

- **Stronghold of vested interests:** It serves as stronghold of vested interests, who are not expected to support progressive legislation. Instead they may block such legislation initiated by popularly elected Legislative Assembly.
- **Backdoor entry of defeated members:** It is utilized to accommodate discredited party-men who may not be able to return to Assemblies through popular votes. The nominated quota placed in the hands of Governor may be used for enabling these defeated leaders to seek nomination to the Council and even their elevation to the Chief Minister ship.
- **Costly institution:** It is a big drain on the State's exchequer. In the Punjab Vidhan Sabha, the Vidhan Parishad was described as a superfluous luxury. In West Bengal also one of the main reasons for its abolition was stated as unnecessary burden on the State exchequer.
- **Utility doubtful:** Critics point out that the very fact that some of the States, such as Punjab, Bihar and West Bengal decided to wind up bicameral legislatures goes to prove that second chambers have doubtful utility. The provision for their abolition in the Constitution itself further confirms that even the Constituent Assembly was doubtful about the utility of these chambers.
- **Heterogeneity:** A blend of direct election, indirect election and nomination makes the Council a hotchpotch of representation. A chamber so heterogeneously constituted, neither serves the purpose of a revisory chamber nor acts as an effective brake against hasty legislation.

1.10. Privileges of State Legislature

The privileges of the Union Parliament and State Legislatures are identical according to the constitutional provisions (Arts. 105 and 194). It may be noted that the Constitution has extended the privileges of State Legislature to those persons who are entitled to speak and take part in the proceedings of the state legislature or any of its committees. These include advocate-general of state and state ministers. The following propositions may be noted from the decisions of the Supreme Court:

- Each House of the State Legislature has the power to punish for breach of its privileges or for contempt.
- Each House is the sole judge of the question whether its privileges have been infringed. The courts have no jurisdiction to interfere with the decision of the House on this point.
- However, the Court can interfere if the Legislature or its duly authorized officer is seeking to assert a privilege not known to the law of the Parliament, or if the notice issued or the action taken was without jurisdiction.
- No House of the Legislature had the power to create for itself any new privilege not known to the law. The Courts possess the power to determine whether the House in fact possesses a particular privilege.
- It is also competent for the High Court to entertain a petition for habeas corpus under Art. 226 (or the Supreme Court under Art. 32) challenging the legality of sentence imposed by a Legislature for contempt. This can be done on the ground that it has violated a fundamental right of the petitioner. The Court can release the prisoner on bail, pending disposal of that petition.
- Once a privilege is held to exist, it is for the House to judge the occasion and manner of exercise. The Court cannot interfere with an *erroneous* decision by the House or its Speaker in respect of breach of its privilege.

2. Emerging Issues

2.1. Functioning of state legislatures in India

An analysis of NITI Aayog's Innovation Index Report 2019 and other reports by PRS earmarks following issues in the functioning of state legislatures in India: