CHAPTER I

INTRODUCTION

The Indian Parliament, like any other Parliament, is no longer just a law-making body. It has now become more and more a multi-functional institution. The other important functions being: (i) executive accountability; (ii) informational (right to information); (iii) representational and grievance ventilation; (iv) educational and advisory; (v) conflicts resolution and national integration; (vi) constituent (amending the Constitution); and (vii) leadership, recruitment and training. However, of all its functions, the central and most fundamental function of Parliament remains to be law-making. In fact, so fundamental is this process that it is difficult to imagine Parliament performing any other function(s) effectively without somehow participating in the formulation of law.¹

What has been attracting more attention over the years is the executive accountability. May be the instrumentalities available to Parliament to ensure this accountability – regular Question Hour, detailed Budgetary Process, sound Committee System, etc. – are so diverse and powerful that they not only occupy a primary place in the working of the parliamentary democracy but also get substantial publicity in the press and mass media. This could be the reason why since inception in 1952 of the Lok Sabha and the Rajya Sabha, the two Houses

of the Indian Parliament, various studies have been conducted in regard to the above-mentioned processes and procedures. Among the other important activities of Parliament, the one that has not received due attention and remains to be subjected to a detailed empirical study is the utility and impact of the legislative process on the working of the polity.

Legislation falls under two categories. One, brought by the Government and moved by any of its Ministers. Two, moved by a private member - a member of Parliament who is not a member of the Government. Bills introduced by such members are called private members' Bills. Having been initiated by the Government, all the Bills falling under the former category are generally enacted. Similar fate, however, is not met by most of the Bills belonging to the latter category. Hardly, if ever, any private member’s Bill reaches the statute book. This perhaps accounts for why the private members’ Bills have not engaged the serious attention of the social scientists and the scholars of legislative studies. The issue that needs to be examined is: why this type of Bills at all? Have they any use in the working of the Government? It is to find answer to some such significant questions that the present study attempts an in-depth analysis as to how the private members’ Bills system has been utilised in the first eight Lok Sabhas and the Rajya Sabha during 1952-89.

The need of the study stems from several developments. The first and the foremost being a constant growth of interest of members in the private members' Bills. Over the years, the two Houses have witnessed almost a steady increase in the introduction of such Bills - 135, 194, 177, 347, 282, 435, 417 - in the respective first eight Lok Sabhas and 67, 143, 172 and 171 during 1952-61, 1962-71, 1972-81 and 1982-89, respectively in the Rajya Sabha. Without
realising the utility of the private members' Bills this growing interest of members therein may not have been possible.

Further, there has been a shift in the kind of subjects on which members have been concentrating in the Parliament. Soon after independence, the members were paying more attention to socio-economic issues. With the working of the Constitution during all these years the spotlight has turned towards more vital and fundamental questions. This is evident from the preponderance of the Constitution (Amendment) Bills moved by the members of late.

Yet another noticeable and important development has been about the significant variations in the composition of the Lok Sabha after 1967. During the first three Lok Sabhas (1952-67) when the Government had massive majority, the members, mainly from opposition, might not have considered it worthwhile to bring in Bills which had little chance of being accepted. The strength of the opposition having grown steadily from the Fourth Lok Sabha onwards, it might have sought to exert more pressure on the Government through all available parliamentary devices, including that of the private members' Bills.

All these developments and the fact that 37 years (1952-89) is sufficiently a long period to review the working of the system make out a strong case for the present study. Of these 37 years, the author has the honour of serving the Lok Sabha for no less than 33 years in various capacities - from the junior to the senior-most level of parliamentary bureaucracy. His practical experiences together with the facts and figures to be gleaned from the available literature and parliamentary debates may lend further authenticity to this work.
Review of available Literature

Effort to go through available literature regarding private members' Bills in the Indian Parliament as also in the other Commonwealth Parliaments, following broadly a similar system, has revealed that the same is rather scanty.

