Epilogue
There is a striking paradox in the spread and adaptation of British Parliamentary and administrative institutions in different parts of the Commonwealth. The Parliamentary systems of Asian and African Commonwealth countries such as those of India or Ghana have followed the traditional Westminster model to a considerable extent, while those of the older Anglo-Saxon Dominions such as Australia or New Zealand have developed on substantially different lines. This paradox is still current, as the basic features of administration in newly independent Afro-Asian Commonwealth countries have remained British long after the withdrawal of the occupying imperial power and even after that traditional system has been modified in Britain itself.

The Asian and African countries conquered by Britain differed very much from one another in their levels of social and economic evolution but they had all of them two common features. The first was a vague internal hierarchical ordering of groups and persons which their new foreign rulers used for their own purpose. In India, British rule simply replaced feudal privilege based on land and military service under the Moghuls, with a new middle class based on the old literate castes of Brahmin, Kayasthas or Nairs. In Africa, on the other hand, the traditional chief was elevated under 'Indirect Rule' to be the administrative representative of the British. Both ways a new or old local hierarchy was used for British purposes. Secondly, the stagnation of these societies in the matter of social innovation enabled some ideas from their new rulers to be accepted easily and even eagerly.
The institution of parliamentary privileges is such an idea which received ready acceptance by the new middle class and the intelligentsia. This class is derivative in nature and their sole interest is to imitate what is left behind by the British and to 'substitute' itself in the place of the colonial rulers. This made our Political Leaders emerging mainly out of this class as essentially a 'reacting' rather than an initiating force. From the very beginning the Indian Parliament has had an opposition. The membership of the ruling party in the Lok Sabha also represents the same social spectrum from which the membership of the Opposition parties is drawn. Naturally they did not consider it wise to question the Parliamentary institutions which India had accepted from the British and on which stands her own democratic structure. The first 17 years of the Parliamentary scene were dominated by Jawaharlal Nehru, India's first Prime Minister, who used to speak at length on a wide range of subjects, particularly on Planning, Science and Technology and External Affairs. But he too did not doubt the effectiveness of the Westminster model with all its conditions.

But as we have seen the supportive Political culture for Parliamentary Democracy has been lacking in India since its very inception. And in no field is it more glaring than in the case of Parliamentary Privileges. To a certain extent the houses of legislature act according to rules, but too often, we see questions of privilege treated as Party questions and then the houses, whatever they may think themselves, become utterly contemptible. In theory Parliamentary Privileges are recognised as essential
pre-requisites for the creation of an atmosphere of freedom in which Parliamentarians may be in a position to discharge their duties consciously, without any uncalled - for interference from any other state agency or organ. But in practice these are often abused, often enforced as weapons of attack, by the opposition on the Government and by the ruling parties on the opposition. The abuse is more pronounced in state legislatures than in the Parliament. Two things are often forgotten. The Indian Parliament is not sovereign like its British counter-part. It is the 'child' of a written and partly rigid Constitution. The law-making power of the Parliament is subject to the federal division of powers under Article 246 and the Seventh schedule and to the fundamental rights secured by Part III of the Indian Constitution. The British Parliament, on the contrary, is fully sovereign and it is 'father' of the Constitution that mostly rests on precedents and conventions and is alterable by a mere Act of the Parliament like any other legal enactment. Furthermore the British Parliament has not been merely a law-making body. It has had judicial powers also and though the House of Commons, as a distinct body, finds itself bereft of all judicial powers, except those exercisable in the field of its Privilege Jurisdiction, the Lords still constitute the apex of the British judiciary. Even the House of Commons claims for itself the traditional judicial status of the High Court of Parliament and calls itself a Court of Record. All this strikes a fundamental difference in the status and power of the two Parliaments - the Indian and the British.

