CHAPTER V

IMPACT OF THE SYSTEM

The general impression seems to be that the time spent on private members' Bills has not been of much avail. Possibly, this feeling stems from the very scheme of things. Indubitably, Parliament plays an important role in the working of the polity. While discussing the policies and programmes of the Government, it not only forces the Government publicly to justify its decisions but often succeeds in persuading the Government to modify its actions. However, Parliament can have this power only as a partner of the Government, which enjoys adequate authority to decide and to act. The members who constitute Parliament, therefore, cannot but have a restricted role as proposers of Bills.

Further, as Dawson puts it, the existence of private members' business is based on the parliamentary fiction that members are alike in the House and that it is the duty of every member to bring his suggestion(s)/legislation(s) before Parliament. However, either the members do not bother to assert the equality of all in the House or on occasions they discover the illusive nature of this equality.¹

Theoretically even if a member is convinced that his Bill has little chance of being taken up, there is nothing to prevent him from introducing it. However, in practice if he belongs to the majority party, he may seldom...

exercise his right. If his Bill is worthwhile, the Government itself will sponsor it unless it wishes to reward the proposer by allowing him to show publicly his interest in a particular subject. On the contrary, if the member belongs to one of the opposition parties, the purpose of his Bill may be far removed from the normal one, it being only directed to embarrass the Government by drawing attention to weak points in administration.

It redounds to the credit of private members if despite their restricted role they are able to contribute through Bills to the working of the polity.

To assess the impact of the private members' Bills on the Indian polity, case studies of such Bills considered during 1952-89 have been undertaken. The analysis of debates of all the 384 Bills considered in the Lok Sabhas and 204 Bills in the Rajya Sabha has been done theme-wise to find out when and by whom a particular issue has been first raised through a private member's Bill; whether the matter has been pursued later by the same member or other member(s) through Bill(s) in the same House or in the other House; what has been the Government's immediate reply to the discussion on each private member's Bill and what has been its fate; whether it resulted in enactment or assurance or any Executive order or it got referred to relevant body for critical examination? If any assurance has been given by the Government during the course of discussion on a private member's Bill, study has been made to see when and how the same has been implemented.

Achievements Under Eight Categories

The private members' Bills considered and finally disposed of by Parliament can be broadly grouped into following eight distinct categories according to the types of results yielding therefrom:

First Category: Private members' Bills since enacted;
Second Category: Bills whose mere introduction hastened the Government to bring forward its own legislations even before these were discussed in the House;

Third Category: Bills on which the Government gave assurance after accepting their principles and subsequently brought its own legislation;

Fourth Category: Bills negatived or withdrawn on non-acceptance by the Government and on which no assurance was given but on whose subjects the Government later brought its own legislation;

Fifth Category: Cases where suggestions contained in private members' Bills were implemented through Executive orders;

Sixth Category: Cases where efforts made by private members in bringing forward Bills were utilised by the Government for some appropriate action;

Seventh Category: Bills which were not serious attempts at legislation but raised important question(s) of the type "why the Government would not do that" and thereby enabled the Government to explain why the legislation desired was not feasible; and

Eighth Category: Bills which only aimed at the vital function of educating and mobilising public opinion on a subject and preparing ground for legislation in future.

While the first four categories of Bills result in some legislation, the subsequent four culminate in achievements other than legislation. The resultant legislation could be either direct or indirect. The classification of Bills is amply illustrated in the "Chart on Yield of Private Members' Bills".

Besides, there are other private members' Bills which do not fall under any of these eight categories. Of these, the outstanding ones are those that relate to the parliamentary matters. Some such Bills which suggest reforms in the working of the Indian Parliament have been discussed in the latter part of this Chapter.

1 See p. 145.
### CHART

**YIELD OF PRIVATE MEMBERS' BILLS**

Private Members' Bills result in:

- **Legislation**
  - Direct: Govt. Bills Enacted
  - Indirect: Govt. Bills Enacted (with no assurance given on P.M. Bills)

- **Achievements other than Legislation**
  - Proposals implemented through executive orders
  - Proposals referred to related organ(s)
  - Proposals led to opinion formation for legislation in future
  - Proposals explained why proposal not feasible

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First Category

The first category comprises those private members' Bills which have been enacted so far. Number of such Bills was seven in the First Lok Sabha, two in the Second Lok Sabha, three in the Third Lok Sabha and two in the Fourth Lok Sabha. Of these 14 Bills, 12 were from the ruling party members and two from the independents.

Significantly, not a single private member's Bill has been enacted after the Fourth Lok Sabha. An explanation for this could be that during the first three Lok Sabhas maximum number of private members' Bills considered have been from the members of the ruling party, which had more than two-third majority in the House.¹ Maybe, to give credit to some of the members of its party, the Government accepted certain Bills brought forward by them. From the Fourth Lok Sabha onwards, when the strength of the opposition started rising in the House, the number of such Bills considered have been more from the members of the opposition rather than from the ruling Party. Therefore, whenever a private member's Bill has been considered worthwhile by the House, the Government seems to have resorted more to the practice of giving an assurance to bring forward its own comprehensive Bill rather than having the same enacted. This is substantiated by the observation of Om Mehta, the then Minister of Parliamentary Affairs, who once said, 'I would like to make it clear that though in the first three Lok Sabhas many private members' Bills were accepted, but during the Fourth and Fifth Lok Sabhas we (the Government) had devised a novel procedure. If there was consensus on any Bill, the Government used to give an assurance and after that the Government used to come up with

¹ See Table 19, p. 91.
The broad details of 14 private members' Bills enacted by the Indian Parliament, during the first nine Lok Sabhas, are as under:

(i) **The Muslim Wakfs Bill, 1952** : The Bill, whose object was to provide for better governance and administration of Muslim Wakfs and the supervision of Mutawallis management, was first introduced by Syed Mohammed Ahmed Kazmi in the Provisional Parliament on April 12, 1951. This Bill lapsed with the dissolution of the Provisional Parliament. The member again introduced it in the First Lok Sabha on July 16, 1952. The Bill was considered by a Select Committee of the Lok Sabha. After being passed by both the Houses, it became Act 29 of 1954.

(ii) **The Indian Registration (Amendment) Bill, 1955** : Object of this Bill was to remove the anomaly regarding the recording of Castes and Sub-Castes of parties mentioned in a deed for registration in States, India being a secular State. It was introduced in the Lok Sabha by Satish Chandra Samanta on September 16, 1955 and it became Act 17 of 1956 after having been passed by the two Houses. The member had earlier introduced a Bill on the same subject on August 14, 1953. It was withdrawn by the mover after the Government gave an assurance to consult the State Governments and to do whatever was possible to amend the Registration Act, 1908.

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2 Passed by the Lok Sabha and the Rajya Sabha on March 12 and April 23, 1954, respectively. In the Rajya Sabha, the Bill was piloted by Akhtar Hussain.
3 Passed by the Lok Sabha on December 16, 1955 and the Rajya Sabha on March 23, 1956. In the Rajya Sabha, the Bill was piloted by P.T.Leuva.
4 See L.S.Deb, 5.8.1955, c. 9533.
(iii) The Proceedings of Parliament (Protection of Publication) Bill, 1956: Its object was to define by law the privilege available to publications made in good faith of reports of proceedings of Legislatures. The Bill was introduced by Feroz Gandhi in the Lok Sabha on March 3, 1956. After being passed by the two Houses in a very short time, it became Act 24 of 1956. According to this Act no person shall be liable to any proceedings, civil or criminal, in respect of the publication of a substantially true report of any proceedings of either House of Parliament, unless the publication is proved to have been made in malice.

(iv) The Code of Criminal Procedure (Amendment) Bill, 1953: The object of the Bill was to amend Section 435 of the Code of Criminal Procedure in order to empower the revisional courts to stay or suspend the final orders of Lower Courts. It was introduced in the Lok Sabha by Raghunath Singh on November 27, 1953. After having been passed by the two Houses, it became Act 39 of 1956.

(v) The Ancient and Historical Monuments and Archaeological Sites and Remains (Declaration of National Importance) Bill, 1956: The object of the Bill was that all the ancient and historical monuments and archaeological sites and remains in the then Part 'C' States which had been duly notified as protected under the Ancient Monuments Preservations Act, 1904 should be duly declared to be of national importance. It was introduced in the Rajya Sabha by Raghubir Sinh on December 3, 1954. The Bill was passed by both the Houses and became Act 70 of 1956.

1 Passed by the Lok Sabha and the Rajya Sabha on May 4 and May 11, 1956, respectively. In the Rajya Sabha, the Bill was piloted by P. Subarayan.
2 Passed by the Lok Sabha and the Rajya Sabha on July 27 and August 10, 1956, respectively. In the Rajya Sabha, the Bill was piloted by J.N. Kaushal.
3 Passed by the Rajya Sabha and the Lok Sabha on August 24 and December 7, 1956, respectively. In the Lok Sabha, the Bill was piloted by Balwant Singh Mehta.
(vi) The Hindu Marriage (Amendment) Bill, 1956: The Bill sought to amend Section 10 of the Hindu Marriage Act, 1955 so as to permit the persons, when both the parties belonged to the Hindu religion and were marrying under the Special Marriage Act, to be governed by the Hindu Succession Act, 1956. It was introduced in the Rajya Sabha on August 24, 1956 by Seeta Parmanand. The Bill became Act 76 of 1956 after having been passed by the two Houses.¹

(vii) The Women’s and Children’s Institutions (Licensing) Bill, 1953: The object of this Bill was to protect women and children from exploitation and also to regulate and license orphanages and other institutions caring for women and children under 18 years of age and to provide for the proper custody, care and training of their inmates. It was introduced in the Lok Sabha by Kamlendu Mati Shah on February 6, 1954.

Bills on the similar lines had also been introduced by Maniben Patel, Uma Nehru and Jayashri Raiji on August 14, 1953, November 27, 1953 and September 3, 1954, respectively. In the Rajya Sabha, a Bill to that effect had been introduced on September 4, 1953 by Seeta Parmanand. When it was being discussed in the House an objection was raised and upheld that it was outside the legislative competence of Parliament. Seeta Parmanand again introduced it in an amended form on April 23, 1954 but finally withdrew it by leave of the House on September 3, 1956.

The Bill of Kamlendu Mati Shah was considered by a Select Committee of the Lok Sabha. After being passed by the two Houses it became Act 105 of 1956.²

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¹ Passed by the Rajya Sabha and the Lok Sabha on November 30 and December 7, 1956, respectively. In the Lok Sabha, the Bill was piloted by Uma Nehru.
² Passed by the Lok Sabha and the Rajya Sabha on December 7 and December 14, 1956, respectively. In the Rajya Sabha, the Bill was piloted by Seeta Parmanand.
The Orphanages and other Charitable Homes (Supervision and Control) Bill, 1960: Pitiable conditions of the existence of hundreds of orphanages and widows' homes in the country did not appear to have seized the attention of any State Government or that of the Government of India for the purpose of introducing legislation to run these institutions on efficient lines, till the introduction of the Orphanages and Widows' Homes Bill by Kailash Bihari Lal in the Rajya Sabha. Bills introduced till then either in the State Legislatures or in the Parliament only sought to penalise criminal activities commonly presumed to be indulged in by orphanages and widows' homes and to vest in the executive powers to deal with such activities. It was this private member's Bill which focussed attention on the constructive side of these institutions to run the same on proper lines.

The Bill was for the first time, introduced in the Rajya Sabha on December 3, 1954 but it could not come up for discussion as the recommendation of the President required under article 117 (3) of the Constitution was withheld. The member again introduced it in the same House on March 11, 1955, but later withdrew it by leave of the House on March 25, 1955. The third attempt of the member was when he introduced it again on May 5, 1960 and this time the motion for circulation of the Bill for eliciting public opinion was accepted on December 15, 1956. Before the fate of this Bill1 was decided, the Member introduced another comprehensive Bill in the Rajya Sabha on May 8, 1959 which was referred to a Joint Committee of the two Houses. The latter Bill was passed by the two Houses and it became Act 10 of 1960.2

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1 Member later withdrew this Bill by leave of the House on August 21, 1959.
2 Passed by the Rajya Sabha and the Lok Sabha on February 19 and March 18, 1960, respectively. In the Lok Sabha, the Bill was piloted by D.C. Sharma.
(ix) **The Code of Criminal Procedure (Amendment) Bill, 1957**: The object of the Bill was that when a person aggrieved due to the offence of bigamy was a woman, the police might make a complaint on her behalf to the Magistrate, if information of this offence was given to police. This was to save the women from spending money in litigation. The Bill was introduced by Subhadra Joshi in the Lok Sabha on December 20, 1957 and was passed on November 27, 1959. The Rajya Sabha passed the Bill with amendments on August 19, 1960. These amendments were accepted by the Lok Sabha on December 23, 1960 and thereafter it became Act 56 of 1960.1

(x) **The Marine Insurance Bill, 1963**: The Bill, which sought to codify the law relating to marine insurance, was introduced by M.P.Bhargava in the Rajya Sabha on February 20, 1959. In the Statement of Objects and Reasons of the Bill, the member had contended that in the absence of any Indian legislation at that time governing marine insurance, the Indian marine insurance continued to be governed by the British Marine Insurance Act of 1906. It was, therefore, imperative for smooth development of Indian Marine Insurance to have legislation consistent with the Indian conditions. The Bill was considered by a Joint Committee. After being passed by the Houses, it became Act 11 of 1963.2

(xi) **The Salaries & Allowances of Members of Parliament (Amendment) Bill, 1964**: With a view to increasing the salary of members of Parliament from Rs.400 to Rs.500 per month and daily allowance from Rs. 21 to Rs. 31, Raghunath Singh introduced this Bill in the Lok Sabha on April 10, 1964. A. M. Tariq too had introduced a similar Bill in the Rajya Sabha on February 21, 1964 but it

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1 In the Rajya Sabha, the Bill was piloted by Sceeta Parmanand.
2 Passed by the Rajya Sabha and the Lok Sabha on March 8 and April 5, 1963, respectively. In the Lok Sabha, the Bill was piloted by D.C.Sharma.
lapsed with his resignation as member of that House. The Bill of Raghunath Singh was passed by both the Houses and it became Act 26 of 1964.1

(xii) The Hindu Marriage (Amendment) Bill, 1964: Its object was to provide the right to apply for divorce on the ground that cohabitation has not been resumed for a space of two years or more after the passing of a decree for judicial separation to both the husband and wife and not only for the party who has obtained the decree in such case. The Bill was introduced by D.C. Sharma in the Lok Sabha on February 22, 1963. Another Bill to that effect had earlier been introduced by W.S. Barlingay in the Rajya Sabha on September 12, 1958 but it lapsed on April 2, 1962 on the retirement of the member from that House. The Bill of D.C. Sharma which was passed by both the Houses became Act 44 of 1964.2

(xiii) The Indian Penal Code (Amendment) Bill, 1967: The object of the Bill was to enable works of arts to be exempted from the penal clauses in the principal Act relating to punishment for obscenity. It was introduced by Diwan Chamal Lal in the Rajya Sabha on May 3, 1963. The Bill was considered first by a Select Committee of the Rajya Sabha and then by a Select Committee of the Lok Sabha. After being passed by both the Houses, it became Act 36 of 1969.3

(xiv) The Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Bill, 1968: The object of the Bill, as is clear from its title, was to enlarge the appellate jurisdiction of the Supreme Court in regard to criminal matters. It was introduced by Anand Narain Mullah in the Lok Sabha on November 15, 1968.

