

## 02. CHIEF MINISTER

- the governor is the nominal executive authority (*de jure* executive) and the Chief Minister is the real executive authority (*de facto* executive).

- In other words, the governor is the head of the state while the Chief Minister is the head of the government.

- Thus the position of the Chief Minister at the state level is analogous to the position of prime minister at the Centre.

### Appointment of Chief Minister

- The Constitution does not contain any specific procedure for the selection and appointment of the Chief Minister.

- Article 164 only says that the Chief Minister shall be appointed by the governor.

- However, this does not imply that the governor is free to appoint any one as the Chief Minister.

- In accordance with the conventions of the parliamentary system of government, the governor has to appoint the leader of the majority party in the state legislative assembly as the Chief Minister.

- But, when no party has a clear majority in the assembly, then the governor may exercise his personal discretion in the selection and appointment of the Chief Minister.

- In such a situation, the governor usually appoints the leader of the largest party or coalition in the assembly as the Chief Minister and ask him to seek a vote of confidence in the House within a month.

- The governor may have to exercise his individual judgement in the selection and appointment of the Chief Minister when the Chief Minister in office dies suddenly and there is no obvious successor.

- However, on the death of a Chief Minister, the ruling party usually elects a new leader

and the governor has no choice but to appoint him as Chief Minister.

- The Constitution does not require that a person must prove his majority in the legislative assembly

before he is appointed as the Chief Minister.

- The governor may first appoint him as the Chief Minister and then ask him to prove his majority in the

legislative assembly within a reasonable period. This is what has been done in a number of cases.

- A person who is not a member of the state legislature can be appointed as Chief Minister for six months, within which time, he should be elected to the state legislature, failing which he ceases to be the Chief Minister

- According to the Constitution, the Chief Minister may be a member of any of the two Houses of a state legislature.

- Usually Chief Ministers have been selected from the Lower House (legislative assembly), but, on a number of occasions, a member of the Upper House (legislative council) has also been appointed as Chief Minister.

### Oath, Term and Salary

- the governor administers to him the oaths of office and secrecy. In his oath of office, the Chief Minister swears

1. to bear true faith and allegiance to the Constitution of India,

2. to uphold the sovereignty and integrity of India,

3. to faithfully and conscientiously discharge the duties of his office, and

4. to do right to all manner of people in accordance with the Constitution and the law, without fear or favour, affection or ill-will

- The term of the Chief Minister is not fixed and he holds office during the pleasure of the governor. However, this does not mean that the governor can dismiss him at any time. He cannot be dismissed by the governor as long as he enjoys the majority support in the legislative assembly

- But, if he loses the confidence of the assembly, he must resign or the governor can dismiss him

- The salary and allowances of the Chief Minister are determined by the state legislature. In addition to the salary and allowances, which are payable to a member of the state legislature, he gets a sumptuary allowance, free accommodation, travelling allowance, medical facilities, etc

### **Powers and Functions of Chief Minister In Relation to Council of Ministers**

The Chief Minister enjoys the following powers as head of the state council of ministers:

(a) The governor appoints only those persons as ministers who are recommended by the Chief Minister.

(b) allocates and reshuffles the portfolios among ministers.

(c) ask a minister to resign or advise the governor to dismiss him in case of difference of opinion.

(d) presides over the meetings of the council of ministers and influences its decisions.

(e) guides, directs, controls and coordinates the activities of all the ministers.

(f) bring about the collapse of the council of ministers by resigning from office.

(g) Since the Chief Minister is the head of the council of ministers, his resignation or death automatically

dissolves the council of ministers. The resignation or death of any other minister, on the other hand,

merely creates a vacancy, which the Chief Minister may or may not like to fill

### **In Relation to the Governor**

The Chief Minister enjoys the following powers in relation to the governor:

(a) He is the principal channel of communication between the governor and the council of ministers. It is the duty of the Chief Minister:

(i) to communicate to the Governor of the state all decisions of the council of ministers relating to the administration of the affairs of the state and proposals for legislation;

(ii) to furnish such information relating to the administration of the affairs of the state and proposals for legislation as the governor may call for; and

(iii) if the governor so requires, to submit for the consideration of the council of ministers any matter on

which a decision has been taken by a minister but which has not been considered by the council.

- He advises the governor with regard to the appointment of important officials like advocate general, chairman and members of the state public service commission, state election commissioner, and so on.

