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**15.40 hrs.**

## **CONSTITUTION (AMENDMENT) BILL, 2000**

### **(Amendment of articles 81 and 170)**

Title: Consideration of the Constitution (Amendment) Bill, 2000 (Amendment of articles 81 and 170. (Continued).

MR. DEPUTY-SPEAKER: The House shall now take up further consideration of the Bill. Shri G.M. Banatwalla was on his legs on the previous occasion. He may continue his speech.

SHRI G.M. BANATWALLA (PONNANI): Mr. Deputy-Speaker Sir, our country follows the 'first-past-the-post' or the majoritarian electoral system. A candidate who gets the highest number of votes among all the candidates in a constituency is declared elected. It will be appreciated that it is not just the polls which have to be fair and free, but also the electoral system must be just and fair in its outcome.

In this respect, our system suffers from serious and several deficiencies. In the first place there is a considerable wastage of votes. The votes cast in favour of the defeated candidates are a total waste, but it must be realised that the votes in favour of the defeated candidates are also a part and parcel of the national vote and they must be allowed to reflect upon the composition of the legislature.

**15.41 hrs.** (Shrimati Margaret Alva *in the Chair*)

Secondly, another important deficiency of our present voting system lies in the fact that there is no relationship between the total number of votes cast and the number of seats won by a political party. This disproportionality is a great weakness and contributes to the weakness of the representative democracy that we have.

A third great weakness of our present electoral system is that the weaker sections are at a great disadvantage. Here, I would like to quote Tribhuvan Nath Jaiswal and Ram Kumar Dahal in the book *Ethnicity, Nations and Minorities*, edited by Bonita Eliasz, Lipi Gosh and Achintya Kumar Dutta at Page 143.

"A democratic society allows enough scope and opportunities to its weaker sections to mobilise on the basis of their social identities in a concerted effort to cut through the dominance of certain privileged groups and create a space for themselves in their social picture."

Our system fails very badly in this particular respect and in order to ensure this position, my Bill seeks to introduce the List System, a proportional representation system. In fact, the Bill suggests a mixed electoral system. The present number of Members of Parliament or Legislature will be elected as per the present system. But, a further 50 per cent of this total strength will come according to the List System. Therefore, it is being ensured that there is some proportionality between the votes cast and the seats won by a political party. It is being ensured that the political parties get as many seats as their proportion to the number of votes polled by them. A just ratio between the seats won and the votes obtained has also to be maintained.

Madam Chairperson, you will realise that the List System is more representative in character. It is acknowledged the world over. It avoids wastage of votes. It will reduce the disproportionality which is inherent in our present system of voting.

I may draw the attention of the House to two important experiments that have been made. In the case of South Africa, we find that South Africa used a classical proportional electoral system for its first democratic elections of 1994 and, with 62.65 per cent of the popular vote, the African National Congress won 63 per cent of the national seats. The party got 62.65 per cent of the votes and won 63 per cent of the national seats. That shows the just and fair outcome of the electoral system and here, in the case of South Africa, the number of wasted votes was only 0.8 per cent of the total. On the other hand, we have the case of Lesotho in the neighbourhood. Lesotho had a classical majoritarian system like our system of voting. Basotho Congress Party won every seat in the 65-member Parliament with 75 per cent of popular votes and there was no Opposition whatsoever. With 75 per cent of votes, 100 per cent of the seats were taken over by one party and the Parliament was deprived of even an Opposition. We have had such outcome.

Now, it is necessary that we have an electoral system which is just and fair in its outcome. I do realise that a criticism is often made that the List System or proportional representation system of voting leads to multiplicity or proliferation of political parties. This is often the criticism that is levelled. I may respectfully submit that even with our present system of voting, there is multiplicity of political parties. In this House, we have more than nearly 40 political

parties.

You will realise that the party system in a democratic polity is the natural product of issue dimensions in a country. The party system depends upon the issue dimensions in the country. Here, I would like to quote D. Miller, a social scientist. D. Miller, in his article in *Economics and Political Weekly* dated 25<sup>th</sup> July, 1987, at page PE-61, states:

"Whereas the action and non-actions of the State are necessarily political, whatever they are, they will have, and must have, political consequences. And the most significant consequence is undeniably different impact on the different segments of the society. This, of course, is so everywhere. But because of the heterogeneity of Indian society, the impact of the State there has to be even more uneven."

We, therefore, see that party system is a natural product of issue dimensions in our country. These political parties really depend upon the number of issues that are there.

I may also point out to this House that great social scientists like Arend Lijphart, Lorwin, Daldar, Steiner, Yogendra K. Malik, all speak of various devices and mechanisms that help multiple societies to resolve conflicting and competing claims within the democratic society. Among these institutions are the proportional system of representation in legislature and civil services, coalition Governments and various others. All these are institutional devices and mechanisms that are essential conditions for the success of democracy.

Madam Chairman, I have, in my Bill, suggested the introduction of the List System along with the present system. Our Law Commission, in its 170<sup>th</sup> Report, also recommends adoption of proportional system, adoption of the List System. Of course, in my Bill, there are certain variations. The Law Commission wants that the present strength of the Members of the House will be elected according to the present system of voting and 25 per cent extra will be voted or will come to the House under the List System. I have, instead of 25 per cent, suggested fifty per cent.

MADAM CHAIRMAN : That extra 25 per cent can go to women.