1 Passed by the Lok Sabha and the Rajya Sabha on April 24 and September 18, 1964, respectively. The Lok Sabha reconsidered the Bill a- passed by the Rajya Sabha and finally passed it on September 25, 1964. In the Rajya Sabha, the Bill was piloted by M. P. Bhargava.
2 Passed by the Lok Sabha and the Rajya Sabha on December 4 and December 11, 1964, respectively. In the Rajya Sabha, the Bill was piloted by M.P.Bhargava.
3 Passed by the Rajya Sabha on December 15, 1967. The Lok Sabha passed it with amendments on May 16, 1969. The Rajya Sabha reconsidered the Bill as passed by the Lok Sabha and finally passed it on August 22, 1969. In the Lok Sabha, the Bill was piloted by D.C. Sharma.
The Bill was considered by a Select Committee of the Lok Sabha. After being passed by the two Houses, it became Act 28 of 1970.¹

The number of above-mentioned private members' Bills enacted — which needless to mention have been rather insignificant as compared to the total number of such Bills considered — would not provide a true index of their utility. For, there are several other ways through which the private members' Bills manifest their usefulness. This would be evident from the discussion that follows.

Second Category

The second category covers those private members' Bills which were not enacted but which impelled the Government to bring forward its own legislation even before these Bills came up for discussion in the House. Possibly, the Government considered that the subjects of these Bills were such on which it was in agreement with the members to have the legislation and, therefore, discussion thereon was not necessary. This category of Bills also indicates the advantage of the existing Indian procedure of introduction of Bills in Parliament without any let or hindrance² over the system of ballot in the British House of Commons under which only those private members can introduce their Bills whose names have found place in the ballot.

Some of the Bills that can be discussed under this category are as under:

(i)  **Constitutional Protection to the Kerala Land Reforms (Amendment) Act, 1971** : The Constitution (Amendment) Bill, 1972 which, inter alia, sought to give

¹ Passed by the Rajya Sabha and the Lok Sabha on March 20 and July 31, 1970, respectively. In the Rajya Sabha, the Bill was piloted by M.P. Bhargava.

² The only hindrance, apart from the general admissibility of notices of Bills, in the Lok Sabha is in regard to the Constitution (Amendment) Bill which must be recommended by the Committee on Private Members' Bills and Resolutions.
constitutional protection to the Kerala Land Reforms (Amendment) Act, 1971 was introduced by C.K. Chandrappan in the Lok Sabha on April 28, 1972. When the Bill came up for discussion on May 26, 1972, a period of less than one month after its introduction, the Deputy Speaker informed the House that the Government had already introduced a similar Bill which was to come up for discussion next week.\(^1\)

The Kerala Land Reforms (Amendment) Act, 1971 was included in the Ninth Schedule \textit{vide} the Constitution (Twenty-ninth Amendment) Act, 1972.

(ii) \textbf{Prevention of Food Adulteration}: The problem of food adulteration attracted the attention of several members who sought to tackle it through legislation. The Punishment for Adulteration of Foodstuffs Bill, 1950 was introduced by Banarsi Prasad Jhunjhunwala in the Provisional Parliament on December 12, 1950. Another Bill on the same subject introduced on the same date was by Panjabrao Shamrao Deshmukh. With the same objective, H.V. Kamath too introduced on April 12, 1951 the Food and Drugs Bill, 1951. All these Bills, however, lapsed when the Provisional Parliament ceased functioning.

Jhunjhunwala pursued the matter further when he again introduced his Bill in the First Lok Sabha on July 16, 1952. But before this Bill came up for consideration, the Government had already introduced the Prevention of Food Adulteration Bill and got it passed by both the Houses.\(^2\) As a result, Jhunjhunwala withdrew his Bill by leave of the House.

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\(^1\) See \textit{L.S.Deb.}, 26.5.1972, c. 267.

\(^2\) Introduced in the Lok Sabha on November 6, 1952; referred to a Select Committee on November 27, 1952. The Committee submitted its report on February 14, 1953. Passed by the Lok Sabha and the Rajya Sabha on August 26 and September 14, 1954, respectively. Assented to by the President on September 29, 1954. It became Act No. 37 of 1954.
(iii) **Liquidation of the Special Courts** : An important Bill was The Special Courts (Repeal) Bill, 1980 which sought the liquidation of the Special Courts constituted as a follow-up action on Shah Commission Report. It was introduced by K.T. Kosalam in the Lok Sabha on February 1, 1980. The member contended that in view of the judgement of Delhi High Court quashing the prosecution of Indira Gandhi for her failure to take oath before the Shah Commission and also in view of the fact that the judgement had enumerated 12 grounds substantiating that the Shah Commission had exceeded its authority, the entire report of the Shah Commission had become infructuous.

Before the private member's Bill could come up for consideration, the Government introduced in the Rajya Sabha on December 24, 1980 the Special Courts (Repeal) Bill^1^, 1982 on the above lines. It became Act No. 34 of 1982. The member, Kosalam, withdrew his Bill earlier on September 18, 1981.

(iv) **Suppression of Immoral Traffic in Women and Girls** : Government's legislation regarding suppression of immoral traffic in women and girls was the result of several private members' Bills.

The Suppression of Immoral Traffic and Brothels Bill had been introduced by Seeta Parmanand in the Rajya Sabha on September 4, 1953. The Bill, however, could not come up for consideration as the recommendations of the President required under article 117 (3) of the Constitution was withheld.

Three similar Bills had also been introduced by Maniben Patel, Uma Nehru and Jayashri Raji in the Lok Sabha on August 14, 1953, November 27, 1953 and September 3, 1954, respectively. But neither of these Bills came up for discussion.

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^1^ Passed by the Lok Sabha and the Rajya Sabha on December 11 and December 19, 1956, respectively. Assented to by the President on December 30, 1956.
Having been persuaded enough by the private members, the Government introduced the Suppression of Immoral Traffic in Women and Girls Bill¹, 1954 in the Lok Sabha on December 20, 1954. It became Act No.104 of 1956.

(v) **Press Council**: With a view to establishing Press Council of India for safeguarding the freedom of the Press, R.K. Sidhava, a member of the Constituent Assembly, introduced in the Provisional Parliament on December 16, 1949 the Council of the Press of India Bill, 1949. It, however, lapsed when the Provisional Parliament ceased functioning.

The Government introduced in the Rajya Sabha on July 31, 1956 the Press Council Bill, 1956. Though the Bill was in pursuance of the recommendations of the Press Commission, yet the Government must have considered the views of the private member while setting up the Commission and later while drafting its own legislation. The Bill, however, lapsed as it could not be passed by the First Lok Sabha before its dissolution in April, 1957. A fresh Bill² was again introduced by the Government in the Rajya Sabha on November 26, 1963. It was passed by both the Houses and the Act came into force on November 12, 1965.

(vi) **Monopolies and Restrictive Trade Practices**: The Monopolies and Unfair Business Practices (Inquiry and Control) Bill, 1958 which sought to make provisions for the enquiry into the existence and effects of, and for dealing with mischief resulting from, or arising in connection with, any condition of monopoly or restrictive or unfair business practices was introduced by K.T.K. Tangamani.

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¹ The Bill was referred to a Select Committee on August 25, 1956 which submitted its report on November 21, 1956. Passed by the Lok Sabha and the Rajya Sabha on November 30 and December 18, 1956, respectively. Assented to by the President on December 30, 1956.

² The Bill was referred to a Joint Committee of both the Houses on November 1, 1964 which submitted its report on February 17, 1965. The Bill, as reported by the Joint Committee was discussed in the Rajya Sabha on August 17, 18, 24, 25 and 26, 1965 and in the Lok Sabha on September 23 and November 3, 1965.
and V.P. Nayar in the Lok Sabha on August 22, 1958. The Bill did not come up for discussion. It lapsed with the dissolution of the Second Lok Sabha.

The Government introduced in the Rajya Sabha on August 18, 1967 its own Bill on the similar lines.\(^1\) Of course, this Bill was in pursuance of the recommendations made by the Monopolies Inquiry Commission but the backdrop to the very setting up of this Commission\(^2\) must have been provided by, among other considerations, the private member's Bill.

(vii) **National Commission for Women** : The Constitution (Amendment) Bill, 1980 to provide for appointment of a Special Officer to investigate all matters relating to the safeguards provided for women under the Constitution on matters concerning their socio-economic and political status was introduced in the Lok Sabha on July 25, 1980 by Geeta Mukherjee. She felt that despite numerous legislations for providing equal status to women, they were still treated in India as second class citizens and inferior beings. The Bill did not come up for discussion.

The Government introduced, on its own, in the Lok Sabha on May 22, 1990 the National Commission for Women Bill, 1990 to provide for the setting up of a Commission for Women. The main task of the Commission would be to study and monitor all matters relating to the constitutional and legal safeguards provided for women, to review the existing legislations and suggest amendments, wherever necessary. The Commission would also monitor the proper implementation of all the legislations made to protect the rights of women so as

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1. The Bill was passed by the Rajya Sabha and the Lok Sabha on July 24 and December 12, 1969, respectively. It became Act No. 54 of 1969.
2. Monopolies Inquiry Commission submitted its report to the Government on October 31, 1965. The Resolution dated the September 5, 1966 containing Government's decisions thereon was laid before both the Houses on September 6, 1966.
to enable them to achieve equality in all spheres of life and equal participation in the development of the nation. The Bill became Act No. 20 of 1990.

(viii) Control of Activities of the Companies: The Companies (Amendment) Bill, 1963, which sought to provide for shareholders having a say in the activities of the company; preventing persons in the control of a company making gifts of money to themselves in the shape of under-writing commissions; provision of remedial measures against blank transfer; and recovery of tax from companies in liquidation, was introduced by K.V. Raghunatha Reddy in the Rajya Sabha on August 23, 1963. The mover withdrew the Bill on September 3, 1965 saying that the Government had since come forward with its own legislation incorporating most of the amendments suggested by him. The objective of the member had, thus, been achieved.

Some of the other private members' Bills which, before being discussed in the House, resulted in Government's legislation have been as under:

(a) The Electricity Supply (Amendment) Bill, 1954 introduced by Sadhan Chandra Gupta in the Lok Sabha on September 3, 1954;

(b) The All India Maternity Benefit Bill, 1958 introduced by Rau Chakravarty in the Lok Sabha on April 5, 1958;

(c) The Hire Purchase Bill, 1967 introduced by Yashpal Singh in the Lok Sabha on June 9, 1967; and


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1 Passed by the Lok Sabha and the Rajya Sabha on August 9 and August 23, 1990, respectively. Assented to by the President on August 30, 1990.
3 See Act No.101 of 1956.
4 See Act No. 53 of 1961.
5 See Act No. 26 of 1972.
In brief, the instances cited above bear eloquent testimony to the fact that the Government brought forward many legislative measures even before the private members’ Bills on those very subjects earlier introduced in either House of Parliament could be taken up for discussion. While it may not be appropriate to infer that the Government had no such proposals on its own, yet it must be emphasised that the introduction of the private members’ Bills on those subjects must have quickened the pace of processing the Government proposals.

Third Category

That private members often raise matters of great significance and delicate nature is obvious from the Bills that go to constitute the third category. Covering the majority of the private members’ Bills, this category consists of those Bills on which the Government gave assurance to bring forward its own comprehensive legislation. Contrary to the general impression that such assurances are rarely fulfilled, the present study reveals that there are instances galore where the persistent efforts of private members yielded the desired result. It is a separate matter whether these efforts bore fruit in the near future or in the long run. In this connection, N. G. Ranga, a veteran parliamentarian with the longest legislative experience in the Indian legislatures, once observed:

Many a Bill introduced by the Government owes its inspiration to some Bill that had already been given notice of by a non-official member, either during the current session or the previous session.¹

The above view is also corroborated by Bhogendra Jha who opined on another occasion: “When private members move Constitutional (Amendment,

Bills, although their amendments are not adopted in that very form, but by the repeated efforts made by them the opinion is created inside and outside the House and the conditions are created when even major changes based on the private members' Bills do take place. Sometimes even fundamental type of amendments to the Constitution have been adopted after a struggle of five, ten or fifteen years when conditions favourable to the adoption of such amendments had been created.1

Further, the impression that the Government might be receptive only to the suggestions/ideas contained in the Bills moved by ruling party members is not true. Refuting the allegations that the private members' Bills were generally rejected, because these happened to be sponsored by the opposition members, Jai Sukh Lal Hathi, the then Minister of State in the Ministry of Home Affairs while replying to the debate on the Constitution (Amendment) Bill, 1965 moved by Yashpal Singh in the Lok Sabha on March 19, 1965 said:

I would make it very clear that from whatever side the Bill might have been introduced, it is given the fullest consideration by the Government. It is not that because it comes from an opposition member, the Bill is rejected. When a Bill is introduced, the Ministry concerned scrutinises it and passes it on to the Law Ministry. The Law Ministry very carefully examines the amendment. There is a Parliamentary and Legal Affairs Sub-Committee of the Cabinet which also scrutinises the Bill. It may be that the Government may not accept the Bill as such for some reason which is also explained before the House. But very often the suggestions given by members are not only accepted, but action is taken on them.

For example, on the last occasion when private members' Bills were discussed, there was a Bill for amending Section 109 of the Cr.P.C. Although it was not accepted, I had given my arguments for that,

I said that it would be referred to the Law Commission. By reference, we do not simply ask whether it should be amended or not. We send to the Law Commission copies of the proceedings of this House, so that they may know the views of the Hon'ble members who participated in that discussion. If there are any suggestions from the utility or importance or requirements points of view, they are considered even subsequently. So, I assure the Hon'ble member that simply because the Bill comes from an opposition member, it is not rejected forthwith.¹

It transpires from the present study that private members generally rise above party considerations in bringing forward legislation. On a number of important subjects, private members' Bills have been introduced both by the members of the ruling party and the opposition and subsequently the Government have brought forward their own legislation on these subjects.

Instances of some of the private members' Bills that fall under this category are :

(i) **Right of Parliament to Amend the Fundamental Rights** : The Supreme Court in its judgement in the famous Golak Nath Case² held that Parliament could not amend the Fundamental Rights. This led to a raging controversy both inside and outside Parliament. For the first time since the Constitution was adopted in 1950, the nation was confronted with the question whether or not Parliament could amend the Fundamental Rights. This was a matter of paramount importance which affected the supremacy of Parliament. There was divergence of opinion among the scholars and politicians on the subject.

To re-assert the authority of Parliament to amend the Fundamental Rights, Nath Pai introduced in the Lok Sabha on April 7, 1967 the Constitution

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¹ See L.S.Deb., 19.3.1965, cc. 4898-4900.
(Amendment) Bill, 1967\(^1\) which sought to amend article 368 suitably for this purpose.

The point worth noting is that the Government, to begin with, did not sponsor a Bill as it did not like, for obvious reasons, to come in open and direct conflict with the judiciary on a delicate issue of this kind. But once it got a cue through the initiative of a private member, it decided to shake off the initial hesitation and embarrassment and came out to support the Bill.\(^2\) Admitting in the Lok Sabha on July 21, 1967 the importance of the Bill, the then Law Minister stated: “It is because of the importance of the Bill that although it is not an official Bill, on behalf of the Government I have moved a motion that it be referred to a Joint Committee of both the Houses.”\(^3\) He further said that in the Joint Committee, the Government could consider all aspects of the matter and produce before Parliament legislation based upon the Bill of Nath Pai.