### **In Relation to State Legislature**

The Chief Minister enjoys the following powers as the leader of the house:

(a) He advises the governor with regard to the summoning and proroguing of the sessions of the state legislature.

(b) He can recommend the dissolution of the legislative assembly to the governor at any time.

(c) He announces the government policies on the floor of the house.

### **Other Powers and Functions**

In addition, the Chief Minister also performs the following functions:

- (a) the chairman of the State Planning Board.
- (b) acts as a vice-chairman of the concerned zonal council by rotation, holding office for a period of one year at a time.
- (c) a member of the Inter-State Council and the National Development Council, both headed by the prime minister.
- (d) the chief spokesman of the state government.
- (e) the crisis manager-in-chief at the political level during emergencies.

(f) As a leader of the state, he meets various sections of the people and receives memoranda from them regarding their problems, and so on.

(g) the political head of the services

### **Relationship with the Governor**

#### **Article No. Subject-matter**

- |      |  |   |
|------|--|---|
| 163. | Council of Ministers to aid and advise   | Governor                                    |
| 164. | Other provisions as to Ministers         |   |
| 166. | Conduct of business of the Government    | of a State                                  |
| 167. | Duties of Chief Minister as respects the | furnishing of information to Governor, etc. |

## **03. STATE COUNCIL OF MINISTERS**

- the council of ministers headed by the chief minister is the real executive authority in the politicoadministrative system of a state
- The principles of parliamentary system of government are not detailed in the Constitution; but two Articles (163 and 164) deal with them
- Article 163 deals with the status of the council of ministers while Article 164 deals with the appointment, tenure, responsibility, qualifications, oath and salaries and allowances of the ministers.

### **Constitutional Provisions Article 163— Council of Ministers to aid and advise Governor**

1. If any question arises whether a matter falls within the Governor's discretion or not, decision of the Governor shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion.

2. The advice tendered by Ministers to the Governor shall not be inquired into in any court

### **Article 164—Other Provisions as to Ministers**

1. The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister.

2. However, in the states of Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha, there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the scheduled castes and backward classes or any other work.

3. The state of Bihar was excluded from this provision by the 94th Amendment Act of 2006.

4. The total number of ministers, including the chief minister, in the council of ministers in a state shall not exceed 15 per cent of the total strength of the legislative assembly of that state.

5. But, the number of ministers, including the chief minister, in a state shall not be less than 12. This provision was added by the 91st Amendment Act of 2003.

6. A member of either House of state legislature belonging to any political party who is disqualified on the ground of defection shall also be disqualified to be

appointed as a minister. The provision was also added by the 91st Amendment Act of 2003.

7. The ministers shall hold office during the pleasure of the Governor.

8. The council of ministers shall be collectively responsible to the state Legislative Assembly.

9. The Governor shall administer the oaths of office and secrecy to a minister.

10. A minister who is not a member of the state legislature for any period of six consecutive months shall cease to be a minister.

11. The salaries and allowances of ministers shall be determined by the state legislature.

### **Article 166—Conduct of Business of the Government of a State**

1. All executive action of the Government of a State—the Governor.

2. The Governor shall make rules for the more convenient transaction of the business of the government of the state, and for the allocation among ministers of the said business in so far as it is not business with respect to which the Governor is required to act in his discretion.

### **Article 167—Duties of Chief Minister**

• To communicate to the governor regarding the decisions of the council of ministers relating to the administration of the affairs of the state

### **Nature of Advice by Ministers**

• the nature of advice tendered by ministers to the governor cannot be enquired by any court. This provision emphasises the intimate and the confidential relationship between the governor and the ministers

### **Appointment of Ministers**

• ministers are appointed by the governor on the advice of the chief minister.

• the governor can appoint only those persons as ministers who are recommended by the chief minister

• tribal welfare minister in Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha

• The 94 th Amendment Act of 2006 freed Bihar from the obligation of having a tribal welfare minister as there are no Scheduled Areas in Bihar now

• A person who is not a member of either House of the state legislature can also be appointed as a minister

• But, within six months, he must become a member (either by election or by nomination) of either House of

the state legislature, otherwise, he ceases to be a minister

• A minister who is a member of one House of the state legislature has the right to speak and to take part in the proceedings of the other House.

