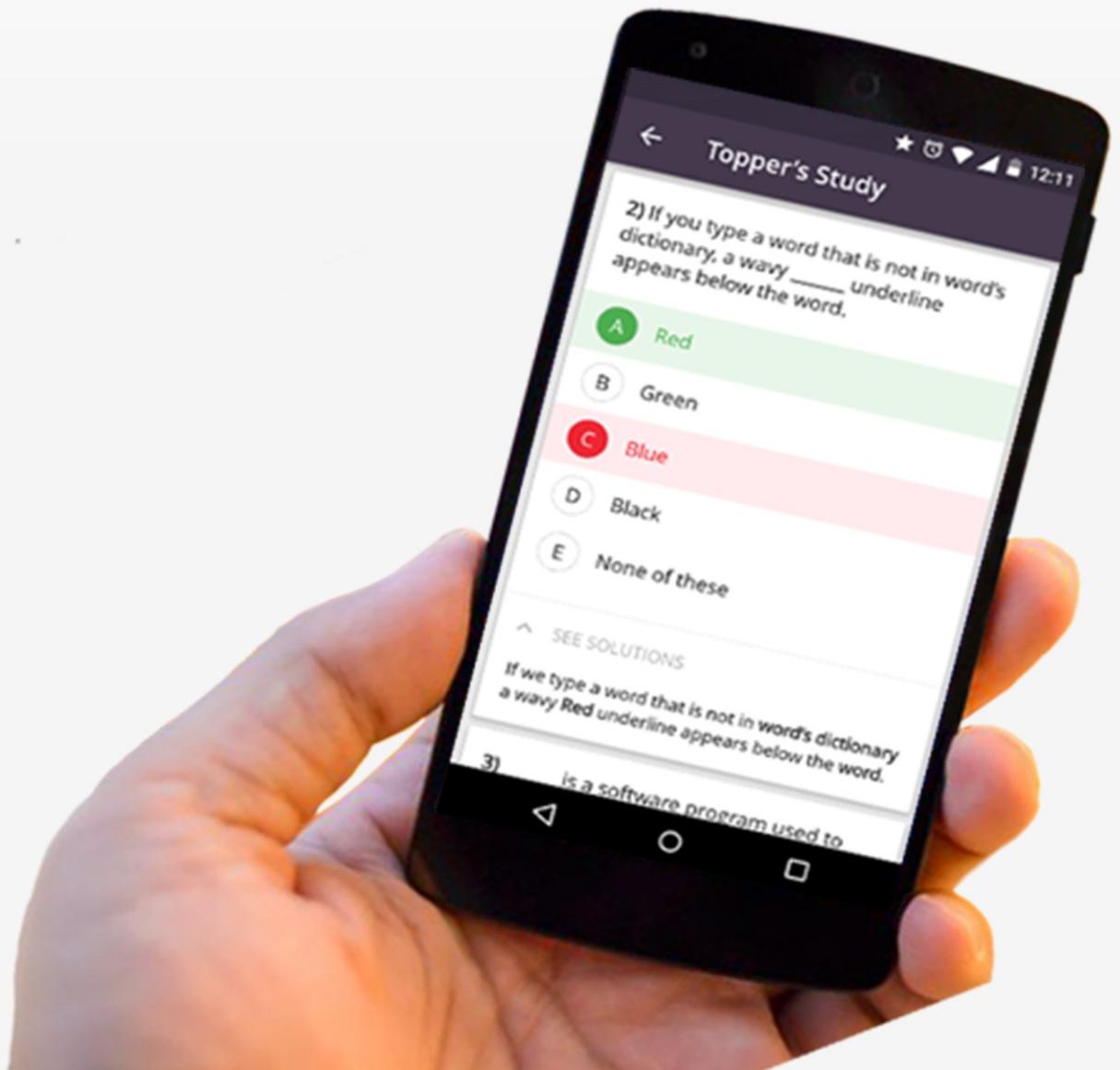




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Indian Polity Notes

Part - 2



THE PRESIDENT

- (1) **Article 52** – There shall be a President of India
- (2) **Article 53** – Executive power of the Union: The executive power shall be vested in the President and shall be exercised by him either directly or through officers' sub-ordinate to him.
- (3) He is the supreme commander of the defense forces in India.
- (4) Though he's only the constitutional head, or titular head, *de jure head* or nominal executive or just a symbolic head.

