In conformity with the practice that has been followed in other countries of the world, the Indian Constitution has also provided for the office of Speaker. The Founding Fathers of the Indian Constitution were not oblivious of the limitations under which the Speaker before Independence had been seen functioning and consequently they decided to give an exalted and prominent place to the Presiding Officer of its National Legislature. The impact of the British traditions seem to have carried much weight with them in drafting the provisions relating to this office. With the adoption of a parliamentary system of Government, such provisions were an inevitable corollary.

It would be instructive for us to trace the history of the provisions relating to the Office of the Speaker which have been incorporated in the Indian Constitution in order to understand the exact position of the Indian Speaker. The Draft outline of the Constitution prepared by Shri B.N. Rau (Constitutional Advisor) and placed before the country on the 7th of October, 1947, merely provided for the office of the Speaker; his election; vacation, resignation and removal from office; salary; casting vote; and his power to adjourn the House for lack of quorum. This, Draft outline was referred to the Drafting Committee (appointed by the

2. Ibid -- Art. 64. (7).
Constituent Assembly on August 29, 1947 for the purpose of framing a New Constitution) and in the Draft Constitution which it submitted to the Constituent Assembly on February 21, 1948, while retaining all the provisions relating to the office of Speaker contained in the Draft outline including the language and phrasing used therein, they made additional provisions: conferring Special power on the Speaker to decide whether a Bill was a money Bill or an ordinary Bill and also about removal of the Speaker from his office for his incapacity or want of confidence in him by a resolution passed by the House by two-thirds majority. It also inserted a new clause that deprived him of presiding over the meeting of the House when a resolution for his removal was to be discussed. The Draft Constitution was finally approved by the Constituent Assembly on November 26, 1949.

The Indian Constitution provides for the Office of the Speaker and the Deputy Speaker and it inter-alia states that:—

"The House of people, shall as soon as may be, choose two members of the House to be respectively Speaker and Deputy Speaker thereof and, so often as the Office of Speaker or Deputy Speaker becomes vacant, the House shall choose another member to be Speaker or Deputy Speaker, as the case may be." 11.

The specific proviso in the Constitution that the House will "choose two members" categorically empowers the House to elect two persons as Speaker and Deputy Speaker from amongst themselves. It leaves no ground for misapprehension or mis-understanding that the same person could be allowed to occupy the two offices simultaneously.

The Constitution thus debar a Deputy Speaker to seek election to the Office of Speaker unless he first resigns his office as

7. The provisions in the Draft outline were simply re-arranged and were given new serial numbers as indicated in the following articles of the Draft Constitution:

(i) Office of Speaker and Deputy Speaker: Draft Constitution Art. 76.
(ii) Vacation, resignation and removal. Ibid. Art 77.
(iii) Salary and allowances. Ibid. Art 79.
(iv) Casting vote. Ibid. Art 80 (1).
(v) Adjournment of House. Ibid. Art 80 (3).
10. Ibid — Art. 96 (1).
Deputy Speaker. However, it may be interesting to recall that a suggestion was mooted by Saiyid Jafar Imam (Amendment No. 1518) during the discussion on this Article in the Constituent Assembly on May 19, 1949, to the effect that:

"in the event of any vacancy by reason of his health, resignation removal or otherwise in the Office of Speaker, the Deputy Speaker shall become Speaker and act as such during the remaining term of office and that the House should elect another member to the office of the Deputy Speaker for the unexpired term." 13

However, the amendment was not moved in the House and no reason was given for doing so. Thus it is obvious that the Constitution has ruled out the possibility of automatic promotion or to fill up the office by any other authority except by the House of the People itself. Incidentally, this provision is in strict conformity with the inherent right of the members of democratic legislatures to have unfettered powers to elect their own Presiding Officers in whose integrity and impartiality they have full faith and in whose wisdom they repose confidence. Although no time limit has been mentioned in the Constitution for the election of the Speaker, yet it clearly lays down that the House shall proceed to elect its Speaker "as soon as may be" and "so often as the office becomes vacant". Putting these two statements together, it can be safely inferred that all possible delay be avoided and that it should receive priority over all other business in the House. In fact, the House should give first preference to the election of the Presiding Officer and all other business should follow.

11. Const. of India: Art.93
12. The Deputy Speaker Sh.M.A.Ayyangar resigned on 7.3.56 to contest election to the Office of Speaker which fell vacant owing to the death of Speaker G.V.Mavalankar on 27.2.56.
Our Constitution has not provided for a detailed procedure for choosing the Speaker and the Constitutional provisions have been supplemented by the Rules of Procedure and conduct of Business of the House of People. Under the Rules, the date for the election of the Speaker is fixed by the President of India and is communicated by the Secretary of the House to all the members of the House. But the actual procedure evolved for fixing a date for election has been based on Art. 74 (1) of the Constitution wherein the Prime Minister communicates a convenient date to the Secretary of the House. The Secretary in turn submits a formal note embodying the recommendations of the Prime Minister to the President for his order. After the approval of this date by the President, a paragraph to this effect is issued in the Parliamentary Bulletin Part II for the information of members.