In the second place it is often forgotten that the British Political system is extremely flexible. For centuries,
the Parliament struggled against the Crown and the successful outcome of its struggle had earned for itself a unique position in the life of Britain. The British Parliament and particularly the House of Commons is a highly evolved and mature institution, though it has taken centuries to attain that degree of maturity. Privileges were originally set against the tyranny of the Crown. Since the eighteenth century the Crown had gradually declined and the privileges were moulded against the people. At this point of development Dicey had made a distinction between a sovereign de jure and a sovereign de facto, meaning the Parliament and the people respectively. But the people had come into their own after the passage of the Third Reforms Act in Britain in that they could now make or break Parliaments. As a result during the last 75 years or so the Parliamentary Privileges which the members once claimed as their personal privileges are now acknowledged to be the privileges of the people, acting through their representatives.

The position is completely different in India. The representatives often forget that the privileges are subject to democratic norms of behaviour. Disorderly scenes on the floor of the House in various States have gone a long way to discredit the Political system that our State has chosen to operate. Nothing like what happened in West Bengal, Punjab and Tamil Nadu has yet happened in either House of the Parliament. But the proceedings even of those Houses do not suggest Parliamentary maturity. There was once a privilege motion against the Speaker and then against the Minister for Parliamentary Affairs. The Union Education Minister, Chagla, was later the target and so was the Minister for Home Affairs, G.L. Nanda. Most of the motions were found baseless but
the victims did not always come out unscathed. The ruling party could also be held responsible for casting into winds the elementary principles of Parliamentary form of government. The case of Tulmohan Ram is a glaring instance. The Opposition demanded the production of papers relating to the scandalous deals in which Tulmohan Ram had been indulging. The Government refused to produce the papers out of an improper desire to save a member belonging to the ruling party. A great deal of unpleasantness ensued before a formula was evolved to meet the wishes of the Opposition in the matter.

It was not only the Congress Party that disregarded the rules of the game while in office. Even the Janata party had not added to the prestige of the Parliament when it secured the expulsion of the former Prime Minister, Mrs. Indira Gandhi, from the Lok Sabha. This expulsion could well be regarded as an instance of the abuse of the Privilege jurisdiction of the House by the party in power.

The Parliament has witnessed many a scene when the members had shown total disrespect to the norms of democracy and indulged in abuse of freedom of speech and expression. Only few days ago, on 23rd February 1988, Mr. Shankar Dayal Sharma, the Vice President of India, who is also the Chairman of the Rajya Sabha, quite reasonably allowed Mr. Upendra of the Telugu Desam Party to make a reference to developments concerning the Governor of Andhra Pradesh. This provoked certain Congress (I) members including a few Ministers to challenge the presiding authority and indulge in large scale indiscipline and shouting. Dr. Sharma,
quite wisely and with self-respect, refused to yield to this clamour and stuck to his decision. The entire episode was enacted in the presence of the Prime Minister who did not try to bring his colleagues back to sense.

Churchill once remarked, "the object of Parliamentary Privileges is to substitute argument for fisticuffs". Our state legislatures seem to forget this wise saying. More often than not Parliamentary Privilege has become the handmaid of prosecution of political opponents. In 1966 Orissa Legislative Assembly suspended one member, U.P. Vidhan Sabha 4 members and Maharashtra Legislature 21 MLAs. In 1974 four members of Karnataka Assembly, 11 members of Andhra Pradesh Legislature and 5 members of Rajasthan Assembly were suspended. There have been physical scuffles and throwing out of the Speaker's chair on the floor of the Punjab Assembly.

The Karnataka and Tamil Nadu Assemblies possibly left all sister assemblies behind in showing to the World that Parliamentary institutions in India are still a long way to maturity. On 23rd January, 1979, the Speaker suspended the entire opposition in the Karnataka Assembly which had made for its Annual Budget session. The cause of the trouble was the refusal of the Chief Minister to institute a Judicial enquiry into the incidents of violence occurring in the State in December, 1978, following Mrs. Gandhi's expulsion from the Lok Sabha. On 24th January, 1979, about a score of opposition members were suspended for the remainder of the Karnataka Legislative Council's session for the same demand for a judicial enquiry into Mrs. Gandhi's expulsion. The Tamil Nadu speaker Pandian has also made history in suspending 33 members of the Assembly
on 28th January, 1988. He had identified himself completely with the Janaki Ramchandran faction of the ruling AIADMK Party and wanted to dislodge the MLAs of the Jayalalitha faction from the Assembly. He first suspended them and then asked the police to bodily lift them from the precincts of the Assembly so that Janaki Ramchandran got the confidence vote on the floor of the Assembly. The police implemented the order faithfully. Under these circumstances the members of the Assembly do not have any moral right to claim privileges and the Speaker has no moral authority to enforce them.

