CONCLUSION

Parliament in India has played a pioneering role in the working towards the goals of national reconstruction and nurturing the values of freedom, secularism and democracy. As a microcosm of the nation, it has consistently reflected the feelings, hopes and aspirations and even weaknesses and frustrations of the people. It has been clearly emerged as the most crucial political institution on whose working depends the success of any nation. This is possible only if its Members devote themselves whole heartedly to meet the rising expectations of the teeming millions. A proper exercise of their duties and responsibilities warrant certain liberties and immunities on their part so as to enable them to carry out their obligations which are necessary to indicate unhindered by external and internal pressures.

The term parliamentary privilege is applied to certain especial rights and immunities enjoyed by each House of Parliament collectively, its Members individually and its Committees thereof. They are indispensable for an effective democratic process. This is not a new practice rather in vogue since time immemorial when petition was demanded from the King or ruler of the state, the position was different from what
we have today. The representative elements were insignificant and for the most part of the reign of Edward II, they could not make constitutional claim to share parliamentary functions which were exercised by the Council. Later the Commons acquired the right of giving counsel on the matters of policy and their grant of supply became conditional to it. The Parliament in India is very much modelled on the British pattern which had been developed from a council of nobles and high ranking clergy that used to advice the King of England. After the Norman conquest in 1066 this informal advisory group became a formal assembly known as Great Council which used to meet thrice a year to help the King in deciding matters of state policy.

During the early 1200’s King John began to call knights, elected from the shires (counties), to some meetings of Great Council. He used to summon the knights to obtain their approval on taxes he had levied because tax collection was difficult without their cooperation. In the mid 1200’s, the English statesman Simon de Montfort enlarged the council and was named as ‘Parliament’ to include elected representatives from the towns, shires and boroughs. The meeting which the King Edward I called in 1295 became the Model Parliament. By the mid 1300’s the elected representatives began to meet separately from the nobles...
and bishops and thus, division of Parliament took place (into two Houses). By the late 1300's Commons obtained the right to consider tax legislation before it was discussed by the Lords. However, they had no power to initiate legislation. In early 1400's they got the right to introduce bill. As the role of the government increased, the Parliament demanded more and more power. During 1620's the struggle between Parliament and King became bitter and in 1628 it forced the King (Charles I) to sign the 'Petition of Rights', a document that limited royal power but he refused it and did not allow Parliament to meet since 1629 till 1640, and when he called it, the Parliament refused to provide any money unless he obeyed the petition of rights. On his denial a civil war broke out, Parliament ordered the execution of Charles in 1649 and the Legislature led by the Puritan General Oliver Cromwell declared England a republic and ruled untill 1653. The Bill of Rights, 1689, established the right of Parliament to meet frequently providing freedom of speech during debates and confirmed the right of the Commons to control financial legislation. By the early 1700's Parliament gained nearly total control over the monarch. They struggled mainly to:

1. narrow down the sphere of ordinance, and

2. providing a limit to the powers of the King for making laws
outside the Parliament.

In the 16th century when speaker demanded the privileges they were just four in numbers as: freedom from arrest; freedom of speech; access to the royals; and favourable construction of all their proceedings but later many more have been added.

**Its relationship with other organs of the State:**

In a democratic set up every organ of government occupy importance of its own. In India the provision of fundamental rights especially under Article 14, 18 and 19 strengthened the judiciary vis a vis the privileges but since the inception of the Constitution an attempt has been made by the Parliament to weaken this equilibrium. In England the House of Commons and Lords claimed to be the sole judges of their own privileges however, the court maintained that privileges were part of the law of the land and that the judiciary cannot be sidetracked. However, the scope of judicial review of the privileges in England is limited. The court is not authorized to nullify its parliamentary acts on any ground. The Supreme Court in U.S.A., on the contrary, enjoys judicial review and there “the Constitution is what the judges say it is”. The position in India is a mid-way between the Judicial paramountcy of the USA and Parliamentary
supremacy of UK.