The President appoints one member of the House (by convention he is always the oldest member of the House) as Speaker pro temp to preside over the sitting of the House when the House is to elect its Presiding Officer after the general election as the Offices of both the Speaker and Deputy Speaker would be vacant. However, such a contingency will not arise.

14. In pursuance to Art 118 (2) of the Const., the House of People have framed its Rules of Procedure and conduct of Business.


16. The paragraph read as: "In pursuance of Sub Rule (1) of Rules 7 of the Rules of Procedure, the President has been pleased to fix... day of the week.... date for holding election of the Speaker of the Lok Sabha Sh. Shakdhar 3.L., appointment of Speaker of Lok Sabha " The Indian Journal of Parliamentary Information" Vol. II. No. F. (April) 1956 P. 42.

17 Const. of India Art. 95 (i)
when the House is to elect a Speaker to fill up the vacancy and the Deputy Speaker is not desiring to contest the election. In that case the Deputy Speaker will preside.

(c) NOMINATION PAPERS TO ACCOMPANY A WRITTEN CONSENT FROM THE CANDIDATE:

All the nomination papers must reach the Secretary one day before the date of election (before noon) duly proposed and seconded, to be accompanied by a statement from the candidate seeking election to the effect that he is willing to serve as Speaker, if elected. On the appointed day, the Speaker Pro-temp or Deputy Speaker as the case may be, calls the members to move or withdraw their motions which are included in the list of Business in the order of receipt of time and are decided by the House if necessary by division. If any motion is carried, the Presiding Officer, without putting later motions, would declare that the member proposed has been chosen as Speaker of the House.

(d) ELECTION NOT SUBJECT TO APPROVAL:

It is obvious that the Lok Sabha can elect any member from amongst themselves as its Speaker and such an election is not subject to the approval of the Head of the State. The old practice that existed in India upto 1947 for getting the approval of the Governor General has been discarded under the new Constitution.

(e) NO DEBATE:

Further, the Rules of Procedure prohibit discussion or debate on the relative merits or competence of members seeking election to the office of Speaker. The House is simply to choose a person from the different names proposed for the office.

18. Rules of Procedure. 7(2).
19. -- Ibid -- 7(4).
The Rules of Procedure have not specified clearly as to what majority a candidate should secure to be declared successful --- a simple majority or an absolute majority of the members. He is declared elected even if he gets a simple majority.

The Constitution has not laid down any extraordinary qualifications for the office of Speaker. Any member of the House, whether elected by the people or nominated by the President, is eligible to become its Presiding Officer, the only qualification being that he must be a member before seeking election to the office and that he should continue to be its member after his election. It implies that the Speaker must continue to possess all those qualifications listed under Article 84 for becoming a member of the House and he must not incur any disqualification as laid down in Article 102. In addition to this, the Constitution has given power to Parliament to lay down any additional qualifications for becoming a member of the Indian Parliament. The object of this provision was explained by Dr. B.R. Ambedkar in these words:

"It is intended to confer power on the Parliament to secure the services of men of better calibre than an ordinary voter."

In conformity with the intentions of the Framers of the constitution, Parliament has supplemented the original qualifications as laid down in the Constitution by passing the Representation of the Peoples Act in 1951. The Speaker would

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20. The President of India can nominate two members from the Anglo Indian Community... vide Const. of India Art. 331.
21. Ibid. Article 94. 22. The Constitution enjoins upon a member: to be citizen of India, not less than 25 years of age and should possess such other qualification which may be prescribed by Parliament. 23. Disqualification for being a member: Such as if he holds any office of profit under the Government of India or of any State Government (b) is of unsound mind, (c) if is undischarged insolvent, (d) or has acquired citizenship of foreign State (e) or has been disqualified by law of the country" Const. of India Art. 84(c). 24. Const. of India Article 94 (c).
have to relinquish his office if he incurs any disqualification as given below:

"(i) if he is held by the Election Tribunal guilty of any offence or corrupt practices under Section 139 - 42 of this Act.

(ii) if he has failed to lodge an account of his election expenses as required by this Act under Section 7 (c).

(iii) if he is a party to a subsisting contract with the appropriate Government for supply of goods or execution of work by that Government under Section 7 (a).

(iv) If he is Director, Managing Agent, Manager or Secretary of any Company or Corporation in which the Government has share of not less than 25% (Section 7 (c).

(v) or if he was dismissed from Government service for corruption or disloyalty to the State, Section 7 (f).

The question as to whether the Speaker or any other member of the House has become liable for disqualification is to be referred to the President for his decision and he shall give his decision after obtaining the opinion of the Election Commission. The decision of the President in such a case would be final and courts would have no jurisdiction to question the validity of his decision except where the President has disregarded the opinion of the Election Commission.