The Bill was discussed on as many as eight sittings devoted to private members’ Bills. It also led to a very healthy and fruitful discussion in the country. Highlighting the importance of this private member’s Bill, Madhu Dandavate once observed: “This was one of the few national debates that have taken place and it was one of the few private members’ Bills which the Government had referred to Joint Committees. In the Joint Committee very fine discussion took place. Some of the top legal luminaries in the country like Seervai were invited to participate in the (deliberations of the) Joint Committee”\(^4\).

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\(^1\) Motion for reference of the Bill to a Joint Committee of the two Houses was adopted by the Lok Sabha on August 4, 1967. The Rajya Sabha concurred with the motion on August 18, 1967. The Joint Committee submitted its report on July 22, 1968.

\(^2\) See L.S.Deb., 21.7.1967, c. 1379, 4.8.1967, c. 17363

\(^3\) See L.S.Deb., 21.7.1967, c. 13779.

The Committee's report was made available. But before it could be presented to the House, the House was actually dissolved and a mid-term poll was held. The Bill, though lapsed with the dissolution of the Fourth Lok Sabha, was of such significance that several other members went on pursuing the idea. This is evident from the fact that Bhupesh Gupta¹ and D.L. Sen Gupta² brought forward similar Bills in the Rajya Sabha in 1971. In the same year, in the Fifth Lok Sabha the matter was taken up by Chintamani Panigrahi³, Madhu Dandavate⁴ and C.M. Stephen⁵, when they introduced Bills on similar lines.⁶

It was on the Constitution (Amendment) Bill of Madhu Dandavate that the Government gave an assurance to bring forward its own legislation. This assurance was fulfilled vide the Constitution (Twenty-fourth Amendment) Act, 1971. Thus the efforts of the private members led to formation of national consensus on an issue of great importance and ultimately resulted in Government legislation on the subject.

(ii) **Anti-Defection Law**: Another important issue on which the law has since been enacted is regarding anti-defection. Significantly, here also it was a private member who had initially moved a Bill on the subject. The Constitution (Amendment) Bill, 1974 which, *inter alia*, sought to render a member disqualified to be a member of Parliament, if he changed his party affiliation after his election was introduced by Priya Ranjan Das Munshi in the Lok Sabha on August 23, 1974. After being discussed in two sittings devoted to private members' Bills, the

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3. Lok Sabha Bill No. 11 of 1971.
4. Lok Sabha Bill No. 32 of 1971.
5. Lok Sabha Bill No. 94 of 1971.
motion to postpone further consideration of the Bill was adopted at the initiative of the Minister who had taken the consensus of members belonging to ruling party and opposition parties. The Bill subsequently lapsed with the dissolution of the Fifth Lok Sabha.

The matter was further pursued by Madhu Dandavate when he introduced in the Lok Sabha the Constitution (Amendment) Bill, 1980 on the same subject. While admiring and appreciating the principle behind the Bill, the Government could not agree with it *per se* due to certain defects in it. The amendment, which had been loosely worded, sought to confine itself only to defections in either House of Parliament and not to other forms of defections. The Government gave an assurance that it would come forward with a comprehensive Bill on electoral reforms.¹

Earlier, in the Rajya Sabha, Shiv Chandra Jha introduced on March 16, 1979 the Constitution (Amendment) Bill, 1979 to provide for recall of legislators who defect. The Government stated, during the course of reply to the discussion, that several proposals for electoral reforms, including recalling of legislators, were under consideration.

The matter was also taken up in the Lok Sabha in 1978 by Ranjit Singh² and Ramji Singh³, in 1980 by R. K. Mhalgi⁴ and Bapu Saheb Parulekar. In the Rajya Sabha, another Bill on the same subject was brought in 1980 by Ramlal Parikh.⁵

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¹ See *L.S.Deb.*, 28.3.1980, cc 400-01 & 408.
² Lok Sabha Bill No. 34 of 1978.
³ Lok Sabha Bill No. 54 of 1978.
⁴ Lok Sabha Bill No. 34 of 1980.
⁵ Rajya Sabha Bill No. IX of 1980.
Constant efforts of the private members to curb defections yielded result when the Government enacted the Constitution (Fifty-second Amendment) Bill, 1985.

(iii) Abolition of Privy Purses: The question of discontinuance of the payment of privy purses to former rulers was first raised in the form of a private member's Bill by Bhupesh Gupta when he introduced in the Rajya Sabha on November 16, 1962 the Constitution (Amendment) Bill, 1962. The member felt that in view of the objectives of social justice and removal of wide disparities in income, the abolition of privy purses was very necessary. The Government, however, did not agree with the contention of the member. The Government opined that it would not be good for the nation at that stage to recall the guarantee contained in the Constitution which was framed by a sovereign Constituent Assembly. Further, the Government believed in making the transformation slowly so as to enable the rulers to adjust themselves to the change of time. Already there had been gradual reduction in the payment of privy purses.¹

The matter was next taken up in the Rajya Sabha by Jogesh Chandra Chatterjee who introduced on May 8, 1964 the Code of Criminal Procedure (Amendment) Bill, 1964. It sought to restrict the operation of Section 87B only to the past transactions of the rulers of former States so as to remove the discrimination between the rulers and the rest of the Indian citizens. Replying to the discussion on November 26, 1965, the Government reiterated its earlier stand that as the privileges were extended to princely rulers against a certain historical background, it was honouring its promise and commitment to them. Since the princely rulers were realising the changed situation and agreeing

voluntarily to accept the reduced payments, the Government considered it was not so big a question, as to necessitate amendment to the Code of Criminal Procedure.¹

Bhupesh Gupta again introduced in the Rajya Sabha on September 18, 1964 the Constitution (Amendment) Bill, 1964 for the abolition of privy purses and privileges of former rulers. The Bill was debated on five sittings devoted to private members’ Bills. During reply to the discussion on this Bill, the Government revealed for the first time in the House that it might do away with the privileges and privy purses of former rulers. It was stated that the All India Congress Committee had passed a resolution on June 25, 1967 to the effect that the privileges and privy purses enjoyed by the princes were not in consonance with the concept and practice of democracy and as such steps should be taken to remove the same. The Government was having discussions with the princes and after it reached conclusion, the Government itself might bring forward a suitable amendment to the Constitution.²

In the meantime, M. Narayan Reddy introduced in the Lok Sabha on February 16, 1968 the Code of Civil Procedure (Amendment) Bill, 1968 which sought to omit Section 87B. The Government by now had made up its mind and during the reply on August 8, 1969 the House was informed that the Government was in favour of abolition of all the privileges enjoyed by the former rulers. The Government proposed to bring forward a comprehensive Bill.³

Some of the other private members’ Bills in the Rajya Sabha which raised the same subject were the Constitution (Amendment) Bill, 1967 by Chitta Basu

¹ See R.S.Deb., 26.11.1965, cc. 2943 and 294647.
² See R.S.Deb., 10.5.1968, c. 2301.

Culmination of the persistent efforts of the members was the enactment of the Constitution (Twenty-sixth Amendment) Bill, 1971 which abolished the payment of privy purses to former rulers and their privileges.

(iv) **Education in Concurrent List**: To extend the Union jurisdiction to cover the field of education concurrently with the States, L.M. Singhvi introduced the Constitution (Amendment) Bill, 1964 in the Lok Sabha on April 10, 1964. The Government admitted that there had been a serious mistake while drafting the Constitution in making education a State subject. Therefore, the Government strongly felt that a very strong case could be made out for the whole subject of education being made a concurrent subject. The Government welcomed the motion for eliciting opinion and hoped that it would, if nothing else, educate the public opinion.\(^1\) The Bill, however, lapsed with the dissolution of the Third Lok Sabha.

The matter was pursued further by S.C. Samanta with the introduction of the Constitution (Amendment) Bill, 1971 in the Lok Sabha on May 28, 1971. The Government this time took a different view. Kothari Commission, it pointed out, studied the subject in depth and did not favour transfer of education to concurrent list on the grounds that it might lead to considerable centralisation and rigidity when the greatest need was for elasticity.\(^2\) Apprehending that the Government might have the Bill negatived, the mover withdrew the same.

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2. See *L.S. Deb.*, 27.7.1973, c. 348.
The matter was next taken up by Arjun Sethi, who introduced the Constitution (Amendment) Bill, 1972 in the Lok Sabha on May 26, 1972. He was of the view that education should be included in the Union List. On the assurance being given by the Government that something would be done for the betterment of the education, the member withdrew his Bill.

In the Rajya Sabha, O.P. Tyagi introduced the Constitution (Amendment) Bill, 1975 on February 28, 1975 to have “education” included in the Concurrent List. He felt that University education is a subject which cannot be dealt with by the States alone and the Union Government has also to play an effective role in bringing about co-ordination in the working of various Universities and also in implementing the objects for which the University Grants Commission was set up. The Bill, however, did not come up for discussion and it lapsed.

Persistent efforts of the members bore fruit when education was included in the Concurrent List vide the Constitution (Forty-second Amendment) Act, 1976.

(v) Delay in Disposal of Election Petitions : To eliminate the inordinate delay in the disposal of election petitions, K.T.K. Tangamani introduced a Bill in the Lok Sabha on March 21, 1958. The Bill was withdrawn on September 5, 1958 after the Government gave an assurance to bring in a comprehensive measure to make the law relating to elections simple and definite.3

Another private member’s Bill, the Constitution (Amendment) Bill, which sought to amend articles 136 and 226 etc., to exclude the jurisdiction of High Courts and Supreme Court in election disputes to avoid undue delay in their disposal was introduced by Shree Narayan Das on November 17, 1962.

1 See L.S. Deb., 6.4.1973, c. 344.
2 Rajya Sabha Bill No. II of 1975.
3 See L.S. Deb., 5.9.1958, c. 5114.
In the Rajya Sabha, the matter was taken up by K. V. Raghunath Reddy who introduced the Representation of the People (Amendment) Bill, 1963 on August 23, 1963. The Government reiterated its assurance earlier given in the Lok Sabha to bring forward a comprehensive amendment of the main Act. The Government stated that it proposed to accept, *inter alia*, the recommendations of the Election Commission regarding the abolition of the election tribunals and their substitution by the High Courts for the expeditious disposal of the election petitions. For this purpose, the Government introduced in the Lok Sabha, on August 29, 1966, the Representation of the People (Amendment) Bill, 1966. It became Act No. 47 of 1966.

The Constitution (Twenty-first Amendment) Bill to give effect to the same recommendations was also introduced in the Lok Sabha on the same date, viz., August 29, 1966. This Bill ultimately became the Constitution (Nineteenth Amendment) Act, 1966.3

(vi) *Ban on Donations by Companies to Political Parties*: With a view to banning the contribution in excess of Rupees five thousand by any company to political parties, Surendra Mohanty introduced the Companies (Amendment) Bill, 1957 in the Lok Sabha on August 9, 1957. A similar Bill was also introduced by Naushir Bharucha in the Lok Sabha on September 6, 1957.

The Rajya Sabha was also seized of this matter through a Bill on the same subject by Bhupesh Gupta at about the same time. Both the Bills introduced in

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1 See *R.S.Deb.*, 5.8.1966, cc. 1678 & 1681.
2 Passed by the Lok Sabha and the Rajya Sabha on November 26 and December 6, 1966, respectively. Assented to by the President on December 13, 1966.
3 Passed by the Lok Sabha and the Rajya Sabha on November 22 and November 30, 1966, respectively.
4 It was introduced in the Rajya Sabha on August 29, 1958 and the member withdrew it by leave of the House on December 5, 1958.
the Lok Sabha were negatived as the Government did not accept the same. Government's view was that funds could flow to political parties not only from companies but also from trusts created by Rajas or from trade union organisations. In the case of the Bill of Surendra Mohanty, the Government, while replying to the debate, promised to bring forward an amendment in the Company Law so that contributions made by Companies should always be made public.¹ In fulfilment of this assurance, the Government introduced in the Lok Sabha a Bill² to that effect on May 1, 1959. It was passed by both the Houses and became Act No. 65 of 1960.

This, however, did not satisfy the members who went on pursuing the matter still further. Atal Bihari Vajpayee introduced in the Rajya Sabha on August 17, 1962 a Bill seeking to ban the donations by Companies to the political parties. Motion for its consideration was, however, negatived on November 27, 1962. A similar Bill was also introduced in that House by Chitta Basu in 1967. In the Lok Sabha, the matter was again taken up by Madhu Limaye through the Companies (Amendment) Bill, 1967 which sought, besides abolition of the Managing Agency System, the prohibition of the contributions by registered companies to the political parties. It was in reply to the debate on this Bill that the Government ultimately yielded to the wishes of the members and accepted the proposal in principle.

The Government fulfilled the two assurances by abolishing the Managing Agency System with the insertion of Section 324A vide Act 17 of 1969; and by putting prohibitions and restrictions on contributions to political parties vide the

² Passed by the Lok Sabha and the Rajya Sabha on December 1 and December 14, 1960, respectively. Assented to by the President on December 28, 1960.
same Act. The matter was pursued still further by Chitta Basu, who introduced in the Rajya Sabha the Companies (Amendment) Bill, 1967 to ban contributions by the Companies to political parties for any political purposes. During the course of reply to the discussion on the Bill, the Government stated that the amendment of the Companies Act, 1969 already provided for the banning of company donations. The consensus arrived at in the House at the time of earlier amendment was that companies should not come into political matters and make political donations in a big way and distort the political process in the country. A penal provision was, therefore, made for the purpose. The Government was taking all possible steps to see that the companies function within the limits of law. Subsequently, the Government amended for this purpose the Companies Act further vide Act 35 of 1985.

The preceding instances indicate how persistently and vigorously the private members pursued, through legislation, important political and constitutional matters to have the same tackled effectively. That they bestowed no less attention to the topical social issues as well would be evident from the other instances which are being discussed below.

(vii) Dowry Prohibition: One of the major social reforms on which legislation had been first initiated by private members and on which subsequently the Government enacted law relates to dowry prohibition. Three separate Bills on this vital subject were introduced by G. Durgabai, Jayashri Raiji and Uma Nehru in the provisional Parliament on April 12, 1951. These Bills, however, lapsed when the Provisional Parliament ceased to function. The same members again introduced the same Bills in the First Lok Sabha. The Dowry Restraint Bill,

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1 See R.S. Deb., 24.3.1972, c. 112.
1952 of Uma Nehru, which was introduced in the Lok Sabha on July 16, 1952 came up for consideration on November 27, 1953 when the Government gave an assurance to introduce a comprehensive legislation to deal with the matter fully.\footnote{See L.S. Deb., 27.11.1953, c. 991.}

The Government, however, did not bring forward a Bill for a long time.

The matter was pursued by Mohan Swarup and Renu Chakravarty by introducing a Bill on the subject in the Lok Sabha on March 21, 1958.

