



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed Edition :

www.ijlra.com

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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

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POWER AND POSITION OF RAJYA SABHA AND THE U.S. SENATE: A COMPARATIVE STUDY

AUTHORED BY - DEV DHAR DUBEY

CHAPTER: 1 - INTRODUCTION

For nearly a decade, the Senate and the President of USA have sparred over recess appointments, and the Supreme Court is prepared to weigh in. The Court is asked in *National Labour Relations Board v. Noel Canning*¹ to choose between two extremes: either the Senate can block all presidential appointments by refusing to confirm nominees and refusing to go on recess, or the Senate's advice and consent authority may be rendered null and void because the President can appoint officers during virtually any Senate break. This issue has been raised in an Essay published in *Harvard Law Review* by David J. Arkush titled 'The Senate and the Recess Appointments'².

This attracts the attention of the researcher to the question of power and position which US Senate Exercise in contrast to Rajya Sabha. The Senate of United States is considered to be most powerful upper house of the world³ on the other hand question as to need of having Rajya Sabha is being debated as they don't enjoy any substantial power. The question as to unequal representation of states, issue of having non-resident as representative of state in Rajya Sabha and role played by these members to protect the state interests are some of the issue that has always been in question and there has been constant demand of having equally represented and powerful Rajya Sabha with powers equal to that of Lok Sabha.

Both the jurisdictions have adopted the bicameral system and are federation. US congress just like India, have two chambers known as Senate and House of Representative and collectively termed as US Congress. These two houses in India is known differently and termed as 'Rajya Sabha' and 'Lok Sabha'. The method of election to these houses are different and unique. Election to US

¹ *National Labour Relations Board v. Noel Canning* (D.C. Cir. 2013) 705 F.3d 490, cert. granted, 133 S. Ct. 2861 (2013).

² David J. Arkush, 'The Senate and the Recess Appointments' 127 Harv. L. Rev. F. 1 <[The Senate and the Recess Appointments - Harvard Law Review](#)> accessed 18 October 2022

³ Nirmala, 'Why and how is the US senate more powerful than the Rajya Sabha and the British House of Lords?' <[Why and how is the US senate more powerful than the Rajya Sabha and the British House of Lords? \(preservearticles.com\)](#)> accessed 18 October 2022

Senate is direct in contrast to India, where it is indirect thus making the member more like a party nominee rather the state Representative. These two upper house also enjoys unequal powers and have different role to play. This introductory chapter will further elaborate the problem, significance of study, hypothesis, research methods and Chapterization.

1.1 STATEMENT OF PROBLEM:

Recently many of the appointment of the judges by the President of USA has been withhold by the US Senate by withholding its assent and followed by the US President exercising its veto to the names approved by the House.⁴ This incident brings out to the notice the power and influence of US Senate in their policies and legislation. These sort of power is in contrast to power of Rajya Sabha in India, which hardly had substantial powers to exercise. The issue of domicile as qualification for being representative from the particular state and most debatable issue⁵ on need for having equal representation of states in Rajya Sabha to make the house more federal and more democratic. Further, the criticism about the role of Rajya Sabha members and how they are in no way representative of state and just become the Party Nominee with no mind of their own and with no interest in protecting the states interest from which they are indirectly elected. All these issue instigate the researcher to critically evaluate the power and position of the Rajya Sabha with that of US Senate and addressing the questions posed before the researcher in more comprehensive way.

1.2 SIGNIFICANCE OF STUDY:

State stakes and say in all important issues affecting Centre-state relations is the essence of federalism. The use of bicameralism to give states due representation in the legislature and with an object to protect their interest is found in almost every federal constitution. The present paper will evaluate the power and position of the upper house of the United States and India by making a comparative study of these two jurisdictions. The study will help us to appreciate the need for having due representation of the state in parliament and to critically evaluate the role of an elected representative from a different state in protecting their own state interests and thus making federalism more meaningful and cooperative. On the contrary, the need to have national interest over and above states' interest in a few areas like national security, integrity, unity, etc., also can't

⁴ David J. Arkush, 'The Senate and the Recess Appointments' 127 Harv. L. Rev. F. 1 <[The Senate and the Recess Appointments - Harvard Law Review](#)> accessed 18 October 2022

⁵ Abhishek Mohanty, 'Domicile Requirement in Rajya Sabha vis-à-vis Federalism' (February 5, 2015) <[Domicile Requirement in Rajya Sabha vis-à-vis Federalism - Academike \(lawctopus.com\)](#)> accessed 18 October 2022

be ignored. Analysis of these two jurisdictions will help us to find out the shortcomings of the system and to find out the other ways to ensure proper representation of the state, thus making federalism more healthy and cooperative.

1.3 AIM & OBJECTIVES:

To evaluate the power and position of the upper house of the United States and India by making a comparative study of these two jurisdictions. The following are the objectives of the research-

1. To identify the similarities and differences between these two systems by comparing their respective powers and functions to perform.
2. To study the composition pattern of the U.S. Senate and Rajya Sabha and its impact on federalism.
3. To evaluate the independence and role of members representing the state in the Senate and Rajya Sabha.

1.4 HYPOTHESIS:

“U.S. Senate enjoys more power and freedom in comparison with Indian Council of State, i.e., Rajya Sabha and interests of the state are relatively more protected by Senators of U.S. than that of the member of Rajya Sabha in India.”

1.5 RESEARCH QUESTIONS:

1. *Whether the India Upper house enjoys the same powers and has to perform the same function as the U.S. Senate? Whether state interests are duly protected by these members or not?*
2. *Does the unequal representation of states in Rajya Sabha make states more vulnerable to the parliament or equal representation, as that in the U.S, resulting in the unequal and unjust representation of public opinion?*

1.6 RESEARCH METHODOLOGY:

This research uses secondary data collected from peer-reviewed of journals, articles, books, and national and international reports, including that of NGOs. Also, reference has been made to some Grey literature, including those published in news and print media. The acceptability of a thesis depends on using sources for its observations, assertions, and conclusions. According to

Creswell⁶, a qualitative research design is appropriate for a study that draws primarily upon the research of others through a review of published literature.

This research contributes to the academic literature on the power and position of the upper house in India and the United States by comparing these two jurisdictions. Both being a federal state and having a parliament consisting of two houses make this study more relevant, especially when both have a unique way of including the state's say in the parliament. The U.S. relies on equal representation by allowing two representatives from each state, while India has the representation of states based on the population. This paper will focus more on the power, function, and role of these two bodies and how they have an important role to play in any federal form of governance. The researcher will analyze the effectiveness of these two houses in securing the interest of states and how far members therein are true representatives of states.