In Haryana in the early and middle seventies the Chief Minister, Bansi Lal, made a total destruction of the general norms and principles of Parliamentary democracy. Apprehending the passage of a motion of no-confidence in his government Bansi Lal manoeuvred the suspension of four members of the Opposition and thus succeeded in retaining his office. On another occasion, he was found to have arranged the abduction of a member of an opposition group. The incident was referred to Privileges Committee for examination and report, of which nothing was heard ever after. A time came when nobody in the House was allowed to speak against Bansi Lal or his government. The Speaker had fallen foul of him. According to the Constitution and the rules of procedure the Speaker could not be removed or criticised except on a substantive motion. But Bansi Lal preferred not to follow this cumbersome procedure; got one of his ministers to put the Speaker on the mat by divulging from official files, facts highly embarrassing to the Speaker.

It is clear that the state legislatures in India have always indulged in wanton abuse of privileges. This has also
been the finding of a study recently made by the Lok Sabha Secretariat. From a comprehensive digest of cases of Parliamentary Privileges between 1950 (when the provisional Parliament came into being) and 1985, the study in its 758-page volume nicely brought out the difference between the Parliament and the state legislatures in the exercise of privileges. The two houses of Parliament have been, by and large, a bit relaxed in considering motions of breach of privileges of members and contempt of the House brought before them from time to time. In all but a few cases, the presiding officer either disallowed straightway the question of privilege or treated the matter as closed when unqualified regret was expressed or after making some mild remarks against the offending individuals or institutions. That record of largeness and generosity was rudely disturbed only when times were out of joint, so to speak. As when in 1976 during the Emergency, Mr. Subramaniam Swamy was expelled from the Rajya Sabha for alleged misconduct; and when, in 1978, Indira Gandhi was similarly expelled from the sixth Lok Sabha, and imprisoned for allegedly "causing obstruction, intimidation, harassment and institution of false cases" against some officials collecting information for an answer in the fifth Lok Sabha.

That case against Mrs. Gandhi is strangely not mentioned in this otherwise painstakingly complete record - ostensibly because the resolution of the Lok Sabha on that matter was rescinded in 1981 by the seventh Lok Sabha and the proceedings relating to that original resolution were asked to be taken off the record in what was perhaps the most blatant, and perhaps only, instance of rewriting of history in independent India. Ironically, the 1981 proceedings relating to the rescinding of the 1978
against Mrs. Gandhi are fully detailed in this digest of cases thereby filling, to some extent, the gap created by the obliteration of the earlier proceedings.

The 1976 action against Mr. Subramanian Swamy is detailed at great length. That includes the Rajya Sabha Privileges Committee’s admission that “full reports of Mr. Swamy’s activities in the U.K. U.S.A. and Canada are of course, not known to the committee”. And yet astonishingly it went ahead to indict him on the basis of those unknown activities.

As for action against outsiders, especially the Press, for incorrect reporting or for casting reflections on Parliament or its members or its proceedings, there are a few cases. In 1981 the Lok Sabha speaker actually laid down in a ruling that it is not consistent with the dignity of the House to take notice of every case which may technically appear to constitute a breach of privilege.

But in the States the Speakers could not render a good and generous account of themselves. But Speakership is at the centre of the whole story. The developments in West Bengal, Punjab and Tamil Nadu could not be considered in isolation divorced from the political conditions that emerged after 1967, and the nature of political struggle for power and its impact on presiding officers could not be ignored. Slowly a new trend is developing in the country. With its large majority in the House of the People the Congress (I) has lost to the regional parties in all the states excepting Tripura, and that too by a narrow margin, between December 1984 and February 1989. It has been increasingly felt
that the same people have voted for Congress (I) in the Parliamentary elections while favouring an opposition party at the state elections. This is important for our perspective, for we have already seen that a healthy pattern has been growing in the Parliament over the last four decades in not going too far in enforcing privileges, but the story at the states speaks otherwise. What is more, regional parties have come to power in a number of states and most of them have never been in the main stream of national life. The Speakers elected by them always look after their interests ignoring the larger interests of the people. Under these circumstances the issue of privileges gets a new dimension for once the basis of democracy gets eroded at the periphery the country would face the greatest danger of breaking up under the weight of regionalism.