SHRI G.M. BANATWALLA : I have in all fairness, Madam Chairman, referred to the variations that I have made in the recommendation of the Law Commission. A deeper understanding of the subject will also suggest that there should be no threshold whatsoever. There should be no elimination of any political party from being assigned the seat if its vote falls below a particular percentage. Otherwise, there will be again wastage of vote; and wastage of national vote will be a serious weakness of democracy.

MADAM CHAIRMAN: Do you suggest that this 25 per cent of the List System should go to the women?

SHRI G.M. BANATWALLA : I was only pointing out to the recommendation of the Law Commission. You should know that the Law Commission did not make any such recommendation.

Here we are discussing the question of the List System. Along with the List System, my another suggestion in the Bill is that the electoral system must so operate as to result in an elected body which is truly representative of the multiple character of our society. It is necessary that every section in our society is represented in the legislatures. Otherwise, frustration sets in and this frustration creates, at times, national crisis.

I have also stated that proportional representation, that is representation in proportion to the population, has to be given to the Muslims, to the Christians, to other minorities, to the OBCs, and, of course, it has to be there for the Scheduled Castes and Scheduled Tribes. This recommendation is also there. In the case of Muslims, I need not point out to you, Madam Chairperson, that the representation of the Muslims here in the Lok Sabha is continually on the decline.

Madam, the Muslim representation in the Lok Sabha is continually on the decline. The women representation in the Lok Sabha is continually increasing.

MADAM CHAIRMAN : No. It is coming down.

SHRI G.M. BANATWALLA : I have the figures here. But the Muslim representation in the Lok Sabha is continually declining. It has declined from 8.10 per cent in 1980 to only 5.78 per cent in 1999. There are various other figures also with me. The House is well aware of them and I need not take the time of the House in giving out all those figures. The fact remains that we were so conscious about the composition of the House that it holds a mirror to the society, we were so conscious of the fact that the House must be truly representative of the society having representation of all sections that in the Draft Constitution of free India, there was a clause for 10 per cent reservation for the Muslims. Earlier, there was a separate electorate. ...(*Interruptions*) These were abolished and I

am not going into the history of them.

Now, I would like to draw the attention of this House to what Dr. Pattabhi Sitaramayya, who was the then Congress President, said in the Constituent Assembly. I quote him from the Constituent Assembly debate – Volume IX, dated 25<sup>th</sup> November, 1949, page 946:

"It is a gentleman's agreement that we have entered into, a terrible responsibility that we have taken upon our shoulders, when we asked them (Muslims) to give up their reservations and their separate electorates. We have to find out as many representatives from the Muslim community through the medium of joint electorate as would have been their legitimate share, if they had their separate electorates. Even so (was the case) with the Indian Christians and others. "

But it is unfortunate that this system, the noble sentiments are not reflected today. The weakness lies in our present system. I have, therefore, come before the House with a Bill with the main objective of making the legislatures truly representative of our society. Therefore, I have suggested in my Bill a mixed electoral system. The present strength of the Parliament and the Legislatures will be elected according to the present system and an additional 50 per cent will be elected under the proportional List System so that the political parties have seats in proportion to the votes that they secure.

Secondly, I have provided in my Bill for proportional representation to each of the minorities and OBCs according to their population.

I may submit that the adoption of the List System is now much overdue. There is a proliferation of parties in our society. This multiplicity of parties has further reinforced the several grave deficiencies of our present first-past-the-post system or the majoritarian system of voting. The adoption of the List System is very much overdue and I make a fervent appeal to the Government and to all the hon. Members in the House to rise above all considerations, meet the situation and see to it that the composition of the various Legislatures throughout the country and the Lok Sabha is truly representative of the society.

With these words, I commend my Bill for the unanimous adoption by this House. Madam Chairperson, I thank you very much for having given me this opportunity to speak.

**16.00 hrs.**

SHRI KHARABELA SWAIN (BALASORE): Madam Chairman, I rise to oppose the Constitution (Amendment) Bill piloted by the hon. Member, Shri G.M. Banatwalla. Basically he has recommended two things through this Bill. One is that instead of direct election there should be a mixture of direct election and election through a List system. The second suggestion he has made is that there should be reservation not only for the Scheduled Castes, Scheduled Tribes, Other Backward Classes, but also for the Minorities including Sikhs, Muslims and Christians.

Madam, in India, we are having two chambers in Parliament, namely the Lok Sabha and the Rajya Sabha. In most of the States we are having only one chamber, that is, the Vidhan Sabha; but in some States we are having both the Vidhan Sabha and the Vidhan Parishad. For the Rajya Sabha and the Vidhan Parishad, Members are elected indirectly. But Shri Banatwalla insists that if we follow the List system, then all the parties will be represented. In this system, the parties will just publish a list of candidates whom they want to send from their parties and according to the percentage of votes they get in the election, proportionally their candidates will be elected. If a party gets five per cent of votes in the election, then the first five per cent of Members from that list will be elected. This is an indirect election. That means, the people are not voting for a particular candidate, but he will be sent to the Parliament or the Legislative Assemblies because his party has got some votes.

My submission is, we are already having the Rajya Sabha in Parliament and the Vidhan Parishad in some States where Members are already elected in an indirect way. So, do we want that another 50 per cent of the Members to be elected indirectly? Now, since a Member is elected directly by the people to the Lok Sabha or to the Vidhan Sabhas in the States, he represents a particular constituency and, so, he is responsible to the people of that constituency. They go to him and ask him to get some work done for them. He is duty-bound to listen to their grievances and redress them. But will those Members elected through the List system have any accountability? Whom will they represent and who will go to them? Why should they be interested in solving the problems of the people.