Election of the President

1. The President shall be elected by the members of an ELECTORAL COLLEGE consisting of:
 - (a) The ELECTED MPs
 - (b) The ELECTED MLAs of the states
 - (c) The ELECTED MLAs of National Capital territory of Delhi (added by 70th Amendment Act, 1992 and with effect from 1-06-1995) and Union territory of Puducherry.
2. Thus, nominated members of parliament and legislative assemblies and members of legislative councils do not participate in presidential election.
3. Article-55 provides for manner of election and there should be uniformity and representation throughout the Nation as per the constitution. Hence, MPs and MLAs have been assigned votes as per their representation.
4. Election is held in accordance with system of proportional representation by means of single transferable vote and voting is done by secret ballot.
5. All doubts and disputes arising out of the Presidential elections are decided into and enquired by the Supreme Court whose decision is final.
6. The elections are monitored and conducted by the Election Commission of India.
7. Only one President, that is, **Neelam Sanjiva Reddy** has been elected unopposed so far.
8. Dr. Rajendra Prasad is the only President to have been elected twice.
9. Two Presidents – Dr. Zakir Hussain and Fakhruddin Ali Ahmed have died in the office.

Term of office (Article 56) and Re-election (Article 57)

1. Term – 5 years.
2. Resignation is addressed to the Vice-President.
3. The President is eligible for re-election for any number of terms.

Qualification (Article 58), Conditions (Article 59) & Oath (Article 60)

1. Eligibility -
 - (a) citizen of India
 - (b) 35 years
 - (c) Is eligible for election as an MP of the House of the People.
2. Shouldn't hold office of profit.
3. The President shall not be a member of either House of Parliament of any Legislature. Even if such a member is elected, he is deemed to have vacated that seat.

4. The nomination of a candidate for election must be subscribed by at least 50 electors as proposers and 50 electors as seconders.
5. Oath administered by the Chief Justice of India or in his absence the senior-most judge of the Supreme Court available.
6. Emoluments, allowances and privileges etc. as may be determined by the parliament and which can't be diminished during his term.
7. He is immune from any criminal proceeding during his term. He can't be arrested or imprisoned. However, after two-month' notice civil proceedings can be initiated against him during his term in respect of his personal acts.

Impeachment of the President (Article 61)

1. A formal removal of the President from his post by constitutional means.
2. He is impeached for the 'Violation of the Constitution'. However, the term is defined nowhere in the constitution.
3. The charges can be preferred by either house of the parliament. However, a 14-days' notice shall be served to the President before the acceptance of such a resolution.
4. Also, that notice must be signed by at least one-fourth members of the total members of that house which initiated the charges.
5. After the acceptance of that bill in that house, that impeachment bill must be passed by the majority of 2/3rd of the total membership of that house.
6. Then that bill goes in another house which should investigate the charges and the President shall have the right to appear and to be represented at such an investigation.
7. If another house sustains the charges and finds the President of violation, and passes that resolution by 2/3rd of the total membership of that house, the President stands removed from the date the resolution is so passed.
8. Hence, impeachment is a quasi-judicial process. And though, the nominated members of Parliament do not participate in his election, they take part in the impeachment process. Also, states' legislatures do not have a role in the impeachment process.

Powers of the President

1. Executive Powers

1. All executive actions are taken in his name. He is the formal, constitutional, titular head or *de jure* head of the Government.
2. Appoints the P.M and other ministers on P.M's advice.
3. Appoints the Attorney General of India, CAG, Chief Election Commissioner and other Commissioners, the chairman and members of UPSC, Governors of states, Chairman and members of Finance Commission etc.
4. He appoints Inter-State Council and he is the one who can declare any area as scheduled area and decides on the matter of declaration of any tribe as scheduled tribe.

2. Legislative Powers

1. Summons and Prorogues the Parliament and dissolves the Lok Sabha.
2. Summons the joint sitting of the two houses of Parliament (which is presided over by the Speaker of Lok Sabha).

3. Nominates 12 members to Rajya Sabha from amongst people having achievements in art, literature, science and social service and may nominate 2 members to Lok Sabha from the Anglo-Indian Community.
4. His prior recommendation is required in case of presentation of certain types of bills such as money bills, bills seeking expenditure from the consolidated fund of India etc.
5. He can withhold his assent to bills, return the bills to the legislatures, apply pocket veto to bills etc.
6. He can promulgate ordinances when the parliament is not in session.
7. He lays the reports of Finance Commission, CAG, and UPSC etc. before the Parliament.
8. No demand for grant can be made except on his recommendation. Also, he constitutes a Finance Commission every five years for distribution of revenues between center and states.

