CHAPTER II

PRIVATE MEMBERS' BILLS SYSTEM

There are two schools of thought regarding the utility of the system of private members' Bills. On the one hand, it is argued that in a democratic legislature every member ought to have the right not only to introduce Bills without limit, but also have his Bills effectively discussed and voted upon. On the other hand, it is claimed that in the modern world, governmental responsibility is so pervasive that it is not really worthwhile for individual members to propose Bills at all.\(^1\) An attempt has been made in this Chapter to discuss these arguments to examine the validity of either of these points of view. Effort has also been made to see how the parliamentarians themselves evaluate the system.

Arguments against the System

The main argument against the usefulness of the private members' Bills is the modern conception of governmental responsibility. It is stated that the Government of the day, which is responsible for administering all Acts passed by Parliament, should not be expected to take responsibility for administering any Act which it had not itself initiated. The obverse side of this argument is that it is wrong for individual members of Parliament to introduce measures for administering which they will themselves have no responsibility.\(^2\) This

\(^1\) Bromhead, *op. cit.*, p. 166.
argument on the face of it seems very plausible but its validity will have to be assessed keeping in view that the private members' Bills are not always aimed at legislation and instead, at times, they only raise questions like "why the Government would not do something else". In other words, as Hukamdev Narayan Yadav puts it, the private members' Bills are most significant because the matters sought to be raised thereby are such as are not taken note of by the Government.1

The second argument often advanced against the system is that as less and less private members' Bills are being discussed in the subsequent Lok Sabhas and still less number of such Bills are being accepted - nay not a single such Bill has been passed after 1970 - the system does not seem to serve much purpose. Here, two aspects will have to be borne in mind. One, it may not be prudent to assess the utility of the private members' Bills just in terms of the number of laws brought on the statute book. For, there are several other subtle and indirect ways in which such Bills manifest their usefulness. Two, the earlier theory that the principal function of legislature is to legislate is no longer valid. The legislature over the years has been laying stress on ensuring the accountability of the executive to it rather than enacting laws. Of late, only one-fourth time of the Indian Parliament is being devoted to legislation, while the rest and the major portion (three-fourth) is being spent on non-legislative work2. Little wonder if there is a corresponding decline in the role of private member as a legislator.

The third argument advanced against the system is that the time spent on the private members' Bills is wasted because anything really worth discussing

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2 For details see Table 38 at p. 139.
can be raised on the floor of the House through other parliamentary processes and procedures. This argument too does not hold water. It is true that through other means such as discussion on the Motion of Thanks to the President’s Address or general discussion on the Budget or discussions on the Demands for Grants of a Ministry/Department, a private member could suggest that a legislation may be brought forward by the Government on a particular subject. However, during none of these debates the member can bring forward a specific proposal to that effect. In case the member is really keen on a specific legislation on a particular subject, he would have to avail himself of the opportunities to bring forward the same in the form of a Bill which could be debated threadbare and on which the views/ideas could be expressed by cross sections of the House.

The fourth argument is that private members cannot have the authority which is necessary for piloting Bills through Parliament. In the words of Harold Laski, ‘When any big theme requires legislative action, only the Government has the requisite authority to deal with it on an ample scale.’ This argument is good insofar as it goes. It will, however, have to be conceded that there may be some such important theme where it may be advantageous to have the initiative taken by a private member to bring legislation thereon. In the Indian context, attention may be drawn to a Bill moved by Nath Pai to amend article 368 of the Constitution which sought to restore to Parliament the right to amend even Fundamental Rights, the right denied to it by the Supreme Court judgement in the famous Golak Nath case. To begin with, no action was taken by the Government of India on its own on a delicate and sensitive issue of this kind. But once the initiative was taken by the private member, the Government

decided to support the Bill. Further, on certain subjects the Government may not be enthusiastic to bring forward legislation. But the dogged pursuit of those subjects, according to Dr. Shanker Dayal Sharma, might compel the Government to do so. The members of Parliament all over the world, observes Dr. Sharma, make certain things as their objective which they zealously pursue during their tenure of membership. It takes time but they do achieve their objective. Citing instances he adds, “the question of women’s franchise” and “the question of death penalty” were constantly pursued by the members in Britain and with good results.