Madam, in our *Shashtra* we have the *Ganesh Parikrama* system which is known to everybody. When there was a competition between Ganesh and Kartikeya as to who is the greatest among them, Kartikeya said that whoever goes around the world faster is the greatest. So, Kartikeya went in his *Mayur vahan* and very quickly encircled the world. But Ganesh with his *Mooshak vahan* went around his father and mother and said that father and mother are

greater than the world and so I have encircled them much quicker than you. So, once we have the List system, what will happen is that instead of going to the people, the candidates will always be sitting in Delhi, going around only their leaders.

Whosoever is very close to the leaders will also become a leader. Do you want such a system in this country? I do not know whether such a system is prevalent anywhere in the world. There are two things. There is a list system. There is also the second Chamber to which the people are elected indirectly. India is a country where a Member of Parliament represents more than 15 lakhs of people. Is there any country in the world where a representative represents so many people? Is it possible to do so? Nowhere it is possible. There are countries where MPs represent 10,000, 5,000 or even 1,000 people. So, this is the first thing. I say that the list system is very cumbersome and not suitable to our country.

Hon. Shri Banatwalla has raised another point that in Lesotho, only one party ruled. All the Members were elected from one party. Does it happen in India? We are having so many parties. May I know which is the party that remains unrepresented? Is it not true that in spite of proliferation, of parties all the parties in India are represented? They may not come to power. But all the parties are represented. How many one-member parties are there in our Parliament? So, all the parties are represented. There is hardly any party that never gets any representation. So, I do not agree with his contention that there should be list system and through that any party - any type of people - and people of any region should get represented.

Secondly, I come to the process of reservation with regard to minorities. Do you believe that reservation for the minorities will actually help a minority community? Take the example of Sikhs or Christians. They hardly constitute two or three per cent in this country. But a Sikh has become the President of this country. Do you think that if you give them reservation, they will ever come up? Take the example of Punjab. The Sikhs in Punjab do not constitute a very vast majority. The Hindus are almost equivalent in number there. Sikhs are hardly 52-54 per cent in Punjab and Hindus are about 48 per cent. But right from the inception of that State, all the Chief Ministers have been Sikhs. That State was created for the Sikhs because of their sentiments. That is why the Sikhs have been able to become Chief Ministers all the time. Nobody has objected and nobody could object to it. But if you confine it to their percentage of two or three per cent, the Sikhs will never become anybody in this country.

Now, take the example of Christians also. They belong to a very great and meritorious community in this country. They have risen very high. Nobody says that our hon. Minister of Defence, Shri George Fernandes, is a Christian. He is a leader of India. He has been a great trade union leader among the workers.

Madam Chairperson, if you have risen so high, it is not because you are a Christian, but because of your qualities. Until I came here, I never knew that you were a Christian. I knew that you were a Minister. You are a front-rank leader of the Congress Party.

Now, take another example. Shri Banatwalla has mentioned that the representation of Muslims is reducing day-by-day. Why is it so? I am not hesitating to tell these things. Let these Muslim leaders search their own souls. Whenever they try to present themselves, they do so as representatives of the Muslim community. There is hardly any Muslim leader who tries to present himself as a leader of this country. Most of the time, he is only involved in the Babri Masjid structure and whether there shall be a uniform Civil Code. He is very touchy about it. Should there be cow slaughter? He is very touchy about it. Why is this thing there? He will represent all the time only one particular community and one particular mindset. He will perform his duties in a manner as if he is trying to satisfy his own community. But does he try to satisfy the thought process of other community?

You take the example of the Babri structure. You take the example of Kashi and Mathura. Yes, the Muslim community think that 'it is a question of prestige, it is a question of dignity and that we will never give up our demand of Kashi and Mathura.' But anybody, particularly a Hindu, who goes to Varanasi or to Kashi Vishwanath Temple, the Brahmins and Purohits show him that the Nandi is facing a Masjid. The Nandi is supposed to look at Lord Shiva. But he is looking at the Masjid. What does he feel? Does he feel very happy about what has happened? Does he feel that in Mathura and Kashi the Muslims and Hindus came together about 300 or 400 years before and they decided that they will have Masjid and Mandir side by side? Does anybody believe this?

When any Muslim leader says, 'I will not give up my prestige and dignity and that if I give up my Masjid there, I give up my prestige and dignity', does it not hurt the Hindu sentiments? You do it and you accept that you will also get the Hindu votes, which is 85 per cent in this country. So, I appeal that if anybody wants to get the dignity and prestige in this country, if anybody wants that the majority community should give respect to the mindset of a minority community, the minority community also should see that the majority community mindset is also satisfied.

When Pakistan became an Islamic country, Hindus in this country never wanted that this should be a Hindu country. They wanted that this should be a secular country. India is secular because of Hindus. It is there in the history, we never wanted that it should be a theocratic State. Now, also the BJP is called a Hindu Party, but our



leaders never wanted that India should be a theocratic State or it should be a Hindu Rashtra. We never wanted that. We also follow what our leaders say. We also want that our thought process, our belief, our culture should also be respected.

Finally, Madam, my conclusion is that there should be no extension of reservation. All the time, simply going for reservation for women, for the backward classes, for the minorities means that India has not progressed anywhere. Madam, talking about further reservation for anything, for anybody is a mere greed and nothing else.