• can vote only in the House of which he is a member

### **Oath and Salary of Ministers**

• the governor administers the oaths of office and secrecy In his oath of office, the minister swears:

1. to bear true faith and allegiance to the Constitution of India,

2. to uphold the sovereignty and integrity of India,

3. to faithfully and conscientiously discharge the duties of his office, and

4. to do right to all manner of people in accordance with the Constitution and the law, without fear or favour, affection or ill-will.

### **Responsibility of Ministers**

### **Collective Responsibility**

- Article 164- collectively responsible to the legislative assembly of the state for all their acts of omission and commission

- When the legislative assembly passes a no-confidence motion against the council of ministers, all the ministers have to resign including those ministers who are from the legislative council

- the council of ministers can advise the governor to dissolve the legislative assembly on the ground that the

House does not represent the views of the electorate faithfully and call for fresh elections. The governor may not oblige the council of ministers which has lost the confidence of the legislative assembly

- the cabinet decisions bind all cabinet ministers (and other ministers) even if they deferred in the cabinet meeting. It is the duty of every minister to stand by the cabinet decisions and support them both within and outside the state legislature. If any minister disagrees with a cabinet decision and is not prepared to defend

it, he must resign.

### Individual Responsibility

- Article 164 also contains the principle of individual responsibility

- the ministers hold office during the pleasure of the governor

- the governor can remove a minister only on the advice of the chief minister

### No Legal Responsibility

- Centre-no provision in the Constitution for the system of legal responsibility of the minister in the states. not required that an order of the governor for a public act should be countersigned by a minister.

- Moreover, the courts are barred from enquiring into the nature of advice rendered by the ministers to the

governor

### Composition of the Council of Ministers

- Constitution does not specify the size of the state council of ministers or the ranking of ministers

- determined by the chief minister

- the council of ministers consists of three categories of ministers, namely, cabinet ministers, ministers of state, and deputy ministers

- The cabinet ministers- head the important departments of the state government like home, education, finance, agriculture and so forth, play an important role in deciding policies

- The ministers of state- given independent charge of departments or can be attached to cabinet ministers. not

members of the cabinet and do not attend the cabinet meetings unless specially invited when something related to their departments are considered by the cabinet

- the deputy ministers- not given independent charge of departments, attached to the cabinet ministers and assist them in their administrative, political and parliamentary duties. They are not members of the cabinet and do not attend cabinet meetings

### Cabinet

- A smaller body called *cabinet* is the nucleus of the council of ministers. It consists of only the cabinet ministers. It is the real centre of authority in the state government. It performs the following role:

1. It is the highest decisionmaking authority in the politico-administrative system of a state.

2. It is the chief policy formulating body of the state government.

3. It is the supreme executive authority of the state government.

4. It is the chief coordinator of state administration.

5. It is an advisory body to the governor.

6. It is the chief crisis manager and thus deals with all emergency situations.

7. It deals with all major legislative and financial matters.

8. It exercises control over higher appointments like constitutional authorities and senior secretariat administrators.

### **Cabinet Committees**

• The cabinet works through various committees called cabinet committees. They are of two types standing and ad hoc. The former are of a permanent nature while the latter are of a temporary nature.

• They are set up by the chief minister according to the exigencies of the time and requirements of the situation. Hence, their number, nomenclature and composition varies from time to time.

• They not only sort out issues and formulate proposals for the consideration of the cabinet but also take decisions. However, the cabinet can review their decisions.

### **Article No. Subject-matter**

163. Council of Ministers to aid and advise Governor

164. Other provisions as to Ministers

166. Conduct of business of the Government of a State

167. Duties of Chief Minister as respects the furnishing of information to Governor, etc.

## **04. STATE LEGISLATURE**

• Articles 168 to 212 in Part VI of the Constitution deal with the organisation, composition, duration, officers, procedures, privileges, powers and so on of the state legislature

### Organisation of State Legislature

- no uniformity in the organisation of state legislatures
- Most of the states have an unicameral system, while others have a bicameral system.
- At present (2015), only seven states have two Houses (bicameral). These are Andhra Pradesh, Uttar Pradesh, Bihar, Maharashtra, Karnataka, Jammu and Kashmir and Telangana
- The twenty-four states have unicameral system.
- Here, the state legislature consists of the governor and the legislative assembly.
- In the states having bicameral system, the state legislature consists of the governor, the legislative council and the legislative assembly.
- The legislative council (Vidhan Parishad) is the upper house (second chamber or house of elders), while the legislative assembly (Vidhan Sabha) is the lower house (first chamber or popular house).