Consequently, the Constitution restrict such members from attending the meetings of the House failing which they will be

25. Constituent Assembly Debate Vol VIII Dt. 18.5.1949(1949)P.89
27. It may however, be seen from the pharaseology of Article 103 (2) that the president is under an obligation to act according to the opinion tendered by the Election Commission and not otherwise. It may also be noted here that the Supreme Court has held that the president and the Election Commission have restricted jurisdiction and they cannot decide as to whether a member was qualified or not to be elected as member at the time of election and such an issue can be raised in an election petition under Section 130 (1) (c) of the Representation of the Peoples' Act (as amended in 1955) for declaring such an election as void on the ground that nomination papers were irregularly accepted. Mukerjee; A.P.; Parliamentary Procedure in India (2nd Ed. 1967) PP. 23-24.
subject to the Penal Provision of the Constitution which inter-
alia states "If a person sits or votes as a member -- when he knows that he is not qualified or that he is dis-qualified for membership or that he is prohibited from so doing such a person shall be liable to pay a fine of Rs.500/- per day for sitting in the House to be recovered as debt to the Union." 28.

Such a Penal Provision will also be applicable in respect of the Speaker.

(c) Under the Indian Constitution, the Speaker will be required to vacate his office as Speaker if

(i) he ceased to be a member of the Lok Sabha; or

(ii) he has resigned his office as Speaker; or

(iii) when a specific resolution for his removal has been passed by the House of People. 29.

The provisions of the Constitution make it amply clear that a Speaker has to vacate his office automatically as and when any situation as stated above occurs and he would relinquish his office, without awaiting any formal orders either from the President of India or from the Lok Sabha or any other authority. Clause (a) of Article 94 leaves no doubt and it makes abundantly clear that it is the Constitutional duty of the Speaker to vacate office as soon as any contingency under Article 101 or 102 for disqualification for holding the membership of the House arises. When the incumbent has resigned his office as Speaker, Secondly, he is not required to wait for the formal acceptance of his resignation and it would be regarded legally valid the moment it is received by the Deputy Speaker. Thirdly the Speaker

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27. See also Election Commission Vs. Venkata Rao 1953.
28. Const. of India Art. 104.
29. --- Ibid --- Art. 94.
30. Const. of India Art. 94 (b).
would be required to vacate his office if a resolution for his removal is passed by a majority of all the then members present. It means a majority of the total membership of the House minus any seat vacant for the time being... not a simple majority or 2/3 majority of the members attending the House and voting. However, such a resolution can be moved against the Speaker provided fourteen days notice had been given to him.

The Speaker would continue to hold office in the event of dissolution of the Lok Sabha earlier than the expiry of its term and even after the expiry of five years term. No time limit has been laid down and the Speaker would continue in office till the newly elected Lok Sabha proceeds to elect its new Speaker. This provision has been deliberately incorporated into our Constitution to give continuity to the Office of Speakership as the Lok Sabha Secretariat could not be expected to function properly and efficiently without a working head. That is why the Constitution has stipulated that the House would elect its Speaker immediately when the office falls vacant.

The Speaker is at liberty to resign his office at any time at his own discretion. According to the Constitutional provisions it is the duty of the Speaker that he should resign by writing under his hand addressed to the Deputy Speaker (and if such a member is a Deputy Speaker then to the Speaker). The Speaker need not give his reasons for resignation and it would be considered valid and legal when it has reached its addressee i.e. the Deputy Speaker or the Speaker as the case may be. In this

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31. Const. of India Art 94 (c)
32. -- Ibid -- Art 94 (c)
33. -- Ibid -- Art 93
34. -- Ibid -- Art 94 (b)
connection it should be recalled that when this article was being discussed in the Constituent Assembly on May 19, 1949, an amendment was tabled by Shri H.V. Kamath requiring such an incumbent to send his letter of resignation to the President. This amendment which was supported by Mr. Tajamul Husain said:

"When a Speaker resigns, he should send his letter of resignation not to an officer who has been working under him, but to someone higher in authority i.e. the President of Republic. This would be better for the dignity of the House. The House of People is intermingled with the President in many ways and you cannot separate one from the other." 36

Opposing the amendment, Prof. Shiban Lal Saxena (U.P. General) observed as follows:

"I feel that he (Sh. Kamath) has forgotten that the President is the Executive Head and we want that the Speaker and the Deputy Speaker should be completely independent of the Executive and therefore it is provided that the Speaker should send in his resignation to the Deputy Speaker. It only means that the independence of the Speaker and the House over which he preside should be maintained. If we send it to the President, it means we send it to the Executive. It is a very healthy principle that the Speaker and the Deputy Speaker should be completely independent of the Executive." 37

Dr. Ambedkar declined to accept the amendment as it was bound to affect the independence of the office and gave his reasons in these words:

"The existing article is based upon a very simple principle, that a person normally tenders his resignation to another person who has appointed him. Now the Speaker and the Deputy Speaker are persons who are appointed or chosen or elected by the House. Consequently these two people, if they want to resign, must tender their resignations to the House which is the appointing authority, of course, the House being a collective body of people a resignation could not be addressed to each member of the House separately."