With these words I conclude and say that there should not be a list system and that there should be no further reservation.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Madam, I rise to support the Bill in principle. Proportional representation has many advantages, politically, socially and economically. In that perspective I am welcoming it, but not the perpetual reservation.

Reservation is only a temporary process. The reservation will disappear or wither away when equality is obtained. Reservation is not a rule of perpetuity, as I have already put it. So, proportional representation, where we stood far and near, quite far, used to give adequate representation to all secular ideas, secular ideologies and secular thoughts.

That is the purpose for which we support it. I support Shri Banatwalla's Bill in that perspective.

There may be difference of opinion. But one thing is clear that India is always a secular country, a secular nation and we are maintaining a secular fabric. In that perspective, the minorities have to play a very dominant role in the freedom movement as well as in the social set up.

What my hon. friend has said is that Muslims have had a detached way of life and they do not form a part of the social strata. That is not correct. Muslims do play an important role in the development of this country. We cannot forget that. There are Muslim leaders in every political party who can rise up to the occasion in defending our country and at the same time they do justice to everybody. So, simply for the reason that a person is born as a Muslim, he should not be treated as a second-rate citizen. He is as equal as anybody in this country. That is the law of our land. Our Constitution also is in that perspective. So, they may have some sentiments, they may have some religious feelings and they may have some particular rights to be maintained. In those respects, the majority community shall take a lenient view. We should not treat or we should not look upon Muslims or the people of the minority communities as strangers to our nation. They form a part and parcel of our nation and we will have to respect their sentiments also. In the converse, the minority communities should also respect the sentiments and the feelings of the majority community. They should not treat each other with the sense of enmity or with the sense of prejudice between the two communities. That is the aim on which our democratic set up should develop.

So, in our experience for the last 50 years, now our system has been that no one-party rule is possible in our land even at the Centre. In Kerala, some decades before, we had this one-party rule. Only multi-parties or a united front of political parties alone can rule the State. That has become the law of the State. So, such a situation has developed at the Centre also.

Now, at the Centre we have this NDA, a coalition of so many parties, regional parties with regional sentiments and regional thinking. So, we do not have a major party having roots throughout the country. That is the position. This is one of the offshoots in our electoral system, which has to be remedied and this could be remedied through adopting proportional representation in the proper perspective.

Majority should also be represented and at the same time minority should also be duly represented in the Legislature. So, 50 per cent is being assured for the people who are the majority and for others, we will have to adopt the proportional representation system giving due representation to the people who could not come to the front because of the defect in the electoral system. So, with that point in view, I am supporting him and not to make communal representation or communal reservation a perpetuity. That is not the aim. The aim is to have a secular perspective, a secular approach and an all-embracing approach in our democratic functioning. That is why, I am supporting him, not to give representation to all the communities on communal basis just like what we fought against the special reservation for a special community.

So, in that perspective, I am supporting the principle of the proportional representation to make our democratic society more secular, more reactive to the sentiments.

With these words, I conclude.

SHRI ANADI SAHU (BERHAMPUR, ORISSA): Madam, before I go into the Bill which has been presented by Shri Banatwalla, may I, with your kind permission, say a Sanskrit adage? The Sanskrit adage in *Panchatantra* says:

"*Ajha Galastana Sheyava Nirathakam.*" That means, attaching two nipples to the neck of the goat, which is unnecessary and it does not yield any milk. That is what for the Bill has been brought forward and that is the comment that I would like to make before I go into the Bill itself.

Madam Chairperson, this Constitution (Amendment) Bill would not harbinge communal harmony, rather it is a pernicious desire to keep on creating problems for this country. May I request Shri Banatwalla to see the leaders of the Muslim community, namely Shri Hannan Mollah or Shri Mahboob Zahedi or Shri Abdullakutty? They have been elected because of their political ideology and not on the basis of communal feelings. This country had enacted the Constitution in spite of the vituperative campaign that was taken up by Jinnah and his coterie right from 1947 to 1950. This country was so good, so broad in heart that the secular image was brought forward in its Constitution that was enacted in the year 1950, thanks to leaders like Pandit Nehru and all those great stalwarts.

Shri Banatwalla has tried to quote from the Constituent Assembly debates relating to Pattabhi Sitaramaiah. I would start with the Constituent Assembly debate itself. The matter regarding representation to minorities particularly to the Muslims came up during discussion in the Constituent Assembly itself. Shri Kazi Syed Karimuddin, who was from C.P. Berar, had prophesied at that time that if there is no proportional representation with multi-member constituencies for the minorities with cumulative votes, it would lead to chaos. He said, "I prophesy that if this is not done, it will lead to chaos." Madam Chairperson, has it led to chaos within the last 53 years after the enactment of the Constitution of India? Rather, on the other hand, we have elected three Muslim Presidents and one Sikh President. I do not call the Sikhs as minorities at all. But we have elected persons to that lofty post, not because of any religious considerations, but because of their work for the society. That has to be kept in mind whenever we think of this society itself, this political establishment itself which has stood now the test of time and we have been progressing in a very good manner.

Now, I would invite Shri Banatwalla to go through the representation of Dr. Zakir Hussain in 1951 to Mr. Graham, the representative of the U.N, who had come to India. What did he say? Dr. Zakir Hussain had said: "Let us get assimilated in the political ethos of this country and let us see that the Muslim community is able to progress in a good and progressive manner so that there is no feeling of hatred among the communities themselves."