3. Judicial Powers

1. Appoints the Chief Justice and other judges of the Supreme Court and High courts.
2. Seeks advice from the Supreme Court on any question of law.
3. He can grant pardon etc.

4. Emergency Powers

1. National Emergency (Article 352)
2. President's Rule (Article 356)
3. Financial Emergency (Article 360)

5. Veto Powers

The President of India has three types of Veto powers, namely

1. Absolute Veto- Withholding the assent to the bill. The bill then ends and does not become an act. Example- in 1954, Dr. Rajendra Prasad withheld his assent to the PEPSU Appropriation Bill. Also, in 1991 R. Venkataram withheld his assent to the MPs Salaries, allowances bill.
2. Suspensive Veto- Returning the bill for reconsideration. In 2006, President APJ Abdul Kalam used suspensive veto in office of profit bill. However, the President can return the bill for reconsideration to the legislature only once, after which he has to give his consent.
3. Pocket Veto- Taking no action on the bill sent to the President. There's no time limit provided in the constitution within which the President has to give his assent or sign the bill. Hence, he has a 'bigger pocket' than the American President. In 1986, President Zail Singh applied Pocket Veto to Indian Post Office Amendment bill.

NOTE: The President has no veto power in case of a constitutional amendment bill. He is bound to give his assent to such bills.

6. Ordinance Making Powers (Article 123)

1. An ordinance can be issued by the President only when both houses of Parliament are not in session or when only one house is in session.
2. The ordinance must be approved by the Parliament within six weeks of its reassembly.
3. Hence, maximum life of an ordinance is – six months + six weeks.
4. He can issue an ordinance only on the advice of the council of ministers headed by the P.M

7. Pardoning power of the President (Article 72)

1. The President has the power to grant pardon, reprieve, commutation, remission, respite to any persons convicted in any Union Law, or by a court martial or in cases of death penalty.

2. It is an executive power. And the Governor also has those powers under Article 161, however, the Governor can't pardon a death sentence nor can he interfere in court martial cases.
3. The President exercises this power on the advice of the Union Cabinet.

8. Discretionary Powers of the President

1. Appointment of the P.M when no party has a clear majority in the Lok Sabha or when the P.M in office dies suddenly and there's no obvious successor.
2. Dismissal of the council of ministers when it can't prove the confidence of the Lok Sabha.
3. Dissolution of the Lok Sabha if the council of ministers has lost its majority.
4. Use of Suspensive Veto in case of bills.

THE VICE-PRESIDENT: IMPORTANT POINTS

1. The second highest post in the Indian polity and second in order of precedence and the post have been inspired from the US's Constitution.
2. He is the ex-officio chairman of the council of states or Rajya Sabha.
3. Acts as the President during casual vacancy, removal, death or impeachment when the President's post falls vacant.
4. The V.P gets the salary, allowance and remuneration etc. as **the chairperson of the Rjaya Sabha**.
5. Vice-President is elected by members of an **electoral college** consisting of the **members of both the Houses of the Parliament**. The election is held in accordance with the system of **proportional representation** and voting is done by the **secret ballot**.
6. Also no person shall be eligible for election as the Vice-President unless he is a citizen of India and has completed the age of 35 years and is qualified of being a member of Rajya Sabha and should not hold any office of profit.
7. Term is **of five years** from the date on which he enters upon his office.
8. May be **removed** from his office by a **resolution** of the Council of States passed by a **majority of all the then members of the Council** and agreed to by the House of the People; but no resolution for the purpose of this clause shall be moved unless at least **fourteen days'** notice has been given of the intention to move the resolution **(Article 67(b))**.
9. Oath administered by the **President**, or some person appointed in that behalf by him, an oath or affirmation.
10. Dr. S. Radhakrishnan was the first V.P of India.
11. The V.Ps who went on to become the Presidents – Dr. S. Radhakrishnan, Zakir Hussain, V.V. Giri, R. Venkataraman, S.D. Sharma, K.R. Narayanan.
12. Because of the limited powers and functions the V.P of India is also at times termed as **"HIS SUPERFLUOUS HIGHNESS"**.