35. Amendment No. 1522 sought to replace word to the Deputy Speaker by the words "To the President" in Clause B of Art 77 of the Draft Constitution. ... C.A.D. Vol. VIII 1949 Page 122.
36. ----Ibid----- Vol. VIII 1949 Pages 122 - 123.
37. C.A.D. Dt. 19.5.1949 P. 123.
Consequently the provision is made that the resignation should be addressed either to the Speaker or to the Deputy Speaker, because it is they who represent the House. The President is not a person who has appointed them. Consequently it would be incongruous to require the Deputy Speaker or Speaker to tender their resignations to the President who has nothing to do with the House, and who should have nothing to do in order that the House may be independent of the Executive Authority exercised either through the President or through the Government of the day. 38.

Since the Constitution has not laid down an exact procedure for submission of resignation by the Speaker, a procedural difficulty was anticipated. As required by the Constitution, the Speaker is to submit his resignation to the Deputy Speaker. A situation may arise when a Speaker may find it difficult to resign when the office of Deputy Speaker may be vacant. It may, therefore, be inferred that such a resignation would become infructuous as the incumbent (Deputy Speaker) is not there to receive it.

Some constitutional experts feel this situation to be an obvious lacuna in our Constitution. It was because of this fact that this matter was taken up at the Presiding Officers' conference held at Rajkot from January 2 - 5, 1955. The matter was referred to the Government (Ministry of Law) who maintained that it was not correct to give an unduly restricted interpretation of Article 94 (b) and observed:

"If the Speaker wishes to resign at any time when the office of Deputy Speaker is vacant, it should be sufficient for him to address the letter formally to the Deputy Speaker and send the letter of resignation to the Secretariat of the House. It would be quite proper for the Secretary of the House to receive the letter and place it before the House in due course." 40.

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office by a resolution of the House passed by a majority of all the members of the House provided such a resolution is moved in the House, after the expiry of fourteen days' notice of the intimation to move such a resolution. The Constitution thus laid down only two conditions for his removal. Firstly, a fourteen days' notice to the Speaker and it need not contain any reasons for his removal. Secondly, after the expiry of notice period, if a resolution to this effect is passed by the majority of all the then members, the Speaker will forthwith vacate his office. The Constitution does not mention the procedure for serving a notice on the Speaker and also the procedure for discussion on the resolution thereof.

It may be pointed out that when this draft article came up for approval on May 19, 1949, before the Constituent Assembly notices of two amendments were tabled by Mohi. Tahir vide his amendment No. 1526 sought to substitute "of the intention" by the words "in writing and signed by not less than thirty members of the House of People of their intention. Mr. Upendra Nath Burman through his amendment No. 1527 wanted to add at the end of this article "that the resolution is signed by at least one sixth of the total members of the House". But these amendments were not moved and no reasons were given for not moving them.

Since the Constitution did not provide a detailed procedure for removal of the Speaker or Deputy Speaker, the House of People framed rules in 1954 for the removal of the Speaker and added a special Chapter entitled "Resolution for removal of 

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41. Constitution of India. Article 94 (b).  
Speaker and Deputy Speaker from office", under Chapter No.XXVIII of Rules of Procedure and Conduct of Business of the House of the People. These rules provided for a notice under Article 94 (c) of the Constitution for the removal of the Speaker to be given in writing to the Secretariat of Lok Sabha. The Speaker is to fix a date for the discussion of the resolution after the expiry of fourteen days and that he should not preside over the meetings of the Lok Sabha as he is constitutionally debarred from occupying the Chair when a resolution for his removal is under discussion. The Deputy Speaker or any other member as stipulated in the Constitution or the rules of Procedure of the House (in the absence of the Deputy Speaker, any member from a panel of Chairman or any other person as appointed by the House) would preside.

It would be instructive to note that the Draft Constitution did not provide for this and a new article was added in the Constitution by an amendment moved by Shri T.T. Krishnamachari on May 19, 1949 in the Constituent Assembly. It, inter-alia, provides that:

"at any sitting of the House of People while any resolution for the removal of the Speaker from his office is under consideration, the Speaker or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker shall not preside, although he is present and the provision of clause (2) of Art 95 shall apply in relation to every such sitting as they apply in relating to a sitting from which the Speaker, is absent." 48

Dr. B.R. Ambedkar accepted this amendment as a similar provision had already been included in the Constitution for debarring the Chairman or Deputy Chairman from presiding over the Council of

43. These rules were adopted by the House in 1954 and were published under Lok Sabha Notification No. 1404 - C/54 dated 9.1.54 in the Gazette of India Ext. Part I Dt.13.1.54 44. Rules of Procedure and Conduct of Business. (5th Ed. 1962). Rule No. 200 (1).
45. --- Ibid --- 200 (2) 46. Const. of India Ar. 95 (1)
47. Const. of India Ar. 95 (2) 48. C.A.D. Vol.VIII (1949) P. 124
On the appointed day, the Deputy Speaker or Chairman will call upon the member to remove his resolution and the leave of the House will be granted if more than fifty members support the resolution. It would be taken up for discussion after the question hour within ten days from the date of leave of the House. The Speaker is entitled to speak or otherwise take part in the proceedings of the House and also has the right to vote in the first instance but he is not eligible to vote a second time when there is an equality of votes. It is, therefore, obvious that the Constitution has granted opportunity to the Speaker for defending himself in the House but he cannot unlike in the case of bring any lawyer or defence counsel when the latter is being impeached by Parliament.