### Abolition or creation of legislative councils in states

- Parliament can abolish a legislative council (where it already exists) or create it (where it does not exist), if the legislative assembly of the concerned state passes a resolution to that effect.
- a specific resolution must be passed by the state assembly by a special majority, that is, a majority of the total membership of the assembly and a majority of not less than two-thirds of the members of the assembly present and voting.
- This Act of Parliament is not to be deemed as an amendment of the Constitution for the purposes of Article 368 and is passed like an

ordinary piece of legislation (ie, by simple majority).

### Composition of Assembly Strength- The legislative assembly-

- directly elected by the people on the basis of universal adult franchise.
- maximum strength is fixed at 500 and minimum strength at 60, in case of Arunachal Pradesh, Sikkim and Goa, the minimum number is fixed at 30 and in case of Mizoram and Nagaland, it is 40 and 46 respectively,
- some members of the legislative assemblies in Sikkim and Nagaland are also elected indirectly

### Nominated Member

- governor nominate one member from the Anglo-Indian community,
- Originally, this provision was to operate for ten years (ie, upto 1960). But this duration has been extended continuously since then by 10 years each time.
- Now, under the 95th Amendment Act of 2009, this is to last until 2020,

### Territorial Constituencies

- The demarcation of constituencies is done in such a manner that the ratio between the population of each constituency and the number of seats allotted to it is the same throughout the state.
- In other words, the Constitution ensures that there is uniformity of representation between different constituencies in the state.

• The expression ‘population’ means, the population as ascertained at the last preceding census of which the relevant figures have been published

### Readjustment after each census

- a readjustment is to be made in the (a) total number of seats in the assembly of each state and (b) the division of each state into territorial constituencies. The Parliament is empowered to determine the authority and the manner in which it is to be made.

• Accordingly, Parliament has enacted the Delimitation Commission Acts in 1952, 1962, 1972 and 2002 for this purpose.

• The 42nd Amendment Act of 1976 had frozen total number of seats in the assembly of each state and the division of such state into territorial constituencies till the year 2000 at the 1971 level.

• This ban on readjustment has been extended for another 25 years (ie, upto year 2026) by the 84th Amendment Act of 2001 with the same objective of encouraging population limiting measures.

• The 84th Amendment Act of 2001 also empowered the government to undertake readjustment and rationalisation of territorial constituencies in a state on the basis of the population figures of 1991 census.

• Later, the 87th Amendment Act of 2003 provided for the delimitation of constituencies on the basis of 2001 census and not 1991 census. However, this can be done without altering the total number of seats in the assembly of each state

### **Reservation of seats for SCs and STs**

• reservation was to operate for ten years (i.e., up to 1960). But this duration has been extended continuously since then by 10 years each time.

• Now, under the 79th Amendment Act of 2009, this reservation is to last until 2020

### **Composition of Council**

#### **Strength**

• members of the legislative council are indirectly elected

• maximum strength of the council is fixed at one-third of the total strength of the assembly and the minimum strength is fixed at 40

• the Constitution has fixed the maximum and the minimum limits, the actual strength of a Council is fixed by Parliament

#### **Manner of Election**

1. 1/3 are elected by the members of local bodies in the state like municipalities, district boards, etc.,

2. 1/12 are elected by graduates of three years standing and residing within the state,

3. 1/12 are elected by teachers of three years standing in the state, not lower in standard than secondary school,

4. 1/3 are elected by the members of the legislative assembly of the state from amongst persons who are not members of the assembly, and

5. the remainder are nominated by the governor from amongst persons who have a special knowledge or practical experience of literature, science, art, cooperative movement and social service.

6. Thus, 5/6 of the total number of members of a legislative council are indirectly elected and 1/6 are nominated by the governor.