Shri Banatwalla has tried to stress upon the point that there should be proportional representation. Again, I would invite his attention to the Constituent Assembly debate in which Shri B.N. Rao had circulated a questionnaire. A number of questions were there in the questionnaire. One of them related to the proportional representation to the Muslim Community.

Many other things were there but one of them was representation to different communities including the Muslims. I would like to reiterate the point that the questionnaire which was sent to the State Legislatures and to the Central Legislature was also rejected outright.

Shri K.T. Shah had also distributed a general directive paper inviting response from different people for providing 15 seats in the Second Chamber, that is, the Rajya Sabha, on the basis of religious considerations but that was not accepted at all by anyone. I would like to say that when Shri Kazi Syed Karimuddin had said that it should be given, it was opposed by another Muslim gentleman, Shri Mohammed Tahir who had piloted the amendment but said that he did not want to press for the amendment. This is what has been the political idea at the time of framing of the Constitution and it is there now also. To ask for any different attitude with a view to get some facilities, as I said, is a pernicious desire.

We have a multi-party system. We have regional parties. We have different ideologies and objectives among the political parties and they are being properly represented in the State Legislatures and in Parliament. Shri G.M. Banatwalla has given references of South Africa and Lesotho. Lesotho is an insignificant country to my mind. It is true that proportional representation to some extent has been introduced in France and Germany but that proportional representation is based on political ideology. After the communist inroads and beginning of socialistic attitudes in those countries, it became necessary to give some sort of a representation to the political ideologues. That is why a certain amount of representation was given but nowhere in this world is proportional representation given to minorities, particularly on a communal basis. Let us not think of any such thing that would create problems for this country.

I am not going into the details of the Bill itself, which he has very assiduously tried to place before us. I, from the very beginning, would say that this is pernicious and should not be tolerated at all.

With these words, I conclude my speech.

**SHRI BHARTRUHARI MAHTAB (CUTTACK):** I stand here to oppose the Motion, which has been moved by Shri G.M. Banatwalla.

At the outset, I should say, the Motion is not only misleading but it also bears the germ of disintegrating the society. The issue that has been raised today is nothing new. It has been debated 55 years ago. It was also debated in the early 1930s. A decision was arrived at in the Constituent Assembly when it was in Session. I think, it is time that before we all deliberate we should go into the details of how different ideas were formulated and decisions were taken.

The hon. Member who spoke earlier, Shri Anadi Sahu, has very rightly referred to the Constituent Assembly debates and also very rightly mentioned about Shri Kazi Syed Karimuddin, a Muslim Member from Central Province - Berar, where he had elaborately discussed about this aspect. I am sure, Shri Banatwalla must have gone through those debates.

This has been an idea which was floated not only by the Indians but I would say, this was the idea which was floated when India was a dominion by the British, when they started giving proportional representation on communal lines. But again in early thirties, proportional representation was advocated on caste basis. It was during that time, Mahatma Gandhi rose to the occasion and it ended in Poona Pact. There was a great agitation also by Mahatma Gandhi, which was called '*Harijan Andolan*' and it continued for more than six years. It was a social revolution to bring all those Scheduled Caste people into the Hindu fold. Late Shri B.R. Ambedkar and Mahatma Gandhi agreed upon which is known in history as the Poona Pact. We should not forget these aspects when we discuss about the proportional representation. The division of Indian society was effected during the British in the first half of 20<sup>th</sup> Century and the seed of mistrust was sown then which fructified in 1947 when a different State was conceived on purely communal lines – religious lines.

But India, as my previous speaker, Shri Kharabela Swain, has said, remained a free society. The founding fathers of our Constitution never thought that they should mention the word 'secular' into the Constitution. It was later in 1975 that this word was incorporated by Parliament. But from 1947 to 1950 and even from 1950 to 1975, nobody thought that this word is required because everybody believed and practised that. But the baggage of past history was there and their experience, and that is the main reason why, irrespective of our beliefs on different ideologies, different political leaders thought that this Parliament and different Legislatures of different Provinces will be the true representatives of the society. That was the idea through which the Constitution was to be implemented.

Kazi Syed Karimuddin, of course, had mentioned one sentence:

"Evil of democracy is the tyranny of majority. "

I also recollect and many hon. Members of this House may recollect the same words, 'tyranny of majority'. Shri Madhu Limaye again mentioned it in this House and later on when the Anti Defection Bill was being debated, the same coinage also was discussed in this very House. But we have accepted one thing, first past the post; and 'FPP' as it is commonly said, that is the best-accepted democratic system of getting people elected. Which are the countries in this world, which have a functional democracy have the list system, proportional representation system? Germany and France, which have fought two World Wars and which were ravaged in the first part of the 20<sup>th</sup> Century, have accepted this system, as has been rightly said by my colleague, Shri Anadi Sahu for different political and ideological differences, not for religion and not on communal lines. That situation do not exist here in this country.

As far as South Africa is concerned, of course, the history is not very distant. Why have they a proportional representation? It is an African country, dominated for many years by Europeans, and that is the main reason why they have proportional representation. I need not mention about Losetho, which is very minuscule. Hardly you find a dot in the whole African Continent, if you have to identify Losetho.

But, I would come to the other aspect. We have bicameral system and the bicameral system can give actual representation to those people who do not get representation in a popular mandate and there the responsibility lies with the major political parties and different political outfits and that is why it behoves on the part of political leaders of different political parties to get those people elected to the Upper House – both in the State Legislative Councils or to the Rajya Sabha.