It would be interesting to note that neither the Constitution nor the rules of procedure have codified the grounds for his removal or enumerated reasons for making charges against the Speaker. Obviously, it leaves a wide discretion to the members of the House to move such resolution for the removal of a Speaker as and when they so desire or feel sick of a particular Speaker for personal reasons or on political considerations.

The Speaker's salary and allowances, under the Constitution, are specified in the Second Schedule and it would remain so till such time Parliament chooses to make a Law on the subject. It may, however, be interesting to record here

52. Constitution of India Article 96 (2).
53. The President shall have the right to appear and to be represented at such investigations... Constitution of India. Article 61 (3).
(a) **SALARY & ALLOWANCES**

that two amendments were tabled which, of course, were not moved in the House. One by Mr. Brajeswar Prasad which sought to pay to the Speaker such salaries and allowances that Parliament by Law may fix for the Ministers of the Union, and until provision in that behalf is so made, such salaries and allowances as are specified for the members in the Second schedule (and Under IV Schedule at the commencement of the Constituent Assembly)55. The second was by Mr. Nand Lal seeking to pay to the Speaker and the Deputy Speaker a salary besides allowances at ₹1,000/- at ₹800/- respectively, on the plea that the salary should be in keeping with the status of the office.56 However, Parliament in 1953 fixed the salary of the Speaker at ₹2,250/- per mensem with a sumptuary allowance of ₹500/- per mensem by enacting the "Salaries and Allowances of officers of Parliament" Act.57 It may be noted here that the Speaker and the Deputy Speaker are also entitled to draw their salary as Members of Parliament in addition to those as officers of the Parliament. The salaries and allowances of these presiding officers are charged upon the Consolidated Fund of India58 and as such are not subject to voting and approval by the House.59 This provision is obviously intended to make the position of the presiding officers more independent.

(b) **PERQUISITES:**

In conformity with conventions established the world over, the Speaker of the Lok Sabha is given free, well furnished accommodation during the tenure of his office and further for a period of fifteen days after his retirement or when he vacates the office.60

55. Papers relating to the Framing of the Constitution (National Archives of India) Amendment No.1432.
56. Ibid. Amendment No.1533.
57. The salaries and allowances of officers of Parliament Act XX 1953 effective from May 1, 1953.
58. Const of India Art. 112 (3) (b)
59. Do- Art. 113 (1)
60. The Salaries and Allowances of Officers of Parliament Act (XX 1953) Section 4.
Besides, he is given Rs.500/- per mensem for purpose of entertainments. He is also eligible to free medical aid for himself and the members of his family, and is also entitled to Travelling Allowances whenever he leaves his headquarters. It may be noted that the Speaker and the Deputy Speaker are not given any pension benefits after their retirement.

Like other citizens of India, the Speaker is prohibited from receiving any present, honour, title or office of any kind from any foreign State. However, the Speaker of the Lok Sabha occupies an exalted position and the Warrant of Precedence places him at the seventh place next to President, Vice President, Prime Minister, Governors, Ex-Presidents, Ex-Governor-General and Lt. Governors.

The Indian Constitution has set up a bi-cameral legislature consisting of the House of People and the Council of States and has simultaneously provided for the establishment of a separate Secretariat for both the Houses under the direct control of the Speaker and the Chairman respectively. The Founding Fathers of the Constitution were fully aware of the need and urgency of an independent department for aiding and advising the Speaker in discharging his onerous duties. That was why a new Article 79-A was inserted in the original draft Constitution on July 30, 1949 and Dr. Ambedkar explained the reasons for incorporating this article in the Constitution. Recalling the controversy between Mr. Patel (President of the Legislative Assembly), on one hand, and the Government of India, on the other, for the establishment of an Independent Secretariat, Dr. Ambedkar

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61. The Salaries and allowances of officers of Parliament Act (XX. 1953) Section 5.
62. Ibid —- Section 7.
63. Ibid —- Section 6 (6).
64. Const. of India Article 18.
65. Ibid —- Art. 79.
66. Ibid —- Art. 98.
drew the attention of the members of the Constituent Assembly to the fact that the Presiding Officers of the Legislative Bodies in India at a Conference (held on April 10, 1949 at New Delhi) had also demanded the creation of such a department. Drawing the attention of the Members he remarked:

"The reason why the Drafting Committee felt the necessity of introducing an article like this lies in the recent conference that was held by the Speakers of the various provinces in which it was said that such a provision ought to be made. Ever since the late Shri Vithalbhai Patel was called upon to occupy the President's Chair in the Assembly a dispute was going on between the Executive Government and the President of the Assembly... Ultimately the Executive Government in 1928 or 1929 gave in and accepted the contention of the then President and created an Independent Secretariat for the Assembly... But this procedure has not been followed by the various Provincial Legislatures. In some Provinces the practice still continued of the same officer who is subject to the disciplinary jurisdiction of the Legislative Department being appointed to act as the Secretary of the Legislative Assembly, with the result that the officer is under a sort of dual control... It is contended that this is derogatory to the dignity of the Speaker and the independence of the Legislative Assembly."