1.7 OUTLINE OF PAPER:

1. **Introduction:** It introduces the topic and mentions hypothesis, research question, aim and objective, methodology and chapterization etc.
2. **Evolution of Bicameral Federalism:** It deals with the meaning, history and evolution of Bicameral Federalism in India and the United States.
3. **Rajya Sabha: A silent observer-** It deals with all about the Rajya Sabha including History, powers, special powers, functions and limitations on power etc.
4. **U.S. Senate: Power and Position-** It deals with the power, function and role of the US senate.
5. **Comparing U.S. Senate with Rajya Sabha:** It compare the power and function of US Senate and the Rajya Sabha.
6. **Federalism and Extra constitutional factors:** It deals with issue like domicile requirement, equal representation of states etc.
7. **Rajya Sabha Members: Party Nominee or State representatives:** It discusses about the role played by Rajya Sabha members comparing with US Senators. It evaluates the question that these members are Party nominee or State Representatives.
8. **Analysis and Conclusion.**

⁶ J.W. Creswell, 'Qualitative inquiry and research design: Choosing among various approaches' (2nd edn, Thousand Oaks, CA Sage (2007))

CHAPTER: 2 EVOLUTION OF BICAMERAL FEDERALISM

2.1 BICAMERALISM: ORIGIN, MEANING, AND SIGNIFICANCE

2.1.1 **Meaning:** The term bicameral comes from the Latin words "bi" (meaning two) and "camera" (meaning chamber)⁷. A bicameral legislature is one in which two legislatures share legislative power. Around 80 countries have bicameral legislatures. Bicameralism is very common in federal, large, and presidential governments, whereas unicameralism is more common in unitary, small, and parliamentary states. The British Parliament, which is divided into two chambers, has served as a model for other parliamentary systems around the world. A bicameral system differs from a unicameral system in which all members of the legislature discuss and vote together.

2.1.2 **Origin:** The bicameral system evolved in mediaeval Europe. Because of the strong class differences between the aristocracy, clergy, and commoners, these groups of representatives were tasked with advising the monarch on topics pertaining to and representing the interests of their different social spheres.⁸ In England, these groups eventually evolved into the Houses of Lords and Commons. In the current United Kingdom, the House of Lords is still considered a more elite organisation, whilst the House of Commons represents a larger, more common class.

2.1.3 **Significance:** There are practical as well as historical reasons for having two houses of the legislature. A practical rationale for a bicameral system is to serve as part of a larger system of checks and balances that balance the authority of various sectors of a government or society. Bicameralism helps prevent the legislature from having too much power by dividing power within the legislative branch—a form of intra-branch check. Bicameralism has historically served to balance the power of different socioeconomic classes or groups within a society inside the legislative body.

2.2 HISTORY OF BICAMERALISM IN THE UNITED STATES

2.2.1 **Brief History:** In the United States, the bicameral system consists of the House of Representatives & the Senate, which are known collectively as the United States Congress. Both houses are established in Article 1, Section 1 of the United States Constitution. The founders of

⁷ Online Etymology Dictionary, Bicameral <[bicameral | Etymology, origin and meaning of bicameral by etymonline](#)> accessed 18 October 2022

⁸ Will Kenton, 'Bicameral System: What It Is, How It Works, History in U.S.' (*Investopedia*, 21 September 2021) <<https://www.investopedia.com/terms/b/bicameral-system.asp>> accessed 1 November 2022

America could not agree during the Constitutional Convention on whether every state should have the same number of members or whether the number of representatives should be decided by population size. The founders elected to include both aspects in the *Great Compromise*⁹: the bicameral government was established.

2.2.2 Objective/Reasons: The two chambers of the US parliament, like the two houses of the English Parliament, were created to represent diverse interests within the nation. The Senate was created to serve the interests of the states, but the House of Representatives was created to be elected by and represent the general public. The powers assigned to each house by the Constitution reflect this, with the Senate being given a more deliberative, advisory, and supervisory role, while the House of Representatives was granted main responsibility over their constituents' revenue.

2.3 INDIA'S BICAMERALISM HISTORY

2.3.1 Pre Independence: Bicameralism was first used in India in 1919. The Government of India Act of 1919 envisions two houses of the Indian legislature, the House of Assembly and the Council of State, as well as the governor-general. The council was given a five-year term. The Government Act of 1935 established the Council of State as a permanent organisation, making its dissolution inconceivable. Each member of the Council of State must serve for nine years, with one-third of the members retiring every three years. The Second Chamber was established by the Indian Government Act of 1919 and continued in operation until 1947.¹⁰

2.3.2 Constitutional Debates: Due to the widespread communal violence that had followed the subcontinent's partition when the Constitution was being written, as well as the difficulties the transitional government was having in convincing the numerous princely states to join the Union, the goal of constructing a strong Union became even more pressing. Given these circumstances, it was determined that the Union Parliament needed to be expanded to include a second chamber to adequately satisfy the diverse interests of the component organisations under the new federal framework. Bicameralism was thus implemented in Independent India as well. The Indian constitution establishes bicameralism with Rajya Sabha (an upper house) and Lok Sabha (a lower chamber).

⁹ Robert Longley, 'The Great Compromise of 1787' (ThoughtCo, 2 February 2022) <<https://www.thoughtco.com/great-compromise-of-1787-3322289>> accessed 1 November 2022

¹⁰ S. S. Nanda, *Bicameralism in India* (New Era Publications, 1st edn, 1988) <https://openlibrary.org/books/ol2168778m/bicameralism_in_india> accessed 1 November 2022

CHAPTER: 3

RAJYA SABHA: A SILENT OBSERVER

3.1 HISTORICAL BACKDROP OF RAJYA SABHA

3.1.1 Origin of the term- *Rajya Sabha*: The Indian Parliament is comprised of the President and the two Houses referred to in the Constitution as the 'Council of States & 'The House of the People. They are more commonly known as the Rajya Sabha and the Lok Sabha. On August 23, 1954, Dr. Sarvepalli Radhakrishnan, Chairman of the Council of States, made an announcement in the Council about the acceptance of the name of the Council of States as the 'Rajya Sabha. Previously, on May 14, 1954, the Speaker of the Lok Sabha, Shri G.V.Mavalankar that the House of the People will be renamed 'Lok Sabha.¹¹

3.1.2 Constitutional Debates and Journey towards Rajya Sabha: The second Chamber can be traced back to the Montague-Chelmsford Report. The GOI Act of 1919 provided for the 'Council of State' as a second house with a very limited franchise, which was established in 1921. The Governor-General presided over the Council of State as an ex-officio member. The composition of the Government of India Act of 1935 rarely changed.¹²The constituent Assembly held extensive deliberations on the necessity or otherwise of the Second house. Finally, it was agreed that independent India would have a bicameral legislature, mostly because it was thought that a federal system was the most viable form of governance for such a large country with enormous diversity. It was intended as the federal and second chamber, with a limited membership than the House of People.