7. by means of a single transferable vote

### **Duration of Two Houses**

#### **Duration of Assembly**

• normal term is five years

• the governor is authorised to dissolve the assembly at any time (i.e., even before the completion of five years) to pave the way for fresh elections

• the term of the assembly can be extended during the period of national emergency by a law of Parliament for one year at a time (for any length of time)

• cannot continue beyond a period of six months after the emergency has ceased to operate

#### **Duration of Council**

• it is a permanent body and is not subject to dissolution

• one-third of its members retire on the expiration of every second year

• a member continues as such for six years

- vacant seats are filled up by fresh elections and nominations (by governor) at the beginning of every third year.
- retiring members are also eligible for re-election and re-nomination any number of times

### Membership of State Legislature

- Qualifications- a citizen of India, 30 years of age for legislative council, 25 years of age for the legislative assembly
- a member of scheduled castes or scheduled tribes can also contest a seat not reserved for them

### Disqualifications

- holds any office of profit under the Union or state government, unsound mind, insolvent, not a citizen of India or has voluntarily acquired the citizenship of a foreign state, disqualified under any law made by Parliament
- the governor's decision is final on disqualification is final

### Disqualification on Ground of Defection-

- a person shall be disqualified for being a member of either House of state legislature if he is so disqualified on the ground of defection under the provisions of the Tenth Schedule
- The question of disqualification under the Tenth Schedule is decided by the Chairman, in the case of legislative council and, Speaker, in the case of legislative assembly (and not by the governor).

### Oath or Affirmation- Common in nature Vacation of Seats

(a) *Double Membership*: A person cannot be a member of both Houses of state legislature at one and the same time. If a person is elected to both the Houses, his seat in one of the Houses falls vacant as per the provisions of a law made by the state legislature.

(b) *Disqualification*: If a member of the state legislature becomes subject to any of the disqualifications, his seat becomes vacant.

(c) *Resignation*: A member may resign his seat by writing to the Chairman of legislative council or Speaker of legislative assembly, as the case may be. The seat falls vacant when the resignation is accepted<sup>11</sup>.

(d) *Absence*: A House of the state legislature can declare the seat of a member vacant if he absents himself from all its meeting for a period of sixty days without its permission.

(e) *Other Cases*: A member has to vacate his seat in the either House of state legislature,

(i) if his election is declared void by the court if he is expelled by the House,

(ii) if he is elected to the office of president or office of vice-president, and

(iii) if he is appointed to the office of governor of a state

### Presiding Officers of State Legislature

- Speaker and a Deputy Speaker for the legislative assembly and Chairman and a Deputy Chairman for the legislative council

### Speaker of Assembly

- elected by the assembly itself from amongst its members
- vacates his office earlier in any of the following three cases:

1. if he ceases to be a member of the assembly;

2. if he resigns by writing to the deputy speaker; and

3. if he is removed by a resolution passed by a majority of all the then members of the assembly. Such a resolution can be moved only after giving 14 days advance notice

### Powers and duties

- maintains order and decorum in the assembly
- final interpreter of the provisions of (a) the Constitution of India, (b) the rules of procedure and conduct of

business of assembly, and (c) the legislative precedents

- adjourns the assembly or suspends the meeting in the absence of a quorum
- does not vote in the first instance. But, he can exercise a casting vote in the case of a tie
- can allow a 'secret' sitting of the House at the request of the leader of the House
- decides whether a bill is a Money Bill or not and his decision on this question is final
- appoints the chairmen of all the committees of the assembly and supervises their functioning
- himself is the chairman of the Business Advisory Committee, the Rules Committee and the General Purpose Committee

### Deputy Speaker of Assembly

- also elected by the assembly itself from amongst its members, remaining part is same as like speaker.

### Chairman of Council

- elected by the council itself from amongst its members
- vacates-same like Speaker
- powers and duties is also like speaker
- the Speaker has one special power which is not enjoyed by the Chairman.
- ✓ The Speaker decides whether a bill is a Money Bill or not and his decision on this question is final which is not done by the chairman of the council.

### Deputy Chairman of Council

- ✓ also elected by the assembly itself from amongst its members, remaining part is same as like deputy speaker

### Sessions of State Legislature

#### Summoning

- ✓ maximum gap between the two sessions of state legislature cannot be more than six months

#### Adjournment

- ✓ suspends the work in a sitting for a specified time which may be hours, days or weeks

- ✓ Adjournment *sine die* means terminating a sitting of the state legislature for an indefinite period. The power of the adjournment as well as adjournment *sine die* lies with the presiding officer of the House

#### Prorogation

- ✓ The presiding officer (Speaker or Chairman) declares the House adjourned *sine die*, when the business of the session is completed. Within the next few days, the governor issues a notification for prorogation of the session

- ✓ a prorogation terminates a session of the House

#### Dissolution

- ✓ The legislative council, being a permanent house, is not subject to dissolution. Only the legislative assembly is subject to dissolution. The position with respect to lapsing of bills on the dissolution of the assembly is mentioned below:

1. A Bill pending in the assembly lapses (whether originating in the assembly or transmitted to it by the council).
2. A Bill passed by the assembly but pending in the council lapses.
3. A Bill pending in the council but not passed by the assembly does not lapse.
4. A Bill passed by the assembly (in a unicameral state) or passed by both the houses (in a bicameral state) but pending assent of the governor or the President does not lapse.
5. A Bill passed by the assembly (in a unicameral state) or passed by both the Houses (in a bicameral state) but returned by the president for reconsideration of House (s) does not lapse

#### Quorum

- ✓ the minimum number of members required to be present in the House before it can transact any business.
- ✓ It is ten members or one-tenth of the total number of members of the House (including the presiding

officer), whichever is greater

### Language in State Legislature

✓ The Constitution has declared the official language(s) of the state or Hindi or English, to be the languages for transacting business in the state legislature

✓ The state legislature is authorised to decide whether to continue or discontinue English as a floor language

after the completion of fifteen years from the commencement of the Constitution (i.e., from 1965). In case of Himachal Pradesh, Manipur, Meghalaya and Tripura, this time limit is twenty-five years and that of

Arunachal Pradesh, Goa and Mizoram, it is forty years.

### Rights of Ministers and Advocate General

✓ every minister and the advocate general of the state have the right to speak and take part in the proceedings of either House or any of its committees of which he is named a member, without being entitled to vote. There are two reasons underlying this constitutional provision:

1. A minister can participate in the proceedings of a House, of which he is not a member.

2. A minister, who is not a member of either House, can participate in the proceedings of both the Houses

### Legislative Procedure in State Legislature

#### Ordinary Bills

#### Bill in the Originating House-

✓ can originate in either House of the state legislature (in case of a bicameral legislature),

✓ can be introduced either by a minister or by any other member, passes through three stages in the originating

House

1. First reading,

2. Second reading, and

3. Third reading

✓ After the bill is passed by the originating House, it is transmitted to the second House for consideration and passage.

✓ A bill is deemed to have been passed by the state legislature only when both the Houses have agreed to it, either with or without amendments.

✓ In case of a unicameral legislature, a bill passed by the legislative assembly is sent directly to the governor

for his assent

### Bill in the Second House-same three reading

✓ the ultimate power of passing an ordinary bill is vested in the assembly, the council can detain or delay the bill for a period of four months—three months in the first instance and one month in the second instance.

✓ when a bill, which has originated in the council and was sent to the assembly, is rejected by the assembly, the bill ends and becomes dead

### Assent of the Governor-

• after it is passed by the assembly or by both the Houses in case of a bicameral legislature, is presented to the governor for his assent

#### four alternatives

1. he may give his assent to the bill;

2. he may withhold his assent to the bill;

3. he may return the bill for reconsideration of the House or Houses; and

4. he may reserve the bill for the consideration of the President.

• If the governor gives his assent to the bill, the bill becomes an Act and is placed on the Statute Book.

• If the governor withholds his assent to the bill, the bill ends and does not become an Act.

• If the governor returns the bill for reconsideration and if the bill is passed by the House or both the Houses again, with or without amendments, and presented to the governor for his assent, the governor must give his assent to the bill.

- the governor enjoys only a *suspensive veto*

### Assent of the President-

- When a bill is reserved by the governor for the consideration of the President, the President may either give his assent to the bill or withhold his assent to the bill or return the bill for reconsideration of the House or Houses of the state legislature.
- When a bill is so returned, the House or Houses have to reconsider it within a period of six months. The bill is presented again to the presidential assent after it is passed by the House or Houses with or without amendments.
- It is not mentioned in the Constitution whether it is obligatory on the part of the president to give his assent to such a bill or not

### Money Bill

- Money Bill cannot be introduced in the legislative council
- can be introduced in the legislative assembly only and that too on the recommendation of the governor
- After a Money Bill is passed by the legislative assembly, it is transmitted to the legislative council for its consideration.
- The legislative council has restricted powers with regard to a Money Bill. It cannot reject or amend a Money Bill.
- It can only make recommendations and must return the bill to the legislative assembly within 14 days.
- The legislative assembly can either accept or reject all or any of the recommendations of the legislative council
- If the legislative council does not return the bill to the legislative assembly within 14 days, the bill is deemed to have been passed by both Houses at the expiry of the said period in the form originally passed by the legislative assembly.
- Thus, the legislative assembly has more powers than legislative council with regard to a money bill.