The Speakers in State legislatures have thrown overboard all sense of decency. The case of Tamil Nadu comes once and again. What the Speaker Pandian has done in January 1988 is merely to re-enact what his predecessor K.A. Mathialagan had done long ago. Mr. Mathialagan was not reconciled to his removal from the ministry and had nursed the grievance that Mr. Karunanidhi was seeking his political neutralisation by making him the Speaker in the wake of the power struggle within the DMK after the death of Annadurai. And when the DMK split the Speaker decided to play the politician by suddenly adjourning the State Assembly for almost a month after it had been summoned by the Governor.

What is significant about the bizarre drama in Tamil Nadu is that the Speaker chose to adjourn the House when
there was a motion of no confidence against him and what is equally important is that the Chief Minister very correctly decided to summon the Assembly immediately after the split so that the air could be cleared on the floor of the House as to the confidence the Government enjoyed.

Most comments on the Tamil Nadu developments have tended to draw a parallel with earlier events in West Bengal where the Speaker had acted in a similar manner following the dismissal of the United Front ministry on 21 November, 1967.

In March 1968 a constitutional crisis arose by the ruling of the Speaker in Punjab when he accepted the Opposition Leader's contention that the motion of no-confidence was never in consonance with Article 179(C) of the Constitution and that a 14 days' notice was required for it. Thereupon, the Speaker declared the motion of no-confidence as unconstitutional and deemed to have not been moved at all. Another resolution was then moved which caused unruly atmosphere. The Speaker purporting to act under Rule 105 adjourned the Assembly for two months, by blaming the Janata Party and the Congress Party that they obstructed the proceedings of the House.

The speaker sometimes throws a challenge to the Judiciary. Here again the conflict of jurisdiction between the Legislature and the Judiciary has sometimes been pushed to extreme sapping the vitality of our democratic set up. The Kesbih Singh case in Uttar Pradesh is such an extreme case where the Speaker took the whole initiative on behalf of the Legislature and even went to the length of issuing order to produce the two judges of the Allahabad High Court at the bar of the Assembly.
In Britain even in the nineteenth century it was unthinkable. In Burdett v. Abbot (1811) the House of Commons committed Sir Francis Burdett on the ground that he had published a scandalous paper reflecting on the privileges of the House and had, thus, committed the contempt of the House. The judgment of the Court of King's Bench unanimously went against Sir Francis. The second important case in this respect was Stockdale v. Hansard (1836). M/s. Hansard were the printers of the House of Commons. Under the orders of the House they printed certain reports in one of which book published by Stockdale was described in a manner which Stockdale thought to be libellous. In 1836 Stockdale brought an action against M/s. Hansard, who in their defence, pleaded the order of the House to print the report. Stockdale lost the case, because in the view of the jury what had been printed with regard to the book was accurate. Stockdale brought three more cases and came out successful in all of them. The last case in which the question of respective jurisdictions of the House of Commons and the Courts came to the fore was Bradlaugh v. Gosset. The circumstances in which Bradlaugh had been excluded from the House of Commons, have been described before the Court. But the judge went on to draw a clear distinction between the rights to be exercised within the House with which he said, the Court would never interfere, and the rights to be exercised out of the House, which, the judge clearly held, would be determined and duly upheld by the Court. One of the pleas advanced by Bradlaugh related to the rights of his electors. The Court's decision on this plea, again, was that it could do nothing about their rights exercisable within the four walls of the House, but would certainly protect their rights exercisable outside the House. In this way
the Court decided the issue for all time to come and since then no major issue has cropped up in Britain. But this has failed to bear any impact on the Indian scene. The Indian legislatures are bent on using a power which has been non-existent in Britain for the last 150 years.