3.2 CONSTITUTIONAL POSITION OF RAJYA SABHA:

The Constitutional position of the Rajya Sabha can determined by evaluating its position in Indian Scenario from three different ways which are as follows:

- I. **Where** Rajya Sabha power is equivalent to that of Lok Sabha.
- II. **Where** Rajya Sabha power is not equivalent to that of Lok Sabha.
- III. **Where** Rajya Sabha enjoys special powers.

¹¹ Rajya Sabha, 'Council of States' <[1657796269327.93_Council_of_States\(2\)_1.pdf \(rajyasabha.nic.in\)](https://www.rajyasabha.nic.in/1657796269327.93_Council_of_States(2)_1.pdf)> accessed 1 November 2022

¹² Ibid

3.2.1 WHERE RAJYA SABHA POWER IS EQUAL TO LOK SABHA¹³

In the following areas, the Rajya Sabha has the same powers and status as the Lok Sabha:

- i. Introduction and passage of ordinary bills
- ii. Introduction and passage of Constitutional amendment bills.
- iii. Financial bills concerning Consolidated Fund of India expenditure be introduced and passed.
- iv. Election and impeachment of the President.
- v. Election and removal of the Vice President. Only the Rajya Sabha, however, has the power to initiate the removal of the vice-president. He is removed as a result of a resolution that was approved by the Lok Sabha with a simple majority after being approved by the Rajya Sabha with an effective majority.
- vi. Advising the President to have the Chief Justice, Supreme Court and high court judges, the chief election commissioner, the comptroller, and the auditor general removed.
- vii. Approval of the President's ordinances
- viii. The President must approve the proclamation of all three types of emergencies.
- ix. Selection of ministers including the Prime Minister. Under the Constitution, the ministers including the Prime Minister can be members of either House. However, irrespective of their membership, they are responsible only to the Lok Sabha.
- x. Widening of the jurisdiction of the Indian Supreme Court and the UPSC.

3.2.2 WHERE RAJYA SABHA POWER IS NOT EQUAL TO LOK SABHA

The Rajya Sabha's powers and position are unequal to those of the Lok Sabha in the following areas:¹⁴

- i. Only the Lok Sabha is the proper venue for presenting a money bill.
- ii. The Rajya Sabha has no authority to amend or reject a Money Bill. It should send the bill back to the Lok Sabha within fourteen days, either with or without recommendations.
- iii. The Lok Sabha has the option of accepting or rejecting all or any of the Rajya Sabha's recommendations. In all circumstances, the money bill is considered to have been passed by both Houses.
- iv. A financial bill that does not contain only the provisions of Article 110 may be introduced

¹³ M. Laxmikant, *Indian Polity* (Mac Graw Hill, 6 edn, 2020)

¹⁴ Ibid

solely in the Lok Sabha and not in the Rajya Sabha. However, in terms of passing, both Houses have equal authority.

- v. The Speaker of the Lok Sabha has the final power to decide that any bill is a Money Bill or not.
- vi. The Speaker of Lok Sabha chairs over the joint sitting of both the Houses.
- vii. In a joint sitting, the Lok Sabha with the most members wins, unless the combined strength of the ruling party in both Houses is less than that of the opposition parties.
- viii. The Rajya Sabha can only debate the budget but not vote on grant requests.
- ix. A resolution to end the national emergency can only be passed by the Lok Sabha, not the Rajya Sabha.
- x. Rajya Sabha is not empowered to remove the ministers by passing a no-confidence.

3.2.3 RAJYA SABHA SPECIAL POWERS

3.2.3.1 Legislation on State List:

Rajya Sabha has its own distinctive features. As a federal chamber, the Rajya Sabha has several distinct powers granted by the Constitution. All legislative subjects/areas have been separated into three Lists: Union List, State List, and Concurrent List. The Union List and the State List are mutually exclusive. Under normal circumstances, the Parliament cannot legislate on an issue put on the State List. However, if with a two-thirds majority of members present and voting, Rajya Sabha approves a resolution stating that it is "necessary or expedient in the national interest" for parliament to enact a law on a matter specified in the State List on an issue¹⁵ stated in the resolution for the whole or any part of India's territory. Such a resolution is valid for a maximum of one year, but it can be extended by one more year at a time by passing another similar resolution.

3.2.3.2 Creation of All India Services:

Similarly, with a two-thirds majority of members present and voting, Rajya Sabha can establish one or more All India Services to be shared by the Centre and the States.¹⁶

3.2.3.3 Special Power during Emergency¹⁷: The President is empowered to issue Proclamations in times of national emergency, failure of the state's constitutional machinery, or financial hardship. Each such proclamation must be approved by Parliament within a specific time limit.

¹⁵ The Constitution of India 1950, Art 249

¹⁶ Ibid, Art 312

¹⁷ Ibid, Art 250

However, in some cases, Rajya Sabha possesses extraordinary capabilities in this regard. If a Proclamation is issued when Lok Sabha is dissolved, or if Lok Sabha is dissolved within the time permitted for its approval, the proclamation remains effective if it is passed by Rajya Sabha within the time stipulated in the Constitution under Articles 352, 356, and 360 by a resolution.

3.3 RAJYA SABHA IN FINANCIAL MATTERS

3.3.1 Money Bills¹⁸:

A Money Bill can only be introduced in the Lok Sabha. After the House has passed it, it is sent to Rajya Sabha for concurrence or recommendation. The Rajya Sabha's authority over such a Bill is restricted. Rajya Sabha is required to return such a Bill to Lok Sabha within fourteen days of its receipt. If the Bill is not returned to the Lok Sabha within the fourteen-day timeframe, it is presumed to be passed by both Lok Sabha and Rajya Sabha at the conclusion of the period in the form in which Lok Sabha passed it. The Rajya can only recommend but cannot amend a Money Bill, which the Lok Sabha may either approve or reject it.