- At the most, the legislative council can detain or delay a money bill for a period of 14 days
- when a Money Bill is presented to the governor, he may either give his assent, withhold his assent or reserve the bill for presidential assent but cannot return the bill for reconsideration of the state legislature.
- Normally, the governor gives his assent to a money bill as it is introduced in the state legislature with his prior permission, same as like assent of president.

### Parliament State Legislature

#### A. With Regard to Ordinary Bills

1. It can be introduced in either House of the Parliament.
1. It can be introduced in either House of the state legislature.
2. It can be introduced either by a minister or by private member. minister or by a private member.
3. It passes through first reading, second reading and third reading in the originating House.
3. It passes through first reading, second reading and third reading in the originating House.
4. It is deemed to have been passed by the Parliament only when both the Houses have agreed to it, either with or without amendments.
4. It is deemed to have been passed by the state legislature only when both the Houses have agreed to it, either with or without amendments.
5. A deadlock between the two Houses takes place when the second House, after receiving a bill passed by the first House, rejects the bill or proposes amendments that are not acceptable to the first House or does not pass the bill within six months.
5. A deadlock between the two Houses takes place when the legislative council, after

receiving a bill passed by the legislative assembly, rejects the bill or proposes amendments that are not acceptable to the legislative assembly or does not pass the bill within three months.

6. The Constitution provides for the mechanism of joint sitting of two Houses of the Parliament to resolve a deadlock between them over the passage of a bill.

6. The Constitution does not provide for the mechanism of joint sitting of two Houses of the state legislature to resolve a deadlock between them over the passage of a bill.

7. The Lok Sabha cannot override the Rajya Sabha by passing the bill for the second time and vice versa. A

joint sitting is the only way to resolve a deadlock between the two Houses.

7. The legislative assembly can override the legislative council by passing the bill for the second time and not *vice versa*. When a bill is passed by the assembly for the second time and transmitted to the legislative council, if the legislative council rejects the bill again, or proposes amendments that are not acceptable to the legislative assembly, or does not pass the bill within one month, then the bill is deemed to have been passed by both the Houses in the form in which it was passed by the legislative assembly for the second

8. The mechanism of joint sitting for time. resolving a deadlock applies to a bill whether originating in the Lok Sabha or the Rajya Sabha. If a joint sitting is not summoned by the president, the bill ends and becomes dead.

8. The mechanism of passing the bill for the second time to resolve a deadlock applies to a bill originating in the legislative assembly only. When a bill, which has originated in the legislative council and sent to the legislative assembly, is rejected by the latter, the bill ends and becomes dead.

### **B. With Regard to Money Bills**

1. It can be introduced only in the Lok Sabha and not in the Rajya Sabha.

1. It can be introduced only in the legislative assembly and not in the legislative council.

2. It can be introduced only on the recommendation of the president.

2. It can be introduced only on the recommendation of the governor.

3. It can be introduced only by a minister and not by a private member.

3. It can be introduced only by a minister and not by a private member.

4. It cannot be rejected or amended by the Rajya Sabha. It should be returned to the Lok Sabha within 14 days, either with or without recommendations.

4. It cannot be rejected or amended by the legislative council. It should be returned to the legislative assembly within 14 days, either with or without amendments.

5. The Lok Sabha can either accept or reject all or any of the

5. The legislative assembly can either accept or reject all or any of the recommendations of the legislative council.

recommendations of the Rajya Sabha.

6. If the Lok Sabha accepts any recommendation, the bill is then deemed to have been passed by both the Houses in the modified form.

6. If the legislative assembly accepts any recommendation, the bill is then deemed to have been passed by both the Houses in the modified form.

7. If the Lok Sabha does not accept any recommendation, the bill is then deemed to have been passed by both the Houses in the form originally passed by the Lok Sabha without any change.

7. If the legislative assembly does not accept any recommendation, the bill is then deemed to have been passed by both the Houses in the form originally passed by the legislative assembly without any change.

8. If the Rajya Sabha does not return the bill to the Lok Sabha within 14 days, the bill is deemed to have been passed by both the

Houses at the expiration of the said period in the form originally passed by the Lok Sabha.

8. If the legislative council does not return the bill to the legislative assembly within 14 days, the bill is deemed to

have been passed by both the Houses at the expiration of the said period in the form originally passed by the legislative assembly.

9. The Constitution does not provide for the resolution of any deadlock between the two Houses. This is because, the will of the Lok Sabha is made to prevail over that of the Rajya Sabha, if the latter does not agree to the bill passed by the former.

9. The Constitution does not provide for the resolution of any dead lock between the two Houses. This is because, the will of the legislative assembly is made to prevail over that of legislative council, if the latter does not agree to the bill passed by the former. Even though both the council and the Rajya Sabha are second chambers, the Constitution has given the council much lesser importance than the Rajya Sabha due to the following reasons

a. The Rajya Sabha consists of the representatives of the states and thus reflect the federal element of the polity. It maintains the federal equilibrium by protecting the interests of the states against the undue interference of the Centre. Therefore, it has to be an effective revising body and not just an advisory body or dilatory body like that of the council. On the other hand, the issue of federal significance does not arise in the case of a council.

b. The council is heterogeneously constituted. It represents different interests and consists of differently elected members and also include some nominated members. Its very composition makes its position weak and reduces its utility as an effective revising body. On the other hand, the Rajya Sabha is homogeneously constituted. It represents only the states and consists of mainly elected members (only 12 out of 250 are nominated).

c. The position accorded to the council is in accordance with the principles of democracy. The council should yield to the assembly, which is a popular house. This pattern of relationship between the two Houses of the state legislature is adopted from the British model. In Britain, the House of Lords (Upper House) cannot oppose and obstruct the House of Commons (Lower House). The House of Lords is only a dilatory chamber—it can delay an ordinary bill for a maximum period of one year and a money bill for one month

### **Privileges of State Legislature Collective Privileges**

1. the right to publish its reports, debates and proceedings and also the right to prohibit others from publishing the same.
2. exclude strangers from its proceedings and hold secret sittings to discuss some important matters.
3. make rules to regulate its own procedure and the conduct of its business and to adjudicate upon such matters.
4. punish members as well as outsiders for breach of its privileges or its contempt by reprimand, admonition or imprisonment (also suspension or expulsion, in case of members).
5. the right to receive immediate information of the arrest, detention, conviction, imprisonment and release of a member.
6. institute inquiries and order the attendance of witnesses and send for relevant papers and records.
7. The courts are prohibited to inquire into the proceedings of a House or its Committees.
8. No person (either a member or outsider) can be arrested, and no legal process (civil or criminal) can be served within the precincts of the House without the permission of the presiding officer.

### **Individual Privileges**

1. They cannot be arrested during the session of the state legislature and 40 days before the beginning and 40 days after the end of such session. This privilege is available only in civil cases and not in criminal cases or preventive detention cases.

2. They have freedom of speech in the state legislature. No member is liable to any proceedings in any court for anything said or any vote given by him in the state legislature or its committees. This freedom is subject to the provisions of the Constitution and to the rules and standing orders regulating the procedure of the state legislature.

3. They are exempted from jury service. They can refuse to give evidence and appear as a witness in a case pending in a court when the state legislature is in session.

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**General**

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169.	Abolition or creation of Legislative Councils in states
170.	Composition of the Legislative Assemblies
171.	Composition of the Legislative Councils
172.	Duration of State Legislatures
173.	Qualification for membership of the State Legislature
174.	Sessions of the State Legislature, prorogation and dissolution
175.	Right of Governor to address and send messages to the House or Houses
176.	Special address by the Governor
177.	Rights of Ministers and Advocate-General as respects the Houses

**Officers of the State Legislature**

178.	The Speaker and Deputy Speaker of the Legislative Assembly
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179. Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker

180. Power of the Deputy Speaker or other person to perform the duties of the office of, or to act as, Speaker

181. The Speaker or the Deputy Speaker not to preside while a resolution for his removal from office is under consideration

182. The Chairman and Deputy Chairman of the Legislative Council

183. Vacation and resignation of, and removal from, the offices of Chairman and Deputy Chairman

184. Power of the Deputy Chairman or other person to perform the duties of the office of, or to act as, Chairman

185. The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration

186. Salaries and allowances of the Speaker and Deputy Speaker and the Chairman and Deputy Chairman

187. Secretariat of State Legislature

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188. Oath or affirmation by members

189. Voting in Houses, power of Houses to act notwithstanding vacancies and quorum

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190. Vacation of seats

191. Disqualifications for membership

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193. Penalty for sitting and voting before making oath or

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