The difficulty lies in the fact that the power to commit brings the whole gamut of Parliamentary privileges into a direct confrontation with the fundamental rights secured by Part III of the Constitution. The privileges are certain rights enjoyed by the representatives of the people. But these rights cannot nullify the freedom of the people for whom democratic institutions do exist. Churchill once said in this connection that the representatives of the people can never be more important and powerful than the people themselves. So Parliamentary privileges can never be more important than the fundamental rights.

Two rights are specifically important in this respect — freedom of speech and expression under Article 19(1)( ) and the right to personal liberty under Article 21.

It was contended in the Searchlight case that the proceedings before the Committee of Privileges threatened to deprive Sharma, the editor of Searchlight of personal liberty otherwise than in accordance with the procedure established by law. We can not accept the majority decision that the privilege of prohibiting the publication of its debates belonged to the House of Commons on 26 January, 1950 and it came to the Indian legislatures by reason of Article 194(3). But this privilege had fallen into desuetude and was not exercisable by the Commons on
26 January, 1950. The minority judgment was correct in claiming that the House of Commons had been claiming the right to prohibit the publication of its debates in earlier centuries due to the peculiar circumstances then prevailing and that it had never exercised this right for more than 100 years. Precisely at the time when the Supreme Court was seized of the matter, and for a long time earlier, the House of Commons had been at pains to make its proceedings known to everybody. Freedom of the press is so much guaranteed in Britain that it is unimaginable that an editor would be charged with contempt for a faithful and correct publication of the factual proceedings of the House.

It is to be noted here that the Court's reference to the totality of the privileges of the House of Commons (Para 18) was incidental. Evidently the list of Privileges and powers given by the Court is neither exhaustive nor accurate. The House of Commons, for instance, has long renounced the power to impose fines. Then the Court also mentioned the power of expulsion as belonging to the House of Commons, without mentioning the nature and source of this power. The Court also held that Article 194(3) gives, to State legislatures in India, all the immunities, powers and privileges of the House of Commons. Here again, the Court laid down a proposition which was specifically over-ruled by a bench of 7 judges of the Supreme Court in Keshav Singh case (A.I.R., 1965, S.C. 745).

Thus one of the most important pillars of democracy, freedom of the Press, is being threatened by the privileges of the state legislatures. It is true that full facilities are given to the press in the Parliament both in the matter of identification of members and in resolving doubts by referring to the official record
of the proceedings. But these and other facilities extended to the press are meaningless if freedom of speech and expression is made subject to privileges of the Parliament and State Legislatures.

Is there a single written constitution in the World where a legislature is given power to neglect the fundamental rights altogether so that its dignity may be kept up? In the Searchlight case Justice Subba Rao in his dissenting judgment rightly pointed out that part two of Clause (3) of Article 194 is intended to be a transitory provision and ordinarily, unless there is a clear intention to the contrary it cannot be given a higher sanctity than that of the first part of Clause (3).

The intention can be deduced from other relevant provisions of the Constitution. Article 194(3) is subject to the provisions of the Constitution relating to fundamental rights. Article 245 enables a State to make laws for the whole or any part of the State. Article 246(5) provides that the legislature of State has exclusive power to make laws with respect to any of the matters enumerated in List II in the seventh schedule. Item 99 of this State List enumerates the following matters among others:

Powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof.

Now Clause 2 of Article 19 which is one of the fundamental rights of the people, prohibits the state from making any law that takes away or abridges the rights conferred by that part and declares that any law made in contravention of that clause shall to the extent of such contravention be void. It is, therefore, manifest that the laws made by the legislature in respect of the
powers, privileges and immunities of a House of the legislature of a state, would be void to the extent the law contravened the provision of Article 19(1)(a) of the Constitution, unless it is saved by any law prescribing reasonable restrictions within the ambit of Article 19(2). It is highly interesting to note that Article 19(2) puts reasonable restrictions upon freedom of speech and expression in the interests of the sovereignty and integrity of India, the security of the state, friendly relations with foreign states, public order, decency or morality, contempt of court, defamation or incitement to an offence. The Constitution refers to contempt of court but not contempt of legislature. And this is a purposeful omission as the founding fathers wanted to place more emphasis on freedom of speech and expression than privileges of the legislatures. When the founding fathers of the Constitution expressly made the laws prescribing the privileges of the House of Commons applicable to a State legislature we cannot assume that they thought that the privileges of the House of Commons were subject to other provisions of the Constitution, for that would cut at the very root of sovereignty of the Parliament. But in the Indian Constitution this has been made and the Parliament in India could not be held to be supreme and sovereign as the British Parliament is.