In the Rajya Sabha, the matter was taken up by Jugal Kishore through his Bill which was introduced on December 5, 1958.\footnote{The Bill was withdrawn on March 6, 1969 in view of an assurance given by the Government.}

It was the culmination of the unremitting efforts in the two Houses when the Government introduced the Dowry Prohibition Bill in the Lok Sabha on April 24, 1959. This Bill made history as it was the first instance when the two Houses went into a joint sitting to resolve their disagreements.\footnote{The Dowry Prohibition Bill was first passed by the Lok Sabha on December 9, 1959. The Rajya Sabha passed it with further amendments on December 16, 1959. The Lok Sabha insisted on its amendments and passed it again on February 23, 1960. The Rajya Sabha which considered this Bill on November 30, 1960 disagreed with the Lok Sabha. This necessitated the joint sitting of the two Houses which were held on May 6 and 9, 1961.} It was ultimately passed at the joint sitting of the two Houses on May 9, 1961 and was assented to by the President on May 20, 1961.

(viii) \textit{Protection of Rights of Muslim Women on Divorce}: Another important legislative measure brought by a private member on a social theme was the Code of Criminal Procedure (Amendment) Bill, 1985. It sought to provide that a divorced Muslim woman shall not be entitled to maintenance, if she has been offered and she has refused or if she has received the whole of the sum which under any customary law was payable on such divorce. The Bill was introduced by G.M. Banatwala in the Lok Sabha on March 15, 1985. The discussion on the
Bill, which lasted for 12 hours spread over eight sittings allotted to private members' Bills, took an interesting turn in the wake of the Supreme Court Judgement in the case of *Mohd. Ahmed Khan Vs Shah Bano Begum*. On an assurance being given by the Government to bring forward soon its own Bill on the subject, the member withdrew his Bill. The Government fulfilled the assurance vide the Muslim Women (Protection of Rights on Divorce) Bill, 1986 which became Act 25 of 1986.

That the private members through their Bills exert pressure on the Government is evident from the following views once expressed by Madhu Dandavate:

Banatwala's Bill created a debate throughout the country. It created the debate inside the Cabinet. It created the debate within the opposition parties. Ultimately, on the day of the reply to the discussion in the House, all the opposition members were invited by the Prime Minister in the morning and he said “I have to give a reply in the evening and I have to request Banatwala to withdraw the Bill as we are going to introduce next week a Bill exactly on identical lines with very little variations”.

Needless to emphasise, the credit for the Government legislation on the subject goes to the private member, G. M. Banatwala.

(ix) **Raising of Age for Marriage** : The importance of bringing in a legislative measure for raising the age for marriage to check population growth and to improve the standard of living of the people was first recognised by a private member, D.C. Sharma who introduced in the Lok Sabha on May 25, 1962 the Child Marriage Restraint (Amendment) Bill, 1962. During the course of reply to

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the debate on March 8, 1963, the Government informed the House that it had been decided to bring forward a comprehensive Bill after getting the opinion of the State Governments¹. However, it took long 15 years for the assurance to be fulfilled. Age for marriage was raised for male from 18 to 21 years and that of female from 15 to 18 years vide Act No.2 of 1978.

(x) **Prevention of Misuse of Religious Institutions**: To prevent misuse of religious institutions, Basava Rajeswari introduced the Prohibition of Use of Religious, Communal and Sectoral Nomenclatures for Political Parties and Prevention of Misuse of Religious Places Bill, 1987 in the Lok Sabha on March 13, 1987. The matter was also taken up by Vishnu Modi with the introduction of the Prevention of Misuse of Religious Places Bill, 1987. During the course of reply to the discussion on August 28, 1987 on the Bill by Basava Rajeswari, it was stated that the Government proposed to make specific provisions in the Representation of the Peoples Act, 1951 in consultation with various political parties or the National Integration Council to avoid misuse of religious places.² The Government fulfilled the assurance vide the Religious Institutions (Prevention of Misuse) Bill, 1988 which became Act No. 41 of 1988.

(xi) **Payment of Bonus**: To give right to the employees of General Insurance Companies to raise a trade dispute on the issue of bonus before a judicial body, Indrajit Gupta introduced in the Lok Sabha on June 22, 1962 the Insurance (Amendment) Bill, 1962. The Government agreed that there was some force in the suggestion but it preferred the question of bonus to pend till the Bonus Commission — which was then at work — submitted its report.³ The Commission submitted its report on January 24, 1964 and the Government announced

¹ See L.S.Deb., 8.3.1963, c. 3103.
³ See L.S.Deb., 3.5.1963, c. 13697.
acceptance of the recommendations of the Commission with minor modifications.¹
To implement these recommendations, the Government promulgated the Payment
of Bonus Ordinance, 1965 on May 29, 1965. A Bill to replace this Ordinance was
introduced in the Lok Sabha on August 18, 1965 which ultimately became
an Act.²

To provide for enhancement of bonus, D.L.Sen Gupta introduced the
Payment of Bonus (Amendment) Bill, 1970 in the Rajya Sabha on November 27,
1970. The Government promised to come forward with suitable amendments
keeping in view the suggestions made.³ This assurance was fulfilled when
Section 10 of The Payment of Bonus Act was amended vide Act 66 of 1980.

(xii) Prevention of Cruelty to Animals: The Prevention of Cruelty to Animals
Bill, 1953 was introduced in the Rajya Sabha for the first time on April 20, 1953
by Rukmini Arundale. It, however, could not be proceeded with as the
recommendations of the President under article 117 (3) was withheld. The
member again introduced the Bill on December 4, 1953. It was considered by the
House on March 5, 1954. Measure of importance that the Government attached
to the private member’s Bill is evident from the fact that the then Prime Minister,
Jawaharlal Nehru himself replied to the discussion thereon. He observed that
insofar as the main feature of this Bill was concerned, i.e. prevention of cruelty
to animals, he had no doubt that everybody in the House would accept it, but
there were many other things in it which would create difficulties. He,
therefore, personally preferred that this matter could be considered by a fully
competent committee and then a Bill — a more practical measure which could

¹ Vide Resolution No. WB-20(X3)/64, dated 2nd September, 1964.
² Passed by the Lok Sabha and the Rajya Sabha on September 9 and September 22, 1965,
respectively.
³ See R.S. Deb., 22.11.1974, cc. 207-08.
be given effect to — could be brought before the House. The member withdrew her Bill after this assurance which was fulfilled by the Government in 1959 when it introduced a Bill to that effect in the Rajya Sabha on March 13, 1959. The Bill was finally passed by the two Houses and became Act No. 59 of 1960.

(xiii) Free Legal Assistance to Poor Litigants: The Government's legislation "Legal Services Authorities Act, 1987" was also a sequel to private members' Bills one of which had been introduced 17 years earlier. To provide for legal assistance in civil suits to citizens without adequate means, Karni Singh introduced in the Lok Sabha on April 2, 1971 the Legal Assistance Bill, 1971. Accepting the principle of the Bill the Government promised to bring forward its own comprehensive Bill on the subject. The member, therefore, withdrew his Bill after discussion on December 14, 1973.

After a gap of about seven years, the matter was taken up by Eduardo Faleiro who introduced the Free Legal Services Bill, 1980 in the Lok Sabha on March 28, 1980 on the above lines. When the Bill came up for discussion, it was stated by the Government that a high-powered committee under the Chairmanship of Justice Bhagwati had formulated a model scheme which was circulated to States for being processed. Under the model scheme, the function of the Legal Advisory Boards was, inter alia, to take steps to provide free legal aid service to the weaker sections of the society. After watching the working of the model scheme for some time, if necessary, the Government would bring forward a comprehensive Bill.

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1 See R.S.Deb., 5.3.1954, c. 1805.
2 Passed by the Rajya Sabha and the Lok Sabha on March 2 and December 13, 1960.
The assurance was fulfilled by the Government *vide* the Legal Services Authorities Act, 1987 (Act No.39 of 1987). To make this measure still more effective, the Government accepted the recommendations of the then Chief Justice of India and introduced the Legal Services Authorities (Amendment) Bill, 1990 in the Rajya Sabha on May 14, 1990. The Bill which was passed by the Rajya Sabha on January 11, 1991, however, lapsed.

**Some of the other private members' Bills** on which the Government gave assurance and subsequently brought legislation have been as under:

(a) The Indian Penal Code (Amendment) Bill¹, 1953 introduced by Nageshwar Prashad Sinha in the Lok Sabha on August 14, 1953 and the Indian Penal Code (Amendment) Bill², 1953 introduced by K. Rama Rao in the Rajya Sabha on December 4, 1953. Both these Bills sought to ban the crossword and squareword puzzles;

(b) The Indian Adoption of Children Bill³, 1955 introduced by Jayashri Raiji in the Lok Sabha on April 29, 1955;

(c) The Motor Transport Labour Bill⁴, 1955 introduced by A.K.Gopalan in the Lok Sabha on September 2, 1955 and the Motor Vehicles (Amendment) Bill, 1955 introduced by T.V. Vittal Rao in the Lok Sabha on September 16, 1955. Both these Bills sought to regulate the conditions of employment, work, etc., of motor transport workers;

(d) The Indian Arms (Amendment) Bill⁵, 1957 introduced by Purushottamdas R. Patel in the Lok Sabha on July 26, 1957;


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2 See R.S.Deb., 5.3.1954, c. 1818.
3 See L.S.Deb., 27.7.1956, c. 1216 and Act No. 78 of 1956.
5 See L.S.Deb., 7.3.1958, cc. 3726 & 3728 and Act No. 54 of 1959.
(f) The Delhi Rent Control (Amendment) Bill, 1964 introduced by M.P. Bhargava in the Rajya Sabha on May 8, 1964;

(g) The Trade Union (Amendment) Bill, 1970 introduced by D.L. Sen Gupta in the Rajya Sabha on March 20, 1970 which sought to provide for uniform law for recognition of trade unions;

(h) The Film Industry Workers' (Improvement of Working Conditions) Bill, 1971 introduced by N.G. Goray in the Rajya Sabha on August 14, 1971 and the Film Industry Workers' Bill, 1972 introduced by S.C. Samanta in the Lok Sabha on March 17, 1972. Both these Bills sought to improve the working conditions of film industry workers;

(i) The Motor Vehicles (Amendment), Bill, 1974 introduced by Khurshid Alam Khan in the Rajya Sabha on August 16, 1974 regarding use of crash helmets by motor cycle and scooter riders; and


The number of instances discussed indicate that there have been innumerable occasions when the assurances given by the Government, in pursuance of private members' Bills, to bring forward its own comprehensive legislation have been fulfilled. The impact of the private members' Bills is thus too obvious. However, it is not always necessary that the Government would bring forward its own legislation on the subject of a private member's Bill only after an assurance has been given during the course of reply to the discussion thereon. This could happen even otherwise and it is discussed under the fourth category of private members' Bills.

Fourth Category

On non-acceptance of certain private members’ Bills by Government, these are either negatived or withdrawn by the members concerned. However, with the passage of time the Government realise — may be due to sheer force of changed circumstances — the utility of having legislation on the subjects of these private members’ Bills. Such Bills constitute the fourth category.

Some of the instances that can be cited under this category are:

(i) **Lowering of Voting Age to 18 years**: A major demand that had been made for a long time by private members belonging to various political parties was that of lowering the voting age from 21 to 18 years.

The Constitution (Amendment) Bill, 1968 which, *inter alia*, sought to reduce the voting age was introduced by Kameshwar Singh in the Lok Sabha on November 15, 1968. The Government stated that amendment to the Constitution to reduce the voting age from 21 to 18 years could be feasible only after consultation with the States, the Election Commission and all other interests.¹

The matter was next taken up in the Lok Sabha by Laxminarain Pandey who introduced the Constitution (Amendment) Bill, 1971 on July 9, 1971 on the same subject. The Government made a *volte face* this time when it argued that the decision of the Constitution makers in regard to right to vote, which was taken after great deal of thought, should not be changed. The Government also felt that linking of age of marriage with the voting age would not prove better in support of the Bill since there had been a vehement demand for increasing the age of marriage itself upto 21 or 25 years.²

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¹ See L.S.Deb., 16.5.1969, c. 329.
In the Rajya Sabha, Bhupesh Gupta took up the subject when he introduced the Constitution (Amendment) Bill, 1971 on June 4, 1971. That the Government was still not in favour of the proposal was clear from its reply wherein it quoted the views of the Committee on Petitions and the Joint Committee on Electoral Reforms and Election Laws which had put forward cogent arguments against reduction of voting age to 18 years. The Government further felt that lowering of age would bring in unnecessary element of politics in educational institutions. However, the Government was seeking expert advice.1

Continuing the efforts of the members to reduce voting age, Madhu Dandavate introduced in the Lok Sabha on March 28, 1980 the Constitution (Amendment) Bill, 1980. According to the Government, the Bill had a totally truncated approach as it dealt with the fringe of the problem and not with matters connected with electoral reforms. The Government felt that the Bill would not serve the purpose for which it had been brought in.2 The Bill, on being put to the vote of the House, was negatived.

The other private members' Bills on the subject were introduced in the Lok Sabha by A.K. Gopalan and C.K. Chandrappan in 1971; by Sukhdeo Prasad Verma in 1972; by Ramji Singh in 1978; by George Fernandes and Madhu Limaye in 1980. In the Rajya Sabha similar Bill was introduced by Shiv Chandra Jha in 1979; by Satya Prakash Malaviya in 1987.3

After 21 years, when the idea was first mooted by a private member and later persistently followed by several others, the Government decided to lower the voting age from 21 to 18 years. For this purpose, it enacted the Constitution (Sixty-first Amendment) Act, 1989.

1 See R.S.Deb., 19.3.1976, cc. 150 & 153.
3 Hans Raj, op. cit., p. 291.
(ii) **Advice of Council of Ministers to be Binding on the President** : The Constitution (Amendment) Bill, 1961 which, *inter alia*, sought to amend article 74 to provide that the President shall act in accordance with the advice of the Council of Ministers was introduced by Bhupesh Gupta in the Rajya Sabha on March 10, 1961. Disagreeing to the contention of the member, the Government stated that there was no need to amend article 74 for this purpose. For, according to the Government, there was no provision by which the President could disregard the advice of the Council of Ministers headed by the Prime Minister, the President being the Constitutional head of the State.¹ The Bill was withdrawn by the member.

In the Lok Sabha, the matter was taken up by A. K. Gopalan who introduced the Constitution (Amendment) Bill², 1972 for the same purpose. The Bill did not come up for consideration.

After a lapse of 15 years when a private member's Bill was first introduced in the Rajya Sabha, the Government amended article 74 of the Constitution *vide* the Constitution (Forty-second Amendment) Act, 1976 to specifically provide that the President shall, in the exercise of his functions, act in accordance with the advice of Council of Ministers.

(iii) **Right to Property** : Under the Constitution, one of the Fundamental Rights which had been guaranteed to the people of India was the right to property. It was a very important right and it had been provided that if any private property was to be taken away in the public interest, for that proper compensation was to be paid. In fact, till the deletion of this right from Part III of the Constitution, there had been many disputes and cases pertaining to this

¹ See R.S. Deb., 30.11.1962, cc. 2740-41.
² Lok Sabha Bill No. 7 of 1972.
right. Accordingly, private members had been demanding consistently that this right should be taken away from Part III of the Constitution.¹

The Constitution (Amendment) Bill, 1971 which, inter alia, sought to provide that within the limits prescribed by law, citizen's right to inherit private property was introduced by A.K. Gopalan in the Lok Sabha on August 5, 1971. The member contended that it was necessary to put reasonable restrictions on right to hold private property to prevent concentration of wealth in few hands.

In the Rajya Sabha, the matter was taken up by Bhupesh Gupta, who introduced a Bill suggesting that sub-clauses (2), (2B) and (5) of article 31 of the Constitution which dealt with acquisition of private property be omitted.