It is only for the British House of Commons that, besides several articles, there are two thorough and very useful studies. First by P.A. Bromhead and the second by David Marsh and Melvyn Read. Bromhead's book "Private Members' Bills in the British Parliament" (1956) traces the history of private members' Bills in the past fifty years. It also discusses, inter alia, (i) the attitude of the Government towards such Bills; and (ii) the usefulness of these Bills in the context of the requirements of the modern state. The other book "Private Members' Bills" (1988) by David Marsh and Melvyn Read presents a major survey for over thirty years. It provides an intensive analysis of all private members' Bills introduced since the session of 1948-49. The book also contains some suggestions as to how the existing procedure might be improved.

Regarding the Canadian House of Commons there is only one article by R. V. Stewart Hyson which indicates the significance of private members' Bills, their results (i.e. talked out, enacted, etc.) and the party affiliations of the initiators of such Bills. The article covers three Parliaments (a) the 24th Parliament (1958-62); (b) the 26th Parliament (1963-65); and (c) the 28th Parliament

(1968-72). By examining the working of these three Parliaments, the author has tried to detect whether there have been any significant changes or trends in regard to private members' Bills in that country.

As regards the Indian Parliament, a learned study "Private Members' Constitution Amendment Bills" by Hans Raj has been published in 1990. However, as is apparent from the title of the book, it is limited only to the Constitution Amendment Bills. Further, though published in 1990, the study is confined only to the period 1971-80. The period from 1952 to 1970 and 1981 to 1989 as also the private members' Bills other than the Constitution Amendment Bills remain uncovered. These limitations notwithstanding, the book is highly informative and useful insofar as it provides basic information about the demands of private members for the amendment of various articles, including Schedules, of the Constitution. It also discusses the extent of participation of the members belonging to different States, age groups, educational background, caste and sex. An attempt has also been made to show how far the private members' Bills have proved a source of encouragement for the Government to subsequently amend the Constitution.

Several other works on the Indian Parliament and its functioning deal with the procedural aspects of the private members' Bills under the heading "Private Members' Business" which itself has been treated as a part of the chapter on Legislation. General information regarding Private Members' Business in each Lok Sabha also appears either in the form of statistical tables or write-ups in the souvenirs/publications brought out by the Lok Sabha Secretariat at the end of each Lok Sabha. However, such information is limited in nature, confining generally to data of a particular Lok Sabha that too in a general way.

1 Hans Raj, Private Members' Constitution Amendment Bills (Delhi, Surjeet Book Depot, 1990).
Such write-ups do not make an analysis to present a co-ordinated and comprehensive assessment of the private members' Bills system in several Lok Sabhas taken together.

Besides the above literature, there are two articles on the subject by the former members of the Indian Parliament. An article "On Private Members' Bills" by Madhu Limaye, former member of the Lok Sabha, outlines his views regarding the procedural changes that could be considered to make the system of private members' Bills more effective. In the other article "Private Members' Bills: An Enigma", D.L. Sen Gupta, former member of the Rajya Sabha, narrates his own experience in introducing several private members' Bills and analyses the attitude of the Government, in general, to such Bills.

The third article "Private Members' Bills - Their Utility and Impact" has been from the present author. It covers only the first three Lok Sabhas and is based on a Project Paper prepared by him as a part of the Parliamentary Fellowship Programme (1968-69) of the Institute of Constitutional and Parliamentary Studies, New Delhi. The private members' Bills in the Fourth to the Eighth Lok Sabha and in the Rajya Sabha since its very inception have not been covered.

The review of literature clearly indicates that there is a wide gap insofar as the study of private members' Bills system in the Indian Parliament is concerned. It is to fill this gap that the present study has been attempted.

Scope of the Study

There could be several parameters to undertake this kind of study. To make it more extensive as well as intensive it has been deemed advisable to have three-fold approach by undertaking (i) analytical evaluation; (ii) case studies; and (iii) focussed-interviews.