It is also anomalous and self contradictory to submit that a law providing for privileges made by the Parliament or a state legislature could be struck down as infringing fundamental rights, while the same privileges, if no law is made, would be valid. But this is the reason why the privileges have not yet
been codified. Realising the wholly unsatisfactory constitutional status of the privileges scores of judges and other experts have been insisting for the last four decades that the founding fathers wanted that the privileges of the House of Commons would hold good in India for a couple of years and they would cease to exist as soon as a law would be enacted. But this has not happened.

The Indian Press is almost unanimous in demanding codification. The Statesman holds that India was initiating absolute practice followed by the Commons in keeping the privileges uncodified. (16.5.1972). The Indian Express submitted that Parliament can put the matter beyond all disputes. Let it set up an impartial Commission of Parliamentarians, Lawyers and Public figures from outside the Legislatures, to decide what privileges it ought to claim and then pass the law which for long years it has neglected (6.9.1970). The Hindustan Times observed that Parliamentary privilege is a precious right. It should be codified at the earliest. (22.9.1970) The Hindu suggested that Articles 105 and 194 of the Constitution were 'meant only for an intervening period, which, in fairness, ought not to be stretched beyond a decade. (20.4.1967). The Times of India holds that once the codification is done the Press can breathe a little more freely. (20.5.1972).

The demand of the Press for codification of privileges is now gradually gaining the support of the people at large. It is gradually becoming imperative that concerted efforts should be made to codify Parliamentary privileges in India. The people who voted the MPs and MLAs into Parliament and State legislatures should have a right to see how most of their representatives are wasting the nation's time and money. The question hour is being
fritted away, day after day, in a frivolous and shameful fashion. Similarly the convention of zero hour, meant only for raising denuded ‘issues of public importance’ is getting denuded of its content and significance. The privilege of freedom of speech does not entitle a member to talk non-sense. One of the prime duties of an M.P. and M.L.A. is to make the Government explain itself. But the members often donot even try to elicit precise information from Government. Instead of asking clear-cut questions, they prefer giving their own views on issues at hand, thus relieving the government of the responsibility of answering.

So the question is often asked whether privileges are justifiable at all in modern times. Even those who support their continuance are now found to be on the defensive contending that the British have nothing in common with us and we should not follow them in matters of privileges. The time has come for a clear enactment allowing only those privileges which are absolutely necessary for the members to discharge their functions, and which do not cut at the root of liberty of the individual and freedom of the Press.

The general impatience in the United Kingdom with the existing law of Parliamentary privilege which enables the House of Commons also to make improper claims in its name, compelled the Select Committee, appointed by the House of Commons itself, to review the law of privilege and its necessity and to conclude that the term ‘privilege’ should be immediately replaced by ‘rights and immunities of the House’.
Indeed the very term 'privilege' carries with it an ominous and dismal past and does not fit in the democratic scheme of things. In Britain there was a time when the members of Parliament enjoyed a good many special rights and advantages much to the chagrin of their fellow citizens. Upto the 16th century many a member of the House enjoyed freedom from arrest in cases of debt realisation under the cover of privileges. In the 19th century the privileges enjoyed by the members accrued even to their servants. In fact, in the name of Parliamentary privilege the House of Commons behaved irrationally and ruthlessly for about a century after the Glorious Revolution, 1688. It used its power of committing for contempt in a way that would appear shocking to-day. It had sent numerous innocent men, including judges and editors to the Tower of London. It was intolerant of religious views of a new variety and invariably expelled the 'non-conformist' members. It was contemptuous of men and public opinion and disputed the jurisdiction of the judiciary which rightly belonged to them. Right upto the middle of the 19th century members of the House of Commons attempted to turn even trifling criticism of the House and its members into questions of privilege. Under these circumstances it is useless to move anti-clock-wise and hover back to that inglorious past particularly when India declares herself to be a 'socialist secular democracy' and is generally complimented as the largest democracy in the World.