Pursuing the matter further, K. L. Kapoor introduced a Bill² in the Lok Sabha in 1978 proposing that article 31 of the Constitution which dealt with compulsory acquisition of property may be omitted. This, he felt, would help in upholding an electoral promise made to electorate at the time of the Sixth Lok Sabha election by Janata Party.

Omission of article 31, including 31A, 31B and 31C was also suggested by Ram Jethmalani who introduced a Bill³ in the Lok Sabha on November 24, 1978. He also based his argument on the lines that Janata Party while contesting the elections had promised to the electorate that the right to property would be abolished.

Apart from other considerations for taking away right to property from the list of Fundamental Rights, the support given to the idea by the private members impelled the Government to arrive at a decision in this regard. The

² Lok Sabha Bill No. 27 of 1978.
³ Lok Sabha Bill No. 131 of 1978.
right to private property was removed from the list of Fundamental Rights with the passing of the Constitution (Forty-fourth Amendment) Act, 1978.

(iv) **India a Sovereign Socialist Secular Democratic Republic**: Declaration to that effect in the Preamble of the Constitution was also the result of the private members' Bills. To specifically provide in articles 1 and 393 of the Constitution that India shall be a Sovereign Democratic Socialist Republic, Krishna Deo Tripathi introduced in the Lok Sabha on February 17, 1965 the Constitution (Amendment) Bill, 1965. The Government, however, opined that there was no need for these amendments as the entire scheme of our Constitution was based on socialistic pattern. The mere insertion of a particular phrase would not alter the matter. None could say that the basic policies of the Government were non-socialistic. The Bill was withdrawn by the mover.

In the Rajya Sabha, the matter was taken up by K. V. Raghunath Reddy, who introduced the Constitution (Amendment) Bill, 1966 which sought to amend the Preamble and article 393 to provide for the proclamation to establish a socialist society. Shri Reddy, the then Minister of State being no longer a private member, withdrew the Bill on June 2, 1967.

After a period of 11 years, the Government on its own substituted the words "SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC" for "SOVEREIGN DEMOCRATIC REPUBLIC" in the Preamble of the Constitution vide the Constitution (Forty-second Amendment) Act, 1976.

(v) **Planning and Development through Panchayati Raj**: With a view to provide that planning and development may be through various democratic and official agencies of Panchayati Raj, Ranabahadur Singh introduced the Planning

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1 See L.S.Deb., 29.7.1966, c. 1429.
and Development Through Panchayat Raj Bill, 1973 in the Lok Sabha on May 4, 1973. The Government agreed to the main intention of the mover. It was felt that the ills that the nation was suffering from would not have arisen had there been a real Panchayat Raj. However, the Government was of the view that the proposed Bill would not serve the purpose as it was not comprehensive.\(^1\) The Bill was withdrawn by the member.

The matter was next taken up by Tej Pratap Singh, who introduced in the Lok Sabha on August 17, 1978 the Constitution (Amendment) Bill, 1978. It sought to secure decentralisation of powers, financial as well as administrative. The solution to our problems, according to the member, lay in the creation of a number of tiers, with each tier more or less self-sufficient in terms of its resources and with adequate powers over the administrative machinery in its areas. The Bill did not come up for discussion.

In the Rajya Sabha, the matter was pursued by Surendra Mohan, who introduced the Constitution (Amendment) Bill\(^2\), 1980 which aimed at reconstructing, reinforcing and revitalising the Panchayati Raj institutions to make them an organic integral part of our democratic process and to accord them appropriate constitutional status and recognition. The member held the view that if genuine authority, resources and responsibilities were vested in the self-governing institutions, it would make them the bulwarks of the democracy and nurseries of public leadership and civic concern.

The Government on its own, after a period of 16 years when the idea was first mooted by a private member, introduced in the Lok Sabha on May 15, 1989 the Constitution (Sixty-fourth Amendment) Bill, 1989 which aimed at adding a

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2 Rajya Sabha Bill No. X of 1980.
new Part to the Constitution relating to Panchayats, to endow them with such powers and authority as were necessary to enable them to function as units of self-government. The Bill proposed, *inter alia*, to (a) make it obligatory for all States to establish a three-tier system of panchayats at the village, intermediate and district levels; (b) provide for direct election to panchayats; (c) provide for representation to SCs/STs and women in panchayats; (d) ensure a fixed tenure of five years for the panchayats; (e) devolution of powers to panchayats for preparation of plans for economic development and social justice and for the implementation of development scheme; (f) provide for the sound finances of panchayats; (g) vest in the Election Commission the superintendence of elections to the panchayats at all three levels; and (h) empower the C. & A. G. to cause the accounts of the panchayats to be audited.

The Bill was passed by the Lok Sabha on August 10, 1989. It was, however, negatived in the Rajya Sabha on October 13, 1989, where it failed to get the required 2/3rd majority.

The National Front Government, on assumption of power, introduced in the Lok Sabha on September, 1990 the Constitution (Seventy-fourth Amendment) Bill, 1990 which sought to add a new Part relating to the Local authorities in the Constitution to provide for, among other things, “gram sabha” in each village; constitution of *Panchayats* at village and other level or levels; direct elections to seats in *Panchayats*; constitution of urban local bodies such as *Nagar Panchayats*; reservation of seats for SCs/STs, women, etc. The Bill, however, lapsed with the dissolution of the Ninth Lok Sabha.

The Congress (I) minority Government again introduced in the Tenth Lok Sabha the Constitution (Seventy-second Amendment) Bill, 1991 on September 16,
1991. The Bill, which is on the lines of the Constitution (Sixty-fourth Amendment) Bill, 1989 earlier introduced in the Lok Sabha on May 15, 1989, seeks to add a new Part to the Constitution to enshrine certain basic and essential features of Panchayat Raj Institutions to impart certainty, continuity and strength to them. The Government also introduced in the Lok Sabha on the same date the Constitution (Seventy-third Amendment) Bill, 1991 which seeks to add a new Part relating to the Urban Local Bodies in the Constitution to provide inter alia, for the construction of three types of Municipalities, reservation of seats in every Municipality, fixed tenure of five years for the Municipality; devolution by the State Legislature of powers and responsibilities upon the Municipality, etc. As on date, both the Bills are pending.

(vi) **Disqualifications of Persons having Criminal Records from entering Public Life**: The Representation of the People (Amendment) Bill, 1972 seeking to amend its Section 8 for disqualifying persons convicted for conducting drills, exercises and other similar activities organised by communal and other divisive forces from being elected to or continuing to be members of a legislative body was introduced by Subhadra Joshi in the Lok Sabha on September 1, 1972. The Bill was withdrawn by the member after being discussed in the House\(^1\). It, however, set in motion a thinking process on the subject.

The Government introduced in the Lok Sabha on December 13, 1988 the Representation of the People (Amendment) Bill, 1988. The Bill, inter alia, amended Section 8 of the main Act which deals with disqualification on the ground of conviction for certain offences. The amendment included more offences in this section so as to prevent persons having criminal record from

\(^1\) See L.S.Deb., 23.3.1973, cc. 291-343.
entering public life. The new offences included, among others, related to:
(i) promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony; and (ii) making statement creating or promoting enmity, hatred or ill-will between classes or offence relating to such statement in any place of worship or in any assembly engaged in performance of religious worship or religious ceremonies.

The Government amendment did not confine itself just to cover the grounds proposed by Subhadra Joshi. Many other offences included, for disqualification of persons having criminal records from entering public life, were those relating to: (a) rape; (b) bribery; (c) untouchability; (d) undue influence or personation at an election; (e) cruelty towards women; (f) being a member of an association declared unlawful; (g) committing terrorist acts; (h) promoting enmity between classes in connection with the election; (i) removal of leaflet papers from polling stations; (j) booth capturing; (k) hoarding or profiteering; and (l) adulteration of food or drugs.

(vii) Commission on Scheduled Castes and Scheduled Tribes: The idea of constituting a Commission on Scheduled Castes and Scheduled Tribes was first mooted by a private member, S.M. Siddaya, who introduced the Constitution (Amendment) Bill, 1971 in the Lok Sabha on May 28, 1971. The Bill sought the appointment of a Commission to report on the welfare of the Scheduled Castes in the States. The member's contention was that during all the years since independence, with various five year plans, the condition of the Scheduled Castes in the country had not substantially improved socially, economically or educationally. The Bill, however, did not come up for consideration.
The thread was picked up by G. M. Banatwala when he introduced in the Lok Sabha on July 9, 1982 the Constitution (Amendment) Bill, 1982 which, inter alia, sought to provide for the constitution of a Commission for the Scheduled Castes and Scheduled Tribes. The Government stated that it was necessary to consider all aspects and implications to arrive at a final view. The Bill was withdrawn by the member.

The Government introduced the Constitution (Sixty-eighth Amendment) Bill, 1990 in the Lok Sabha on May 23, 1990. The Government felt that a high level five-member Commission under article 338 would be more effective arrangement in respect of the constitutional safeguards for Scheduled Castes and Scheduled Tribes. The Bill, after being passed, became the Constitution (Sixty-fifth Amendment) Act, 1990.

(viii) Abolition of Bonded Labour: With a view to making free or compulsory or forced labour an offence punishable with imprisonment or fine or with both, D.C. Sharma introduced the Prevention of Free, Forced or Compulsory Labour Bill, 1954 in the Lok Sabha on April 9, 1954. The Government agreed that there should be no forced labour in any shape or form. It promised to ask all the States to bring the rules in this regard in conformity with the general spirit of the time. After a lapse of more than two decades, the Government abolished the bonded labour vide the Bonded Labour System (Abolition) Act, 1976 (Act No.19 of 1976).

(ix) Indecent Representation of Women through Advertisements: The Government’s legislation on the subject has been enacted only recently, while the

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1 Passed by the Lok Sabha and the Rajya Sabha on May 30 and May 31, 1990, respectively. Assented to by the President on June 3, 1990.

2 See L.S. Deb., 4.3.1955, c. 1132.
private members have been asking for it for quite some time. To put a check on magazines exerting bad influence on the immature minds of young persons, C. K. Bhattacharyya introduced the Young Persons (Harmful Publications) Amendment Bill, 1963 in the Lok Sabha as back as on February 22, 1963. The Government was in favour of a legislation to deal strongly with obscene literature. However, it stated that the matter had been referred to the Law Commission for consideration. The member, therefore, withdrew his Bill.

Another private member's Bill on the subject was by Mohan Lal Patel. To stop the practice of using pictures of nude or semi-nude or scantily dressed women for advertisements, he introduced the Ban on Exposure of Women's Body in Advertisement Bill, 1982 in the Lok Sabha on October 22, 1982. The Government stated that there existed a law to curb obscenity in the I.P.C. It further maintained that it was not desirable to impose a total ban on exposure or depiction of women's body in academic or medical books, etc. or for any good purpose. The member thereafter withdrew his Bill.

Subsequently, the Government themselves brought forward the Indecent Representation of Women (Prohibition) Bill, 1986 which sought to prohibit indecent representation of women through advertisements or in publications, writings, figures or in any other manner. The Bill, on being passed, became Act No.60 of 1986.

(x) Right to Work : At present, the right to work is included in the Chapter on the Directive Principles of State Policy. As such, it is not enforceable by any court. Since early seventies several private members' Bills have been moved to

1 See L.S.Deb., 2.4.1965, cc. 7527-28.
make the right to work justiciable by having it included in the Chapter on Fundamental Rights.

First private member's Bill on the subject was by Shyam Lal Yadav. He introduced the Constitution (Amendment) Bill, 1970 in the Rajya Sabha on December 11, 1970. The Bill sought to ensure right to employment and make it justiciable. The Government stated that it had made efforts in successive Five Year Plans to create more and more employment opportunities. Several schemes and programmes had been taken up to solve this problem. In the light of these efforts and in view of the uncertain financial implications involved in the proposed legislation, it was felt that such a proposal could not be considered as practicable at the then existing stage of economy.¹

In the Lok Sabha, the matter was taken up by Madhu Dandavate who introduced on July 9, 1971 the Constitution (Amendment) Bill, 1971 which, inter alia, sought to make the right to work justiciable. The Government expressed that there were certain difficulties regarding the employment problem.²

Another Bill on the subject, moved within a month thereafter, was by A.K. Gopalan. He introduced in the Lok Sabha on August 5, 1971 the Constitution (Amendment) Bill, 1971 which, inter alia, aimed at providing right to work. The Government contended that it would be a mere exaltation if the right to work was included in the Fundamental Rights.³

Right to work was, inter alia, also the subject matter of the Constitution (Amendment) Bill, 1977 introduced by Y. P. Shastri in the Lok Sabha on December 2, 1977. The Bill was discussed on six sittings. The Government

¹ See R.S. Deb., 14.3.1975, c. 176.
reiterated its view that conditions had to be created so that right to work could be a real right, an enforceable right.¹

The matter was next raised in the Rajya Sabha when Shiv Chandra Jha introduced on December 15, 1978 the Constitution (Amendment) Bill, 1978. The Government stuck to its earlier policy. According to it the acceptance of the proposed amendment would not solve the real problem of unemployment.²

Dealing with the issue of right to work, in reply to the discussion on the Constitution (Amendment) Bill, 1980 earlier introduced by Bapusaheb Parulekar in the Lok Sabha on March 14, 1980, the Government reiterated its earlier stand that the solution to the problem did not lie simply in transferring the right to work from the Chapter on Directive Principles to the Chapter on Fundamental Rights but by creating more employment opportunities, by establishing more industries or intensifying agricultural practices adopted by the farmers.³

To include right to guaranteed employment in the Fundamental Rights, G.M.Banatwala introduced in the Lok Sabha on March 29, 1985 the Constitution (Amendment) Bill, 1985. Though the purpose of the Bill, according to the Government, was laudable, yet it could not be accepted due to economic constraints. However, the Government felt that the Directive Principles would help to solve this problem after some time.⁴

Pursuing the matter further Thampan Thomas introduced on the same subject the Constitution (Amendment) Bill, 1985 in the Lok Sabha on August 23, 1985. In conformity to its earlier stand, the Government stated that the purpose

of the Bill was laudable but it provided no solution to the unemployment problem.¹

Some of the other private members' Bills² on the subject in the Lok Sabha were by Karni Singh in 1971; by Laxminarain Pandey and Madhu Limaye in 1974; by D.K. Panda in 1976; by Sharad Yadav, Ugrasen and Ranjit Singh in 1978; Bapusaheb Parulekar, Ram Vilas Paswan and K. Lakkappa in 1980. In the Rajya Sabha, M. S. Gurupadaswamy introduced a Bill on the similar lines in 1971.

It would be observed that during the last two decades while replying to discussion on several private members' Bills on the subject, the Government never gave any assurance to bring forward its own legislation. However, besides other considerations, the persistent demand made by the private members, cutting across political affiliations, encouraged the National Front Government to announce that it would strive to ensure for all citizens the right to work as a Fundamental Right. The President of India, addressing the members of Parliament assembled together in the Central Hall on March 12, 1990, announced that for this purpose the Government would introduce a Constitution Amendment Bill.³ However, the Bill regarding right to work is yet to be introduced in Parliament.

There had been several other private members' Bills on whose subjects the Government brought legislation although it had not given any assurance to that effect earlier during the course of discussions thereon. Some such Bills have been as under:

(a) The Beedi and Cigar Labour Bill⁴, 1957 introduced by A.K. Gopalan in the Lok Sabha on August 9, 1957. It sought to regulate

¹ See L.S.Deb., 6.5.1988, c. 328.
³ See L.S.Deb., 12.3.1990, c. 9.
employment and secure certain minimum conditions of work in factories. The member again introduced the same Bill\(^1\) in the next Lok Sabha on June 22, 1962;

(b) The Dramatic Performance (Amendment) Bill\(^2\), 1957 introduced by V.P. Nayar in the Lok Sabha on September 6, 1957. It sought to delete certain provisions of the Dramatic Performance Act, 1876 which had been passed in the pre-independence days to stifle the drama in India which was a powerful medium of expression of national sentiments and aspirations;

(c) Two Bills introduced by Aurobindo Ghosal in the Lok Sabha on May 2, 1958. First, the Abolition of Employment of Casual Labour Bill, 1958. Second, the Abolition of Supply of Labour Through Contractors Bill\(^3\), 1958;

(d) The Constitution (Amendment) Bill\(^4\), 1961 introduced by Bhupesh Gupta in the Rajya Sabha on March 10, 1961 which sought to change the name of Madras State to Tamil Nadu.

(e) Two Constitution (Amendment) Bills\(^5\) introduced by C.R. Pattabhi Raman and C.R. Narasimhan in the Lok Sabha on March 24, 1961 and August 18, 1961, respectively. The Bills sought to amend article 226 of the Constitution to remove the anomaly arising out of the decision of the Supreme Court that any High Court other than High Court of Punjab cannot issue any direction, order or writ under article 226 to the Government of India as the seat of the latter was located within the jurisdiction of the former. The matter was pursued further by D.C. Sharma who also introduced a Bill to that effect in the Lok Sabha on June 22, 1962;

(f) The Constitution (Amendment) Bill\(^6\), 1976 introduced by D.K. Panda in the Lok Sabha on May 21, 1976. It sought to provide for setting

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1 See L.S.Deb., 16.11.1962, cc. 2111 & 2117 and Act No. 32 of 1966.
2 See L.S.Deb., 18.4.1958, c. 10741. Subsequently, the Dramatic Performance Act, 1876 was repealed as a whole by Act No. 35 of 1963.

After a gap of more than a decade, a beginning has been made in the setting up of Standing Committees in the form of Subject Committees. The three Subject Committees set up by the Lok Sabha so far are one each on Agriculture, Environment & Forests and Science & Technology. For details see pp. 214-216.
up of a statutory standing committee of members of Parliament for each of the Ministries and Departments of the Central Government which may be empowered to review the work of the concerned Ministry and the implementation of the policies, etc. In the Rajya Sabha, the matter was taken up by Bhupesh Gupta, who introduced the Constitution (Amendment) Bill, 1976 on August 20, 1976.

(g) The Constitution (Amendment) Bill¹, 1983 introduced by M.M. Lawrence in the Lok Sabha on May 6, 1983 which sought to put all legislation relating to land reforms or land acquisition meant for social and economic justice in the Ninth Schedule of the Constitution.

In brief, the discussion in the preceding paragraphs indicates that even in the absence of any assurance on the floor of the House, the Government legislation on some of the important subjects owed its origin in no small measure to the persistent efforts of the private members for the same.

Fifth Category

Entirely different from the earlier four categories of Bills, there has been a set of other private members' Bills which were either withdrawn or negatived and on the lines of which no legislative measure has ever been brought by the Government. However, the suggestions contained in these Bills have been implemented by the Government through the executive orders.

Some Bills falling under this category are:

(i) **Agricultural Prices Commission**: To fix an economic price of foodgrains by law to encourage the farmers to produce more, Jhulan Sinha suggested the setting up of an Agricultural Prices Commission. For this purpose, he introduced the Fixation of Price of Foodgrains Bill, 1959 in the Lok Sabha on March 20, 1959. The Government expressed their sympathy with the objective of the Bill. However,

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they could not accept the same due to its impracticability. The Government had an idea of appointing an Agricultural Commission but it wanted to wait to assess the value of the steps already taken.¹

Ultimately, the Agricultural Prices Commission was set up, through an executive order, to go into the question of fixing an economic price for the foodgrains.²

(ii) **Inter-State Council**: Article 263 of the Constitution provides for the setting up of an Inter-State Council to advise upon disputes between the States and to make recommendations on the subjects of common interest to the Union and the State Governments. Initiative to set up such a Council had been taken by the private members. The first Bill on the subject was by Thillai Villalan. He introduced the Constitution (Amendment) Bill, 1973 (Bill No.VIII of 1973) in the Rajya Sabha. It provided for the compulsory establishment of Inter-State Council, under article 263, consisting of the Prime Minister as the Chairman and all the Chief Ministers of the States as the Members. The Bill did not come up for consideration.

The matter was further taken up by Gurupadaswamy who introduced in the Rajya Sabha the Constitution (Amendment) Bill, 1988 on March 11, 1988. It sought to provide for setting up an Inter-State Council for free and uninhibited discussion on Centre-State relations and for co-ordination between States. Replying to the discussion on March 10, 1989, the Government stated that the issue contemplated in the Bill had been dealt with by the Sarkaria Commission whose report had already been discussed. It, however, promised to consider the points made by the members during the debate.³

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¹ See L.S.Deb., 1.9.1962, c. 6658.
³ See R.S.Deb., 10.3.1989, cc. 294, 296 and 300.
The President of India issued a notification on June 24, 1990 formally constituting an Inter-State Council. The Council headed by the Prime Minister, consists of six Cabinet Ministers and the Chief Ministers of all the States and the Union Territories. It is to serve as a forum for dialogue to ensure better coordination between the Centre and the States.1

(iii) **Multi-Member Election Commission**: The setting up of a multi-member Election Commission was also first raised by several private members. R. P. Ulaganambi introduced for this purpose the Constitution (Amendment) Bill, 1972 in the Lok Sabha on December 1, 1972. The member's view was that single member Commission could not do justice to enormous tasks which it is required to perform. The Government did not see eye to eye with the member and held the view that taking into consideration expedition, efficiency and economy, the existing single-member Election Commission was working very ably. As such, there might not be any need for any addition to the existing membership of the Election Commission.2

The other private members' Bills on the subject in the Lok Sabha were by Murasoli Maran3 and Atal Bihari Vajpayee4 in 1974; by C. K. Chandrappan5 in 1975; and by Eduardo Faleiro6 in 1979.

By a Presidential announcement dated October 7, 1989, the Election Commission was made by the Government a multi-member body. Besides the Chief Election Commissioner, S.S.Dhana and V.S.Seigell were appointed as two other Election Commissioners. It is a separate matter that after the assumption

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2 See *L.S.Deb.*, 7.3.1975, c. 340.
3 Lok Sabha Bill No. 67 of 1974.
5 Lok Sabha Bill No. 46 of 1975.
6 Lok Sabha Bill No. 6 of 1979.
of office by the National Front Government, this Presidential Order was rescinded on January 3, 1990 and the Election Commission reconverted into a single-member body.

(iv) **Fixation of Price Labels**: To provide for affixing of price labels on commodities by shopkeepers, A.M. Tariq introduced in the Rajya Sabha on August 17, 1962 the Shopkeepers (Fixation of Price Labels) Bill, 1972. The Government did not see any merit in the suggestion. Contrarily, it felt that labelling each and every commodity in every part of the country would be an absurd proposition. The Government had taken, and would take in future as well, many steps to safeguard the interests of the consumer and to see that there was no profiteering or racketeering in prices.¹

After a gap of nearly 12 years, the Ministry of Industry and Civil Supplies issued the Defence of India (Packaged Commodities) Order², 1975 to provide for net weight, measure and number, date of packing and sale price to be indicated on every package. Under this Order, the Standards of Weights and Measures (Packaged Commodities) Rules, 1977 were framed. In reply to Short Notice Question No.3, the Government stated in the Lok Sabha on May 16, 1990 that decision had been taken to amend these Rules to provide only for marking “Maximum Retail Price - All Taxes Inclusive” instead of “Maximum Retail Price - Local Taxes Extra”.³

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¹ See *R.S.Deb.*, 23.8.1963, cc. 1367, 1369 & 1402.
² Gazette of India Ext., Pt.II, Section 3, Sub-Section (ii), S.O. 389(E).
³ See *L.S.Deb.*, 16.5.1990, c. 32.
Some of the other private members' Bills on which action was taken by the Government through executive orders have been as under:

(a) The Age Relaxation (Services) Bill\(^1\), 1971 introduced by B.K. Das Chaudhury in the Lok Sabha on June 11, 1971 which sought to provide for relaxation of age for entry into public services in certain circumstances;

(b) The High Court of Bombay (Establishment of a Permanent Bench at Aurangabad) Bill\(^2\), 1980 introduced by Uttam Rathod in the Lok Sabha on November 21, 1980; and

(c) The Freedom Fighters (Appreciation of Services) Bill\(^3\), 1971 introduced by Shibban Lal Saksena in the Lok Sabha on July 23, 1971.

From the instances cited above, it would be observed that many important ideas mooted through the private members' Bills were implemented through executive orders rather than legislation. The Government might have felt that it was more expedient to achieve the objectives through the executive action. As in the case of grant of pension to freedom fighters, the Government opined that there was some advantage in having a scheme rather than passing a statute which might cause delay in finalising pension cases. Would it not be in the fitness of things if credit, in some measure, for such executive orders goes to the members for having first initiated the proposals through Bills?

(On January 12, 1990 the Government decided to raise the upper age limit for Civil Services Examination from 26 to 28 years with the age concession of five years for SCs/STs. It also raised the number of chances from three to four for general candidates with no such limitation for SC/ST candidates.)

(Executive action was taken even before the Bill came up for discussion on August 24, 1984. The House was informed that a permanent Bench of High Court of Bombay would start functioning from August 27, 1984.)

3 See L.S.Deb., 17.3.1972, cc. 296 & 300.
(The Union Government decided to grant pension to freedom fighters from 15.8.1972, as per scheme drawn up for the purpose.)
Sixth Category

There has been another set of private members' Bills on which neither any legislation was enacted nor any executive orders were issued but the Government took some other appropriate action. Thus, full use was made not only of the efforts of members in bringing forward their Bills, but also of the views expressed by others during the course of discussions. Some of the private members' Bills falling under this category have been as under:

(i) Prevention of Juvenile Vagrancy and Begging: The Prevention of Juvenile Vagrancy and Begging Bill, 1952 was introduced by M.L. Dwivedi in the Lok Sabha on July 16, 1952. The Government stated that begging was entirely a State subject. It, however, gave an assurance that the States which had no legislation on the subject would be asked to do so. In fulfilment of the assurance, the Government laid a statement on the Table of the Lok Sabha on March 16, 1956 that the substance of the debate on the Bill had been conveyed to all the State Governments to do the needful in the matter. Necessary follow-up action was thus taken on the private member's Bill.

(ii) The Treason Bill: To define treason, a treasonable act, inspiration for treason and making provision for appropriate punishment to persons found guilty of treason, Diwan Chaman Lal introduced in the Rajya Sabha on August 23, 1963 the Treason Bill, 1963.

The Government expressed its gratitude to the mover for the research done and the manner in which he had dealt with the subject. The revision of Indian Official Secrets Act and Indian Penal Code was under consideration of the Government to cover all the points mentioned in this Bill, particularly those

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1 See L.S. Deb., 2.9.1955, c. 12000.
relating to enhancement of the punishment for serious offences like waging war against the country, doing harm to the national interest or national security, etc. The Government promised to send the proceedings of the House relating to this Bill to the Law Commission for consideration of all the aspects of the matter. The debate on this Bill served useful purpose in as much as it extracted assurance from the Government to take necessary action on the subject matter of the private member's Bill.

(iii) **Appointment of Chief Justice of the Supreme Court**: To lay down the procedure for the appointment of the Chief Justice of the Supreme Court, P.K. Deo introduced the Constitution (Amendment) Bill, 1977 in the Lok Sabha on July 29, 1977. The Government announced that it had decided to refer the question of appointment of Chief Justice of Supreme Court to the Law Commission for studying the matter in depth to see whether the existing provisions could be further improved upon for achieving the objectives behind the private member's Bill.

Some other Bills falling under this category are:

(a) The Mirzapur Stone Mahal (Amendment) Bill³, 1958 introduced by Ragunath Singh in the Lok Sabha on March, 21, 1958;

(b) The Code of Criminal Procedure (Amendment) Bill⁴, 1959 introduced by Ajit Singh in the Lok Sabha on August 14, 1959;

(c) The Code of Civil Procedure (Amendment) Bill⁵, 1962 introduced by D.C. Sharma in the Lok Sabha on May 11, 1962;

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3 See L.S. Deb., 11.9.1959, cc. 7878-79.
5 See L.S. Deb., 4.3.1966, c. 3993.
(d) The length of Cinematograph Film (Ceiling) Bill, 1962 introduced by Rameshwar Tantia in the Lok Sabha on November 16, 1962. The Bill sought to restrict the length of Indian films;


(f) The Companies (Amendment) Bill, 1966 introduced by Arjun Arora in the Rajya Sabha on August 5, 1986. It sought to eliminate favouritism;

(g) The Recognition of Trade Unions Bill, 1967 introduced by Madhu Limaye in the Lok Sabha on May 26, 1967;

(h) The Constitution (Amendment) Bill, 1967 introduced by Prakash Vir Shastri in the Lok Sabha on August 4, 1967. The Bill sought to provide that a session of Parliament may be held every year in the South India so as to promote closer integration between people.

It is clear from the instances cited above that the efforts made by members in bringing forward these Bills were not entirely in vain. They at least extracted assurances from the Government for needful action or to get the same examined in depth by the Law Commission to see how best the objectives behind these Bills could be achieved. In one case - namely that of Prakash Vir Shastri’s Bill suggesting that a session of Parliament may be held every year in the South - even a Committee of members of Parliament was set up to examine the feasibility of the proposal. That the Government takes seriously even such private members’ Bills as relate to a State subject can be appreciated from the reply to the discussion on the Length of Cinematograph Film (Ceiling) Bill, 1962 by Rameshwar

1 See L.S.Deb., 22.2.1963, c. 867.
4 See L.S.Deb., 11.4.1968, c. 272.
5 See L.S.Deb., 1.3.1968, cc. 1110-12. For details see pp. 216-217.
Tantia when it was stated that the Central Government was persuading the film industry to voluntarily restrict the length of the films, even though the subject matter fell in the State List.

Seventh Category

Most of the members, being fully conscious of the fate of their Bills, at times only raise through them questions such as: "Why Government would not do that?" The Bills, proposed to be discussed under this category, provide propitious opportunity to the Government to explain to the House, and through the House to the public at large, why it is not feasible to have the legislation desired by the members. In the process the Government puts forward the rationale of its policies on the issues involved. This helps in clearing the mist from the air or allaying the misapprehensions1 and misgivings on the subject that might be prevailing in the minds of members of Parliament or the public.

Some of the instances that can be cited under this category are:

(i) Recall of Legislators: There is no provision in the Constitution for the recall of legislators. Several private members' Bills on the subject have been moved from time to time. On the pattern of progressive Constitutions of the world, these Bills sought to provide for right to recall members of legislatures by those who elected them.