In view of these difficulties which were experienced by the Presiding Officers in the past, it was thought desirable by the Drafting Committee to confer power on each House of Parliament for the establishment of a separate Secretariat. The Speaker's Secretariat is now called the Lok Sabha Secretariat and that of the Chairman of the Rajya Sabha as the Rajya Sabha Secretariat. The Constitution, at the same time, has vested powers in each House to regulate the recruitment and conditions of service of all persons appointed in the respective Secretariats. This specific provision ensures independence to the Parliament from the interference of the Executive and enables the Parliament to check any type of encroachment desired to be made in future on the autonomy and working of the Secretariat and also to ward off any

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68. Constitution of India. Article 93 (2).
movement for curtailing its independence.

It may be recalled here that the consensus among the members of the Constituent Assembly was in favour of an independent department for the Speaker but they also struck a note of warning against recruitment of men other than highly efficient ones for the parliament. Welcoming this new article, Shri K.K. Sidhwa (C.P & Barar; General) observed:

"The Speaker's Secretariat ought to be quite separate from the Executive and demanded that staff of the Speaker should be chosen from persons who are amiable, social, kind, useful and helpful to members." 69.

Supporting this article, Shri Brijeshwar Prasad (Bihar; General) suggested:

"Recruitment, conditions of service must be made by Public Service Commission.... having regard to the facts of our political life when there is hardly a Ministry in the Province, which is not being condemned for patronage, for some undue favour, for provincialism, it is not safe to vest this power or leave it in a nebulous state or to ask the Parliament to regulate these things. The Parliament's power must be circumscribed in this sphere, and if we want that the position of the Speaker should be above suspicion it is necessary that no patronage should be vested in his hands. We want a separate staff not just for the sake of dignity; simply because other Ministers have got their separate Secretariat, therefore, Speaker must also have a Secretariat so that his position and dignity may be in line with that of other Ministers. We want this because it is a necessity, but there is no reason why the power of appointment, promotion and disciplinary matters relating to the services should be left in the hands of the Parliament, which will vest these powers in the hands of the Speaker." 70.

It seems that this fear was expressed on the plea that right type of people may not be recruited or perhaps that this power may be abused by the Speaker of Parliament and hence this suggestion sought to rectify all these evils by urging that all the recruitment be made by an Independent Public Service.

Commission. Besides, it is also relevant to recall that the Speakers' Conference convened by Speaker Mavalankar in April, 1949, had requested the Drafting Committee to include a specific provision in the Constitution so as to regulate the strength, appointment, conditions of service and so on. But the Drafting Committee deemed it fit to provide for an Independent office as establishment to the Speaker and for other matters, it left to each House of Parliament to manage these matters.

The Constitution has also provided that pending the enactment of Law by the Parliament for regulating recruitment etc. to the Secretariat of each House, the President in consultation with the Speaker may make rules pro-tem for recruitment and conditions of service and that these rules will cease to operate as and when Parliament make laws for the said purpose. It may be relevant to note that Parliament has not so far enacted any law in this regard. However, the President in consultation with the Speaker, has issued the Lok Sabha Secretariat (Recruitment and Conditions of Service) Rules in 1955 (effective from 1.10.1955). These Rules now govern recruitment conditions of service of the staff of the Lok Sabha Secretariat. Although a fear has been expressed in certain quarters that this transitory power for making rules by the President in consultation with the Speaker may be abused, yet it must not be forgotten that the President and the Speaker are not expected to do such a thing as both the dignitaries occupy exalted positions in the Indian political system. The founding fathers in some thought it fit to bestow this power on them so that the independence of the Parliament is

71. Constitution of India Art. 98 (3).
maintained. The independence of the Parliament in turn means the independence of the Speaker. Ultimately, the Speaker is responsible to the House of People and is also responsible for the working of the Lok Sabha Secretariat. The members of the House can seek and elicit any information from the Speaker relating to the working of the Secretariat. Parliament has also the power to alter, modify or alienate such rules as have been made by it as and when the members feel convinced that the rules are arbitrary, unjust or unfair.

Besides these constitutional provisions, there are several other provisions in the Constitution that confer special powers on the Speaker to deal with other diverse problems connected with the working of the legislature. It shall be the constitutional duty of the Speaker to abide by them and discharge such functions and responsibilities that have been assigned by the Constitution.

