exact definition of the word “incidental” given in Article 110. So for long the govts have been allegedly misusing this clause to expand the ambit of the money bill
- Bill is not deemed to be a money bill if it provides for, Imposition of fine or other pecuniary penalties or Demand or payment of fees for licences or fees for service rendered or imposition ,abolition, remission ,alteration or regulation of any tax by any local authority or body for local purpose
- Finance bill may be said to be any bill which relates to revenue and expenditure. But the finance bill is not a money bill.
- Article 110 states that no bill is a money bill unless it is certified by the Speaker of the Lok Sabha. A money bill cannot be introduced in the Rajya Sabha.
- Once a money bill is passed by the Lok Sabha, it is transmitted to the Rajya Sabha.
- The Rajya Sabha cannot reject a money bill.
- Within a period of fourteen days from the date of receipt of the bill, it must return the bill to the Lok Sabha which may thereupon either accept or reject all or any of the recommendations.
- If the Lok Sabha accepts any of the recommendations, the money bill is deemed to have been passed by both Houses.
- Even if the Lok Sabha does not accept any of the recommendations, the money bill is deemed to have been passed by both the Houses without any amendments.
- According to article 110 of the Constitution, money bill comprise a set of seven features, broadly including items such as the imposition or regulation of a tax; the regulation of the borrowing of money by the Govt of India; the withdrawal of money from the Consolidated Fund of India; and so forth.
- Article 110 further clarifies that in cases where a dispute arises over whether a bill is a money bill or not, the Lok Sabha Speaker’s decision on the issue shall be considered final.
- The Speaker’s decision is beyond judicial review finds support in the Supreme Court’s judgment in Mohd. Saeed Siddiqui v. State of UP (2014).
- Wording of Article 110, which vests no unbridled discretion in the Speaker. The provision requires that a bill conform to the criteria prescribed in it for it to be classified as a money bill.
- Article 110(1)(a) to (f) defines a money Bill as a bill that contains ‘only’ provisions dealing with one or more of six specific matters. They relate to taxation; borrowing by government; custody of consolidated fund or contingency fund and payment/withdrawal of money from such fund; appropriation out of consolidated fund; expenditure charged on consolidated fund; receipt on account of consolidated fund or public account or the audit of accounts of Union or States.
- Clause (g) of Article 110 (1) provides that any matter incidental to these six matters can also be classified as a money Bill.
- Classic examples of money Bills include the Finance Act and the Appropriation Act that deal primarily ‘only’ with taxation and spending out of the consolidated fund respectively.
- Supreme court in Raja Ram Pal v. Hon’ble Speaker,(2007) :- there are numerous circumstances where the court can review parliamentary pronouncements, including instances where a Speaker’s choice is grossly illegal, or disregards basic constitutional mandates, or, where the Speaker’s decision is riddled with perversities, or is arrived at through dishonest intentions.
- Finance Bill includes rates of taxation, contain provisions regarding machinery for collection, etc. are certified as Money Bills.
- Similarly, a Bill seeking to amend or consolidate the law relating to Income-tax is treated as a Money Bill.
- Financial Bill does not exclusively deal with all or any of the matters specified in the article 110
- Bills deals with fiscal matters i.e. revenue or expenditure – technical term
- 3 bills – (A) Money bills –art. 110, (B)Financial bills (I)- art.117(1) ,(C) Financial bills (II)- art 117(3)
- Money bills are simply a species of financial bills but all financial bills are not money bills
- Financial bills ( I ) – contains any matter in art 110, also matters of general legislation – not dealing with borrowings - art 117(1)
- Money bill & Financial bill ( I ) – similarity- can be introduced in LS & not in RS – Introduced only after recommendation of President – in other



aspects Financial bill( I ) is governed by ordinary legislative methods

- Financial bills (II) – contains provisions involving expenditure from CFI – but none of matters mentioned in art 110 – treated as ordinary bill – can be introduced in either house – recommendation of President is not necessary -

Why Finance Bill is needed ?

- Union Budget proposes many tax changes for the upcoming financial year, These proposed changes pertain to several existing laws dealing with various taxes in the country.
- The Finance Bill seeks to insert amendments into all those laws concerned, without having to bring out a separate amendment law for each of those Acts
- The most awaited changes in the tax proposals in the Union Budget usually pertain to personal income tax.
- In addition, there might be changes in the rules, procedures, deadlines for filing tax returns or the payment of tax itself.

IN THE DISPUTED ISSUES OF MONEY BILL

- A Constitution Bench in Raja Ram Pal v. Hon'ble Speaker, (2007), where the court had ruled that clauses that attach finality to a determination of an issue do not altogether oust the court's jurisdiction
- Article 110(3), states that in cases where a dispute arises over whether a bill is a money bill or not, the Speaker's decision shall be considered final.
- The idea behind a money bill is derived from British parliamentary custom.
- But unlike in Britain, where judicial review of the Speaker's opinion is unambiguously prohibited, in India, Article 110 avoids creating any such bar.
- Certification of a Bill as a 'money Bill' by the Speaker came under judicial review during the scrutiny of the Aadhaar Act passed in 2016.
- This law contains provisions with respect to process for enrolment and authentication, establishment of authority for Aadhaar, mechanism for safeguards, and penalties for offences under the Act.

- Section 7 of the Act provides that the Central or State government may require Aadhaar authentication of an individual as a condition for providing subsidy, benefit or service, for which expenditure is incurred from the consolidated fund.
- Stating the withdrawal of funds from the consolidated fund as the primary purpose of the Act, with all other provisions being incidental to it, this law was passed as a 'money Bill'.
- While this was a debatable classification, the Supreme Court upheld this with a majority of 4:1. The current CJ D.Y.Chandrachud was the lone dissenting judge who held that the Aadhaar Act did not fulfil the definition of a 'money Bill'.
- The Finance Act, 2017 was even more controversial, in passing amendments to various Acts for reorganisation of tribunals such as the National Green Tribunal, as a money Bill.
- These amendments were struck down in Rojer Mathew versus South Indian Bank (2019) wherein a five-judge Bench opined that the Aadhaar case judgment did not substantially discuss the effect of the word 'only' in the definition of money Bill.
- It referred the matter to a larger seven-judge Bench for an authoritative judgment on the definition of money Bills.
- The Speakers should also uphold the spirit of the definition while certifying a 'money Bill.'
- Notably, the Finance Act, 2019, made far-reaching amendments to the Prevention of Money Laundering Act, 2002 (PMLA) through a Money Bill.
- The changes made included alterations to the definition of what constitutes "proceeds of crime" and a bestowal on the Enforcement Directorate of draconian powers of arrest, attachment, and search and seizure. The Supreme Court upheld many of these amendments, in Vijay Madanlal Choudhary vs Union of India (2022), but kept open the question of whether the amendments could have been validly made through a Money Bill.