The first Bill on the subject was by Satya Priya Banerjee. He introduced the Constitution (Amendment) Bill, 1954 in the Rajya Sabha on December 3, 1954. The Government held the view that right to recall did not suit the pattern of our

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1 While opposing the Servants (Option for joining Contributory Health Service Scheme) Bill, 1957 the then Health Minister D.P. Karmarkar observed: "I believe a very useful purpose has been served by this debate. It has given the Government an opportunity of explaining to this House the precise nature of the scheme as also the utility of it..." (See L.S. Deb., 9.8.1957, c. 7842)
Constitution though it might be useful in other countries which had proletarian democracy or sort of democracy.¹

In the Lok Sabha, the matter was taken up by T.B. Vittal Rao who introduced on August 14, 1959 the Representation of the People (Amendment) Bill, 1959 for the same purpose. The Government was opposed to the very principle of the Bill. It contended that 'majority' at the time of recall could not be different from 'majority' at the time of election when it could be even less than 50 per cent.²

The matter was pursued in the Rajya Sabha by Bhupesh Gupta who introduced on August 21, 1959 the Representation of the People (Amendment) Bill, 1959. His contention was that the electorate should be given right to recall such representatives as violate the pledges and promises made to the people at the time of election. Disagreeing with the member, the Government maintained that to give a right of recall for each territorial constituency would be bringing back a system which was completely out of tune with our modern concepts of a Republican Government. In a democracy where the electorate was called upon to choose candidates put up by different parties, it was not the candidate that mattered, but it was the party programme which mattered.³

The next Bill considered on the subject was by C.K. Chandrappan who introduced in the Lok Sabha on July 26, 1974 The Constitution (Amendment) Bill, 1974. The Government stated that the elected representatives do not restrict themselves to the problems of a particular territory. They can deal with national

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problems. By making provision for recalling the elected member, it would be reducing him to the position of a delegate.¹

Another occasion for the Rajya Sabha to be seized of the matter was when Shiv Chandra Jha introduced on March 16, 1979 the Constitution (Amendment) Bill, 1979. His suggestion was to provide for recall of legislators who defect and for vacation of their seats in the concerned House. The Government did not deflect from its earlier policy. From the national point of view, the Government again maintained, it was not considered desirable to make provision in the Constitution to recall a legislator if he did not come upto the expectations of his electorates.²

A Bill on the subject was also introduced by F.M. Khan³ in the Rajya Sabha in 1977 and by Eduardo Faleiro⁴ in the Lok Sabha in 1978.

Private members' Bills, it would be observed from the preceding paragraphs, provided several valuable opportunities to the Government to explain the rationale why it had not been found possible to provide for the recall of legislators.

(ii) **Prime Minister to advise the President to dissolve the Lok Sabha** : With a view to giving power to the Prime Minister to advise the President for dissolution of the Lok Sabha, Nripati Ranjan Choudhary introduced the Constitution (Amendment) Bill, 1974 in the Rajya Sabha on August 16, 1974. He felt this would strengthen the parliamentary system in the country.

Explaining the Government's view point on this vital issue, it was stated that in parliamentary democracy the President was only the constitutional head.

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1 See *L.S. Deb.*, 15.11.1974, c. 486.
3 Rajya Sabha Bill No. II of 1977.
4 Lok Sabha Bill No. 161 of 1978.
The real head was the Prime Minister and head of the Council of Ministers was also the Prime Minister. In such a situation, the President was bound to function on the advice of the Council of Ministers through the Prime Minister. The Council of Ministers would become redundant and meaningless if power to advise the President for dissolution of the Lok Sabha was given to the Prime Minister.¹

(iii) **Declaration and Scrutiny of Assets of the Ministers including the Speaker:**
For this purpose, Sadashiv Bagaitkar introduced in the Rajya Sabha on March 16, 1979 the Declaration and Public Scrutiny of Assets of Ministers and Members of Parliament Bill, 1979. The discussion on the Bill provided an opportunity to the Government to explain its stand in the matter. It was of the view that there must be a Code of Conduct among all the political parties in order to see that the evil of corruption was rooted out from public life. This could be achieved by having a dialogue with all political parties and the opposition leaders and not by bringing such a Bill and giving impression outside and inside the country that the entire political parties, the MPs and Legislators were awfully corrupt.²

(iv) **Omission of Article 370 from the Constitution:** To bring the State of Jammu and Kashmir at par with other States, Prakash Vir Shastri suggested deletion of article 370 of the Constitution which confers special status on the said State. For this purpose, he introduced in the Lok Sabha two Bills, one on April 24, 1964 and the other on February 17, 1966.

These Bills echoed the views of good many people who have posed this question too often. Reply to the debates on these Bills provided an invaluable opportunity to the Government to explain why the omission of article 370 of the

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Constitution had not been considered necessary. It was stated that the Government was least opposed to the spirit of the Bills but it could not accept the view that article 370 created an impression that Jammu & Kashmir State was not a part of India. It felt that the abrogation of article 370 would create a complete void in future as far as any improvement in the administrative relations with Jammu & Kashmir was concerned. The Government was, however, accelerating the progressive application of the provisions of the Constitution to Jammu and Kashmir State.

The matter again figured in the Lok Sabha when the Constitution (Amendment) Bill, 1971 by Atal Bihari Vajpayee came up for discussion on November, 19 and December 3, 1971. The Government's reply was that even if the amendment to article 370 was passed by Parliament, it would not be operative unless the Jammu and Kashmir State Government gave its concurrence.

(v) **India to be one Consolidated Unit** : Prakash Vir Shastri strongly held the view that India should be one consolidated unit exercising absolute and undivided sovereignty and that for the sake of administrative convenience Regional Committees with definite powers and functions for homogenous regions should be appointed. Accordingly, he introduced the Constitution (Amendment) Bill, 1964 in the Lok Sabha on December 18, 1964. The Bill sought to amend articles 1, 2, 3, 4, etc.

In order to do away with the various inter-State disputes and to forge national unity, this suggestion was often debated in the country. The

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1 See *L.S.Deb.*, 1.4.1966, cc. 9125 and 9130.
3 See *L.S.Deb.*, 3.12.1971, c. 269.
Government stand on the issue was that the time had not yet come when the very structure of our Constitution should undergo a change. Fissiparous tendencies had not appeared in the country due to federal structure of the Constitution. Moreover, it held the view that the federal features were not at all strong in our Constitution. It really provided for a system which was almost unitary in character.¹

(vi) **Publication of Political Party Accounts**: To provide for the compulsory publication of annual accounts by recognised political parties, Shree Chand Goyal introduced in the Lok Sabha on November 15, 1968 the Publication of Political Party Accounts Bill, 1968. The Government intended to bring forward a comprehensive amendment to the Representation of the Peoples Act. It was, however, contended by the Government that it was not within the jurisdiction of the election court or the Election Commission to go into the source of money spent for election purpose.² The Bill was withdrawn by the mover.

The matter was also raised at the same time in the Rajya Sabha by Pitamber Das who introduced on November 29, 1968 the Publication of Parliamentary Party Accounts Bill, 1968. The Bill sought to provide for withdrawal of recognition granted to political parties for certain electoral purposes, if they fail to publish their annual accounts.

Explaining the Government's stand why such a step could not be taken, it quoted the following observation of the Joint Committee of Parliament, set up to consider election matters:

The Committee had also considered the recommendations made by the Election Commission in their reports to the effect that the

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¹ See *L.S.Deb.*, 5.11.1965, c. 699.
² See *L.S.Deb.*, 21.3.1969, c. 280.
political parties might also be called upon to account for the expenses incurred by them for the election campaign of their candidates. After careful scrutiny, the Committee have come to the conclusion that due to various political difficulties it was not possible to pursue such a course.¹

(vii) **Election of Judges**: To provide for election of judges, Shiv Chandra Jha introduced the Constitution (Amendment) Bill, 1979 in the Rajya Sabha on March 2, 1979. Explaining why the Government would not adopt such practice, it said the system of choosing a District Judge through election had completely failed in USA where it was experimented. Moreover, the Government contended that the very idea of having elected judiciary, which was supposed to take care of three essential requisites - independence, impartiality and competence - would in fact defeat the very concept of judiciary.²

Some of the other private members’ Bills that fall under this category are:

(a) The Constitution (Amendment) Bill³, 1955 introduced by Satya Priya Banerjee in the Rajya Sabha on August 26, 1955. The Bill suggested adoption of system of proportional representation to rectify the prevailing election system which does not reflect correctly the opinion of the people in the Lok Sabha and State Assemblies;

(b) The Hindu Marriage (Amendment) Bill⁴, 1967 introduced by R.P. Khaitan in the Rajya Sabha on June 2, 1967. The Bill sought to avoid unequal marriages;

² See *R.S.Deb.*, 9.3.1984, c. 246.
³ See *R.S.Deb.*, 9.12.1955, cc. 2092-94. *(The Government felt that the system was unworkable in the country because of widespread illiteracy. Moreover, it leads to number of splinter groups which would be unsuitable for the parliamentary system of Government India had adopted.)*
⁴ See *R.S.Deb.*, 18.6.1971, c. 164. *(The Government’s view was that the objective could be achieved more by educating the people rather than enacting a law on the subject.)*
(c) The Constitution (Amendment) Bill\(^1\), 1974 introduced by Rajat Kumar Chakrabarti in the Rajya Sabha on August 16, 1974. The Bill aimed at involving effectively scientists and technologists in policy and decision-making;

(d) The Indian Telegraph (Amendment) Bill\(^2\) 1981 introduced by Bhogendra Jha in the Lok Sabha on November 27, 1981. Its object was to check misuse of the provisions in the principal Act empowering the Government to take possession of any telegraph or to direct that any message to or from any person or class of persons relating to any particular subject shall be intercepted, detained or disclosed to the Government.

In brief, the instances discussed above indicate that if the efforts of the private members do not result in legislation, they at least compel the Government to explain to the House why the same could not be undertaken.

**Eighth Category**

Some of the private members' Bills served yet another vital purpose. This is to educate and mobilise public opinion and set afloat ideas which, with the passage of time, might catch the imagination of the people and compel the Government to bring in a suitable legislation.

The need for formation of public opinion to bring in a legislative measure was acknowledged by the then Minister of Education, M. C. Chagla, while replying to the discussion on the Constitution (Amendment) Bill, 1964, moved by

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1 See R.S.Deb., 16.12.1977, cc.119-20. (Explaining the policy the Government stated that senior administrative posts were filled up by locating persons with required skills from whatever group or service they might belong to. Techno-professionals personnel were equally eligible for such posts in the Secretariat.)

2 See L.S.Deb., 19.2.1982, cc. 368-72. (Clarifying its policy, the Government informed the House that the postal network could not be placed at the service of the people who wanted to work against sovereignty and integrity of the country. The Government was, therefore, not under any obligation to carry the public message of conspiratory elements.)
L. M. Singhvi, which sought to include education in the Concurrent List. He observed:

The present position is that the States are not likely to agree to making education a Concurrent subject. We have to educate public opinion, we have to bring pressure upon the States, a legitimate pressure through public opinion. If this Bill is circulated for public opinion and in every State public opinion exerts itself and clamours for this change or calls upon the State Government to agree to this, well we will get what we want.1

The above view is also corroborated by Om Mehta who once opined:

"The real purpose of private members' Bills is to develop a public opinion on a subject, and often, it may be the starting point for future official enactment."2

That the private members' Bills go a long way in influencing the thinking of the people and the Government is substantiated by the following Bills that fall under the present category:

(i) **Students Unions' Participation in Central Universities Bodies**: The Central Universities (Students' Participation) Bill, 1969, which sought to constitute students unions and to provide for their representation in Central Universities bodies, was introduced by Madhu Limaye in the Lok Sabha on February 21, 1969. The Government stated that Universities were governed by their own statutes and ordinances. Parliament could not legislate on University activities. It could not interfere with their affairs. The Government wanted a public debate for the purpose. It wanted a national debate on students participation which was

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1 See L.S.Deb., 12.8.1966, cc. 4641-43. [Education was subsequently included in the Concurrent List vide the Constitution (Forty-Second Amendment) Act, 1976.]


David Marsh and Melvyn Read also observe: "Many MPs introduce Bills with no hope of success. Their purpose is to publicise an issue in order, they hope, to persuade Government to introduce legislation directly, or influence the public to press for reform which the Government may take up at a later date." (David Marsh and Melvyn Read, op. cit., p. 184.)
not a negative concept. The House, therefore adopted the motion for circulation of the Bill to elicit public opinion.

The above instance highlights the very useful role played by members through their Bills in arousing public debates on issues of national importance.

(ii) **Prohibition of Bigamous Marriages**: The Hindu Marriage Act, 1955 made bigamous marriages void and bigamy punishable offence. As polygamy is practised by the people of several other communities in India, a member of Rajya Sabha, D.L.Sen Gupta, considering it to be a discrimination, introduced the Prohibition of Bigamous Marriages Bill, 1966 in that House on November 25, 1966. The Bill did not come up for discussion.

The matter was pursued by N. Sri Rama Reddy who introduced the Prohibition of Bigamous Marriages Bill, 1967 in the Rajya Sabha on June 2, 1967. The member was of the view that to make the law universally applicable, it was essential to remove all disparities and discriminations in the interest of social justice. Legislation of this nature, the Government explained, was not the proper way to bring about a certain change in the personal law affecting some communities. The Bill, though wisely worded, applied in practice only to one community i.e. the Muslims. The urge must come from the community itself. The Government had also to play a role in building up a certain opinion within the minority community and the Government did not want to disclaim that responsibility. While dealing with minority community one should not give the appearance that the majority was foisting its views on the minority. Besides, the

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1 See *L.S.Deb.*, 3.4.1969, cc. 390 & 392.
2 Thakur Das Bhargava had introduced in the Parliament on December 12, 1950 the Monogamy Enforcement Bill. Its object was to enforce monogamy and to prohibit and penalise future bigamous marriages and to declare them illegal. He introduced this Bill again in the Lok Sabha on July 16, 1952. On the same day H. V. Pataskar too introduced a Bill on the same subject.
personal law of the Muslims was regarded by Muslims as the law handed down by the Prophet.¹

D.L. Sen Gupta again took up the subject when he introduced in the Rajya Sabha on August 7, 1970 the Prohibition of Bigamous Marriages Bill, 1970. The Bill provided yet another opportunity to debate this vital issue for educating public opinion.

Replying to the discussion on the Bill, the Government stated that it was an attempted legislation which concerned mainly the Muslim community of India. The practice of polygamy was dying out due to various reasons. The policy of the Government was that no change in the personal law of the minorities should be introduced unless the initiative for that change came from the concerned community.²

The above instance indicates that the Government, for understandable reasons, does not show enthusiasm to sponsor any legislative measure on a matter which concerns the susceptibilities of the minorities, howsoever welcome it may be from the larger angle. In such cases, it likes to wait till the public opinion is in favour of it. And in the building of this public opinion the private members’ Bills play very useful role.

(iii) Parliament of Man and Federation of the World: An instance of the effort made to educate the opinion of the world as a whole is provided by the Constitution (Amendment) Bill, 1966 of H. V. Kamath which was introduced in the Lok Sabha on May 18, 1966. The member contended, in the Statement of Objects and Reasons of his Bill, that the time was opportune, nay ripe, for all good men and good Governments of the world to get together and to make

earnest efforts for convening a World Constituent Assembly as a preparatory step towards the establishment of a Parliament of Man and Federation of the World. He opined further that war could not be abolished, nor could a warm, living peace descend on earth, unless a World Order based on World Law was firmly founded. He, therefore, sought through his Bill to insert the following clause (e) after clause (d) to article 51 of the Constitution.