THE PRIME MINISTER & THE COUNCIL OF MINISTERS

The Prime Minister

1. India has had **14 Prime Ministers** so far and Shri Narendra Modi is the **14th P.M** of India of the **16th Lok Sabha**.
2. The P.M is the real executive authority or the de facto head in the Indian form of parliamentary governance. He is **appointed** by the President **(Article 75)**.

3. The leader of the majority party in the Lok Sabha, or the party who comes into power after people's mandate forms the government in the center and the leader is the P.M. Hence, he is the **head of the government**.
4. If there's no clear majority in the Lok Sabha by any party, then Presidential discretion comes into action in the selection and appointment of the Prime Minister. Under these circumstances, the President usually appoints the leader of the largest party or coalition in the Lok Sabha as the Prime Minister and asks him to seek a vote of confidence in the House **within a month**.
5. The Prime Minister may be a member of any of the two Houses of parliament.
6. If a person isn't an MP, he still can be appointed as the P.M (or any minister for that matter), however he can remain so only for a period of six consecutive months. After that he must become a member of either Lok Sabha or Rajya Sabha.
7. The longest tenure so far has been of Pt. Nehru of around 16 years and the shortest one of Mr. A.B Vajpayee of 16 days.
8. The no confidence motion was first used against Pt. Nehru in 1963 and was proposed by Acharya Kriplani and for the first time it was successful against A.B Vajpayee in 1996. Though, it was used in Morarji Desai's tenure as well, however he resigned before it could be moved.
9. The oath to the P.M is administered by the President and he holds office during the pleasure of the President.
10. He is the chairman of the Planning Commission, NDC, National Integration Council, Inter-State Council and National Water Resources Council.

The Central Council of Ministers

1. **Article 74-** Council of Ministers to aid and advise the President. The advice shall not be enquired into any court and the President may require the advice to be reconsidered, however he shall act as per the reconsidered advice.
2. **Article 75-** Other provisions as to the Ministers.
3. The P.M shall be appointed by the President and other Ministers shall be appointed by the President on the advice of the P.M.
4. The maximum strength of Ministers, including the P.M in the council of ministers should not be more than 15% of the total number of members of the House of the People. This was added by 91st Amendment Act, 2003.
5. A member who stands disqualified as per the provisions of 10th Schedule shall also cease to be a Minister. This was also added by 91st AA, 2003.
6. The Ministers shall hold office during the pleasure of the President and they shall be collectively responsible to the Lok Sabha.
7. A Minister can continue being a Minister without being a member of either house of parliament for a consecutive period of six months only.
8. The phrase 'Council of Ministers' is mentioned in Article 74 whereas the word Cabinet is mentioned in Article 352.

THE PARLIAMENT (ARTICLES 79-122)

The Organization of the Parliament

1. The Parliament consists of the President, the Lok Sabha and the Rajya Sabha.
2. Lok Sabha is the Lower House (First Chamber or Popular House) and Rajya Sabha is the Upper House (Second Chamber or House of Elders).

The Composition of Rajya Sabha

1. The maximum strength of the Rajya Sabha is fixed at 250, out of which, 238 are to be the representatives of the states and union territories (elected indirectly) and 12 are nominated by the president.
2. At present, the Rajya Sabha has **245** members. Of these, 229 members represent the states, 4 members represent the union territories and 12 members are nominated by the president.
3. The Fourth Schedule of the Constitution deals with the allocation of seats in the Rajya Sabha to the states and union territories.
4. The representatives of states in the Rajya Sabha are elected by the elected members of state legislative assemblies. The seats are allotted to the states in the Rajya Sabha on the basis of population.
NOTE – Population as ascertained on the basis of 2001 census as per 87th Amendment Act, 2003.

The Composition of Lok Sabha

1. The maximum strength of the Lok Sabha is fixed at 552. Out of this, 530 members are to be the representatives of the states, 20 members are to be the representatives of the union territories and 2 members may be nominated by the president from the Anglo-Indian community.
2. At present, the Lok Sabha has 545 members.
3. The representatives of states in the Lok Sabha are directly elected by the people from their respective constituencies.
4. The voting age was reduced from 21 to 18 years by the 61st Constitutional Amendment Act, 1988.

Duration of the two Houses of Parliament

1. The Rajya Sabha is a permanent body and not subject to dissolution. However, one-third of its members retire every second year. The retiring members are eligible for re-election and re-nomination any number of times.
2. Unlike the Rajya Sabha, the Lok Sabha is not a continuing chamber. Its normal term is five years from the date of its first meeting after the general elections, after which it automatically dissolves.