3.3.2 Financial Bills¹⁹:

Other than Money Bills, certain Financial Bills cannot be introduced in Rajya Sabha. However, there are particular sorts of Financial Bills on which the Rajya Sabha's powers are unrestricted. These Bills may be introduced in either House, and the Rajya Sabha has the authority to reject or amend such Financial Bills as it does any other ordinary Bill.

3.3.3 Demands for Grants²⁰:

Though Rajya Sabha does not vote on Demands for Grants of Ministries/Departments, which are strictly reserved for Lok Sabha, no funds can be withdrawn from the Consolidated Fund unless the Appropriation Bill is ratified by both Houses. Similarly, the Finance Bill is presented to Rajya Sabha. Furthermore, the Department-related Parliamentary Standing Committees that evaluate the yearly Demands for Grants of Ministries/Departments are joint committees comprised of members from the Lok Sabha and Rajya Sabha, each of which has ten members in these Committees.

¹⁸ The Constitution of India-1950, Art 109

¹⁹ Ibid, Art 117

²⁰ Ibid, Art 115

CHAPTER: 4

U.S. SENATE: POWER AND POSITION

4.1 U.S. SENATE: HISTORICAL BACKDROP

The Senate serves as the upper house of the US Congress, while the House of Representatives serves as the lower chamber. They comprise the national bicameral legislature of the United States. The framers of the United States Constitution specified the organisation and powers of Congress in Article I in 1787. They debated the concept of a two-house Congress. Virginia's George Mason argued that, One house would be the "grand depository of the democratic concept of governance." To counteract popular influence in national governance, Virginia's James Madison advocated a second house that would be small, deliberative, and independent of the larger, more democratic house. This evolved into the Senate. Since the Senate was established by the founders of the United States Constitution, senators, scholars, journalists, and other observers have attempted to explain its position in the federal system of checks and balances.

4.2 CONSTITUTIONAL AND THE U.S. SENATE:

Following are the Constitutional Provisions under U.S. Constitution that deals with the Senate and matters related therewith:

4.2.1 Establishment of Senate: Article 1, Section 1 of the U.S. Constitution declare that there shall be a Senate with all legislative powers. It states that: *"All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."*²¹

4.2.2 Equal Representation: Article 1, Section 3 declares that *"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote....."*²² Thus, the Senate is made up of senators who each represent an entire state. Every state is represented by two senators who serve staggered six-year terms. There are now 100 senators representing the 50 states.

²¹ The Constitution of United States of America 1789, Art 1, s 3(1)

²² Ibid, Art 1, s 3

4.2.3 Remuneration: Further Article 1, Section 6 states that, *“The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States.”*²³

4.2.4 Qualifications of Senators: U.S. Constitution itself provides for the qualifications of Senators by stating that, *“No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.”*²⁴

4.2.5 Vice-President as President of Senate: The Senate is headed by the Vice-President as Constitution states *“The Vice President of the United States shall be President of the Senate, but shall have no Vote unless they be equally divided.”*²⁵

4.2.6 Power of Impeachment: Article I, section 3, clause 6 provides for impeachment of Senators by 2/3rd majority. It states that, *“The Senate shall have the sole Power to try all Impeachments . . . And no Person shall be convicted without the Concurrence of two thirds of the Members present.”*²⁶

4.2.7 Nomination and Consent of Senate in certain cases: Constitution list out certain situations where consent of Senate is mandatorily required. Article II, section 2, clause 2 states that, *“The President shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States....”*²⁷ And Article II, section 2, clause 2 states further that, *“He shall have Powers, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur....”*²⁸

4.3 POWER OF U.S. SENATE:

U.S. Senate because of its longer terms, smaller size, and state-wide constituency it is often

²³ The Constitution of United States of America 1789, Art 1, s 6

²⁴ Ibid, Art 1, s 3 (3)

²⁵ Ibid, Art 1, s 3(4)

²⁶ Ibid, Art 1, s 3(6)

²⁷ Ibid, Art 2, s 2(2)

²⁸ Ibid, Art 2, s 2(2)

regarded as a more deliberative and respectable chamber than the House of Representatives. The Senate's influence stems from more than simply its relatively restricted membership; the Constitution also grants it certain powers. In addition to the extensive powers provided jointly to both houses of Congress, the Constitution specifically mentions the role of the upper chamber in Article I, Section 3²⁹.

4.3.1 Advisory and Consent Powers: The Senate has several advisory and consent powers that are unique to it. Treaties must be approved, and cabinet secretaries, federal judges, flag officers, regulatory authorities, ambassadors, other federal executive officials, and federal uniformed officers must be confirmed. The President of the USA has the authority to negotiate treaties and agreements with other countries, but they must be ratified by the U.S. Senate by a two-thirds vote in order to become effective. This isn't the only method the Senate checks the president's power.

4.3.2 Nomination: If no candidate receives a majority votes cast for vice president, the Senate must select one of the top two electors. All presidential appointments, including Cabinet members, judicial officers, and ambassadors, must be approved by the Senate, which has the authority to summon any nominee to testify.

4.3.3 Power related to War and Investigation: The Senate also conducts investigations on subjects of national importance. Special investigations have been conducted into issues ranging from the Vietnam War to organized crime and related cover-up. The Senate and House have equal authority in declaring war, keeping military troops, levying taxes, borrowing money, minting currency, regulating trade, and passing all laws "necessary and appropriate" for the government's administration. The Senate, however, has sole jurisdiction to advise and agree on treaties and presidential nominations.

4.3.4 Censure: Article I, section 5, of the U.S. Constitution provides that "Each House of Congress may determine the Rules of its proceedings, punish its members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member."³⁰ Censure is a form of discipline used by the Senate against its members (sometimes referred to as condemnation or

²⁹ The Constitution of United States of America 1789, Art 1, s 3

³⁰ Ibid, Art 1, s 5

denouncement). A formal statement of disapproval, a censure does not remove a senator from office. Since 1789 the Senate has censured nine of its members.

4.3.5 Contested Senate Elections: The United States Constitution gives each house of Congress the power to be the judge of the “elections, returns, and qualifications of its own members”³¹. Since 1789 the Senate has carefully guarded this prerogative and has developed its own procedures for judging the qualifications of its members and settling contested elections.

4.3.6 Expulsion: Article I, section 5, of the U.S. Constitution provides that each house of Congress may "punish its members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member."³² Since 1789 the Senate has expelled only 15 members.