For analytical evaluation, different types of data for the two Houses has been presented in the form of 38 Tables, 21 Graphs and 15 Appendices. With the help of all these, attempt has been made to analyse various issues that could conceivably be raised about the private members' Bills.

To back-up the analytical evaluation, with an assessment of the precise impact of the private members' Bills, case studies have also been carried out. The debates on all the 384 Bills considered in the Lok Sabhas and 204 Bills in the Rajya Sabha during 1952-89 have been examined theme-wise by grouping the same under eight distinct categories. These case studies highlight numerous instances where the efforts of the members to bring forward legislation bore fruit either directly or indirectly. Other subtle advantages that accrue from the system have also been brought into sharp focus by these studies.

Focussed-interviews have been conducted not only to record experiences and assess views of parliamentarians about the existing system but also to have useful ideas/suggestions thrown up to make the same more effective. For this purpose, 17 eminent parliamentarians, having a long and distinguished parliamentary career and belonging to different political parties, were interviewed by the author on the basis of a questionnaire. Their views/suggestions, alongwith those of other parliamentarians who have been deliberating on this theme at different Seminars/Discussion Sessions at the Bureau of Parliamentary Studies and Training, have been analysed for suggesting procedural changes to improve the system.
Frame-work of the Study

The study is divided into seven chapters, Chapter I being that of Introduction.

Chapter II after dealing with the theoretical arguments often put forward for and against this system under-scores its various advantages as perceived by parliamentarians themselves. The concrete instances/anecdotes quoted by the parliamentarians to bring home the utility of private members' Bills form the core of this chapter.

Chapter III is divided into two parts. While the first part attempts to trace the origin and growth of the procedure regarding the private members' Bills in India, the second part highlights the salient features of the existing procedure as contradistinguished from the procedure concerning the Government legislation. The genesis, growth and functions of the Committee on Private Members' Bills and Resolutions — which plays an important role insofar as private members’ Bills in the Lok Sabha are concerned — have also been dealt with in this chapter.

Chapter IV contains analytical evaluation of the private members' Bills considered in the two Houses. The issues analysed being such as : What has been the fate of the private members’ Bills introduced? Whether such Bills generally aim at original legislation or only seek to suggest amendments to the existing legislation? What are the main subjects in which the members have been evincing interest and whether there has been any shift therein? What are the subjects on which the ruling party and the opposition as a whole have been concentrating? Who has been more active in introducing Bills - the ruling party or the opposition? How does the performance of women parliamentarians compare with that of their brethren MPs? Which group(s) of members
has/have been more active – age-wise, education-wise, State-wise and occupation-wise? Change, if any, over the years in the percentage of time taken on private members' Bills vis-a-vis Government Bills?

Chapter V illustrates in detail the utility and impact of the private members' Bills. Here, the Bills considered in the two Houses have been classified into eight broad but distinct categories based on their final outcome. Each category has been discussed with the help of brief case studies. Each case study in turn deals with several attempts made either by the same member or different members in the Lok Sabha and/or the Rajya Sabha to bring forward legislation on a particular subject. Reply given by the Government to the debate, from time to time, on the particular subject indicates the subtle influence exercised on the Government by the private members' legislation.

Chapter VI outlines some suggestions/ideas arising from the study that merit consideration to make the system more effective. Stimulus for the same was provided by the conclusions/inferences drawn from the analytical evaluations and the case studies. A comprehensive questionnaire thus prepared formed the basis of the focused-interviews which sought to solicit the views/reactions of the parliamentarians to the suggestions. While there was convergence of views on most of the suggestions, these differed widely on the rest of them. The analysis of these views is the essence of this chapter.

Chapter VII puts together the main observations made, the conclusions/inferences drawn and the ideas mooted for further improvement of the system.

The study is backed by detailed appendices and bibliography which may be useful for further reference/research.