The Speaker is constitutionally bound to exercise his casting vote in case of equality of votes in the House. Although he is free to exercise the vote in any manner he likes, yet he will be guided in this respect by the long established conventions in our country for maintaining status quo and providing the House another opportunity to reconsider those matters once again.

If at any time during the meeting of the House there is no quorum, the Speaker shall either adjourn the House or suspend the meeting till there is a quorum. The quorum for the meetings has been fixed at 1/10th of the total membership of the House i.e. 53 in a House of 525 members. It is, therefore, the responsibility of the Speaker to see that there is a quorum in the House for transacting business and he can ascertain this fact as often as he likes - or

1. Constitution of India. Art. 100 (1).
2. For details see Sub Section I of Chapter No. IV.
4. Ibid -- Art. 100 (3).
alternatively his attention can be drawn by members of the House.

The members of the Lok Sabha are at liberty to resign their seats at any time but they are constitutionally required to address their letters of resignation to the Speaker. The Constitution has not specified the exact procedure for resignation of seats by members and this lacuna has been supplemented by the Rules of the procedure of Lok Sabha. The Rules of procedure require an intending member to send in his resignation from the membership of the House in a prescribed proforma. As soon as the Speaker has received a letter of resignation from a member, it is the duty of the Speaker to intimate this fact to the House. Thereafter, the Secretary of the Lok Sabha causes the information to be published in the Gazette of India and a copy of the Notification is sent to the Election Commission for taking steps to fill the vacancy thus caused. It may be noted that a resignation is not subject to the approval either of the Speaker or of the House.

The Constitution, has, no doubt, defined a Money Bill in Article 110. In all cases of doubt it is the Speaker who has to decide whether a bill is a money bill or non-money bill. Does it mean that a Speaker has unfettered discretion for classification of bills into these two categories? The answer would unhesitatingly be in the negative as numerous constitutional provisions are there to guide him in arriving at a correct decision. Although he is not bound to take the advice of members of the House or the Treasury benches, yet a healthy practice has been started in India and the Speaker consults the Law.

6. To The Speaker, Lok Sabha, NEW DELHI.
   Sir, I hereby tender my resignation of my seat in the House with effect from ..... Yours faithfully,
   Place... Date ...
   Member of the House.
   Rules of Procedure of Lok Sabha Rule No. 240 (1).
7. — Ibid — Rule No. 240 (2) and (3).
8. Constitution of India Art. 110 (3).
Ministry before recording his decision on such bills. Nevertheless, the fact remains that the Speaker is not under obligation to consult the Government every now and then.

It is also the responsibility of the Speaker to endorse a certificate on all money bills passed by the Lok Sabha before they are transmitted to the Upper House (Rajya Sabha) and presented to the President for his assent. The object of this certificate is to direct the Rajya Sabha to follow special procedure in passing the money bills as laid under Article 109 and for casting a duty on the President to give his consent forthwith in terms of Article 111 of the Constitution. The Rules of Procedure have laid down the form of a certificate which is to be appended by the Speaker at the bottom of each money bill in the following words:

"I hereby certify that this Bill is a Money bill within the meaning of Article 110 of the Constitution. Dated: ____________________________

Speaker."

The Speaker is the final authority in deciding whether amendments tabled against the Appropriation Bills are admissible or inadmissible. His decision cannot be challenged by any body and has to be accepted as such as the Constitution has conferred specific powers on the Speaker.

Under the provisions of the Constitution, the Speaker has been given temporary power to make rules for the conduct of business till the House itself frames its own rules of procedure.

13. It may be noted that the Speaker in exercise of this temporary power modified and adopted the Constituent Assembly (Legislative) Rules of Procedure consequent upon India becoming a Republic, on January 26, 1950. - Gazette of India Ext. Dated 14.2.1950. These rules were further modified and adopted in 1952 under the Title Rules of Procedure and Conduct of Business in the House of People. Gazette of India Ext. Dated April 17, 1952.
It may be noted that the rule making power is limited and that it cannot abridge or encroach upon the provisions of the Constitution. In the event of any rule being contrary or repugnant to any of the Articles of the Constitution, it would be competent for the courts to declare such rules as ultravires of the Constitution.  

**M. RULES FOR JOINT SITTINGS**

The Speaker shares power with the President and the Chairman of Rajya Sabha for making rules for the Joint Sittings of the two Houses and for regulating procedure for communications between the two Houses of Parliament. The President after consultation with the Chairman and the Speaker has since framed these rules and these have been notified as "The Houses of Parliament (Joint Sittings and Communications) Rules" in the Gazette of India (Ext.) dated May 20, 1952.

1. Speaker to preside over joint sittings
   
   It is also the constitutional duty of the Speaker to preside over the Joint Sittings of the two Houses. The Constitution has left the question to be decided for the two Houses as to the person who should preside over the joint sessions in case the Speaker was unable to preside over such meetings. The rules framed under Article 118(3) of the Constitution provide that:

   "In case the Speaker is absent, the Deputy Speaker or if he is also absent, the Deputy Chairman of the Rajya Sabha will preside. If all these persons are absent, any other member as decided by the then members present, would preside over the meetings."