So far as press is concerned the press and media play a unique role. Their criticism and comments are considered to be of utmost importance for the proper understanding of political literacy but their freedom is hedged by the privileges and liberties accorded to the Parliament. Premature publications, disclosure of impugned proceedings, misrepresenting the proceedings, and casting aspersions on Members of the House, constitute breach of privilege and contempt of the House. In 1982 question of privilege was raised by Satish Agrawal, M.P., against R.K. Agrawal editor-in-chief of Blitz, Bombay, and Rajpal Chaudhury, editor, Delhi recorder, for alleged misrepresenting the proceedings of the House and casting aspersions on Satish Agrawal in a news report and in an article published in the Blitz. The committee viewed that both persons have committed breach of privilege and contempt of the House\textsuperscript{1} and the matter was dropped only when the two rendered an unconditional apology. A similar incident occurred in Aug., 1992, when the matter was raised by Gufran Azam, an M.P. for casting aspersion on M.Ps in general and on him in particular by ‘Dainik Jagran’ under the heading “Sansad Mein Prashno Ke Zariye Swarth Poorti Karne Wala Giroh Sakriya”

\textsuperscript{1} 5R (CPR) 7th L.S., pp.1-11.
(Gang active in exploiting Parliamentary questions for selfish interest), for that too was considered derogatory and unfair by the committee and the editor and reporter had to apologise.

**Power to Punish:**

Parliament not only enjoys the liberties and privileges but also possesses the power to punish those who interfere with Members or contempts of its ruling. Once the punishment is awarded, there is no remedy for it either in court or in Parliament itself. The phrase ‘contempt of the House’ or ‘breach of privilege’ covers a wide area and of utmost importance. Whenever the matter is raised, immediate action is taken particularly when arrest or molestation of Members is made with mischievous and malicious intent or is protected from attending the proceedings of the House. This right of punishing is analogous to the right of a superior court to punish for its contempts thus, described as a “Key Stone” of parliamentary privileges without which the House would sink into utter contempt and inefficiency.

But on the other hand, it is also true that making statements within the privileged precincts of Parliament have the effect of unjustly injuring the reputation of individual citizen or
the public in general. Unrestricted speech on the floor of the House is no doubt valuable provided it is not misused. Further, the privileges can not be claimed so easily by the Legislature in the light of the Fundamental Rights and the doctrine of Judicial Review. Despite these constraints the legislators do enjoy enormous power and privileges. Often these priviliges are misused affecting the sanctity of the House. The nation has witnessed noisy sessions, shouting slogans, mongering and walkouts even when crucial bills are under considerations. They do not hesitate even to throw articles on each other as what we saw in U.P. Assembly in October, 1997. Snatching and tearing of papers even from the hands of chair is now not unusual. On March 16, 1998, the opposition members (BJP and BJD) in the Orissa Legislature Assembly tore the speech of the Governor2 which was circulated to the Members earlier because they urged the Governor K.V. Rangunathan Reddy to abrogate his speech, advising the government to step down but the governor paid no heed to them. A similar drama was staged on the same day in A.P. Legislative Assembly, the Governor was forced to end his speech abruptly within five minutes of his address because the opposition (Congress) members rushed towards the podium and started shouting slogans against the government’s (TDP) inaction

2 The Times of India, 17 March, 1999
in the wake of suicide by cotton growers in the state. The opposition tore the copies of the speech and flung them in the air one of which landed on the shoulder of the Governor. These incidents are a sad commentary on the working of the parliamentary institutions. Speaker Y. Ramanudu described it 'as unfortunate development' and appealed for restraint and self discipline. Later, 26 M.L.As were suspended for the day.

Under these circumstances 'can the President or Governor of the state expel a Member who shows disrespect to him or interfere in discharging his constitutional responsibilities?' There persists two opinions, according to one-being a part of Parliament he is competent enough to expell any Member who disrupts the proceeding of Parliament or make attempts to do so even he can call the services of the uniformed marshal. But the other opinion is that being the presiding officer, Speaker alone is the competent authority vested with the power to expel or take any action against the irrate Members and that too with the approval of the House. The President is only the Constitutional or ceremonial head who attends the House just for addressing it and thus, have no punitive power and if he exercises this power

3. The Hindustan Times, March 17, 1998,
this will be only at the cost of loosing his office.

Nonetheless, a highly unruly scene was witnessed in Parliament on July 14, 1998, when the bill regarding the reservation quota for women in the legislature was about to be presented before the Lok Sabha. It was, however, not new. A similar Pandemonium was staged in the Lok Sabha in 1963 when the Official Language Bill was introduced. The speaker had to summon the uniformed Marshal to bodily remove the defiant Members, Mani Ram Bagri, (socialist), and Rameshwaranand (Jan Sangh) from the House. Later, the party members staged a walkout, threw all canons of parliamentary decorum to the winds and made an unsuccessful attempt to prevent the introduction of the bill.4

