

## CONTEMPT OF COURT BILL\*

**Shri B. Das Gupta** (Purulia): Sir, I beg to move for leave to introduce a Bill to consolidate and amend the Law relating to the contempt of court.

**Mr. Deputy-Speaker:** The question is:

"That leave be granted to introduce a Bill to consolidate and amend the Law relating to the contempt of court."

*The motion was adopted.*

**Shri B. Das Gupta:** Sir, I introduce the Bill.

15 33 hrs.

REPRESENTATION OF THE  
PEOPLE (AMENDMENT)  
BILL—Contd.

(Amendment of section 73)

**Mr. Deputy-Speaker:** The House will now resume further discussion of the motion moved by Shri Hem Raj on the 18th March, 1960 that the Bill further to amend the Representation of the People Act, 1951 be taken into consideration.

Out of 1½ hours allotted for the discussion of the Bill 8 minutes have already been taken up on the 18th March 1960 and 1 hour and 22 minutes are now available.

Shri Hem Raj may now continue his speech.

**Shri Hem Raj** (Kangra): Mr. Deputy-Speaker Sir last time I was submitting before this hon. House that those hon. Members who are representing Himachal Pradesh and Punjab Kangra constituency in this House and two members of the Punjab Legislative Assembly were deprived of voting for the election of the President and the Vice-President. Then I told this House that this was a valuable right of which they have been deprived. Had it been a passing phase, we would not have cared for

it. But as the Election Commission says, the elections in these constituencies are going to take place when the elections in other constituencies will be finished, and it is going to be a permanent feature..... (Interruption).

**Mr. Deputy-Speaker:** I presume those who wanted to go out have gone away. Now there ought to be silence here except on the part of the hon. Member who is speaking.

**Shri Hem Raj:** I was submitting that this was going to become a permanent feature. This is what the Election Commission has remarked in its report on the Second General Elections. It says:

"On the date of the poll for the Presidential election, the parliamentary constituencies in the Himachal Pradesh and Kangra parliamentary constituency in Punjab were still snow-bound in part and had not been able to complete the election of their members to the House of the People. For the same reason the Kulu Assembly constituency of Punjab has not been able to elect its members to the Punjab Legislative Assembly. Although these constituencies had been called upon to elect the members along with other constituencies in the rest of the country, the poll had to be postponed by the Election Commission in these constituencies until the snow merged and poll became practical. Accordingly, the poll was yet to be held in these constituencies when the Presidential election took place. As a result, these constituencies were deprived of the right and privilege of participating in the election of the President. If the election of the Vice President had been contested, they would have been denied an opportunity of participating in that election as well."

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[Shri Hem Raj]

It further says:

"The climatic conditions which necessitated the postponement of the poll in the snow-bound constituencies will create the same difficulty on future occasions as well. There is, therefore, hardly any prospect of these constituencies completing their elections along with the rest of the country in any future General Elections."

The Constitution gives equal rights to all the citizens of the country and it holds that all the citizens are equal before the law and they are equally entitled to the protection of law. But what is happening here is that we are being denied of a fundamental right of ours, a constitutional right of ours. Therefore, I say that this right which is a constitutional right, which is a legal right, which is fundamental right of these members who represent their constituencies should be given to them. They should be given this right to vote for the election of the President and the Vice President.

There is one thing more. For the present it is only a question of six constituencies which I have just mentioned. But supposing in future in the Kashmir—when the Election Commission's jurisdiction is extended to that area—elections take place, then the same thing will happen there so far as the areas of Ladakh, Kistwar and Bhadrwaha are concerned. Similarly those members also will be deprived of this right for all times to come.

This is about the right of vote for the election of the President and the Vice President. But about the hon. office of the Deputy-Speakership—that you are holding, Sir—and the office of the Speakership also we are always being deprived of a right to vote. So, my humble submission before the House is that we should be granted that right which the Constitution has granted to us and it should not be snatched away from us.

My second point is about the electoral college. The Article 54 of the Constitution says: "The President shall be elected by the elected members of the Lok Sabha and of the Legislative Assemblies." My contention is that at the time when the Presidential election took place, the House of the people was not complete because the election in these constituencies—one double member constituency of the Punjab, and three constituencies of the Himachal Pradesh—had not been completed due to the reasons which I mentioned earlier. The elections there were completed either in the month of June or in the month of July. Consequently these members were deprived of the right to vote in the election of the President. So, I say, according to the Article 54 of the Constitution, when the House was not complete it was not competent to elect the President. But it was defended on the ground that a certain provision had been made under section 73 of the Representation of People's Act by which though the elections in certain constituencies are not completed, even then the House shall be deemed to be complete though it is <sup>not</sup> complete in fact.

My contention is that the right which has been given under the Constitution cannot be snatched away from us. Moreover, regarding this very question a debate took place in this House when the last Parliament was going to adjourn sine die. At that time also it was contended that because the elections were not going to be completed by the time when the President's election was to take place, the House cannot be deemed to be complete. In that debate your good-self also took some part and you, Sir, also expressed some doubts whether the House could be deemed to be complete unless and until all the members are elected and returned and take their places in the House.

Again, my contention is that even this section 73 of the Representation of People's Act under which the Government took shelter is rather *ultra vires* of the Constitution because the Constitution gives us a certain right which cannot be taken away by a certain other Act of the Parliament. So, I humbly submit to this House to see whether a fundamental right which has been given by the Constitution should be taken away from certain citizens of India or whether it should be restored to them.

Under Article 54 of the Constitution it is the elected members of the House of the People and of the legislative assemblies who are competent to vote for the election of the President and the Vice President. Under the Constitution, even the last House was competent to elect the President and the Vice President. But the Government in its own wisdom took a contrary decision and it rather thought it proper that it should be the new House which should elect the President and the Vice President. The Constitution nowhere says that it is the new House which is to elect the President and the Vice President. It only says that the President and the Vice President shall be elected by the elected members of the House of the People and of the Legislative Assemblies.

My third contention is that even if that provision to be taken, even then that right which has been guaranteed to the citizens of India and to the elected members of the House of the People and the Legislative Assemblies cannot be taken away by a certain decision of the Government. In that case also, that right should be restored to us.

**Mr. Deputy-Speaker:** The Minister of Parliamentary Affairs is really a privileged person, but he also should not be for very long in the passage.

**An hon. Member:** He should set an example.

36 (A) L.S.—6.

**Shri Hem Raj:** Even the Election Commission in its report on the Second General Elections has stated:

"The term of office of the President and the Vice-President was due to expire on the 13th of May, 1957 on the expiry of five years from the date that they assumed office. Articles 62 and 68 of the Constitution require that the elections of the new President and Vice-President must be completed before the expiry of the term of their predecessors. A minimum period of 30 days is required to complete these elections. In order that these elections might be completed in accordance with the provisions of the Constitution, it was necessary to constitute the new House of the People and Legislative Assemblies before end of March, 1957. The Constitution would have, no doubt, permitted the President and the Vice-President to be elected by the Members of the outgoing Houses of legislature. It was generally felt, however, that it would be inappropriate for these Members to elect the President and the Vice-President at the *Tag end* of their terms and that it would be far more desirable and democratic for the Members of the newly elected Houses to elect the new President and the Vice-President. Accordingly, the Commission settled the programme. . . ."

My contention is that the House when it met on 28th March, 1959 was a complete House, though there might have been some vacancies, and therefore it was more competent to elect the President and the Vice-President. Six Members could not be returned in time to the new House after the Second General Elections, and therefore the House could not be deemed to be complete under article 54 of the Constitution. In the circumstances, it becomes all the more necessary that the Members who had been elected to the previous House on the suffrage of the people should be given this right.

[Shri Hem Raj]

Regarding this matter, a writ was filed in the Supreme Court, and there also a doubt was raised whether the election of the President or the Vice-President could take place, but because the petition of Dr. Khare was held to be premature, their Lordships did not express an opinion in that case. I might quote the passage for the information of the House. It was a writ petition of Dr. Khare against the Election Commission of India. Their Lordships observed:

"In so far as the alleged discrimination, if any, in breach of the equal protection clause of the Constitution may be said to be calculated to raise any doubt in connection with the election of the President, it will, at best, be non-compliance with the provisions of the Constitution which may or may not, after the conclusion of the entire election, be made a ground under S. 18 of the Presidential and Vice-Presidential Election Act, 1952, for calling the election in question, as to which we need formulate no final opinion at this stage."

Similarly, in its own report, even the Election Commission has stated this legal position. It says:

"A constitutional doubt was raised as to whether the Presidential election could be legally held before every constituency in the country had elected its Member or Members to the Legislative Assembly or the House of the People. The view was eventually taken that in view of the provisions of Section 73 of the Representation of the People Act, 1951, the failure to complete the elections in the snow-bound constituencies and the resulting existence of vacancies in the House of the People and the Punjab Legislative Assembly on the date of the poll for the "Presidential election did not affect the due constitution of the House of the People or the Punjab Legis-

lative Assembly for purposes of the elections to the offices of the President and of the Vice President. These elections were accordingly held despite the existence of these vacancies."

And the opinion of the Commission is as follows:

"The Commission feels, however, that such a contingency should, if possible, be avoided in the future and the Houses of legislature should be fully constituted before elections are held to these high offices."

Then it has made a suggestion, which is what I have incorporated in my Bill. Every time the House will have already elected the President and the Vice-President by the time the new Members from these constituencies are elected, and so the incoming Members will have no chance to participate in the Presidential and Vice-Presidential elections in future also. Therefore, a certain limited right, should be given to the outgoing Members to participate in the Presidential and Vice-Presidential elections, though they would still be debarred from taking part in the elections of the Speaker and the Deputy-Speaker of this hon House. I am only asking for a limited right, and it is also supported by the Election Commission.

The Commission has said:

"It is accordingly desirable that the law itself should provide for some better solution of the difficulty than has been provided at present. It may be examined whether provision may be made, for instance, enabling the outgoing Member or Members representing any constituency which has not been able to complete its poll due to unavoidable reasons to vote at the "Presidential and the Vice-Presidential elections as if they continue for this purpose to be duly elected Members of the

respective Houses of legislature notwithstanding the fact that the Houses have been dissolved or have completed their terms. In the Commission's opinion such a solution would be fairer and less anomalous than the present position in which several constituencies are deprived practically permanently of the right and privilege of participating in the elections to these high offices."

**Mr. Deputy-Speaker:** Out of an hour and a half, the hon. Member has taken more than half an hour.

**Shri Hem Raj:** I am finishing soon so that other Members may be able to take part and support me.

My suggestion has been supported by the Election Commission also. I only request the Members that the constitutional and legal rights that they are enjoying should be conferred on the Members from these particular constituencies of Himachal Pradesh and Punjab. That right should not be snatched away from us by some Act which, I think, is rather *ultra vires* of the Constitution.

With these words, I commend my Bill for the consideration of this hon. House.

**Mr. Deputy-Speaker:** Motion moved:

"That the Bill further to amend the Representation of the People Act, 1951, be taken into consideration."

We have 90 minutes for this Bill. About 33 minutes have already been taken by the hon. Mover. May I know how much time the hon. Minister would require?

**The Deputy Minister of Law (Shri Hajarnavis):** Five minutes.

**Mr. Deputy-Speaker:** So, I can give ten minutes to each hon. Member who

wants to speak. Shri Raghubir Sahai might begin on this side.

**Shri Raghubir Sahai (Budaun):** I have no hesitation in saying that I am fully in accord with the spirit of the Bill that has been moved for consideration, by my hon. friend Shri Hem Raj. The position stated by him is that eight elected Members, two to the Punjab Vidhan Sabha, and 6 to the Lok Sabha, returned from Punjab and Himachal Pradesh cannot take part either in the Presidential elections or in the election of the Vice-President, because these elections generally are held in the months of June and July. Last time, they took place in June and July, 1957. Because these areas were snow-clad, therefore, it was not possible to hold those elections earlier, whereas in the case of the other areas, the elections were completed by 31st March, 1957.

15.57 hrs.

[SHRI MULCHAND DUBE in the Chair]

I find that article 54 of the Constitution provides: how the Presidential elections should take place. It is stated therein:

"The President shall be elected by the members of an electoral college consisting of—

- (a) the elected members of both Houses of Parliament; and
- (b) the elected members of the Legislative Assemblies of the States."

I consider that it is an inherent right of the members of the electoral college consisting of the elected Members of both Houses of Parliament and the elected Members of the Legislative Assemblies of the States to take part in the election of the President and the Vice-President, and it would be unjust and illegal on the part of anybody to deprive them of this inherent right. I, for one, feel that these Members of the Punjab Vidhan Sabha

[Shri Raghubir Sahai]

and those Members of the Punjab and Himachal Pradesh, who are elected to Parliament, can as well go to the Supreme Court for the vindication of their rights. My hon. friend Shri Hem Raj has done well in drawing the attention of this House to this position, by bringing forward this reasonable Bill.

The elections in Himachal Pradesh and in some parts of Punjab had to be postponed by the Election Commission because of natural difficulties, and those natural difficulties will take place almost at the time of every election. This means that those Members who are returned from Punjab and Himachal Pradesh would be deprived of this inherent and fundamental right permanently. That is something of which we should take note, and we should do something to satisfy them and to remove this grievance on their part. It is a very reasonable request, and I think the Law Minister would kindly take note of it and do something to relieve them of that anxiety.

It is laid down that the duration of a Member's life in Parliament or in an elected Assembly should be five years, and it would be reasonable to say that he should not be deprived of all his legitimate rights which are to be exercised within that period.

I also find that the term of office of the President is laid down in article 56, which reads thus:

"The President shall hold office for a term of five years from the date on which he enters upon his office...."

and it is also provided that if a President is even elected during the pendency of a term, still, he shall hold office for full five years. So, under the Constitution, the term of an elected Member as well as the President is five years. Therefore, it is all the more necessary that a Member who is elected either to Parliament or to

a Legislative Assembly should not be deprived of exercising his rights during that term.

16 hrs.

Now, if a Member is elected from Himachal Pradesh or from Punjab either to the Vidhan Sabha or to Parliament, under the circumstances which I have narrated earlier and the circumstances which have been very clearly explained by my hon. friend Shri Hem Raj, and he could not exercise his right in the election of the President and the Vice-President just after his election is over, because the elections of the President and the Vice-President take place much earlier. It would be reasonable, to suggest that he should be given the right to take part in the election of the President or Vice President subsequently.

A difficulty could be raised with regard to the provision for dissolution. It may be asked what the position of these Members will be when the Lok Sabha or the Legislative Assembly of a State is dissolved. I would only submit that the proviso which has been suggested by Shri Hem Raj tries to meet that difficulty. It is just to get over it that he has suggested this proviso. In the Proclamation about dissolution, if some such amendment as has been proposed in this Bill is embodied it would meet that difficulty. In the Proclamation, it could be provided that the dissolution would be valid except for those Members who have been returned in the general elections held in the months of June or July, or whatever the period may be.

So, by accepting the amendment suggested in the Bill or some such thing, we shall be in a way satisfying the legitimate aspirations of the people of Himachal Pradesh and Punjab.

I full suport the spirit underlying this Bill.

पंडित ठाकुर बास भार्गव (हिसार) :  
जनाब चैयरमैन साहब, मैं ने इस बिल को पढ़ा और अपने लायक दोस्त की तकरीर भी सुनी। जिस वक्त यह एक्ट मन् १९५१ का सिनेट कमेटी में गया था उस सेलेक्ट कमेटी का मैं चैयरमैन था। उस वक्त यह तकलीफ हमारे सामने आयी थी, और इस तकलीफ का जो हल था उस से यह मालूम होता था कि यह इलेक्शन भी कैसे हो सकेंगे उस विषय को दूर करने के बास्ते दफा ७३ की तजवीज की गयी है। दफा ७३ इसलिये पास किया गया था कि अगर किसी कांस्टीट्यूएँसी का इलेक्शन उस वक्त तक कम्प्लीट न हो तब भी यह करार नहीं दिया जायेगा कि हाउस कम्प्लीट नहीं है। बरना इस के मानी यह होते कि अगर हिन्दुस्तान में किसी कांस्टीट्यूएँसी का इलेक्शन पूरा न हो तो उस वक्त तक सारा हिन्दुस्तान का इलेक्शन कम्प्लीट नहीं हो सकेगा और हाउस कम्प्लीट नहीं हो सकेगा। इस बास्ते मेरे लायक दोस्त की यह शिकायत कि इन ६ मेम्बर साहिबान को अपने हक से महसूस किया गया इस में भी बकत है। हम नहीं चाहते कि हिन्दुस्तान की कोई कांस्टीट्यूएँसी इस बात की शिकायत कर सके कि उस के इलेक्टड मेम्बर को ऐसे इम्पारटेंट काम में जैसे स्पीकर या डिप्टी स्पीकर के इलेक्शन में या राष्ट्रपति या उपराष्ट्रपति के इलेक्शन में हिम्सा नहीं दिया गया। हमारे खयाल में अगर मौजूदा कानून के मुताबिक इलेक्शन दुस्ल भी हो तब भी मैं समझता हूँ कि यह एक ब्लैक स्पॉट है जिस को हम बरदाश्त नहीं कर सकते। मैं चाहता हूँ कि हर मेम्बर का हक बराबर हो, किसी के हक में फर्क नहीं होना चाहिये। लेकिन जो तजवीज हमारे लायक दोस्त ने रखी है उस से मुझे इतिफाक नहीं है। लेकिन मुझे उन के बिल से हमदर्दी है और मैं चाहता हूँ कि इस का कोई सावधान नकाना जाय और जो भी मेम्बर किसी भी कांस्टीट्यूएँसी में इलेक्ट हो कर प्राये उस का हक जायल न किया जाय। एक तजवीज

यह हो सकती थी जोकि मेरे लायक दोस्त ने रखी है कि हाउस खत्म होने के बाद भी इन ६ मेम्बर साहिबान को मेम्बर समझा जाय लेकिन यह तजवीज मुझे पसन्द नहीं है क्योंकि जब सारा हाउस ही खत्म हो जाता है तो इन मेम्बरों की क्यों एक खास पोजीशन रखी जाय, जो हक दूसरे मेम्बर नहीं रखने वह उन को क्यों दिया जाय, इसलिये मेरी यह तजवीज है, और यह तजवीज प्रिमिटेड से भी कबड है, कि हमारे इलेक्शन कमिशनर साहब इन ६ मेम्बरों का इलेक्शन उस वक्त तक करा लें—मसलन मितम्बर में या अक्टूबर में करा लें—जिस वक्त कि हमारे स्पीकर और डिप्टी स्पीकर साहब का या हमारे राष्ट्रपति या उपराष्ट्रपति जो के इलेक्शन से पहिले हो, ताकि वह उन इलेक्शन में हिम्सा न सके।

श्री० रणबीर सिंह (रोहतक) : हाउस के डिजॉल्व होने से पहले उन का इलेक्शन कैसे हो सकता है ?

पंडित ठाकुर बास भार्गव : प्राय यहाँ कैसे बैठे थे। हाउस डिजॉल्व हो चुका था और उस के बाद इलेक्शन हुए और उस के बाद भी प्राय यहाँ प्राये। हमारे यहाँ इलेक्शन का रिजल्ट इकतैअर हो गया था उस के बाद भी हम यहाँ प्राये और हम ने काम किया। लेकिन हिमाचल का इलेक्शन उस वक्त नहीं हो सकना था क्योंकि वहाँ बर्फ पड़ती थी और वहाँ का इलेक्शन बहुत पहिले हुआ। इसलिये मेरी गुजारिश है कि जहाँ हिन्दी इलाका हो और जहाँ इस किस्म की दिक्कतें हों, वहाँ पहले इलेक्शन कर लिया जाय ताकि जिनने वोट है वह सामान्य से प्रा मर्के और सङ्घिनयन के साथ इलेक्शन हो सके। उस वक्त भी जब १९५१ का एक्ट बना हम ने यह चीज मानी थी लेकिन मुझे याद नहीं कि क्या हानान्त थे कि जिन की

[पंडित ठाकुर दास भागंव]

वजह से हम ऐसा नहीं करा सके। इस वास्ते दफा ७३ ग्राहिर में पाम की गयी कि कहीं सारे देश का इलेक्शन बन्द न हो जाय। इस-लिये मेरी गुजारिश है ला मिनिस्टर साहब की खिदमत में कि अगर वह श्री हेमराज की तजवीज को पसन्द न करें तो मेरी तजवीज को आल्टरनेटिव की शकल में मंजूर फरमा लें। लेकिन अगर मेरी तजवीज आप को पसन्द न हो तो मैं यह पसन्द करूंगा कि आउट-गोइंग मेम्बर को जो हक श्री हेमराज चाहते हैं वह दे दिया जाय। लेकिन अमूलन यह दुस्त नहीं है कि आउटगोइंग मेम्बर ऐसा जानवर बनाया जाय जैसाकि सारे हिन्दुस्तान में न हो। मैं चाहता हूँ कि सब मेम्बरान का हक बराबर हो। इसलिये इन मेम्बर साहिबान का इलेक्शन पहले हो सकता है, और यह चीज प्रिसिडेंट से कवर्ड है और इस से कोई ऐब नहीं है कि इन का इलेक्शन पहले हो जाय। उस के बाद जनरल इलेक्शन हो सकता है और जब स्पीकर या डिप्टी स्पीकर साहब का या राट्रपति या उपराट्रपति जी का इलेक्शन हो उस वक्त वह दफा ५४ व दूसरे पार्टिकल के मुताबिक अपने हक का इस्तेमाल कर सकें। मेरी गुजारिश है कि मेरी तजवीज को भी एजामिन कर लिया जाय। अगर यह पीजबिल हो तो इस को मंजूर कर लिया जाय, क्योंकि असेम्बली काम होने के बाद आउटगोइंग मेम्बर को इस तरह का हक देना मैं पसन्द नहीं करता जैसाकि इस बिल में चाहा गया है। मैं चाहता हूँ कि इस चीज पर गौर किया जाय।

मैं इस बिल के प्रिसिपल को सपोर्ट करता हूँ, लेकिन जो प्रॉक्टिकल तजवीज दी गयी है उस से मैं मुत्तफिक नहीं हूँ। लेकिन अगर मेरी तजवीज को मंजूर न फरमाया जाय, तो मैं चाहूंगा कि जो तजवीज पेश की गयी है उस को ही मंजूर कर लिया जाय।

Shri Sadhan Gupta (Calcutta-East):  
Mr. Chairman, I support only that part

of the Bill, or rather that part of the spirit behind the Bill, which desires to assure the right of vote to representatives of certain constituencies which remain snow-bound during the most-part of the year. It may be that their number is not very large. Only about 8 Members of the Lok Sabha and the Assembly were involved in the last presidential elections, and it may be that if regular elections are held in Kashmir, some more will be involved. Of course, it will not be large, but the question is not what the number of members will be who will be deprived but that any member representing any part of India will continue to be deprived of the right to cast his vote for the election of the President and the Vice President and—I would also add in this connection—of the Speaker and Deputy-Speaker of the Lok Sabha or of the Assemblies to which members are elected from there.

This is as far as I support it, but I do not support the proposition which the hon. Member has advanced for achieving his aims. Before I discuss the merits of it, I want to put in a word about the contentions he has raised that the present arrangement is *ultra vires* the Constitution. The present arrangement is not *ultra vires* the Constitution. Article 54 is not the article of the Constitution in the light of which section 73 of the Representation of the People Act is to be judged. Article 54 only presupposes that certain Members have been elected to the Lok Sabha or to the Assemblies; it does not say anything about the constitution of the House, whether the Houses are properly constituted or not until the election has been completed from every constituency has to be determined with the reference to different provision. The article which is concerned with the due constitution of the Houses of Parliament and of the Assemblies is article 327, and also article 328 with which

we are not concerned at the moment. Article 327 says:

"Subject to the provisions of this Constitution, Parliament may from time to time by law make provision with respect to all matters relating to, or in connection with, elections to either House of Parliament or to the House or either House of the Legislature of a State including the preparation of electoral rolls, the delimitation of constituencies and all other matters necessary for securing the due constitution of such House or Houses".

The power to provide for the due constitution of this House or of the Legislative Assemblies or Legislative Councils of the States is given to Parliament under article 327. Under section 73 of the Representation of the People Act, Parliament has provided that even if the election is not completed, the constitution of the House will not suffer. The House will be duly constituted and I submit there is nothing in the Constitution which renders this section *ultra vires* of it. As a matter of fact, such a provision is necessary because it may happen—it often happens—that all the Members elected may not be present. Accidents may happen; sometimes some Members have died shortly after election and the constitution of the House cannot be held up for that purpose.

Therefore, it is not section 73 which is *ultra vires*. On the other hand, the proposition that Shri Hem Raj has advanced will itself be *ultra vires* because article 54 requires the elected Members of the Lok Sabha and of the Legislative Assemblies to be voters for the election of the President and the Vice-President. Under section 73 of the Representation of the People Act, which I have shown is quite valid, when the new Lok Sabha is constituted, the old Lok Sabha ceases to exist and the old Members of the Lok Sabha are no longer elected Members of the Lok Sabha.

By introducing a proviso to section 73, they cannot be made elected Members of the Lok Sabha, and, therefore, they cannot have the right to vote at the Presidential election. That is as far as the legal aspect is concerned. In the legal aspect it is not section 73 which is *ultra vires* but it is the Bill which will be *ultra vires* if passed into an Act.

But, apart from the legal aspect, the great objection to this particular provision in the Bill is that it seeks to confer a right to vote on persons who may have ceased to be representatives of the constituencies at all. The complaint is that the constituency is not represented. But, it might be that the constituency would be totally misrepresented by the Member who votes because a political shift has taken place and he ceases to represent the views of the electors of that constituency. That will be even more unfortunate.

There is no dilemma in this matter. We are not torn between two unsatisfactory alternatives, namely, either to have former Members voting or not to have any representative of the constituency at all. Pandit Thakur Das Bhargava has suggested a very suitable alternative which can be found. There is nothing in law which requires the members from those parts to be elected at the same time as the other parts of the country are electing their representatives. In view of the special circumstances of those areas, we could easily provide that the elections there can take place earlier before the snow begins to fall and, then, their representatives will be elected before other Members of the Lok Sabha and the Legislative Assemblies in the country are elected.

As a matter of fact, if my memory does not fail me, I think that was the procedure followed in the first General Elections. As far as I remember, the elections from some parts of Himachal Pradesh and some parts of the Kangra and Kulu Valley were completed in

[Shri Sudhan Gupta]

1951, somewhere in September or October, 1951 and, then, in 1952, about March or so, the rest of the country elected their representatives. That can be followed and that will enable the representatives of those constituencies to participate in the election of the President and the Vice-President. That will enable the elected representatives of those constituencies to participate even in the election of the Speaker and the Deputy-Speaker of the House, which the provision Shri Hem Raj has asked for in the Bill will not enable.

The provision which Shri Hem Raj has suggested will give only a partial representation and sometimes may be a distortion of representation to the constituencies concerned. On the other hand, the solution that Pandit Thakur Das Bhargava has suggested will obviate all difficulties. I think, after hearing this debate, Shri Hem Raj will also agree that the solution suggested by Pandit Thakur Das Bhargava is the best solution. I hope the hon. Law Minister will also take note of this opinion expressed in the House and see to it that, in future, the elections from those particular constituencies take place in proper time, whatever the time of the general elections in the rest of the country may be, that the elections from there are held a little earlier before the snow starts falling so that the Members may be elected before the constituencies become impossible.

With these words, I would suggest that Shri Hem Raj may withdraw this Bill and try to persuade the Law Minister to achieve the object of the Bill by persuading the Election Commission to do it by fixing a suitable time-table.

**Shri Ajit Singh Sarhadhi (Ludhiana):** Mr. Chairman, Sir, I congratulate Shri Hem Raj on having brought this Bill to focus the attention of Government as well as the Election Commission on the anomalous position that exists whereby 8 Members of the House are deprived of their right to vote for the election of the President and the Vice-President. But, as the hon. Member

from Calcutta who has preceded me has said, this Bill does not go far enough. Whereas the present amendment brought forward by him, certainly, enables the Members from H.P. and Kangra to vote for the election of the President and Vice-President, they would not be able to participate in the election of the Speaker and the Deputy-Speaker. Therefore, the proposal that has been suggested by hon. Pandit Thakur Das Bhargava and supported by the hon. Member from Calcutta is the one that Government should take into consideration and the Election Commission should act upon.

It is correct that the present amendment incorporates the recommendations of the Election Commission which they gave in their report pertaining to the second election to the Lok Sabha in 1957. But, I am afraid that at that time the Election Commission did not take into consideration the fact that the late elections from H.P. and Kangra deprived those members from participating in the election of the Speaker and the Deputy-Speaker also.

This Bill deals with the fundamental principle as well as general enactment. My hon. friend who preceded me, the hon. Member from Calcutta, has said that section 73 of the Representation of the People Act is *intra vires*. I believe there can be two opinions about it. You find that article 54 definitely postulates that the President shall be elected by the Members of an electoral college consisting of the elected Members of both Houses of Parliament and the elected Members of the Legislative Assemblies of the States. Article 55 lays down the method and the mode of election by giving a vote to each Member in accordance with the principle of proportional representation.

Similarly, in article 66 which deals with the election of the Vice-President, it is said that the election shall be by Members of both Houses and naturally this postulates that there

should be all elected members. Article 93 deals with the election of the Speaker and it says that the House of the People shall, as soon as may be, choose two Members of the House to be respectively Speaker and Deputy-Speaker thereof. The House of the People is not complete as long as all the Members are not there. Now, attention has been drawn to article 327 which says:

"Subject to the provisions of this Constitution, parliament may from time to time by law make provision with respect to all matters relating to, or in connection with, elections to either House of Parliament or to the House or either House of the Legislature of a State including the preparation of electoral rolls, the delimitation of constituencies, and all other matters necessary for securing the due constitution of such House or Houses."

This does not in any way override article 54 which precedes. My submission is that so far as section 73 is concerned it lays down that any time it is notified that the House is duly constituted, it becomes a duly constituted House, though certain Members are not there. This question was raised at the time when the debate took place in the First Lok Sabha and it was correctly asked: does it mean that when a notification is issued that it is a duly constituted House of the Lok Sabha when 60 Members are not there and they have not been elected? Would it be a duly constituted House? That is certainly a subtle point. But I need not go into that for it is not relevant. At present, when we are considering how best we can give representation to the Members from H.P. and Kangra, of which they are deprived because of the exigencies of the weather. On this point, there cannot be two opinions. They have got to be given representation. I believe it is a great injustice to deprive them. Every citizen of India is entitled to the highest office. Every citizen has got a right not only to stand for election as a Member but also to

stand for the Speakership or Deputy-Speakership. If these provisions deprive him of that chance it is a great injustice; it deprives him of a fundamental right. I can only plead with the hon. Minister. I believe when he said that he wanted only five minutes, he is going to agree to the principle and will be coming forward with certain provisions accepting this . . .

**The Deputy Minister of Food and Agriculture (Shri A. M. Thomas):** You will be disillusioned.

**Shri Ajit Singh Sarhadi:** I do not think I will be disillusioned on this matter. If he brings such a provision, elections can be held early in September, as Pandit Bhargava has said.

With these words, I certainly support Shri Hem Rai and I would submit to the hon. Minister that he should evolve a way out of the situation by which all Members from H.P. and Kangra would be given the right not only to participate in the election of the President and Vice President but also that of the Speaker and the Deputy-Speaker.

श्री मू० बं० जैन (कैपल) : बेयरमन साहब, जहाँ तक हम बिल के प्रिम्पल का ताल्लुक है, मैं उन की हिमायत करने के लिये खड़ा हुआ हूँ। मैं नहीं समझता कि इस धानरेबल हाउस का कोई भी मुम्बईज मेम्बर इस राय का हो सकता है कि हिमाचल प्रदेश के चार मेम्बरों और कांगड़ा जिले के दो लोक-सभा के मेम्बरों और दो पंजाब विधान सभा के मेम्बरों को जो मौजूदा तरीके की बजह से राय का इन्तेमान करने के हक से डिप्राइव किया गया है, वह हक उन को न मिले। जो कुछ प्रायुमेंट्स मुझ से पहले मेरे बूजुर्ग दोस्त, पंडित ठाकुर दास भागवत, ने या धानरेबल मेम्बर फ्राम कलकत्ता ने दी हैं, मैं उन को दोहराना नहीं चाहता, लेकिन मैं यह उम्मीद कहना चाहता हूँ कि जहाँ तक हम बिल का ताल्लुक है, यह कोई उन तकनीक का सही इलाज

[श्री म० च० जैन]

नहीं है। एक तो यह बिल नाकाफ़ी है, क्योंकि इस में इस बात की कोशिश तो की गई है कि हमारे जून और जुलाई में चुने हुए मेम्बरों को प्रेज़िडेंट और वाइस-प्रेज़िडेंट के भ्रगले इलेक्शन के लिये मेम्बर तसब्बुर किया जाय, लेकिन इस में इस सवाल का कोई हल पेश नहीं किया गया है कि उन को लोक सभा के स्पीकर और डिप्टी स्पीकर के इलेक्शन में भी राय देने का मौका दिया जाय। नए इलेक्शन के बाद हाउस अप्रैल या मई में मिलता है। अगर इस बिल को एक्सेप्ट भी कर लिया जाये, तो भी स्पीकर और डिप्टी स्पीकर के चुनाव के मामले में हिमाचल प्रदेश और कांगड़ा जिले के दो मेम्बरों को राय देने का कोई हक नहीं मिलता है। इसलिये उन को कुछ तकनीक हल होंगे और कुछ बाकी रहेगा। इसलिये यह बिल नाकाफ़ी है। जैसा कि कलकत्ता के मानरेबल मेम्बर ने कहा है, मैं खुद इस बात को मुनासिब समझता हूँ कि जो मेम्बर अब है, हो सकता है कि हिमाचल प्रदेश उन को भ्रगली दफ़ा इलैक्ट न करे और इसलिये यह उसूल गलत होगा कि हाउस के डिज़ाल्व होने के बाद भी उन को मेम्बर तसब्बुर कर लिया जाये। इस सवाल का यह सही इलाज नहीं है।

मुझे तो यह गलती इलेक्शन कमिशन की मालूम होती है। मुझे अच्छी तरह से याद है कि १९५२ में हिमाचल प्रदेश का इलेक्शन फ़रवरी, १९५२ से पहले, यानी सितम्बर अक्टूबर, १९५१ में ख़त्म हो गया था। रिप्रेज़ेंटेशन बिल दि पोपल्स एक्ट, १९५१ के सेशन ३० के तहत इलेक्शन कमिशन को यह अख़्तियार है कि वह किसी कांस्टीच्युएँसी को दाख़त दे कि वह अपने नुमायन्दे इलैक्ट करे। जहाँ तक हिमाचल प्रदेश और कांगड़ा जिला का ताल्लुक है, वहाँ इलेक्शन कमिशन उस को इस सिलसिले में पहले दाख़त दे सकता है। अगर सारे

रिप्रेज़ेंटेशन बिल दि पोपल्स एक्ट का अध्ययन करने के बाद हम इस नतीजे पर पहुँचें या ला मिनिस्टर इस नतीजे पर पहुँचें कि उस में एक अमेंडमेंट की ज़रूरत है, जिस की वजह से इलेक्शन कमिशन को यह हक हो कि वह हाउस के पूरे तरीके से डिज़ाल्व होने से पहले हिमाचल प्रदेश और कांगड़ा के वोटर्स को अपने मेम्बर इलैक्ट करने की दावत दे, तो फिर उस एक्ट में उस क्लिप की अमेंडमेंट हो सकती है। मेरे लायक दोस्त ने इस सेशन में जो अमेंडमेंट पेश को है, इस से और बेचोदगी पैदा होगी और वह मसला हल नहीं होगा।

मैं समझता हूँ कि मेरे लायक दोस्त श्री हेमराज इस बिल को विदड़ करे और साथ ही साथ मैं ला मिनिस्टर से यह उम्मीद करता हूँ कि हिमाचल प्रदेश और कांगड़ा के मेम्बरों को सरटन राइट्स से जो डिप्राइव किया गया है, वह उस का लाज़िमो तौर पर इलाज करे और आज हो इस हाउस में एशोरेंस दें कि वह इस तरीके से इस का इलाज कर रहे हैं।

इन शब्दों के साथ मैं इस बिल के प्रिसिपल की हिमायत करता हूँ और वैसे मैं मानरेबल मूवर से दरख़ास्त करता हूँ कि वह इस को वापस ले लें।

Shri D. C. Sharma (Gurdaspur):  
Mr. Chairman, S.r, I feel very sorry  
for my hon. friend, Shri Hem Raj.

Some hon. Members: Why?

Shri Hem Raj: I want your sympathy.

Shri D. C. Sharma: Sir, he argued his case on constitutional grounds and legal grounds, and all the learned lawyer Members of this House have seen to it that his Bill should have no legal leg to stand on. So, so far as the legal aspect of this Bill is concerned I do not want to go into it,

because all the legal luminaries in this House have spoken with a different voice.

**Shri Sadhan Gupta:** What about the literary experts?

**Shri D. C. Sharma:** But, Sir, I would like to say one thing, that so far as the constitutional propriety of this Bill is concerned there cannot be any two opinions about it. I think this has been conceded by the Members who have spoken before me, though they have done so in a very halting and faint-hearted manner.

The Constitution, Sir, is a dead-letter if you do not give any implementation to it. The question is, how to implement what the intention of the hon. Member is. My *guru*, Pandit Thakur Das Bhargava put forward a suggestion and that seems to have been favoured by some hon. Members. He said that elections to these Assemblies and to the Lok Sabha should be held sometime in October so that no disability is involved so far as Members from these constituencies are concerned. But I think this also is doing something by means of which we are saddling the Election Commission with more burden than is necessary. I would therefore say that the suggestion made by Shri Hem Raj can be constitutionally valid and can also be legally acceptable. It is also very, very practical. After all, the Constitution does not live in the air and law does not always fly in the sky. The Constitution has to come to the ground and law has also to come to the brass-tacks. All these things have got to be looked at from the practical point of view. Therefore, the suggestion that Shri Hem Raj has put forward is operative without coming into conflict with the fundamental provisions of the Constitution and also without coming into conflict with the broad principles of law. Of course, there can be small principles of law over which we are always fighting.

**Shri Narayanankutty Menon (Muk-andapuram):** Is he supporting the Bill?

**The Deputy Minister of Law (Shri Hajarnavis):** He is expounding the law.

**Shri D. C. Sharma:** The suggestion made by Shri Hem Raj should be given effect to. After all, we are going to confer a very, very limited privilege on those persons who may not be returned. A point was made here that those persons may not be returned to the Lok Sabha or the Vidhan Sabha for which the new elections take place. When we are going to confer upon those persons a privilege which is of a very, very limited kind and for a very, very limited period, I think that the best way of removing this disability is to accept this measure in a very, very limited way. I hope there would be no trouble of any kind, and it should be done.

There is another aspect of the question which should be considered. I think these parts of Kangra and some parts of Himachal Pradesh are not the only snow-bound areas of India. If I understand India aright, I think India has also Darjeeling, Shillong and other mountainous parts which are snow bound. I would like to ask the Election Commission as to what they are doing with regard to those snow bound areas and those constituencies. I would like to remind the hon. Minister that there are other countries also where there is snow-fall and where there is winter which is much more severe than in our country. I want to know from the hon. Minister what kind of arrangements are made in those countries for holding the elections in those parts.

So far as I know, in England, I think they are able to overcome the contingencies of geography. I cannot understand why the Minister of Law cannot over-ride these disabilities imposed upon us by the contingencies of weather. Wisdom lies in this: we should devise some ways of holding these elections at one and the same time, snow or no snow, good

[Shri D. C. Starma]

weather or bad weather. If that cannot be done, the suggestion put forward by Shri Hem Raj, which is constitutionally valid, legally sound and above all, practical, should be accepted.

**श्री० रणवीर सिंह (रोहतक) :** समा-पति महोदय, श्री हेम राज जी के संगोष्ठीक विधेयक के पीछे जो भाव है, उस की मैं तारीफ़ करता हूँ, लेकिन मैं समझता हूँ कि शायद वह भी अपने दिल में मानते हैं कि यह कानून बदलने के लिये इस की कोई आवश्यकता नहीं है और वह तो चाहते थे कि यह जो मसला है, वह देश के सामने प्रायः और इस की ग्रहणियत सदन को पता चले। जैसा कि मेरे पूर्ववक्ताओं ने कहा है, जहाँ तक राष्ट्रपति और उपराष्ट्रपति के इलेक्शन में खड़ा होने का वास्ता है, वह तो प्रायः बगैर सदस्य बने भी हो सकता है। मेरे प्रतिद्वंद्वी श्री० हरीराम १९५२ में भी मेरे खिलाफ़ इलेक्शन में लड़े और १९५७ में भी मेरे खिलाफ़ इलेक्शन लड़े और दोनों चुनावों में हारे, लेकिन फिर भी वह दोनों दफ़ा राष्ट्रपति के इलेक्शन का चुनाव लड़े। जहाँ तक राष्ट्रपति और उपराष्ट्रपति के चुनाव लड़ने का वास्ता है, वह अधिकार तो हिमाचल प्रदेश और कांगड़ा के बनने वाले मेम्बरों को है, लेकिन उस इलेक्शन में राय देने का हक उन को नहीं है। इसी तरह स्पीकर और डिप्टी स्पीकर के इलेक्शन में भी न तो उन को खड़ा होने का अधिकार है और न ही वोट देने का अधिकार है। मैं समझता हूँ कि जो सन् १९५२ में हुआ, वह प्रायः १९६२ में भी हो सकता है और दस साल के बाद वही १९५२ वाला तजुर्बा दोहराया जा सकता है और दोहराया जाना चाहिये। लेकिन मैं जानता हूँ कि रिप्रेजेंटेशन आफ़ दि पीपल्स एक्ट में तब्दीली आयगी और वह इसलिये कि ज्यों ही हम बम्बई के री-आर्गनाइजेशन बिल को, जो कि इस वक्त हमारे सामने है, पास करेंगे, तो उस

के तहत मौजूदा बम्बई राज्य की जो राज्य-सभा की निगस्तें हैं, उन को बढ़ा कर दो निगस्तें गुजरात का अधिक दी जायेंगी। मैं समझता हूँ कि जिस तरफ़ श्री हेमराज को ध्यान दिवाना चाहिये था, वह उन्होंने ने नहीं दिलाया, क्योंकि वह बहुत ज्यादा कांस्टीट्यूशनल नुक्ता-ए-निगाह में फंस गये, जिस की यहां के वकील बहुत ज्यादा तारीफ़ नहीं कर पाये। मेरा मंगना है कि पंजाब में जो ज़िनों की री-आर्गनाइजेशन हुई है, उस के तहत लाहौल और स्पिती के इनके का एक ज़िला माना गया है और मैं समझता हूँ कि यह बहुत जरूरी होगा कि जो संशोधक विधेयक हम लायें, उस में यह भी रखा जाये कि पंजाब विधान सभा का जहाँ तक वास्ता है, वहाँ दो सीटें बढ़ाई जायें—एक लाहौल को दी जायें और एक स्पिती को दी जायें। आज चीन ने इस देश के लिये जो खतरा पैदा किया है, उस के नुक्ता-ए-निगाह में भी यह बहुत जरूरी है कि उन के नुमायंदे पंजाब असेम्बली में आयें। यही नहीं, पंजाब के १८ नुमायंदे पहले इस सदन में होंते थे और ५ वीप्स के होंते थे और जिस वक्त पंजाब और वीप्स को मिला कर हम ने डोमिनियेशन की, तो २३ के बजाय २२ मेम्बर कर दिये। मैं चाहता हूँ कि उस को दोबारा २३ कर दिया जाय और लाहौल और स्पिती में भी एक मेम्बर इस सदन में प्राय। मैं समझता हूँ कि इस वजह से हमें इस कानून में तब्दीली करनी पड़ेगी और जो बिल प्रायें, उस में इन दोनों चीजों का अवश्य जिक्र हो। जहाँ तक उस की प्राप्ति का वास्ता है, मैं समझता हूँ कि उस का तो हल होना चाहिये। पिछली दफ़ा जब इलेक्शन का प्रोग्राम बना, तो उस के तहत चुनाव पहले खत्म हो जाना चाहिये था और उस के लिये वे रैथार भी हुए, लेकिन अचानक उस चुनाव को रोक दिया गया और उस चुनाव के प्रोग्राम में फंस डाल दिया गया। पता नहीं इलेक्शन कमीशन को इस में क्या

मुश्किलता थी। लेकिन पंडित ठाकुर दास भागवत ने जो मुझाव दिया है, मैं समझता हूँ कि उस को मानने में न तो इलेक्शन कमीशन को कोई ऐतराज होना चाहिये और न ही विधि मंत्रालय को होना चाहिये।

श्री सि० ना० राधोवल (महासू) :  
जनाब चेयरमैन साहब, यह जो बिल हमारे सामने है और जिस को मेरे दोस्त श्री हेम राज जी ने पेश किया है, इस के बारे में मुल्तलिफ कानूनी रायें यहां पर रखी गई हैं। श्री बी० च० शर्मा जी ने कहा है कि दूसरे इलाके भी, जहां पर कि बरफ पड़ती है, इस में शामिल कर लिये जाने चाहिये। मैं समझता हूँ कि इस बिल की जो भावना है वह यही है, इस का जो मतलब है, वह यही है कि जिन इलाकों में बरफ पड़ती है, मसलन हिमाचल प्रदेश के ऊपर का इलाका है, पंजाब के ऊपर का इलाका है और भारतवर्ष में अगर और कोई ऐसे इलाके हैं जहां बरफ पड़ती हो वहां पर इलेक्शन का कौन सा तरीका अपनाया जाय। यह निहायत जरूरी चीज है कि वहां के लोगों को, वहां के नुमाइंदों को, प्रेजिडेंट, स्पीकर, डिप्टी स्पीकर इत्यादि की इलेक्शन में पूरा हिस्सा मिले। यह उन का अधिकार है, यह उन का हक है जोकि उन को मिलना चाहिये और उस हक को कायम रखना ही इस बिल का मकसद है। यह चीज है, जोकि इस हाउस को, गवर्नमेंट को, ला डिपार्टमेंट को और इलेक्शन कमीशन को मोचनी है। यह चीज पंजाब और हिमाचल तक ही सीमित नहीं है बल्कि सभी इलाकों पर लागू होती है जहां कि बरफ पड़ती है। यह कहा गया है कि जिन लोगों का इलेक्शन खत्म हो चुका है, हाउस डिजॉल्व हो चुका है, उन को यह हक नहीं दिया जा सकता है कि वे प्रेजिडेंट, स्पीकर इत्यादि की इलेक्शन में हिस्सा लें और यह चीज अवैध हो सकती है। इस के बारे में एक मुझाव पंडित ठाकुर दास

जी ने दिया है जिस पर विचार हो सकता है। एक घटना जो घटित हो चुकी है, मैं आप को बतलाना चाहता हूँ। १९५२ का जो इलेक्शन था, हिमाचल प्रदेश ने उसे अक्टूबर १९५१ में ही खत्म कर दिया था और जब वह वहां खत्म हो चुका, उस के बाद जा कर तमाम भारतवर्ष में दूसरी जगहों पर इलेक्शन हुआ। इस तरह से अगर कानूनी और कांस्टिट्यूशनली कोई सहूलियत हो सके, स्नो-बाउंड एरियाज के लिये तो यह बहुत अच्छी बात होगी।

मैं आप को यह भी बतलाना चाहता हूँ कि जहां तक हिमाचल का ताल्लुक है, वहां पर जो बरफानी इलाके हैं, वहां से तमाम लोग बरफ के दिनों में मैदानी इलाकों में घा जाते हैं, नीचे घा जाते हैं। दूसरे मुल्कों में बरफ के दिनों में इलेक्शन करना सम्भव हो सकता है लेकिन वहां सम्भव नहीं हो सकता है। इस का कारण यह है कि वहां रहने वाले लोग बरफ के दिनों में गरम इलाकों में चले जाते हैं अपने कुत्तों के साथ और अपनी भेटो-बकरियों के साथ और इतलिये बरफ के दिनों में वहां इलेक्शन होना ना-मुम्किन है। इन वास्ते नवम्बर-अक्टूबर में अगर कोई अइचन न हो, तो वहां इलेक्शन करने की तजवीज हो जाय, तो बहुत अच्छा होगा और जो मंशा इस बिल का है वह इस तरह से पूरा हो सकेगा और जो समस्या है, उस का समाधान हो सकेगा।

Shri Majumdar: I regret that I have to oppose the Bill, which I do most reluctantly, because so far as the principle of the Bill is concerned, Government are in agreement with it, Constitution having granted the right to vote to a particular Member, he ought not to be deprived of it. But, it will be appreciated by the House that what the Constitution has given, history and geography have denied to those members, history because it

[Shri Hajarnavis]

chose a particular date and geography because on that particular date the place is covered with snow, and the result of it, therefore, is that members come in too late to take part in the various elections to which they are entitled and they go out before the next election is held.

When I began to consider the problem, as I said, with the greatest possible sympathy for the principle underlying the Bill, I was confronted with several difficulties. I will not dilate upon them, because those difficulties have been already expressed by the hon. Members of this House. Which exactly would be the best method of achieving the object is a matter to which we are giving the greatest possible consideration and we hope before the next election we shall come to the House with a solution to this problem. And I can assure the hon. Mover of the Bill that Government acknowledge the deep debt of gratitude which they owe to him for bringing this matter before this House and before the Government in this pointed manner.

But as has been pointed out by hon. Members, Pandit Thakur Das Bhargava and Shri Sadhan Gupta—two hon. Members for whose legal acumen and resourcefulness I have very high regard—probably the solution that the hon. Mover of this Bill has suggested is not quite the correct solution because, as they themselves have said, if the House is dissolved how can hon. Members survive? Article 83(2) of the Constitution states that either by the dissolution of the House or by the expiration of a period prescribed under the Constitution the House ceases to exist. If the House ceases to exist, then I do not think that what the Constitution does not permit to be prolonged can be prolonged by a law made by this House that is to say membership cannot be continued beyond the dissolution of the House. Therefore I regret that in the present form the Bill cannot be accepted.

But I can assure the House that I am deeply grateful to the various hon. Members who have made various suggestions and in particular we shall examine with very great care the suggestion which fell from the hon. Member, Pandit Thakur Das Bhargava, and which has the support of Shri Sadhan Gupta also as to whether those elections cannot under the present law be held earlier pending the other elections. If that could be done without affecting the rights of other hon. Members, I do not think there can be any better solution. I believe with this assurance the hon. Member may withdraw the Bill.

**Shri Hem Raj:** Mr. Chairman, Sir, I am very thankful to this hon. House and to hon. Members who participated in this debate and sympathised with the aspirations of the hill people. I am grateful that both the Government and the hon. Members who supported the principle of the Bill have appreciated the difficulty and our hardship. As the third general elections are going to take place, I am sure the Government will be bringing forward certain amendments to the Representation of the People Act according to the recommendation of the Election Commission and in the light of the views expressed here will certainly try to solve this difficulty of ours. I am grateful to the Government that they have accepted the principle and I will request the House to grant me leave to withdraw it.

**Mr. Chairman:** Has the hon. Member the leave of the House to withdraw the Bill?

*The Bill was, by leave, withdrawn.*

16.54 hrs.

CATHOLIC CHURCH PREMISES  
 AND ECCLESIASTIC ORDER  
 (RESTRICTION OF POLITICAL  
 ACTIVITY) BILL

**Shri Nagi Reddy (Anantapur):** Mr. Chairman, Sir, I am very thankful for the permission given to me to move