Qualification, disqualifications etc. to be an MP

1. Eligibility
 - (a) Citizen of India.
 - (b) Minimum age – 30 years in Rajya Sabha and 25 years in Lok Sabha.
 - (c) He must possess other qualifications prescribed by Parliament. (Hence, the Representation of People Act, 1951).
2. For being disqualified for being elected as an MP:
 - (a) if he holds any office of profit under the Union or state government
 - (b) If he is of unsound mind and stands so declared by a court.
 - (c) If he is an un-discharged insolvent.
 - (d) if he is not a citizen of India or has voluntarily acquired the citizenship of a foreign state or is under any acknowledgement of allegiance to a foreign state; and
 - (e) If he is so disqualified under any law made by Parliament (RPA, 1951).
3. The Constitution also lays down that a person shall be disqualified from being a member of Parliament if he is so disqualified on the ground of defection under the provisions of the Tenth Schedule.
4. **Double Membership** - A person cannot be a member of both Houses of Parliament at the same time.

5. A House can declare the seat of a member vacant if he is absent from all its meetings for a period of sixty days without its permission.

The Speaker of the Lok Sabha

1. The Speaker is elected by the Lok Sabha from amongst its members (as soon as may be, after its first sitting). The date of election of the Speaker is fixed by the President.
2. The Speaker offers his resignation to the Deputy Speaker and he can be removed by a resolution passed by a majority of members of Lok Sabha, however, only after giving him a 14-day notice.
3. He presides over a joint sitting of the two Houses of Parliament. Such a sitting is summoned by the President to settle a deadlock between the two Houses on a bill.
4. He decides whether a bill is a money bill or not and his decision on this question is final.
5. He can't vote in the first instance, though can vote in the event of a tie. When his removal motion is under consideration, he can take part and speak in the proceedings and can vote as well but not in the case of a tie. He can't preside in that case. However, his motion can be passed by an absolute majority only and can be considered only if it has the support of at least 50 members.
6. G.V Mavalankar was the first Speaker of Lok Sabha.
7. The longest serving Speaker of Lok Sabha so far has been Balram Jakhar.
8. **NOTE** – There's also a post known as *Speaker Pro Tem*, appointed by the President himself. He is usually the oldest member of the last Lok Sabha and he presides over the first session of the incoming Lok Sabha. President administers him the oath.

The Deputy Speaker of the Lok Sabha

1. Like the Speaker, the Deputy Speaker is also elected by the Lok Sabha itself from amongst its members.
2. The date of election of the Deputy Speaker is fixed by the Speaker. The removal process is same as that of speaker and he offers his resignation to the Speaker of the Lok Sabha.
3. Madabhushi Ananthasayanam Ayyangar was the first Deputy Speaker of Lok Sabha.
4. He presides over the joint sitting in case of absence of the Speaker.

Sessions of Parliament

A 'session' of Parliament is the period spanning between the first sitting of a House and its prorogation (or dissolution in the case of the Lok Sabha). The time period between the prorogation of a House and its reassembly in a new session is called 'Recess'. There are usually three sessions. The budget session is the longest and winter is the shortest.

1. The Budget Session (February to May);
2. The Monsoon Session (July to September); and
3. The Winter Session (November to December).

Important parliamentary terms, points, motions, bills, questions and Committees

1. The maximum gap between two sessions of Parliament cannot be more than six months.
2. The President summons and prorogues the two houses of parliament.