From this analysis of parliamentary privileges we draw then the following conclusions :-
(1) The term 'Privilege' should be replaced by 'rights and immunities' in Articles 105, 194 and Item 39 in List II in the Seventh schedule of the Indian Constitution.

(2) Since the Political culture of our country lags far behind and since even in Britain the privileges are almost a non-issue to-day we should drop any express reference to the House of Commons in our Constitution either directly or by implication. Conceptualisation of privileges in the British tradition is also forbidden.

(3) No democratic institution could thrive without Political socialization of the people in general and members of the legislature in particular. Abuse of privileges could arise not merely from the bias or arrogance of politicians in power, but also from ignorance. Very few or none of our legislators possibly know that the Canadian and Australian Constitutions have similar provisions like those of Articles 10 and 194, but their legislatures do not have trial of strength with Judiciary. Hence regular training of the legislators should be devised.

(4) Parliamentary control should be developed on the support of convention and public opinion. Every step should be taken to ensure freedom of the press and other processes of mass communication.

(5) It is high time to bring out reform in Speakership. As in Britain the Speaker should be made non-partisan and his elective should not be contested in our country. A wholly politicised Speaker mars the very essence of Parliamentary Privileges.
(6) The privileges should be immediately codified, taking into account the following points:

(a) Right to regulate internal proceedings,
(b) Freedom of Speech and expression,
(c) Freedom from detention and arrest in a civil process during the session or 40 days before and after the session of the house and to which the member belongs and right of the house to be informed of such cases,
(d) Immunity from any legal proceeding for anything said or any vote cast in the house.
(e) Exemption from liability to serve as jurors.
(f) Right to summon any person in India to give evidence or produce documents before it.
(g) Right to exclude strangers and to hold meetings in camera.
(h) Right to publish the debates of the house and to prohibit publication by others without leave of the house.
(i) Right to prohibit publication of the expunged portion of the proceedings.
(j) Right to define 'contempt of the house' and strike a difference between 'breach of privilege' and 'contempt of the house'.
(k) Right to punish for contempt of the house but punishment should be confined, as far as practicable to reprimand and admonition and withholding of facilities to an erring press for one month. Right of expulsion cannot be conceded.
to the Parliament or State Legislature. Right to commit an individual or a group to prison again is denied to the house of a legislature.

(1) Duties of the legislators should be codified so that privileges are not used as political missiles.

We thus arrive at a position to respond to the hypothesis laid in the very Preface to our study.

(1) Even after four decades of the commencement of the Constitution and successful inauguration of the eighth Lok Sabha in the process our country lags far behind in the development of a congenial political culture accommodating Parliamentary Privileges.

(2) The supportive institutional frame-work has not developed in the country.

(3) Reference to the House of Commons is not well-founded. It only provides an opportunity to enforce punitive measures in ways which have been long discarded in Britain, what can be accepted in a land of unwritten Constitution and Parliamentary Sovereignty can never be profitably used and enforced in a different constitutional fabric as that of India. What was intended to be a temporary and transient device by the founding fathers of the Constitution has been made permanent to satisfy the over-sensitive and over-zealous character of our legislators.

(4) The privileges claimed and enforced by the Indian legislatures do not Constitutionally accrue to them on 26 January, 1950, and their exercise has posed a threat to the basic structure of the Constitution, especially in respects of freedom of the
Press, freedom of speech and expression of a lay individual and independence of the Judiciary.

(5) Privileges should be immediately codified.

Finally, since much uncertainty has been discovered in regard to publication of debates a legislation similar to the Parliamentary (Protection of Publication) Act, 1956, is necessary for the states, as the Central Act does not relate to the State Legislatures. Orissa has enacted such a legislation in 1960 and Karnataka has brought a bill in its legislature quite recently. Similar code should be undertaken by the other states in order to make section 499 of the Indian Penal Code consistent with the Parliamentary Proceedings Act, 1956. The problem of Parliamentary Privileges is a complex one but concerted and earnest efforts can well solve it.