(e) collaborate with other nations for the early formation of a World Constituent Assembly to draft the Constitution for a World Federal Government.

That the Bill could not come up for consideration and lapsed with the dissolution of the Third Lok Sabha is quite a different matter. But what needs to be emphasised is that the member through his Bill sought to build up public opinion for creation of a World Order based on World Law — an ideal State for the good of the mankind as a whole.

The three instances cited under the present category clearly illustrate how well the private members' Bills have been used to build up public opinion on very delicate and sensitive issues.

Taking together all the eight categories discussed in the preceding pages of this Chapter, it would be observed that the members utilise the device of private members' Bills with telling effect in raising issues of varying importance. While on the one hand they raise so light a subject as restricting the length of films, on the other hand they take up international issues of far reaching importance such as the establishment of Parliament of Man and Federation of the World. Broadly, it can be said that there is hardly any conceivable subject on which a private member's Bill has not been brought forward. The impression
that such Bills do not serve much purpose is also dispelled by the substantial results achieved by them.

Bills on Parliamentary Matters

Reform in parliamentary processes and procedures is another area in which members have evinced keen interest and their initiative at times has yielded result. It may be pertinent to make a special mention here of some of the private members' Bills relating to parliamentary matters.

(i) **Standing Parliamentary Committee for each Ministry/Department** : For setting up of a statutory Standing Committee of the members of Parliament for each of the Ministries and Departments of the Central Government, which may be empowered to review the work of the concerned Ministry and the implementation of its policies, D.K. Panda introduced in the Lok Sabha on May 21, 1976 the Constitution (Amendment) Bill, 1976. It sought the inclusion of a new article after article 88 of the Constitution for this purpose. The member felt that this would bring radical reform to uphold the supremacy of Parliament. The Bill did not come up for discussion.

In the Rajya Sabha, the matter was taken up by Bhupesh Gupta who introduced the Constitution (Amendment) Bill, 1976 on August 20, 1976. The Bill sought to introduce new articles 117A and 207A to provide for Standing Committees of Parliament and State Legislatures in lieu of Consultative Committees for meaningful and efficient working of Parliament. He felt the present Consultative Committees were no substitute for Standing Committees. Opposing the Bill, the Government quoted what Dr. Radhakrishnan had earlier said about the Standing Committee: "In the present context the case for a Standing Committee seems to be very feeble. It is one of the important functions
of Parliament to criticise the policies submitted to it for approval and also to criticise odd proposals for expenditure brought before it. The formation of policies is the main responsibility of the Council of Ministers. It, therefore, depends on the political objectives of the party in power and the concrete circumstances in which these political objectives have to be realised. A Standing Committee, consisting of members of Parliament, can hardly advise on these matters. On the other hand, the Standing Committee may prove detrimental to or inconsistent with the principles of ministerial responsibility." The Government further contended that Standing Committees had limited initiative and weak responsibility and they might waste endless time in investigations. The Government felt that the informal Consultative Committees had proved useful in discharging their responsibility and as such these need not be replaced by Standing Committees.¹

Subsequently, after a gap of more than a decade, the Standing Committees have been set up by the Lok Sabha in the form of Subject Committees. This is a major reform in the Indian parliamentary system. The three Subject Committees — one each on Agriculture, Environment & Forests and Science & Technology — were formally inaugurated by the then Speaker, Lok Sabha on September 17, 1989. Earlier, the Rules of Procedures and Conduct of Business in Lok Sabha had been amended by addition of new Rules 331C to 331H relating to functions and composition of these Committees. The Committees, among other things, would examine the activities of the concerned Ministries/Departments and would report as to what economies, improvements in organisation, efficiency or administrative reforms consistent with the policy

¹ See R.S.Deb., 28.7.1978, c. 227.
approved by Parliament could be effected. If these Committees, set up on experimental basis, succeed, more such Committees may be set up in future for other Ministries/Departments. Administrative accountability is the *sine qua non* of a parliamentary system and the Subject Committees would, in fact, be making this concept a living reality by ensuring better parliamentary control and surveillance of the Government and administration.

(ii) **System of Proportional Representation** : To rectify the prevailing election system, which does not reflect correctly the opinion of the people in the Lok Sabha and State Assemblies, Satya Priya Banerjee suggested adoption of system of proportional representation. For this purpose, he introduced the Constitution (Amendment) Bill, 1955 in the Rajya Sabha on August 26, 1955. During the course of reply to the discussion the Government explained that system of proportional representation was not practicable in India although it might be good for other countries. Firstly, the system was unworkable because of widespread illiteracy. Secondly, it leads to number of splinter groups which would be unsuitable for parliamentary system of Government which India has adopted.¹

(iii) **Parliament Session in South India** : To provide that a session of Parliament may be held every year in South India so as to promote closer integration between people, Prakash Vir Shastri introduced in the Lok Sabha on August 4, 1967 the Constitution (Amendment) Bill, 1967. The Government agreed to examine the suggestion and stated that a Committee would be set up for the purpose.² A Committee of members of Parliament constituted for the purpose submitted its report in April, 1969. The Committee concluded that "it is

² See *L.S.Deb.*, 1.3.1968, cc. 1110-12.
not feasible under the existing conditions and circumstances to hold one session of Parliament annually either at Trivandrum or Bangalore by making minor adjustments". Needless to say, the suggestion made by the member in his Bill was examined in all seriousness by the Government.

(iv) **Summoning of State Legislatures every three months**: With a view to have clean administration and to minimise the scope for defections, Sitaram Jaipuria introduced in the Rajya Sabha on March 14, 1969 the Constitution (Amendment) Bill, 1969 suggesting the summoning of legislatures of States after every three months.

The Government stated that before article 174 of the Constitution came into force, under the Government of India Act, 1935 the maximum period prescribed in between two sessions was one year and it was reduced to six months by the Constitution through this article. Even at that time an amendment to reduce it to three months was rejected after a debate. In England and other democratic countries, where parliamentary democracies are functioning, nowhere it is less than six months and in many countries it is one year. In India there is no constitutional prohibition to summon a legislature before three months, even every month, if the need be.

The Government agreed with the view that the Assembly should be called as often as it is necessary so as to give the opportunity to the elected representatives of the people to get their grievances redressed or to put a check on the Government. However, there must be legitimate grounds for summoning the legislatures. These matters could and should be decided by some conventions and traditions rather than by amending the Constitution.2

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2 See *R.S.Deb.*, 22.12.1972, cc. 172-76.
Parliamentary Privileges: The members of Parliament in India enjoy privileges and immunities. However, the same have not been codified so far. With a view to defining these powers, privileges and immunities of Parliament and its members in certain respects, Naushir Bharucha introduced in the Lok Sabha on September 5, 1958 the Parliamentary Privileges Bill, 1958. The Government maintained that parliamentary privileges should be left uncodified. Moreover, the privileges could not be extended by making them arbitrary or by curbing the rights of the ordinary citizens to seek remedy in a court of law.¹

In the Rajya Sabha, the matter was taken up by Bhupesh Gupta who sought to provide for immunity to members of Parliament and State Legislatures from detention in custody without trial. For this purpose, he introduced on September 18, 1964 the Members of Parliament and State Legislatures (Immunity from Detention) Bill, 1964. The Government opposed the idea. According to it, there should not be in a democratic method of functioning any situation which would involve detention without trial and much less that of an honourable member of sovereign body. The real issue was whether the MPs, MLAs and MLCs in India should be given this privilege irrespective of the method they used to subvert democracy, irrespective of the anti-national role which any one of them might at any given time like to play. If any one dared to subvert freedom, to subvert nation, to undo the Constitution, he should be liable to prosecution under the Act as it stood. The moot question was should the members of Parliament give to themselves any privilege different from that of the common citizens and create a privileged class?² The Bill lapsed on retirement of the member.

¹ See L.S.Deb., 20.2.1959, cc. 2275 & 2277.
Pursuing the matter further, Bhupesh Gupta again introduced in the Rajya Sabha on August 7, 1970 the above Bill. As the Government did not accept the Bill again, it was negatived.

(vi) **Synchronisation of Elections to Lok Sabha and State Assemblies**: From 1952 to 1967 elections to the Lok Sabha and the State Assemblies had been held simultaneously. It was after 1967 with the changed political configuration that the elections to some of the State Assemblies got de-linked from that to the Lok Sabha. To restore the earlier position, Jagdish Prashad Mathur suggested for synchronisation of elections to the Lok Sabha and the State Assemblies. For this purpose, he introduced in the Rajya Sabha on June 20, 1980 the Constitution (Amendment) Bill, 1980.

The Government did not accept the Bill as it would be sheer injustice to the newly elected members, after the mid-term poll, not to allow them a full term of five years. The House had to be dissolved if a stable Government was not possible. It would tantamount to punishment to those Legislative Assemblies which were working well, if their elections were to be synchronised with the Lok Sabha elections. The dissolution could not be thrust on the Assemblies, if the prevailing situation at a particular time did not call for it.\(^1\)

(vii) **Filing of Election Expenses**: To delete the provision regarding the filing of election expenses in the Representation of the People Act, M. P. Bhargava introduced in the Rajya Sabha on November 16, 1962 the Representation of the People (Amendment) Bill, 1962. In the House diametrically opposite views were expressed on the issue. One view was that the limit of expenses should be raised in view of the growing size of the constituency. The other view was that

\(^1\) See *R.S.Deb., 9.3.1984, cc. 277-79.*
the provisions should be deleted altogether because in practice these had served no useful purpose. The Government, therefore, decided that the Bill should be circulated for eliciting opinion thereon. The motion to that effect was adopted. The Bill, however, lapsed on retirement of the member.

The member took up the same subject again when he introduced a Bill in the Rajya Sabha on May 8, 1964. This time the Government categorically stated that it was opposed to the Bill, it being of negative character. The existing law exercised a check on the evil. Breach of the law was visited with severe penalty. If these provisions were deleted, the result would be that those who contested the elections would be completely at large in the matter of expenditure. In every country, where the Government was run on democratic lines, there were provisions of the type which India had and in no such country had any one thought of repealing such laws.

(viii) Minimum Educational Qualifications for Legislators: The Constitution does not prescribe minimum educational qualifications for members of Parliament and State Legislatures. To prescribe the same, Hari Vishnu Kamath introduced in the Lok Sabha on December 20, 1963 the Constitution (Amendment) Bill, 1970. The Government's view was that the statistical break-up of the educational qualifications of the then members of Parliament did not justify the assumption of the mover of the Bill that most of the members of Parliament had not passed the secondary education test.

2 See R.S.Deb., 18.3.1966, c. 3719.
3 Despite there being no stipulation for any formal educational qualifications for membership of Parliament, the members elected to all the first nine Lok Sabhas were having good educational qualifications. The level of academic qualifications has generally been showing an upward swing with each successive Lok Sabha. The Ninth Lok Sabha had the distinction of being the highest educated Lok Sabha ever with the largest proportion of educated members (74 per cent) belonging to the category of Graduates and above. See Subhash C. Kashyap, op. cit, p. 22.
4 See L.S.Deb., 28.3.1964, cc. 8020-21.
Joint Sitting of two Houses on Constitution (Amendment) Bills: To provide for holding a joint session of the two Houses of Parliament for resolving the differences between the Lok Sabha and the Rajya Sabha, even on Bills to amend the Constitution, Bhupesh Gupta introduced in the Rajya Sabha on March 26, 1971 the Constitution (Amendment) Bill, 1971.

The Government's reply was that on the eve of introduction of the Constitution (Twenty-fourth Amendment) Bill, 1971 this question was seriously considered and it was thought that this type of amendment was not necessary.1

Some of the other private members' Bills on parliamentary matters were:

(a) The Legislative Councils (Composition) Bill2, 1962 introduced by Shree Narayan Das in the Lok Sabha on April 27, 1962; the Constitution (Amendment) Bill3, 1963 introduced by Era Sezhiyan in the Lok Sabha on September 13, 1963; and the Legislative Councils (Composition) Bill4, 1981 introduced by S.W. Dhabe in the Rajya Sabha on September 11, 1981. These three Bills sought to provide for representation in the Legislative Council of one or the other interest functioning in the State;


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1 See R.S.Deb., 19.3.1976, cc. 150 & 153.
3 See L.S.Deb., 24.2.1964, cc. 3138-3140.
4 See R.S.Deb., 2.8.1985, cc. 226 & 228.
5 The Legislative Councils having since been abolished in most of the States, the above three Bills have lost their relevance.

Arrangements have since been made in the Lok Sabha and the Rajya Sabha to have the proceedings of the House interpreted in English and Hindi, besides in some of the regional languages. In the Lok Sabha this facility is available for Assamese, Bengali, Gujarati, Kannada, Malayalam, Marathi, Oriya, Punjabi, Sanskrit, Tamil, Telugu and Urdu.) Kaul and Shakdher, op. cit., p. 891.
1970 introduced by Bhupesh Gupta in the Rajya Sabha on August 7, 1970. These three Bills sought to provide for transaction of Parliament business in all the regional languages;

(c) The Rajya Sabha Secretariat (Recruitment and Conditions of Service) Bill¹, 1968 introduced by Bhai Mahavir in the Rajya Sabha on August 22, 1968.

From the overview of the private members’ Bills discussed in the Indian Parliament during 1952-89, it transpires that their range and sweep had been too far and wide. A further close look reveals that some of the legislation enacted so far on important subjects has been such where either the private members’ Bills as such have been passed or where the initiative had first been taken by some private member(s). Enactment on important subjects like the Proceedings of Parliament (Protection of Publication); Suppression of immoral traffic in women and girls; Right of Parliament to amend Fundamental Rights; Abolition of privy purses; Measures to check defections; Lowering of the voting age to 18 years; Inclusion of land reforms laws in the Ninth Schedule; Removal of right to property from the Fundamental Rights, setting up of a National Commission for Women, to mention a few, clearly vouchsafe the veracity of the above statement.

Similarly, some other private members’ Bills resulted in executive orders on such vital issues as : Setting up of Agricultural Prices Commission; Constitution of Inter-State Council; Setting up of multi-member Election Commission; Fixation of price labels on commodities; Grant of pension to freedom fighters; Raising of age for Civil Services Examinations, etc.

Indirect advantage of another set of private members’ Bills has been that discussions thereon enabled the Government to clarify why it was not feasible to have legislation on certain subjects which had been agitating frequently the

¹ See R.S.Deb., 19.5.1972, cc. 130 & 134-135.
minds of the public in general and that of the members of Parliament in particular. Some such subjects on which the Government expressed its inability to bring in legislation were: Right to recall members of Legislatures; Declaration and scrutiny of assets of the Ministers including the Speaker; Omission of article 370 from the Constitution; Adoption of system of proportional representation; Publication of political party accounts.

Last but not the least, some of the private members' Bills helped in mobilising public opinion on important subjects to achieve the desired results. For example, it was the result of the mobilisation of the public opinion through private members' Bills for 12 years that 'Education' was included in the Concurrent List.

All in all, it has to be acknowledged that the impact of the private members' Bills system by way of (i) proposals discussed; (ii) policies clarified; (iii) opinions formed; (iv) executive action taken; and (v) legislative enactments put into the statute book has been considerable.