The fifth argument is that both Ministers and Parliament waste their time and energies in considering private members' Bills. The Ministers ought to be concerned with the administration, with the preparation of their own legislative proposals and with the explaining and defending of their own policies before Parliament whose main function is to check and criticise the Government. This argument may not be applicable in the context of most of the private members' Bills. At times, private members do a lot of research work before bringing forward legislation and the Government can stand to gain by the same. This fact was acknowledged by the Government during the debate on the Treason Bill, 1963 moved by Diwan Chaman Lal. Yet in another case of the Hindu Marriage (Amendment) Bill moved by Ajit Singh Sarhadi, the then Deputy Minister of Law, Harjarnivas, admitted: “After all the private members have also a part to play. The activities of the private members would naturally be confined in the

3 Bromhead, op. cit., p. 4.
4 See, R.S. Deb., 3.9.1965, c. 2658.
first instance to the personal laws. These personal laws must change so as to adjust themselves with the progressive public opinion. And how can public opinion exercise itself except through hon’ble members here? The Government cannot regard themselves in any manner as sensors or in any manner as the final authority so far as public opinion is concerned.”

The incidental argument against the private members’ Bills system is concerned with the practical difficulty which seems to limit the real usefulness of the time which private members have for their Bills. Just because the time is limited, it is difficult to ensure that it is used to the best advantage. During the last nearly three decades, the time spent on an average for discussion on each private member’s Bill has risen from the Second to the Eighth Lok Sabha to nearly three times. Demand for still further increase in time devoted to the consideration of private members’ Bills notwithstanding, this fact does indicate that the incidental argument would not seem to be valid insofar as the position in India is concerned.

It would probably be agreed almost universally that private members of Parliament can make their most useful contribution to the Government by speaking in major debates on subjects about which they are qualified to speak, by asking Parliamentary Questions, by concerning themselves with matters of administration affecting their constituents, and, in general, by forcing the Government to justify or amend its decisions, great and small. The proposing of Bills has only a secondary importance. So far most observers would agree. But some would go further and say that these main functions are so much more useful than the function of introducing Bills that it is not worthwhile for private

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2 Bromhead, op. cit., p. 5.
3 See Table 38 on p. 139.
members to spend any time at all in introducing Bills on their own account. It is really a matter of allocating priorities for the different functions according to the value which one may set on them.¹

Arguments for the System

There is a second school of thought according to which the private members' Bills system has great utility, at least in certain limited matters. Those who follow this thinking make out a case in favour of the system on the basis of several cogent arguments.

The main argument being that the system provides opportunity to bring forward legislative proposals which are not in Government's own programme. The ruling party generally tries to fulfil the promises made in its election manifesto. It, however, finds a ready excuse for not doing things that were not mentioned therein. Yet what is not mentioned can sometimes be very important. There is a whole range of subjects mostly in the field of social reforms, which does not divide the electorate or Parliament on party lines. There is also a range of subjects on which party attitudes are more sharply defined, but which are left out of manifesto either because the party thinks that they are not electorally significant or because it fears that they might alienate the small floating section of voters on whom the real victory depends. There is thus a serious risk that many such issues may not get consideration at all, let alone legislation. For reforms for which the Government has not the time, the will or the courage to introduce legislation, the only bold sponsor can be the private member.

Some such reforms proposed by the private members through legislation in the Lok Sabhas during 1952-89 have been: (i) The Sterilisation of the Unfit Bill,

¹ Bromhead, op. cit., p. 169.

The second argument advanced is that even the discussions on the private members' Bills which do not eventually pass also serve a very useful purpose. It is to test the Government's reaction to the intended reforms. If the Government cannot support a private member's Bill, at least they may be required to state the reasons for not doing so. Thus, even unsuccessful Bills have their value as part of the critical processes of the House in requiring the executive to justify its acts and its refusals to act.1 This view is supported by R.V. Stewart when he opines: "Private members' Bills provide back-benchers, especially those to the Speaker's

1 The private members' Bills discussed under the seventh category in Chapter IV illustrate the point in view. See pp. 202-209.
left, with the opportunity to discuss certain defects or omissions in the Government's programmes. The prime motive is not to have the private members' Bills enacted, but to publicly bring the Government to task.\textsuperscript{1}

The third argument in favour of the system is that it helps such questions to be aired in the House as no party may be prepared to take up. This applies particularly to a number of social questions\textsuperscript{2} which do not fit readily into any of the parties' political programme but which arouse intense public interest. Here again, even if the relevant measure is not passed, the procedure proves valuable in stimulating discussion.

The fourth argument is that the private members' Bills are of real legislative value. A number of measures have already been passed which, if left to the Government initiative, may have never reached the statute book, or at least not so soon. Mention may be made here of some of the private members' Bills enacted by the Indian Parliament during 1952-89: The Muslim Wakfs Bill, 1952; The Proceedings of Parliament (Protection of Publication) Bill, 1956; The Women's and Children's Institutions (Licensing) Bill, 1953; The Orphanages and other Charitable Homes (Supervision and Control) Bill, 1960; and the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Bill, 1968. These Bills, along with

\textsuperscript{1} R.V. Stewart Hyson, \textit{op. cit.}, pp. 22-23.

\textsuperscript{2} One such private member's Bill in India was the Indian Penal Code and the Code of Criminal Procedure (Amendment) Bill, 1952, by Thakur Das Bhargava, which sought to raise the age of consent of girls in extra-marital cases of rape to 18 years as it was both necessary to give protection to young girls below 18 years and at the same time not to treat the offender very harshly in case the girl was a consenting party. The Bill was negatived on 13.3.1953. (See \textit{L.S. Deb.}, 30.7.1952, cc. 4912-4913, 11.12.1952, c. 2053.)

An instance from the House of Lords, U.K. may also be cited here. In the debate on the Sexual Offences Bill in the House of Lords on May 10, 1966, Lord Stonham, speaking for the Government said "I am more than ever convinced, particularly from the debate we have just had, that the real way to deal with questions of this kind is by private members' Bills." \textit{H.L. Deb.} (1966-67) 274, c.649.
the other private members' Bills enacted by the Indian Parliament, have been discussed in some detail in Chapter V.

The fifth argument makes the case that a private member is more suited than the Government to take initiative since he is less subject to pressure. According to this argument although a Government may be very concerned, and even primarily concerned, with the fulfilment of its duties and its responsibilities, it ought to have some thought about the next election. No Government wants to risk losing votes unnecessarily. It may and it should be prepared to take unpopular action which it believes to be necessary for the preservation of the state, but there is no reason why it should risk the disfavour of certain sections of the population by seeking to enact a new law or amend an existing law in a field which has little relationship to the material well-being and performance of the state as a whole. It is inconceivable that changes in the law in subjects of this kind are never desirable, yet in view of the position of the Government it seems that private members' Bills are the only means whereby such changes are likely to be initiated.¹

Evaluation by Parliamentarians

Whatever be the strength of the arguments in favour of the system, the real touch-stone to judge its utility could be the views of the parliamentarians who have been operating it during the last nearly four decades. Impelled by this thought, the author went through the proceedings of various Seminars and Discussion Sessions on parliamentary practices and procedures organised by the Bureau of Parliamentary Studies and Training, Lok Sabha Secretariat for members of Parliament/State Legislatures. The views thus gathered have been

¹ Bromhead, op. cit., pp. 172-73.
supplemented with the exclusive revealing interviews of some of the other eminent members having a very long and rich parliamentary experience. The parliamentarians, as would be seen from the following paragraphs are unanimous in their view that the system over the years has been found to be useful in several ways.

**Strengthening Parliamentary Democracy:** Notwithstanding the fact that in the last forty years the private members' Bills system has not achieved appreciable results in the shape of Bills being transformed into enactments, the system "has contributed copiously to the working of the parliamentary system". Emphasising this point, P. Shiv Shankar points out that the system has, on occasions, knocked at the door of the slumberous Government to become active or to be aware of the issues so that they themselves take it up.¹ Subscribing to the same view, Margaret Alva observes that whether a private member's Bill is voted out or withdrawn, the debate by itself serves a very useful purpose. "That an issue has been discussed, opinions from various sections of the society have been expressed and a certain awareness or at least focussing on an issue has been undertaken", she opines, "is very important for the growth of democracy."²

That the system helps in strengthening parliamentary democracy is explicitly clear from the above views.

**Sharpening ingenuity and intellect:** The system also enables the members to activate themselves to think and act. The very fact that the Government generally disagrees for giving credit to the members for their Bills, calls upon the members to become more strategic, to be more ingenious in putting the Bills in such form as makes the Government feel awkward in not accepting the same.

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¹ Views expressed during an interview by the author.
P. Shiv Shankar, therefore, holds the view that "the ingenuity in a member gets more and more sharpened because of, by and large, the negative attitude of the Government".1 He recalls a peculiar situation that he was confronted with during his tenure as the Minister of Law, Justice and Company Affairs when a member brought in a Bill for common civil code. Article 44, in the Chapter on the Directive Principles of State Policy, clearly provides that the State shall endeavour to bring in a common civil code. The Government is expected to act on the Directive Principles. So, it was a very tricky situation for the Government whether to accept the Bill or not. Elaborating, P. Shiv Shankar observes, "It was a matter of conscience, commitment to the constitutional idealism and a raging controversy within me that if I do not accept the Bill, I am not true to conscience but nonetheless it would have been too premature for me to accept the Bill or give any positive assurance which could have created complications for my party and also would have created commotion in the society itself. I had to just wriggle out myself from the situation by saying that 'yes', the Government itself will consider, in consultation with the diverse political parties, the question of having a common civil code. One day or the other, the common civil code may have to come but it will have to be with the consent of the people. Therefore, the Bill at present is too premature. The member may please withdraw the same." Thus, with his ingenuity and sharpness a member could embarrass the Government by bringing in this kind of legislation.

**Encouraging Research Work**: The system encourages the members who want to bring forward Bills to undertake research work. Acknowledging this V. N. Gadgil observes: "It evokes interest amongst members in subjects in which

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1 Views expressed during an interview by the author.
they may not normally be interested. This results in their better comprehension of various issues.”¹ Citing his own case Gadgil says, “when I started introducing Bills I went through almost the entire Civil Code Manual and the Criminal Code Manual, almost all the Acts. If I was not interested in introducing Bills, I would not have done this exercise”. He admits he “learnt many things” because of the device of the private members’ Bills. Explaining the background of his two Bills - one on Pensions and the other on Right to Privacy - Gadgil emphasises that he had gone through various literature before drafting each of these legislative measures. “Incidentally, in one of those books”, Gadgil reveals, “I found the case of the first pensioner in the world and how the order was passed.” Similarly, regarding right to privacy, Gadgil found, after reading from various sources, that there was a danger not only from the Government but even from some non-Government organisations which affected the civil liberties of the individuals. After reading that literature he introduced the Right to Privacy Bill.

Dinesh Goswami also concedes that when a member introduces a Bill a lot of preparation is made not only by him but also by several other members who subsequently participate in the discussion thereon. For example, when he had to participate in the discussion on the Bill regarding the right to work moved by Thampan Thomas, he had to go through the previous debates and other literature on the subject. Again, when he had introduced a Bill that all the States should have equal representation in the Rajya Sabha, he got “an opportunity to study virtually all the important Constitutions of the world”².

In the case of the Treason Bill, 1963 by Diwan Chaman Lal, which was discussed in the Rajya Sabha on September 3, 1965, even the Government

¹&² Views expressed during an interview by the author.
expressed its gratitude to the member for the research done in bringing forward the same and the manner in which he had dealt with the subject.¹

Whether a Bill of a member is enacted or not is a different matter, the research done by him in bringing forward the same not only broadens his vision but also makes him more informed about all aspects of the concerned issue.

**Developing Parliamentary Personality/Career**: If a member is able to find out the most important issue before the nation and if he is also able to so highlight its different aspects as to convince the members in the House and the people about its importance and implications, he can be quite successful in his parliamentary career. Maintaining this viewpoint, Shivraj V. Patil observes that “many had built their careers on the basis of private members’ Bills as they projected themselves before the people that they were not only able to understand complicated things, but could also give a direction to the Government policies.” He, however, cautions that “the device has to be used very carefully and in a very scientific manner, only then these results can be achieved”. When requested to name any parliamentarian who had so built his career, Shivraj V. Patil said, “I would not say that President Kennedy had built his career on the basis of private members’ Bills. But some of the Bills moved by him were acclaimed as very important. They gave a lot of lustre to his personality.”²

Echoing similar views, V.N. Gadgil opines that “a member can start his career by speaking on private members’ Bills. A person naturally comes out with his best on subjects which he likes. Therefore, this device gives him an opportunity to develop his parliamentary personality by concentrating himself on the subjects in which he is really interested.”³

¹² See *R.S. Deb.*, 3.9.1965, c.2658.
³ Views expressed during interviews by the author.
The above observations make one recall here the names of such eminent parliamentarians as R.S. Harbilas Sarda and Feroze Gandhi which have been written in golden letters in the Indian parliamentary records due to their respective historic Bill viz., the Hindu Child Marriage Bill [which became the Child Marriage Restraint Act, 1929, (Act No. 19 of 1929)] and the Proceedings of Parliament (Protection of Publication) Bill, 1956. The Child Marriage Restraint Act came to be popularly known as the Sarda Act, after the name of the member.

Providing Time to Speak: The time allotted for discussion on a particular item in Parliament is divided amongst various political parties in proportion to their strength in the House. Therefore, a member cannot get much time to speak during a normal discussion. If he belongs to a large party - ruling or opposition - he has to share the time allotted to the party with its other members. And if he is a member of a tiny party, the time allotted to this tiny party itself may not be enough. Therefore, if a member is keen to speak in the House on a subject for a greater length of time, the valuable opportunity may come his way if he resorts to private members' Bills system. In this connection, Chitta Basu - belonging to All India Forward Bloc with a microscopic strength of only 3 members in the Ninth Lok Sabha having a total membership of 545 - professes that he cannot speak for a long time during a normal debate on the subjects on which his electorate may want him to do so. Therefore, if he gets a chance of bringing a Bill for consideration, he is given about 40-45 minutes' time to speak out his views. He cannot expect so much time as a member of a tiny group in Parliament during the course of any normal discussion. Basu, therefore, acknowledges that the main "motivating force" for him to go in for private members' Bills has been "to get more time to speak" in the House.1

1 Views expressed during an interview by the author.
The system thus enables members, particularly those of the opposition parties who do not normally have much strength in the House, to get more time to express the feelings, hopes, aspirations and even frustrations of their electorate. This explains the phenomena why the members of the opposition have been more active vis-a-vis those of the ruling party in both the Houses of the Indian Parliament insofar as the private members' Bills are concerned.\footnote{For details of activity of ruling party vis-a-vis that of opposition, see pp. 90-97.}

**Forming and Projecting Public Opinion:** In a democratic set up, one of the important functions of a member is the formation and projection of public opinion. While bringing forward a Bill on some issue, a member may be articulating the views of a large section of the society. Once such an issue gets highlighted, it is bound to lead to discussion at various levels. A new idea may appear to be too radical at the beginning, but gradually it may acquire respectability and wide acceptance. Expressing the above view Balram Jakhar concludes that "a private member's Bill can highlight an issue, educate the public opinion and often act as a trend setter".\footnote{Seminar on "Private Members' Business", op. cit., 27.4.1984, p.5.}

Concurring with the above view, S.P. Mitra opines that "private members' Bills and Resolutions are generally used to test the feeling of the House with regard to proposals which are indefinite or even ahead of current public opinion". He feels that in case the Government has not yet made up its mind on certain issues, it may be necessary to pinpoint those issues to watch the Government's
reaction thereto or to start a process of thinking on these in Government circles. It may be that a member is thinking of an ideal state of affairs that should come into existence for the good of the country in the light of the philosophy he has pinned his faith in. The best course in such a situation for a member, according to Mitra "is to bring a private member's Bill or Resolution to see how the entire House reacts to his ideas".¹

Similar view is expressed by P.N. Sukul. He maintains that one of the advantages accruing from a private member's Bill is that it enables the mover to gauge the opinion of members of Parliament as well as of the public on the particular subject on which he wants legislation. However, the best advantage Sukul feels could be that the member's exercise, his initiative, may create a favourable climate in the country for the purpose of future legislation on the same subject.²

Advantages of the private members' Bills are also recounted by Chitta Basu.³ In his own words: "On some important political issues on which I wanted to project my views in the House, I choose the same as the subject matter of my Bills." Illustrating he adds, "I introduced quite a number of Bills on Centre-State relations. My electorate wanted more powers to be given to the States under the Constitution. Naturally, my Bills gave me opportunity to express views on the subject." The other advantage of such Bills, according to him, is that "if these are of very contemporary importance they get publicity through the media even when not discussed in the House". When the media takes it up, the public comes to know about it and thus it becomes an important

¹ Ibid., 28.4.1984, pp. 3-4.
² Orientation Programme for New Members of Rajya Sabha (New Delhi, July 4-8, 1988), op. cit., 5.7.1988, p.62.
³ Views expressed during an interview by the author.
national issue. People write letters and some debates also follow in the media. As a testimony to this view, Basu reveals “Invariably, I have received numerous letters from many academicians, professors, students and youth organisations about my Bills.”

It is easy to infer that if a member is honest and diligent to perform his functions in the House, even if he belongs to a tiny group, he can render excellent services for forming and projecting public opinion by taking recourse to the mechanism of private members’ Bills.

Evolving Consensus: Private members’ Bills also afford opportunity for inter-party and intra-party discussions. Explaining this useful part of such Bills, Bhogendra Jha observes that they provide occasions where members belonging to the ruling party on the one side and those opposed to it, sitting in the opposition on the other side, express some of their views and take some stand with regard to particular Bills. Such inter-party and intra-party discussions, according to him, lead to “some sort of consensus or at least there is an opportunity for the evolution of such a consensus”.1 This view is strengthened when N.C. Parasher says: “A novel feature of the private members’ Bills is that members from various political parties generally cut across their party lines and lend support to the spirit of the Bill. If they do not actually vote for the Bill, they at least support the spirit of the Bill.”2 This, he feels, can be seen as a significant development because it brings before the Government a consensus that is developing in the House and the Government may take note of it.

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That the consensus among private members, irrespective of party affiliations, at least on social questions, plays a very effective role is acknowledged by Geeta Mukherjee. She points out that “the issue of dowry has been taken up in the Indian Parliament by the members of different political parties, like Uma Nehru and Durga Bai of the Congress Party, Renu Chakravarty of the Communist Party of India and Pramila Dandavate of the Janata Party. All of us throughout the parliamentary history have been taking up this subject in the form of Bills and amendments.” She is, therefore, of the confirmed view that “if subjects are discussed cutting across the party lines, some amount of result can definitely be achieved”.\(^1\) It may be recalled here that as a result of the consensus evolved in the House, the Government had earlier enacted the Dowry Prohibition Act, 1961.

To cite yet another such instance when the consensus in the House had its impact on the Government, the following observations of Madhu Dandavate may be quoted:

I had introduced a Bill in Parliament in which I had suggested that the age limit for voting should be reduced from 21 years to 18 years. I found that 99.9 per cent of the members from all sides of the House supported that Bill. Therefore, in reply to the debate, the Minister of Law said that he had found from the debate on this private member’s Bill that irrespective of the political parties there seemed to be an overwhelming consensus in favour of the age limit being reduced from 21 to 18 and, therefore, he assured that the Government will give careful consideration to this matter.\(^2\)

The voting age was ultimately lowered from 21 to 18 years with the passing of the Constitution (Sixty-First Amendment) Bill, 1989.

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\(^2\) Proceedings (cycl.) of the Seminar on “The Legislative Process” organised by the Bureau of Parliamentary Studies and Training (New Delhi, April 8-10, 1982), 8.4.1982, p. 34.
Thus, if there is a clear consensus in the House the Government cannot easily ignore the same. If a private member's Bill on the subject as such is not passed, the Government sooner or later brings forward its own legislation thereon.

Articulating Problem(s): Another useful outcome of the private members' Bills is the articulation of people's problems. For this reason, S.W. Dhabe firmly believes that such Bills have got a very important place in the parliamentary democracy. Explaining why private members have to move such Bills and why these are necessary, Dhabe cites, by way of examples, the following two cases:

(i) There is a provision in the Constitution for a joint sitting of the Lok Sabha and the Rajya Sabha to resolve the disagreement, if any, between the two Houses in regard to a Bill. There is no similar provision in regard to resolution of such disagreement between the Legislative Assembly and the Legislative Council of a State. There was actually a dispute between the Legislative Assembly and the Legislative Council of Andhra Pradesh. The difficulty to resolve the dispute arose as one party was having majority in the Legislative Assembly while the other party was in majority in the Legislative Council. To overcome this difficulty and to make a provision in the Constitution for a joint sitting of the Legislative Assembly and the Legislative Council of a State, I moved a Constitution (Amendment) Bill.¹

(ii) Bajaj Scooters and Indian Oil Company take deposits. IOC takes deposits of Rs. 250, Rs. 750 or even Rs. 1,000 against gas cylinders. In one year they collect Rs. 70 crores. They use this money for five or ten years without paying any interest on it... Therefore, I moved a Bill that if any deposit is taken, power should be given to the Government to see that reasonable interest at bank rate is paid to those persons whose deposit is used.²

What Dhabe wants to emphasise is that either the Government may not like to take up such problems which are inconvenient to it or the Government

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² Ibid., pp. 48-49.
machinery may take undue long time in introducing legislation for the purpose. In such cases, private members play a very important and effective role by bringing before the House suitable Bills highlighting the concerned issue(s).

Narrating his personal experiences as to how the private members' Bills could be utilised to articulate problems, V.N. Gadgil says:

(i) Once, when I was practising, somebody brought me a case in which a suit for pension was dismissed. I found that there is a 19th Century law which says that “pension is a bounty, is a grace of the crown and is not a right of a servant”. But to my mind, this appeared very obnoxious in modern times. I went through some literature; some writings of Prof. Laski and so on in the context of State's liability. Then I got an idea that the concept that pension is not a matter of right requires to be demolished. I, therefore, introduced the Pensions’ Bill. I received tremendous response, literally thousands of letters from pensioners.

(ii) As a politician I feel everyone has a right to criticise the activities of the politicians. The media also has the right to criticise. But if there is a misrepresentation which may ruin the political career of a politician some checks should be there. I have, therefore, found that in many countries there is a law to put a check on this. Take for example France. There, a newspaper is required to give the other side equal space, on the same page and at the same place with the same type of print, so that if somebody is defamed or some wrong information is published about someone, he can, under the law, require that newspaper to publish a correction or his explanation. I think this is very necessary because, although Indian media is by and large very good, yet there are some black sheeps as in every profession and they try to malign certain politicians. I, therefore, introduced my Bill on Right to Reply.

Quoting a leaf from the book of his parliamentary experience, Ramlal Parikh, in this connection, observes:

When I was a member of the Rajya Sabha, I brought forward a Bill on the political parties for recognising them, giving them financial

1&2 Views expressed during interviews by the author.
support and holding elections by the Government. Although our Governments are run by the parties, yet the parties have no place in our Constitution, no place in law. Therefore, I brought in this Bill. Earlier while participating in various Seminars I had spoken on the subject. I could see that the people were demanding some measure like this. They used to say that I should bring in some regulation because the parties were not behaving properly. For the last many years I had been fighting for this cause at different forums and I was receiving the feedback on the subject. Therefore, I introduced the above Bill in the Rajya Sabha.

Another parliamentarian to suggest that the private members' Bills could be utilised by members to articulate the problem(s) of their constituents is Uttam Rathod. He opines: "Suppose I come from a backward region. If I feel that the present seat of High Court is far away from that region, in that case, I have to submit a Bill which provides for the setting up of a new Bench of the High Court in that region. Thus, through private members' Bills the demands and aspirations of the people could be projected and their grievances got redressed."1

The representational role of Parliament - one of its cardinal functions and from which follows the grievance ventilation or grievance redressal function - is, therefore, performed to a great extent through the private members' Bills system.

Utilising Talents: The system provides necessary opportunity to each individual member who wants to make good use of his talents. In this connection, Prof. Hiren Mukherjee is of the considered view that through this process, besides of course during Question Hour and Zero Hour and through

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1 Seminar on "Private Members' Business", op. cit., 27.4.1984, p. 12.
Uttam Rathod had actually introduced in the Lok Sabha on 21.11.1980 the High Court of Bombay (Establishment of a permanent Bench at Aurangabad) Bill, 1980. Executive action was taken in the matter even before the Bill came up for discussion on August 24, 1984 when the House was informed that a permanent Bench of High Court of Bombay would start functioning from August 27, 1984 (See L.S.Deb., 24.8.1984, c. 535).
other parliamentary devices, the member can impinge upon the time of Parliament and with his talents, he can perhaps do a great deal to satisfy his own conscience.\(^1\)

Expressing somewhat similar views regarding the utilisation of talents of members through discussions on private members' Bills, S.P. Mitra observes: "I have found very able speakers lending benefits of their experience in public life, although they are usually silent for the rest of the week for want of appropriate opportunities. It must be remembered that all members of the House cannot shout at the top of their voice or create noise to attract the attention of the Presiding Officer(s) or the members. They are sober and quiet when a tumult is raised in the House, but they are mature and knowledgeable persons capable of making most constructive contributions to the debates. For them Private Members' Business is a boon."\(^2\)

The above views are corroborated by K. Lakkappa. According to him, "Most of the members are active during the Question Hour and the Zero Hour. During the rest of the time they do not participate. Those who do not like to participate in the Question Hour or the Zero Hour, do not have lung power to catch the eye of the Speaker. But there are other avenues like bringing in Resolutions or Bills. The members can make a study and create an impact in Parliament (by making use of this parliamentary device)."\(^3\)

Similarly, the members of the ruling party who cannot raise matters through certain important parliamentary procedures such as adjournment motions,

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censure motions, etc. can do so through Resolutions and Bills. In the words of K. Lakkappa: "I belong to the ruling party. I cannot move an adjournment motion against my Government; cannot bring forward a censure motion. So far as private members' Bills and Resolutions are concerned, all sections of the House, irrespective of the party they belong to, are entitled to sponsor them. Even ruling party members who may not bring up certain matters by way of adjournment motion, etc., can put the same in a different way and bring it before the House in the form of a Bill or Resolution".¹

There is no gainsaying the fact that the private members' Bills system offers enormous scope to members to make their presence felt in the House. It proves useful in two ways. On the one hand, such parliamentarians as do not wish to raise or fail to raise issues through other parliamentary devices get, through this process, the much needed valuable opportunities to make their mark on the floor of the House by sheer perseverance and quiet, diligent and meticulous work of Bills. On the other hand, the system helps in absorbing gainfully much of the surplus energies of some of the frustrated back-benchers.

Training Ground: It is true nothing can be passed without the vote of the majority party in Parliament and in that sense the experience of private members very often is frustrating. They know howsoever good their Bill may be, there is very little chance of it being accepted by the Government. Yet, as Margaret Alva maintains, it is necessary to leave this initiative to private members. For, among other things, a private member's Bill "provides an opportunity for training on piloting a Bill, on meeting arguments, on replying to points because the member is literally playing the role of a Minister by piloting

¹ Ibid., pp. 40 & 47.
a Bill, by answering to the debate and trying to find solutions or answers to the criticism which has been levelled against (the measure).\(^1\)

In this regard, Dinesh Goswami is in agreement with Margaret Alva. He feels that the system "helps the members in understanding the nuances of legislation as to how a Bill may be formulated and how the First, Second and Third Readings take place. Instead of a theoretical knowledge, it gives a practical knowledge of legislative process which is extremely important so far as Parliament is concerned."\(^2\)

Echoing somewhat similar views Saif-ud-din Soz observes: "Private members' Bills offer members ample chances to participate in the debates and express their opinions. New members can learn a lot and gain experience through these discussions. This is like a rehearsal for being more responsive and alert on Government Business."\(^3\) Even if the system does not result in much legislation, it provides experience to members which may be quite useful when, and if, they become Ministers.

**Moral Impact**: Private members' Bills have a salutary effect in the country. Sharing his experiences with the newly elected members of Parliament at an Orientation Programme, Saugata Roy emphasises the utility of the private members' Bills in the following words:

> I may tell you a small experience of mine. I have given a very small Bill, a private member's Bill, for the protection of political prisoners from third degree methods. I have received hundreds of letters from all over the country supporting the idea behind the Bill.

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1. Seminar on "Private Members' Business", op. cit., 28.4.84, p. 79.
2. Views expressed during an interview by the author.
Whenever a Bill is introduced in Parliament and when it is printed, it has a certain moral impact in the whole country.¹

In brief, it may appear to be wrong for individual members to introduce measures for administering of which they will themselves have no responsibility; that on occasions the discussion on private members’ Bills leads to wastage of time by Ministers and Parliament; that during the last forty years only 14 private members’ Bills have been enacted by the Indian Parliament and as such, the system does not seem to serve much purpose. The fact, however, remains that it is not advisable to assess the usefulness of the system just in terms of the number of Bills actually enacted. The system proves to be effective in several indirect and subtle ways. Basically, it helps in bringing forward legislative measures which are not in Government’s own programme. Even discussions on private members’ Bills which may not eventually be passed test Government’s reaction to the intended proposals. In some cases such discussions also help in mobilising public opinion for a Government legislation at a future date. Besides, public questions which no party may be prepared to take up can be aired in the House by individual members as they are less subject to pressure. Besides theoretical justifications, in actual operation too the system has proved to be quite useful. That it helps the members in several ways is clearly discernible from the views expressed by the parliamentarians themselves.