3. **Quorum** is the minimum number of members required to be present in the House before transaction of any business. It is one-tenth of the total number of members in each House including the presiding officer. It means that there must be at least 55 members present in the Lok Sabha and 25 in the Rajya Sabha.
4. Every minister and the attorney general of India have the right to speak and take part in the proceedings of either House, any joint sitting of both the Houses and any committee of Parliament of which he is a member, without being entitled to vote.
5. **Lame-Duck session** refers to the last session of the existing Lok Sabha, after a new Lok Sabha has been elected.
6. **Question Hour** is the first hour of every parliamentary sitting.
7. A **starred question** (distinguished by an asterisk) requires an oral answer and hence supplementary questions can follow.
8. An **unstarred question**, on the other hand, requires a written answer and hence, supplementary questions cannot follow.
9. A **short notice question** is one that is asked by giving a notice of less than ten days. It is answered orally.
10. **The zero hour** starts immediately after the question hour and lasts until the agenda for the day (that is, regular business of the House) is taken up. In other words, the time gap between the question hour and the agenda is known as zero hour. It is an Indian innovation in the field of parliamentary procedures and has been in existence since 1962.
11. **Adjournment Motion** It is introduced in the Parliament to draw attention of the House to a definite matter of urgent public importance, and needs the support of 50 members to be admitted. Rajya Sabha isn't permitted to make use of this device and the discussion should last for not less than two hours and thirty minutes.
12. **No-Confidence Motion** Article 75 of the Constitution says that the council of ministers shall be collectively responsible to the Lok Sabha. It means that the ministry stays in office so long as it enjoys confidence of the majority of the members of the Lok Sabha. In other words, the Lok Sabha can remove the ministry from office by passing a no-confidence motion. The motion needs the support of 50 members to be admitted.
13. A **bill** is a proposal for legislation and it becomes an act or law when duly enacted. It could be classified as a private member bill or a public bill. A public bill is the one introduced by any minister and a private bill is the one which is otherwise.
14. Bills can be ordinary, money or financial and constitutional amendment bills. Money bills are the ones which are concerned with taxation, money matters which are specifically mentioned in article 110. Financial bill are also concerned with such matters though with slight differences and are mention in articles 117(1) and 117(3). Constitution amendment bills, which are concerned with the amendment of the provisions of the Constitution.
15. The Rajya Sabha cannot reject or amend a money bill. It can only make the recommendations. It must return the bill to the Lok Sabha within 14 days, wither with or without recommendations. The decision of the speaker is final in deciding a bill is money bill or not. Also, every such bill is deemed to be a public bill.
16. The provision of joint sitting is applicable to ordinary bills or financial bills only and not to money bills or Constitutional amendment bills. In the case of a money bill, the Lok Sabha has overriding powers, while a Constitutional amendment bill must be passed by each House separately.

17. The term 'budget' has nowhere been used in the Constitution. It is the popular name for the 'annual financial statement' that has been dealt with in Article 112 of the Constitution.
18. The Railway Budget was separated from the General Budget in 1921 on the recommendations of the Acworth Committee. From the year 2017, the railway budget and the main financial budget were again merged and in 2017 the budget was presented on the 1st February, 2017.
19. **Consolidated Fund of India** - It is a fund to which all receipts are credited and all payments are debited. In other words, (a) all revenues received by the Government of India; (b) all loans raised by the Government by the issue of treasury bills, loans or ways and means of advances; and (c) all money received by the government in repayment of loans forms the Consolidated Fund of India. Mentioned in article 266.
20. **Public Account of India** - All other public money (other than those which are credited to the Consolidated Fund of India) received by or on behalf of the Government of India shall be credited to the Public Account of India.
21. **Contingency Fund of India** - The Constitution authorised the Parliament to establish a 'Contingency Fund of India', into which amounts determined by law are paid from time to time. Accordingly, the Parliament enacted the contingency fund of India Act in 1950. This fund is placed at the disposal of the president, and he can make advances out of it to meet unforeseen expenditure pending its authorisation by the Parliament.
22. **Public Accounts Committee** - It consists of 22 members (15 from the Lok Sabha and 7 from the Rajya Sabha). Term of members – 1 year. A minister cannot be elected as a member of the committee. The chairman of the committee is appointed by the Speaker from amongst its members. Until 1966–67, the chairman of the committee belonged to the ruling party. However, since 1967 a convention has developed whereby the chairman of the committee is selected invariably from the Opposition. The function of the committee is to examine the annual audit reports of the comptroller and auditor general of India (CAG), which are laid before the Parliament by the president.
23. **Estimates Committee** – The largest committee of the Parliament. Present number of members is 30. All the thirty members are from Lok Sabha only. The term of office is one year. A minister cannot be elected as a member of the committee. The chairman of the committee is appointed by the Speaker from amongst its members and he is invariably from the ruling party.
24. **Committee on Public Undertakings** – Present number of members is 22 (15 from the Lok Sabha and 7 from the Rajya Sabha). The term of office of the members is one year. A minister cannot be elected as a member of the committee. The chairman of the committee is appointed by the Speaker from amongst its members who are drawn from the Lok Sabha only.



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