Our Parliamentary proceedings are ‘an open book’ constantly being watched by the millions of people all over the country and now by the world through media. Any lowering in the quality of its functioning or deviation from requisite norms becomes much more perceptible and pronounced. This not only affects the image of the Key Institution before the world but also taxes the nation’s resources. It is a supreme forum expected to

set the tone and tenor, provide a pattern of discussions and deliberations. The select committee of the House of Commons has provided answers to various questions, which have been raised in India from time to time as the basic problems in both the countries are identical. It declared that “in ordinary cases where an M.P. has a remedy in the courts he should not be permitted to invoke the penal jurisdiction of Parliament.” From the statement it seems a little advantage flow towards the court but if we go into depth this too goes in favour of the legislators as it covers the cases when a Member claims that he has been defamed, but what is to be done when the claim is opposite and someone outside Parliament has been defamed by an M.P. under the cover of privileges. No satisfactory answer till yet has been given to that.

Today the standard of Parliament is so degrading that its Members do not even hesitate to get involved in corruption and bribery cases. In JMM-MPs bribery case the Supreme Court judgement has the direct confrontation with legislators. Congress M.P. Meira Kumari says that Parliament is supreme’ as M.Ps have certain privileges and the judgement puts a question mark on its supremacy. Though she said that nobody is above the law, take action against any person M.P or MLA but let Parliament take
action but no action against the culprits has been taken so far. The Supreme Court had interpreted the prevention of corruption to declare that M.Ps were not beyond the purview of the Act and were public servants but according to Congress leader Pranab Mukharjee the government could if not satisfied with the interpretation, take a fresh look' and make amendments if necessary. But at this point a question is raised that is Prevention Corruption Act not enough and complete in its own sense to book an M.P. or M.L.A.?

The Powers and privileges of the House and its Members exist for the maintenance of the dignity and independence of the House but the real guarantee for such dignity and independence lies not so much in the existence upon parliamentary privilege as in the character, calibre, wisdom and sense of self respect of the Members of the House themselves. J.F.S. Ross stated "It is not primarily professional skill or technical knowledge that are needed in the legislative branch of government but high quality of mind heart and character. Intelligence, breadth of vision, warm human sympathy, receptiveness to new ideas, judgement, capacity for hard work, mastery of details, such is the equipment to be desired in the person who undertakes to direct public policy on behalf of their
fellows. Nehru once said “you may define democracy in a hundred ways; but surely one of its definition is self discipline of the community.” The statement when absolutely suits the common man why not then for their representatives as the less the imposed discipline the more will be the self discipline and higher the development of democracy. The Supreme Court made it clear in 1970 in case of Jagat Guru Shankaracharya that “It is the essence of Parliamentary system of government that peoples representatives should be free to express themselves without fear of legal consequences. What they say is only subject to the discipline of the rules of Parliament, the good sense of Members and control of proceedings by the speaker. The court have no say in the matter and should really have none.” In view of this attitude there have been a demand from the Press that M.Ps should become very responsible and careful in using this freedom. Freedom of speech does not mean licence, the greater the freedom the greater should be the responsibility that accompanies its exercise, if the Supreme Court has held that freedom to be absolute the public would expect that responsibility to be absolute. Further, privileges are available to individual capacity only in so far as they are necessary for the House to perform its functions freely and without any let or hindrance. They do not
exempt the Members from such obligations to the society as apply to other citizens Parliamentary privilege do not place an MP on a footing different from that of an ordinary citizen in the matter of application of laws, unless there are good and sufficient reasons in the interest of Parliament itself to do so.

The moot point in this regard is that democratic institutions in India are yet to be laid deep roots, fifty years are too short a period in the history of the country. With the passage of time the task of presiding officer has become more and more difficult in controlling the proceedings of the House and maintaining decorum. Lack of political stability, party discipline and frequent floor crossing have further complicated matters for the presiding officers. The lack of tolerance on the part of the Members and their inability to listen to the viewpoint of other is another malady. This has often resulted in unruly scenes and noisy sessions. And in the process democratic norms and parliamentary niceties are thrown to winds. The respect for parliament and its institutions are awfully lacking especially in the recent past. Accusation and counter-accusation in the House, with scant respect to the chair, have made the credibility of Parliament suspect in the public eye. Lack of interest on the part of Members and their attendance in the House have become the
order of the day. It is a deviation from the days of Nehru when he used to sit in the Parliament right from eleven in the morning till lunch and through out the question hour whether it was the Prime Minister's day or not. He replied, when a journalist asked him why he spent so much time in Parliament, that "I consciously and deliberately remain present in Parliament because through my presence I want to feel the pulse of the Parliament and through it the pulse of the Nation and that is absolutely necessary for a democratic experiment."^6

Parliamentary system of Government works on the basis of give and take. A proper and healthy equation among leaders of different political parties in Parliament is essential. Rigid postures, open defiance of the chair, disrespect to the head of state, which is often manifested through walkouts during Presidential and Governor's addresses, are the major irritants in the working of Parliament in India. Pary whips, besides being accomplishing their normal duties of making and keeping the House, should establish and maintain good and amicable relations through tactful handling of situations between the government and the opposition. Whips of government and of parties in opposition should understand and accommodate each other on

crucial occasions and arrive at concrete understanding.

Ideally, the Members are required to have broad knowledge of vast field, assess importance and gravity of the matter and know what is good and what is not. There is a lot of difference between the parliamentary speech and public speech, by keeping in view, self-discipline is the sure and sobre remedy to ensure the effectiveness of the Parliament.

Money and muscle power have come to occupy a significant place in the electoral parties which in turn has affected the quality of Parliament and parliamentarians. No political party is an exception to this phenomena and it is not surprising that man with criminal background often found entry to the august body. What adds fuel to the fire is the flexibility of the Constitution and laws which some time play an adverse role. Legally one is not and can not be a culprit, even if he has committed serious crime, unless and untill his guilt is proved beyond all doubts in a law court, and by the time the court gives its verdict these people get elected and have a gala time. One remedy to create a sobre atmosphere in Parliament is to induct more and more women members. They are less coercive and their participation could be productive. Unlike their counterparts they are less distructive and more committed to the
task they are assigned to. But unfortunately women in our Parliament and State Legislatures are awfully represented.

The press has an important role to play in creating democratic those and inculcating respect for parliamentary institution. It should refrain from publishing scandalous and defamatory writeups, false account of proceedings, premature publication of any report, leakage of budget proposals and casting aspersions on Members, making imputations, publishing cartoons or jokes with malicious captions or divulging confidential reports and taking notes from other than the press gallery.

Another factor which maximise the problem is 'the critical police behaviour'. Its help is needed to maintain law and order. If an M.P or M.L.A. is arrested or detained by the police resulting in the breach of privilege of the Member and the House ultimately, it is incumbent on the authorities to inform the House immediately. The authority who detains the Member should intimate the House as early as possible and treat him with the respect he deserves.

Last but not the least is the court's alleged superiority. Parliamentarians often make complaints about its interference in their proceedings and decisions. It is advisable for the courts not
to take cognizance when a mistake is committed in following the procedure or irregularity of procedure. Only when they exercise such power which are not vested with them, the court shall claim its jurisdiction. It should differentiate clearly between the irregularity in procedure and illegality of procedure. All the three branches of the government must try to create harmonious and smooth relationship and consider difficulties and intricacies involved in each other's case. The Parliament gains supremacy by the mandate it receives in election but on the other hand it too should refrain from discussing the conduct of Judges, President or Governors. It is only then the harmonious functioning of the government can be ensured.

It is absolutely incorrect to assume that the new elected representatives are not good and have not enough skills which would help them to behave properly, rather their educational level has been increased, about 72% of the seats have been shared by the graduates and postgraduates and more than 5% by doctorate degree holders. Only a very small portion of about 2.9% is occupied by the under matriculates whereas intermediates occupy about 18.18% of the total seats. What we need at the moment is a change in the attitudes which should enable the Members to become active participants in the task of nation building and should not remain static. It is the living institution, constantly reflecting the needs, urges desires and aspirations of the people.