Very frankly, today I would like to mention here that if at all there is any minority in this country, it is the intelligentsia who are in a minority. They do not get representation. They do not get chance to have their say. They are rarely heard at any other places other than writing some articles in different newspapers or discussion in the media.

**16.36 hrs.** (Shri Devendra Prasad Yadav *in the Chair*)

In the law-making system, the intelligentsia are seldom consulted or they get chance to give their inputs. I would

rather suggest that when that if we have a bicameral system, the responsibility lies with the political leaders of different, major political parties to see them get elected. I say 'seldom' and I am mentioning the word 'seldom' because invariably, at great length, certain corrections have been made though and very lately we have a very enlightened President, the hon. President of this country. At different times also this has been done though. But, at times, very different kind of people get elected to the Upper House and it is time that that miniscule who should get represented do not get represented. For that, of course, the political parties are responsible. At the same time, I should say that the intelligentsia also keep away; they keep themselves aloof from the decision-making process for different other reasons.

Success of a democracy depends on the proper representation of the society. That is why I would suggest, through this House, to the different political parties that we should continue with the present system. But the major question which arises from this Bill is also to be addressed.

I would like to draw the attention of this House to an incident which had happened in Ireland and also in the United States of America. Of course, this was also mentioned in this House and also outside. In the Late Sixties, a situation prevailed when a Party getting less than 50 per cent of the votes polled came to power and where the percentage of other parties, if their vote percentage is taken together, was much more sat in the opposition. Again in the Nineties a party getting minority vote comes to power and other parties, when their percentage taken together, getting majority of votes, sat in the opposition. This is the position when we accept the first-past-the-post system. It so happened that today Ireland is divided into Northern Ireland and Ireland because of a flaw of this system because the minority view was not accepted by the party in power. That is the main reason why Ireland was divided and we have Catholic Ireland and Protestant Ireland which is still a sore point for British Isles.

When we go into the history, we should also understand that our country has tried, the political system as such has tried to give representation to different sections of the society. The Indian society has tried to give representation to different sections – be it weaker sections, oppressed sections or *Dalits* or tribals – whichever sections the Indian society belonged to.

Similarly, it is only in this country, because of the political system, that adequate representation is also being given to different leaders of different communities. I do not think that it is necessary that we should go in for list system nor is it necessary to do away with first-past-the-post system.

**श्री अरुण कुमार (जहानाबाद) :** सभापति महोदय, संविधान संशोधन पर हो रही चर्चा पर आपने बोलने का जो समय, उसके लिए मैं आभार व्यक्त करता हूँ। चर्चा की शुरुआत करते हुए माननीय सदस्य बनातवाला साहब ने जो बातें रखी, मुझे समझ नहीं आता कि यह संविधान संशोधन क्यों लाया गया और इसका क्या उद्देश्य है? लोकतंत्र की दुहाई दी गई, भारत के विविध समुदायों की चर्चा की गई, देश की विविधता की चर्चा की गई और फिर संविधान निर्माण के काल के इतिहास को रखने का काम किया गया लेकिन इनमें से कुछ नहीं निकलता। जिस संविधान ने एक दूरी तय करके, रा्ट्र को दुनिया के इतिहास में एक लोकतांत्रिक व्यवस्था के रूप में जितनी मजबूती दिलायी है, मेरा मानना है कि इस संशोधन से विपरीत प्रभाव पड़ेगा। मैं नहीं समझता कि सैपरेट वोटिंग राइट की बात करके देश की अखंडता को मजबूती दिलायी जाएगी। संविधान के तहत सैकुलर सिस्टम से लोकतंत्र का मंदिर खड़ा हुआ है जिस में खान अब्दुल्ल गप्फार खां से लेकर डाक्टर जाकिर हुसैन और तमाम ऐसे महापुरुषों का योगदान है जिस ने रा्ट्र और संविधान को एक सार्थक जगह पर पहुंचाने का काम किया है।

आज जिन संदर्भों की हम चर्चा कर रहे हैं, मैं नहीं समझता कि हम संवैधानिक प्रक्रिया में, रा्ट्र की लोकतांत्रिक व्यवस्था में कोई बड़ा योगदान करने जा रहे हैं। विभिन्न समस्याओं, झंझावटों, फिरक्का-परस्त ताकतों से लड़ करके और दूसरी विविध समस्याओं से जूझते हुए किश्ती को जहां लाया गया, इसके होने से परेशानी होगी। अभी स्वाइं साहब बोल रहे थे और कहा कि एक माइंड सैट के लोग हैं। इसमें चाहे हिन्दू माइंड सैट के लोग हों, मुस्लिम माइंड सैट के लोग हों या क्रिश्चियन माइंड सैट के लोग हों, इन तमाम लोगों को निरस्त करने का काम किया है। यहां जो व्यवस्था बनी है, हम उसे आदर की दृष्टि से देखते हैं। सम्पूर्ण समुदाय, जाति, उपजाति, धर्म, उपधर्म में बंटा .यह समाज इन सारी चीजों पर दृष्टि रखते हुए आज यहां सफलतापूर्वक पहुंचा है। माननीय सदस्य और देश के रक्षा मंत्री श्री जार्ज फर्नान्डीज यहां बैठे हैं।

