

181. Assertion [A] : Attorney - General of India has the privilege of addressing both the houses of Parliament.
Reason [R] : Attorney - General enjoys the same privileges and immunities as the members of Parliament.

- (A) [A] is true but [R] is false
(B) Both [A] and [R] are true; and [R] is the correct explanation of [A]
(C) [A] is false, but [R] is true
(D) Both [A] and [R] are true, but [R] is not the correct explanation of [A]
(E) Answer not known

கூற்று [A] : நாடாளுமன்றத்தின் இரு அவைகளிலும் உரையாற்றும் சிறப்புரிமை இந்திய தலைமை வழக்குரைஞருக்கு உண்டு.

காரணம் [R], : நாடாளுமன்ற உறுப்பினர்களை போன்றே இந்திய தலைமை வழக்குரைஞரும் சிறப்பு சலுகைகளையும் விலக்களிப்புகளையும் கொண்டுள்ளார்.

- (A) கூற்று [A] சரி, ஆனால் காரணம் [R] தவறு
(B) கூற்று [A] மற்றும் காரணம் [R] இரண்டும் சரி; மற்றும் காரணம் [R] கூற்று [A]வின் சரியான விளக்கம்
(C) கூற்று [A] தவறு, ஆனால் காரணம் [R] சரி
(D) கூற்று [A] மற்றும் காரணம் [R] இரண்டும் சரி; ஆனால் காரணம் [R] கூற்று [A]வின் சரியான விளக்கமல்ல
(E) விடை தெரியவில்லை

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CHAPTER 53

Attorney General of India

The Constitution (Article 76) has provided for the office of the Attorney General for India¹. He/she is the highest law officer in the country.

APPOINTMENT AND TERM

The Attorney General (AG) is appointed by the President. He/she must be a person, who is qualified to be appointed as a judge of the Supreme Court. In other words, he/she must be a citizen of India and must have been a judge of some high court for five years or an advocate of some high court for ten years or an eminent jurist, in the opinion of the President.

The term of office of the AG is not fixed by the Constitution. Further, the Constitution does not contain the procedure and grounds for his/her removal. He/she holds office during the pleasure of the President. This means that he/she may be removed by the President at any time. He/she may also quit office by submitting resignation to the President. Conventionally, he/she resigns when the government (council of ministers) resigns or is replaced, as he/she is appointed on its advice.

The remuneration of the AG is not fixed by the Constitution. He/she receives such remuneration as the President may determine.

¹Article 76 of Chapter 1 (The Executive) in Part V (The Union) of the Constitution deals with the office of the Attorney General of India.

DUTIES AND FUNCTIONS

As the chief law officer of the Government of India, the duties of the AG include the following:

1. To give advice to the Government of India upon such legal matters, which are referred to him/her by the President.
2. To perform such other duties of a legal character that are assigned to him/her by the President.
3. To discharge the functions conferred on him/her by the Constitution or any other law.

The President has assigned the following duties to the AG²:

1. To appear on behalf of the Government of India in all cases in the Supreme Court in which the Government of India is concerned.
2. To represent the Government of India in any reference made by the President to the Supreme Court under Article 143 of the Constitution.
3. To appear (when required by the Government of India) in any high court in any case in which the Government of India is concerned.

RIGHTS AND LIMITATIONS

In the performance of his/her official duties, the AG has the right of audience in all courts in the territory of India. Further, he/she has

²Notification No. F. 43-50C, 26 January 1950, *Gazette of India*, Extraordinary, Volume VII, pp. 33-34.

the right to speak and to take part in the proceedings of both the Houses of Parliament or their joint sitting and any committee of the Parliament of which he/she may be named a member, but without a right to vote. He/she also enjoys all the privileges and immunities that are available to a member of Parliament.

In order to avoid any complication and conflict of duty, the following limitations are placed on the AG:

1. He/she should not advise or hold a brief against the Government of India.
2. He/she should not advise or hold a brief in cases in which he/she is called upon to advise or appear for the Government of India.
3. He/she should not defend accused persons in criminal prosecutions without the permission of the Government of India.
4. He/she should not accept appointment as a director in any company or corporation without the permission of the Government of India.
5. He/she should not advise any ministry or department of Government of India or any statutory organization or any public sector undertaking unless the proposal or a reference in this regard is received

through the Ministry of Law and Justice, Department of Legal Affairs^{2a}.

However, the AG is not a full-time counsel for the Government. He/she does not fall in the category of government servants. Further, he/she is not debarred from private legal practice.

SOLICITOR GENERAL OF INDIA

In addition to the AG, there are other law officers of the Government of India. They are the solicitor general of India and additional solicitor general of India. They assist the AG in the fulfilment of his/her official responsibilities. It should be noted here that only the office of the AG is created by the Constitution. In other words, Article 76 does not mention about the solicitor general and additional solicitor general.

The AG is not a member of the Central cabinet. There is a separate law minister in the Central cabinet to look after legal matters at the government level³.

^{2a}Inserted vide G.S.R.... (E) dated 25th February, 2005.

³During the prime ministership of Jawaharlal Nehru, a proposal was put forward by the Central government that the office of the Attorney General be merged with the office of the law minister. It did not materialise.

Table 53.1 Articles Related to Attorney-General of India at a Glance

Article No.	Subject-matter
76.	Attorney-General of India
88.	Rights of Attorney-General as respects the Houses of Parliament and its Committee
105.	Powers, privileges and immunities of Attorney-General

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