4.3.7 Filibuster and Cloture: The Senate has a long history of using the filibuster—a term dating back to the 1850s in the United States—to delay debate or block legislation. Unlimited debate remained in place in the Senate until 1917, when the Senate adopted Rule 22 that allowed the Senate to end a debate with a two-thirds majority vote—a procedure known as "cloture." In 1975 the Senate reduced the number of votes required for cloture from two-thirds (67) to three-fifths (60) of the 100-member Senate.³³

4.3.8 Voting: The Senate takes action on bills, resolutions, amendments, motions, nominations, and treaties by voting. Senators vote in a variety of ways, including roll call votes, voice votes, and unanimous consent.

4.3.9 Impeachment Powers: The Senate hears the cases of those impeached by the House. While the House of Representatives has the authority to recommend impeachment of a serving president, vice president, or other officials such as a judge for "high crimes & misdemeanors," the Senate is the lone jury if impeachment is brought to trial. The Senate can thereby remove an official from office with a two-thirds majority. The House of Representatives has impeached three presidents to date: Andrew Johnson, Bill Clinton, and Donald Trump. All three have been acquitted by the U.S. Senate.

³¹ The Constitution of United States of America 1789, Art 1, s 5

³² Ibid

³³ US Senate, 'Power and Procedure' <[U.S. Senate: Powers and Procedures](#)> accessed 1 November 2022

CHAPTER: 5

COMPARING U.S. SENATE WITH RAJYA SABHA

5.1 Overview of both the Jurisdiction:

The Rajya Sabha in India and the Senate in the United States are both Upper Houses of their respective legislatures. This implies that the member nations are represented by both houses. In contrast, the lower chambers, such as the Lok Sabha in India and the House of Representatives in the United States, do not represent member states but rather constituencies. In USA, each state is represented by two senators, each of whom represents the whole state rather than a specific constituency but this is not the case with Rajya Sabha in India, where the representative is indirectly elected and represents not the entire state rather only a specific constituency within the State.

The United States of America is a classic example of a federation. A federation is a group of "member states" that are largely self-governing but fall under the jurisdiction of the central authority. Every U.S. state has its own constitution and citizenship. In India, however, federalism has a unitary leaning; therefore, distinct citizenship is not there, separate constitutions do not exist, and state governments have little real freedom. State governments, on the other hand, rely heavily on the central government for resources, and party affiliations shape this Centre-state relationship to a substantial extent.

5.2 Election Method: The Constitution originally mandates that the senators should be chosen by the legislatures of the respective states but soon after realizing the misuse of this law and a sort of "invisible government", indirect election was introduced by the 17th Amendment. Now, the Senators are chosen directly by the residents of the states. As a result, they enjoy the people's direct support and acceptance. In contrast, Members of the Rajya Sabha are chosen indirectly. They are chosen by the legislatures of the several state governments. They do not have direct people representation and they are proportionally represented by the way of indirect election and nominations.

5.3 Composition: The Senate grants equal representation to all states, regardless of size or population. This implies that both small and big states will have two representatives. All states have an equal say in the legislative process. The most populous state of New York has same

representation as that of small state of Nevada. This is in contrast to members of Rajya Sabha, whose representation is determined by population. More populous states like Uttar Pradesh have a stronger voice, and so majority rule is fairly prevalent. This makes it simple for the dominant party to disregard opposition and minority' interests. Every state does not stands on the same footings as many small states have mere one seat in Rajya Sabha and state like Uttar Pradesh have around 31 seats.

5.4 Powers: In many ways, the Senate is much more powerful than the House of Representatives. For starters, the Senate has nearly total power over the budget. Second, for treaties, the President requires Senate ratification. In comparison, the Rajya Sabha has no jurisdiction over the Budget other than a "delaying" ability. Failure to approve a measure has no beneficial effect since the joint session method of settling a dispute between the chambers benefits the Lok Sabha because it is led by the Lok Sabha's Speaker.

5.5 Representation: Each senator represents about half of the state with the other half represented by another member. As a result, they enjoy higher voter support. On the other hand, the Rajya Sabha represents a lower number (a set number) and hence receives less voter support.

5.6 Compactness and Seats Distribution: U.S. Senate is a small body of only 100 members. Each and every state sends two representatives each, irrespective of population and size. In contrast, Rajya Sabha has 235 members and states are not equally represented. The number of state representative vary according to population of the state, thus number vary from one to thirty one. As the Senate has just 100 members, talks and deliberations are simplified. Members are also given extra time to talk. Due to large number of members in the Rajya Sabha members may not have sufficient time to speak. Furthermore, more people inevitably leads to more disorder.

5.7 Senate Versus Rajya Sabha: Both houses are comparable in the sense that they are "upper houses" that reflect governmental interests. However, they are vastly different in terms of powers, functions, and the complex consequences of the same. In general, the upper house has less power than the lower house. This is because that a lower house is directly chosen by the people. However, the United States is an "exception" to this rule. The Senate is regarded as the "world's most powerful upper house." In Contrast, the Rajya Sabha is a weak, redundant, and unnecessary body.

CHAPTER: 6

FEDERALISM AND EXTRA-CONSTITUTIONAL FACTORS

6.1 Representative 'from State' versus 'of State': Indian Context

6.1.1 Domicile as a Criteria:

The Rajya Sabha was created with the intention of holding dignified debates on significant subjects and sharing the knowledge of seasoned individuals who were supposed to engage in the debate with a certain degree of learning. Federalism is not territorial, hence residence should not be used to determine federal structure. The Government of India Act of 1935³⁴ included no mention of domicile. The Rajya Sabha, as a Second Chamber, differs from the US Senate in that all states have equal representation. The representation of states in Rajya Sabha is based on population, as specified in the Fourth Schedule.

State participation in the Rajya Sabha was never a criterion for the practise of federalism in India. The fundamental aspect of federalism is the separation of issues over which the states and the federal government can legislate. The Seventh Schedule is used to accomplish this. The claim that a representative who does not belong to a state cannot properly represent it is false. Federalism was not jeopardised as long as states enjoyed the right to be represented in the Rajya Sabha by their elected MPs.