देश ने कभी अनुभव नहीं किया कि वे माइनोरटीज से आते हैं। वे बराबर बिहार से ऐसी जगह से चुनकर आते हैं जहां क्रिश्चियन्स का सवाल ही नहीं उठता। इसलिये जो देश के लिये नेतृत्व क्षमता रखता है, जो देश की समस्याओं से जूझता है, वह इस देश द्वारा स्वीकार्य है। वे लोग इस कुंठा का शिकार होते हैं जिन्हें ऐसा लगता है कि सैपरेट वोटिंग सिस्टम होना चाहिये जिससे वे शार्ट कट रास्ते से प्रवेश पा सकें। हमारे यहां बाइकैमरल हाउस उपलब्ध कराया गया है जहां ऐसे लोग आ सकते हैं जिनमें क्षमता है। यदि किसी कारणवश लोकसभा में नहीं पहुंचते हों, उनका प्रतिनिधित्व होना चाहिये। ऐसे लोगों के लिये विधान परिषद् और राज्य सभा हैं जहां उनका स्थान सुनिश्चित किया जाता है। इसलिये मैं आपके माध्यम से कहना चाहूंगा कि यह संशोधन गैर-मुनासिब है और इसका व्यावहारिक पहलू कुछ भी नहीं है। मैं अपनी पार्टी की ओर से इस संविधान संशोधन के प्रति विरोध प्रकट करता हूँ।

**प्रो. रासा सिंह रावत (अजमेर) :** सभापति महोदय, मैं श्री बनातवाला जी द्वारा लाये गये संविधान संशोधन विधेयक का पुरजोर विरोध करता हूँ।

हम सब भारतीय हैं, भारतीय भाई-बहन हैं। संविधान निर्माताओं ने जिस संविधान का निर्माण किया था, वह हमारे लिये पवित्र दस्तावेज है। यदि रा्ट्र-हित को सर्वोपरि मानकर उसमें किसी प्रकार के संशोधन की आवश्यकता हो तो वह किया जा सकता है। यदि देश की आजादी के 55 साल बाद हम यदि पृथक निर्वाचन प्रणाली की मांग करें या समानुपातिक निर्वाचन प्रणाली की मांग करें तो हमारे लिये हास्यास्पद बात होगी। हम जिस डाल पर बैठे हुये हैं, उस पर अपनी कुल्हाड़ी से प्रहार करने के



समान होगा।

सभापति महोदय, मुझे एक कहानी याद आती है जिसे बताने में मैं लोभ-संवरण नहीं कर पाता हूँ। एक बड़ा पेड़ था जिस पर हजारों पक्षी रहा करते थे। कोई अज्ञानी व्यक्ति उस रास्ते से जा रहा था। उसके पास मिट्टी के तेल का कनस्तर और दीप-शलाका थी। उस पर अज्ञानता का भूत सवार था। उसने उस पेड़ पर मिट्टी के तेल का कनस्तर उड़ेल दिया और दीप शलाका दिखा दी। पेड़ धांध-धांध करके जल उठा। पेड़ पर रहने वाले हजारों पक्षी चीं-चीं करने लगे। इतने में वहां से समझदार व्यक्ति रास्ते से जा रहा था। उसने देखा कि पेड़ में आग लगी है और वह जलने लगा है। उसने पक्षियों से कहा- 'आग लगी इस पेड़ को जलने लगे पात, तुम क्यों जलते पखेरूओ पंख तुम्हारे साथ " तुम क्यों जलते पखेरूओ, पंख तुम्हारे साथ, तुम क्यों जल रहे, तुम्हारे पास पंख हैं। पेड़ जल रहा है। उस समय मनीषी देशभक्त एक पक्षी ने उत्तर में कहा - "फल खाय इस पेड़ के, गन्दे कीने पात, यही हमारा धर्म है जलें इसीके साथ"। मैं समझता हूँ कि आज उस रात्रीयता, देशभक्ति की आवश्यकता है। माननीय बनातवाला जी बहुत प्रबुद्ध, संविधान विशेषज्ञ, बड़े जानकार और बहुत अच्छे कुशल सांसद हैं। हम उनका सम्मान करते हैं। परन्तु जिस प्रकार का संशोधन वे लाये हैं, हमने सोचा चुनाव प्रणाली के अंदर संशोधन बहुत अच्छा होगा मसल पॉवर निोध वाली बात होगी या चुनाव प्रणाली बहुत खर्चीली हो गई है, उसमें सुधार की बात होगी या अनावश्यक रूप से भीड़ खड़ी हो जाती है, उसके निोध वाली बात होगी लेकिन जो उसमें शब्दों का आडम्बर देखा तो ऐसा लगा - विां कुम्भम पयो मुखम्। सभापति महोदय, इन शब्दों का प्रयोग संस्कृत के नीतिकार ने किस प्रकार से किया है कि घड़े में सारा जहर है लेकिन उसके मुंह पर अमृत लगा दिया गया है। इस संविधान संशोधन की इस मंशा के अंदर जाना पड़ा और इस कहावत के प्रयोग के लिये मैं क्षमा प्रार्थी हूँ लेकिन इसमें जो कहा गया है इससे कोई इनकार नहीं कर सकता। एक अच्छी चुनाव प्रणाली होनी चाहिये, इससे कोई इनकार नहीं कर सकता।