2. Speaker to decide amendments
   
   Besides, the Speaker is to decide the admissibility of amendments to bills under consideration at the Joint Sittings of the two Houses and his decision would be Constitutionally final.

3. Speaker to allow the use of mother tongue
   
   In case a member of the House cannot adequately express himself in Hindi or English, the Speaker can permit such a member to speak in his mother tongue.

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18. Constitution of India - Article 118 (3)
20. Constitution of India - Article 118 (4)
22. The Houses of Parliament (Joint Sitting & Communications) Rules No.5
23. Const.of India Art.108 (4) (b)
24. -Ibid- Art.120 (1)
The Lok Sabha is not entitled to discuss the conduct of Judges of the Supreme Court or the High Court except upon a motion for presenting an address to the President praying for their removal. It is also the Constitutional duty of the Speaker as Presiding Officer of the House not to allow any discussion on questions relating to the conduct of Judges.

The proceedings of the Parliament cannot be questioned in courts of law on grounds of any alleged irregularity of procedure. At the same time, the Constitution has ousted the jurisdiction of the courts to question the conduct and decisions of the Speaker for regulating procedure or any officer or member of Parliament in whom such powers have been vested. The courts are debarred from interfering with the work of the Presiding Officers in discharge of their duties either for regulating procedure for conduct of business or for maintaining order and decorum within the House. The article extends immunity even to such 'members of Parliament' as may have to act under the orders of the Speaker. Explaining the precise scope of the words in Article 122 (1) of the Constitution that "No officer or other member of parliament in whom powers are vested by or under this Constitution for regulating procedure or for maintaining order..." , Dr. Ambedkar, the Chairman of the Drafting Committee of the Constitution, observed:

"Supposing there is a brawl in the House .... and the Speaker not finding any officer at hand to remove a certain member, asks certain other members, to remove a member who is causing the brawl. Then that particular member is a member who is invested with this authority by the Speaker and he would come under the immunity granted by the Constitution". 29.

27. Constitution of India - Article 122 (1).
28. --- Ibid --- Article 122 (2).
The President of India is required under the mandatory provisions of the Constitution to address both Houses of Parliament and acquaint them with the causes of summoning of Parliament into Session. The Constitution has also cast a duty on each House of Parliament to make provision in their respective procedures to allow time for the consideration of matters referred in the Presidential address. The Rules of Procedure of the Lok Sabha have vested this power with the Speaker who allocates time for discussion on these matters in consultation with the Leader of the House. It may be relevant to note that after the first amendment of the Constitution (June 18, 1951), such matters need not be given precedence over other business of the House. Likewise, the Speaker has been authorised by the Rules of procedure to allocate time for discussion on matters referred to in the President's Address under Article 86 (1) of the Constitution.

The Constitution has equated powers, privileges and immunities of each House of the Indian Parliament with the House of Commons of the United Kingdom as existed on 26th January, 1950. It is inferred from this article that the Speaker of the Lok Sabha like his British counterpart has to act as a guardian of the ancient and undoubted rights and privileges of the House of People. It would, therefore, be the responsibility of the Speaker to safeguard and protect the privileges of the House, its Members and Committees.

At any time, if a member of the Lok Sabha becomes subject to any disqualification listed in Article 102 (1) of the Constitution, the seat of such a member would be declared vacant. The Speaker's duty is implied under this Article and he would be required not to allow such a person to attend the meetings of the House.

ASSESSMENT: The Framers of the Indian Constitution have rightly built up a great office of dignity and honour and have endeavoured to provide all safeguards to ensure his independence from the Governmental control. The Office exists under the Constitution and the House elects its Presiding Officer under the mandatory provisions of the Constitution. His election is not subject to the approval by the President (a radical departure from the independent era). The Rules of Procedure provide enough time for cool deliberations and reflection for the right type of person to be selected to occupy this exalted office. No exceptional qualifications apart from the membership of the House are needed to fill this office and the Constitution recognises no discrimination on grounds of caste, creed, religion, sex, place of birth or otherwise. The holder of the office can vacate office at any time and the House is supreme in deciding to choose his successor. The Speaker can be removed from his office if he lacks the confidence of the House. But due safeguards have been provided to the Speaker for explaining his conduct when such a resolution is under discussion in the House.

To make his position independent, his salary is charged upon the Consolidated Fund of India and is not subject to vote by the House. He is provided with an independent Secretariat to enable him to discharge his functions independently and impartially. He has been given special powers under the Constitution to decide whether a Bill is a Money Bill or Non-Money Bill; to adjourn the House for lack of quorum; to select amendments to Appropriation Bills; to preside over the Joint Sittings of the two Houses; to allow members to speak in their mother tongue; to exercise casting vote and to act as a guardian of the privileges of the members. The Speaker is immune from the jurisdiction of courts and thus enjoys the necessary independence for discharging his responsibilities and functions un-hindered.