6.1.2 Constitutional Debate:

In the debate over the purpose of Rajya Sabha, leaders such as *Gopalaswamy Ayyangar and S. Radhakrishnan* saw it as a dignified, cooling, and revising chamber, whereas others such as *K. T. Shah, Lakshminarayan Sahu, and Loknath Mishra* wanted to give each State equal representation in the House and have the role of the Council of States. However, the Rajya Sabha was agreed to be the conventional second house, with the emergence of the Council of States. The major duty, according to the Sarkaria Commission, was "... that of a second house of Parliament performing legislative powers, more or less in coordination with the Lok Sabha."³⁵

³⁴ The Government of India Act 1935

³⁵ Rajya Sabha, 'Council of States' <[1657796269327.93_Council_of_States\(2\)_1.pdf](https://rajyasabha.nic.in/1657796269327.93_Council_of_States(2)_1.pdf) (rajyasabha.nic.in)> accessed 1 November 2022

Even Rajya Sabha debates are under the ambit of Union List. Except for legislating under Articles 249, 312 and 356(3), the Rajya Sabha's role is comparable to that of the Lok Sabha. Even Articles 249 and 312 deal with matters of national interest and the establishment of All India services, respectively. Article 356 also grants the Rajya Sabha the authority to declare a state of emergency if the Lok Sabha is dissolved within that time. Both of the earlier issues do not affect any one state, but rather the country as a whole. Article 356 powers are only temporary since the proclamation must be recognised by the Lok Sabha within 30 days of its formation. A non-resident representing a State, like a Lok Sabha MP from the State, can discuss these issues and participate to the legislative process. If, on the other hand, the domicile criterion was preserved. Furthermore, due to political compulsions, members vote based on their party affiliation rather than their state.

6.1.3 Nominated Members:

There is a provision in the Rajya Sabha for twelve nominated members who have achieved eminence in the areas of art, literature, science, and social services. This provision was made to include diverse viewpoints and improve the quality of legislation. As a result, the amendment demonstrates that the goal of the Rajya Sabha was not to represent states, but to represent a broad range of individuals.

6.1.4 Landmark Ruling:

Supreme Court in the landmark judgment of *Kuldip Nayar v Union of India*³⁶, upheld the constitutional validity of Section 3[1] of the Representation of People's Act which was amended by the Parliament in 2003 and concluded that simply calling second house as the "Council of States" is insufficient to make residency a condition. A 'representative' is somebody who the State's lawmakers believe is qualified to represent the State. The election is what qualifies a person to be a "representative." If lawmakers believe that a person with a connection to the state is a superior candidate, they have the option of electing him instead of the non-resident candidate. By admitting non-residents, no barrier is established for State citizens to run for Rajya Sabha seats.

6.2 Unequal Representation of States:

6.2.1 Position in India:

Unlike USA, Indian constitution provides for the unequal representation of States in Rajya Sabha. The number of seats allotted to each state is calculated as per their population and not represented

³⁶ *Kuldip Nayar v. Union of India* [2006] SC 3127

equally. Political Parties indirectly elect the members through proportional representation system and thus it is mere reflection of stronghold of political parties in various state legislative assemblies.

States like Uttar Pradesh has more than 31 seats of Rajya Sabha, on the other hand, small states like north-eastern states have mere 1 seats. Moreover, many Union Territories except Delhi, Jammu & Kashmir, and Puducherry are not represented in Rajya Sabha. They lack any sort of representation directly or indirectly in Rajya Sabha.

The explosion of populations in the Hindi states have created a situation that could prove destabilizing for the Indian Union. India has simply delayed the problem by freezing the number of state seats in Parliament at the 1971 population.

6.2.2 Position in USA:

In Contrast, every state has equal representative in United States Senate and two members are there irrespective of their size or population. Every state is represented by two senators who serve staggered six-year terms. There are now 100 senators representing the 50 states. This ensure due representation of each and every state and respect each territorial units integrity and limited sovereignty no matter how small or how large it is.³⁷

6.3 GIVE IT EQUALITY WITH THE LOK SABH

6.3.1 Need for Equality:

The Rajya Sabha has fewer legislative powers than the Lok Sabha. It cannot, for example, stymie a money bill and can be overruled by the device of a joint sitting. This difference in powers is ostensibly similar to the United Kingdom – except that the UK’s Upper House is an appointed body. The Rajya Sabha, however, is elected by the state legislatures. This, it might be noted, is the same manner in which the Indian Constituent Assembly – the body that drafted the Indian Constitution – was elected. Giving the Rajya Sabha parity with the Lok Sabha will ensure that the states have their say in the running of the Parliament, allowing a crucial check and balance on the vast powers of the Union government.

³⁷ US Senate, ‘Composition’ < [U.S. Senate](#)> accessed 1 November 2022

6.3.2 Comparison with the USA:

A better analogy is the United States, where the equivalent of the Indian Council of States, the Senate, is also elected. Earlier, before 17th Amendment till 1913³⁸, like Rajya Sabha MPs, senators in the US were elected by state legislatures but considering the pithy politics, corruption and 'invisible government' they are now directly elected. The United States Senate has equal powers as the lower house (the House of Representatives). Moreover, politically, being a senator carries far more prestige than being a representative, given that the former represent an entire state.

6.4 JOINT SESSION:

6.4.1 Constitutional Provisions:

To break the deadlock, the Indian Constitution calls for combined sittings of both Houses. The President of India convenes a joint session of Parliament³⁹, which is presided over by the Lok Sabha Speaker and, if he or she is unable to attend, by the Deputy Speaker. If none of them are accessible, the Rajya Sabha Deputy Chairman will preside. In the absence of any of the aforementioned posts, any other members of Parliament may preside by majority approval of both Houses.

6.4.2 Joint Session and Federalism:

Joint session under Article 108⁴⁰ is something really tricky. Though it is enacted to end the deadlock, but the way it ends the deadlock is itself problematic and against federalism. Till date, it is used only thrice but the issue may arise in future when there is great possibility of misuse of this provision, particularly when there is majority government. Article 108 provides for joint sitting of both Lok Sabha and Rajya Sabha and resolving of dispute by majority votes, where the Lok Sabha has clear edge as it has almost double numbers of members than Rajya Sabha. This will make it as a tool in the hand of government to escape the criticism and dissent of Rajya Sabha. They can easily pass any legislation by using that brutal majority and thus, putting the stake of states at risk. This provision appears to be inconsistent with the Federalist principles and also affecting the say of states in the legislative matters to some extent.

³⁸ The Constitution of United States of America 1789 (17th Amendment, 1913)

³⁹ The Constitution of India 1950, Art 108

⁴⁰ Ibid

CHAPTER: 7

RAJYA SABHA MEMBERS: TRUE VOICE OF STATE? OR JUST A PARTY NOMINEE?

7.1 Role of Rajya Sabha Members:

As the Second Chamber, the Rajya Sabha serves as a revisionary house, evaluating bills approved by the Lok Sabha and providing some continuity in the underlying policies of laws passed by the parliament. In addition, Rajya Sabha formalizes the federal principles of power-sharing between the Centre and the states. The success of this plan, however, is dependent on the members of the house. If every member of the house fulfils their commitments and duties to the state they represent and to the people at large, the house can function effectively and federalism can be strengthened. The following are some of the duties of Rajya Sabha members:

7.1.1 Safety Valve of India's Federal Policy: As bicameralism is required for a federal constitution to provide representation to the units of the federation, Rajya Sabha serves as a safety valve for India's federal policy by serving as a critical component of the constitutional checks and balances structure. The Council of States serves as a safety valve inside the legislature, lowering federal tensions.

7.1.2 Review and Evaluation Role: The fundamental goal of creating Rajya Sabha was to create a revisionary chamber to keep a check on the fast legislation that the lower house could approve under populist pressures, as Rajya Sabha can postpone the passage of bills.

7.1.3 As a Deliberative Body: Parliament, in addition to being a legislative body, is a deliberative body that permits members to debate issues of public importance. Thus, the Upper House's purpose is to be a deliberative body in addition to balancing the unpredictable nature of the Lok Sabha.

7.1.4 Representing the Vulnerable Sections: The Lok Sabha does not effectively represent underrepresented groups of society based on religion, gender, race, and linguistic minority. As a result, indirect election to the Rajya Sabha would allow them to participate in the legislative process of the country.

7.2 PARTY NOMINEE OR STATE REPRESENTATIVE?

7.2.1 Rajya Sabha Seat Distribution:

Rajya Sabha, the Upper House of Parliament, has 250 seats in total. Twelve members are directly nominated by the President of India, 229 are elected by states, and four are elected by union territories. It means that 233 persons are elected while the remaining candidates are nominated in the Rajya Sabha. The allocation of seats determines which states send how many members to the Rajya Sabha based on population.⁴¹

Members of the Rajya Sabha, like any democratic post, are the people's representatives. They are, however, not directly elected by the people, as are Lok Sabha elections, but by their representatives.

7.2.2 Rajya Sabha Elections:

Any candidate filed by a political party must be proposed by at least 10 members of the state assembly, or 10% of the party's assembly strength. To win, a contender must receive more votes than a certain number of incumbent MLAs. This is determined via an intricate formula involving a single transferable vote, which allows the voter to select options depending on desire. The voter can rank candidates 'X' and 'Y' in order of preference, and so on. If the 'X' candidate is eliminated due to lesser number of votes cast during the counting procedure, the voter's vote for 'X' can be transferred to 'Y,' and so on. The vote is done using an open ballot mechanism. The candidates are chosen as winners based on the preferences of voters, who do not vote for the seats directly but rather rank the candidates in order of preference.⁴²

7.2.3 Party Nominee rather than State Representative:

After analyzing the seat distribution and method of election by proportional representation, it is quite clear that Rajya Sabha members are more like a party nominee because their chance of being elected depends upon the number of seats the party had, to which he/she is affiliated. If they belong to ruling party their probability is high as they can easily manage to get more number of seats than any other party. Use of whip ensures that there is no cross voting and party gets maximum number of candidates elected. Thus, these candidates are more like a party nominee and are truly loyal towards their political ideology.

The non-mandatory requirement of being domicile of the state is another controversial issue.

⁴¹ Rajya Sabha, 'Council of States' <[1657796269327.93_Council_of_States\(2\)_1.pdf](https://rajyasabha.nic.in/1657796269327.93_Council_of_States(2)_1.pdf) (rajyasabha.nic.in)> accessed 1 November 2022

⁴² Ibid

Political parties' places its important candidates who have lost in Lok Sabha elections for Rajya Sabha so that they can bring him/her in Cabinet. In fact, some of the Prime Minister prefer to be from Rajya Sabha instead of Lok Sabha as they fear losing the elections. All this tussle set aside consideration of having a representative from that state who can raise the local issues and secure the state interest. Most of the members are like party representative and have less interest in securing the interest of the state from where they are being elected.

Further, Rajya Sabha in today's scenario became the parking area for the aged politicians, disregarded and ones who have lost the Lok Sabha Elections but important part of party by which he/she is being backed or politicians who have changed the party by resigning from their seats. Moreover, some important businessman, industrialist, reporters, media owners, actors, social workers, jurist or lawyers having stronghold and large public support are being offered Rajya Sabha seats for gaining votes and public support through them. Thus, we can say that in true sense, Rajya Sabha is not state voice but an echo of the political parties to which they are affiliated.

7.3 COMPARISION WITH US SENATE:

7.3.1 Based on Election and Domicile: U.S Senate is a small body of 100 members, two from each state irrespective of size and population of the state. In this way all 50 states⁴³ are equally represented by equal number of members in senate. These representative unlike India is directly elected and is bound to be resident of the state to which they represents. No person from other states can contest for the post of Senators from state other than to which he belongs, thus maintaining the necessity of required interest in that which he required to protect. He / She in true sense represents the voice of state as he is attached to the place and moreover, direct election made them more accountable towards the public.

7.3.1 Based on Party Affiliation and Nomination: Though they are also inclined towards the political parties but such inclination does not mean that they are political nominee as their election depends upon voters not on the whims and fancies of the political parties. Also, there is no provision as to Nominated members in the Senate as found in India. This ensure that federal principles are being followed and no person other than state representative has the access to the States Chamber.

⁴³ US Senate, 'Composition' <[U.S. Senate](#)> accessed 1 November 2022

CHAPTER: 8 ANALYSIS AND CONCLUSION

8.1 CRITICAL ANALYSIS: AN OVERVIEW

8.1.1 Equal Representation: After analyzing the power and position of both the houses i.e. Rajya Sabha and the U.S. Senate, we can answer the research questions and conclude the discussion by recommending some changes in the legal provision to make these two houses more effective and federal. The need for having due representation of states in the upper house of India is clearly made out by this paper. The unequal representation of states in Rajya Sabha is one of the problem pointed out by this paper which need to be addressed.

8.1.2 Role of Members and Domicile: Similarly, the crucial role played by the members of the upper house is also important to ensure efficacy and federal character of the house. The moment where these members start acting like party nominee, the protection of state's interest for which they are being elected is being compromised. They can't prioritize their political interest over the state interest for which they are being elected. They are bound to protect their respective state from each and every possible harm that may be caused. They are there to protect the federal character of the Nation and any action of the Union which is inconsistent or in violation of federal principles must be opposed and disregarded by that state. Also, the paper points out how the provision mandating for joint session can be misused by one house to render the other house irrelevant and powerless and establish the dominance of one house over the other.

8.1.3 Suggestions: Thus, paper try to find out the solutions by recommending equal representation of states to ensure that it does not become vulnerable to the uncontrolled powers of Parliament or the Government and need for domicile as qualification for being Senator or member of the upper chamber to ensure that state interest is secured by the resident of that state who had some vested interested in the protection of their own state. This is similar to having a provision for nationality / citizenship for post of Executive or Head of Government.

8.2 ANSWERING THE RESEARCH QUESTIONS:

At the very beginning of the paper the researcher drafted two research questions which need to be answered. Now, after discussing in detail about the two houses we can answer those two questions, which are as follows:

8.2.1 Research Question: 1-

Whether the India Upper house enjoys the same powers and has to perform the same function as the U.S. Senate? Whether state interests are duly protected by these members or not?

Answering to the first part of the first question, it is clearly visible after comparing the power and position of both the houses that Rajya Sabha in India does not enjoys the same power and their function is similar to some extent but not one and the same. US Senate, without any doubt is much more powerful than that of Rajya Sabha. Rajya Sabha unlike US Senate has no control over finances which is something very critical for running any government. Moreover, the provision for joint session subdue one house to be subordinate of other and establishing the dominance of the other house, where it can decide on its own whim and fancies and getting it approved in one or the other way.

Furthermore, answering the second part of the first question, that after considering the election methods, politics involved, domicile requirement, and members acting like parties nominee in India to secure a seat in Rajya Sabha and comparing all these with the USA, researcher can conclude that state interest are not duly protected by these members. These members are more like a political nominee not the elected representative of state. They prioritize their political interest over the state interest. Moreover, having no connection to the place, they find it unnecessary to indulge in the problems of that state. They are not accountable to public and depends solely on party's fancies. Thus, making them more loyal towards political parties than the state they are representing. Also, use of this upper house as parking area for politicians make this idea of having indirectly elected representative more questionable.

8.2.2 Research Question: 2-

Does the unequal representation of states in Rajya Sabha make states more vulnerable to the parliament or equal representation, as that in the U.S, resulting in the unequal and unjust representation of public opinion?

Answering to the second question, researcher after comparing the provisions can conclude that the unequal representation of states in Rajya Sabha make states more vulnerable to the parliament. Different state being represented differently is very unjustified in federal country like ours, where every state no matter what is equally important in one way or the other. It does not

place all states on equal footings and does not provide equal respect to every state. This sometimes makes the states more vulnerable and subject of discrimination. Vote and Seat politics force political parties to woo larger states by offering extra benefits, funds and projects as against the smaller states with less number of seats and voters. For example, In India, state like Uttar Pradesh which has more than 31 seats is loaded with schemes and projects in comparison to any northeastern states having one seat. Due to less in number, many states cannot raise their voices and local issues as effectively as that of larger states.

Also, use of joint session is one of the way by which the upper house is subordinated by the lower house and thus enforcing the views of one house over the other, without its proper consent. Thus, reducing the federal character to zero. Joint session of two houses which are unequal in numbers and decision by majority is just like mockery with the house having less in number. The same applies n Rajya Sabha, which is dominated by Lok Sabha and Government in power. In contrast, USA public opinion is not disregarded by having elected and equal members from every states.

Thus, we can conclude by saying that Unequal representation in Rajya Sabha makes state more vulnerable to large powers of the parliament and Equal representation of state in USA is in tune with federal and democratic principles, where every state has equal voice. For representing public opinion there exist the other house. The upper house is meant for state and it should be used accordingly. This will uphold the federalist principles and make the federalism more cooperative and friendly.

8.3 EVALUATING THE HYPOTHESIS:

8.3.1 First Hypothesis: *Researcher hypothesizes that “U.S. Senate enjoys more power and freedom in comparison with Indian Council of State, i.e., Rajya Sabha and interests of the state are relatively more protected by Senators of U.S. than that of the member of Rajya Sabha in India.” Considering the whole discussion and various constitutional and legal provisions related therewith and after answering the research questions, researcher came to the conclusion that this hypothesis stands valid. US Senate un-doubtfully enjoys more power and freedom than the Rajya Sabha. US Senate has substantial power and control over legislation and finances. They are having many additional power than that of Rajya Sabha and there exist no provision for joint sitting which can affect its power or downgrade its position. Exceptionally, it is the world most powerful upper house. In contrast, Rajya Sabha exercises power equivalent to Lok Sabha but in*

cases of Finances and Money Bills it has no control or substantial power as such. Moreover, during joint sitting due to less members as such, it is subordinated to Lok Sabha.

8.3.2 Second Hypothesis: *Also, the second part of the hypothesis stands valid. The interests of the state are relatively more protected by Senators of U.S. than that of the member of Rajya Sabha in India because US Senator are directly elected and is responsible to the citizens while Indian Rajya Sabha membership solely depends upon the political parties fancies and support. Members are indirectly elected by way of proportional representation. This means as much seats one political party had, they can make way for that number of candidates to Rajya Sabha. Thus, members are more loyal towards parties rather than the state. Additionally, the non-requirement of domicile for being members of Rajya Sabha from that state is also contributing to the problem as the outsider cannot truly understand the need of the state and their interest to be protected. They don't find attached to the place and have no interest therein as they are not even accountable for their inactiveness.*

8.4 CONCLUSION AND SUGGESTIONS:

Finally, the researcher can conclude the paper by reaffirming the problem and possible solution. US Senate is much more powerful than Rajya Sabha and is probably the world's most powerful institution after UK Parliament. Senators truly represents the state interest and are accountable to public thus find themselves bound by the public opinion. Equal representation of the states give state equal say in the legislation and decision and protect them against the rule of majority and discrimination possible against small states. In contrast, Rajya Sabha though have certain special powers but is not that powerful as that of Senate and members thereof is not true representative of the state and are more like the party nominee. They are indirectly elected and does not reflect public opinion but only the party interest. Moreover, absence of domicile and Rajya Sabha as parking area is the current issue that need to be addressed. This can be done by providing for Equal representation to states, making domicile as qualification for being member of the house, giving equal power to Rajya Sabha as that of Lok Sabha and by doing away with the Joint session where majority of Lok Sabha subdue the Rajya Sabha as mere approver.

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