मूल स्वरूप भी ऐसा हो कि जिससे सारी विामता दूर हो सके, इससे कोई इनकार नहीं कर सकता। परंतु इसमें जर्मनी, फ्रांस और दक्षिण अफ्रीका आदि के उदाहरणों से प्रेरणा लेकर वर्तमान में सूची प्रणाली और आनुपातिक प्रणाली का उल्लेख किया गया है। मैं कहना चाहता हूँ कि आज सारा संसार मान चुका है कि भारत विश्व का सबसे बड़ा लोकतंत्र है और हमारे यहां होने वाले अब तक के आम चुनावों से सारी दुनिया जान चुकी है कि भारत में जितने निपक्ष, प्रामाणिक, साफ-सुथरे निर्वाचन होते हैं, उतने दुनिया के किसी अन्य देश में नहीं होते। यहां तक कि अमरीका जैसे देश में पिछले दिनों जब राष्ट्रपति बुश का निर्वाचन हुआ था और काउंटिंग हो रही थी तो काउंटिंग में कैसा नाटक दुनिया के सामने खड़ा कर दिया था। वहां संदेह की स्थिति पैदा हो सकती है। लेकिन हमारे यहां इतनी स्पष्ट निर्वाचन और मतदान की प्रणाली है, जिसमें सबका प्रतिनिधित्व, विश्वसनीय व्यवस्था, लोक सभा तथा राज्य सभा आदि हैं और सभी दलों, समुदायों और प्रतिनिधियों का एक प्रकार से प्रतिनिधित्व है, कोई किसी भी सम्प्रदाय या मत का मानने वाला हो, यदि वह योग्य है तो वह चुनाव में खड़ा हो सकता है और जनता उसे निर्वाचित करके भेज सकती है। कौन नहीं जानता श्री फखरुद्दीन अली अहमद भारत के राष्ट्रपति बने, डा. जाकिर हुसैन भारत के राष्ट्रपति बने, रफी अहमद किदवई साहब, मोहम्मद करीम छागला अथवा वर्तमान में कलाम साहब अपनी योग्यता के बल पर आज राष्ट्र के सर्वोच्च पद पर प्रतिष्ठित हैं और समाज के प्रत्येक वर्ग का सम्मान प्राप्त किये हुए हैं। ऐसे समय में जिन्ना की उस प्रणाली को याद करके, जिसके लिए महात्मा गांधी जी को आमरण अनशन करना पड़ा था, जब हरिजनों के लिए पृथक निर्वाचन प्रणाली की मांग की गई थी, उस समय गांधी जी ने आमरण अनशन करके अंग्रेजों की 'डिवाइड एंड रूल' 'फूट डालो और शासन करो' की नीति का पर्दाफाश किया था और एक प्रकार से वापस सबके लिए समान निर्वाचन प्रणाली की बात उस समय हुई थी। मैं समझता हूँ कि वही प्रणाली देश के लिए सर्वाधिक उपयुक्त है। स्वाधीनता के 55 वर्ष के बाद अब हमारी निर्वाचन प्रणाली अथवा लोकतंत्रीय व्यवस्था में उसी प्रकार की बात कहना मैं समझता हूँ शोभा नहीं देता।

सभापति महोदय, अभी कश्मीर में चुनाव हुए जिन्हें सारी दुनिया ने जाना। कश्मीर घाटी में मुस्लिम बहुमत में हैं, जम्मू में अन्य समुदाय का बहुमत है और लद्दाख में किसी अन्य समुदाय का बहुमत है, लेकिन चुनाव इतने सक्षम और व्यवस्थित ढंग से हुए और सब जगह के लोगों को इसमें प्रतिनिधित्व मिला कि उसे सारी दुनिया ने माना। भले ही आतंकवादियों ने निर्दोष व्यक्तियों को गोलियों से भूनने का प्रयास किया हो, लेकिन निर्वाचन कराने वाले मौत के मुंह में जाकर खड़े हो गये और उन्होंने अपने कर्तव्य का पालन करते हुए इतने शानदार ढंग से चुनाव कराये कि सारी दुनिया हमारे उस निर्वाचन का लोहा मानती है। इसलिए जो आनुपातिक और सूची प्रणाली का उल्लेख किया गया है और इसमें मैंने धारा पढ़ी है, उसे मैं कोट करना चाहूंगा, इन्होंने जो बात कही है कि प्रयोजनों के लिए संसद विधि द्वारा लोक सभा में अनुसूचित जातियां और अनुसूचित जनजातियां, वह व्यवस्था तो अब भी हैं, एस.सी.,एस.टी. के लिए, जहां पर कमजोर वर्ग चुनकर नहीं आ सकते, उनके लिए बराबर व्यवस्था है, जहां उनकी जनसंख्या ज्यादा है, इस प्रकार की व्यवस्था संविधान में है, लेकिन अन्य कमजोर वर्गों का भी तो सहारा लेना था। लेकिन प्रत्येक अल्पसंख्यक समुदाय के लिए, इसमें बाद में लिखा है कि मुस्लिम की संख्या, ईसाई और इस प्रकार और भी जो वर्णन किया है, मैं समझता हूँ कि उसके पीछे जो भावना है, जो मानसिकता है, वह निंदनीय है और मैं सदन से अनुरोध करूंगा कि यह संविधान संशोधन, जो बनातवाला जी द्वारा प्रस्तुत किया गया है, वह अस्वीकार्य है और गड़े मुर्दे उखाड़ने से कोई लाभ नहीं होता। आज हमें राष्ट्रीय एकता को सुदृढ़ करने की आवश्यकता है, भावात्मक एकता को मजबूत करने की आवश्यकता है। ऐसे समय में हमें एक स्वर से कहना चाहिए कि कश्मीर से लेकर कन्याकुमारी तक और नगालैंड से लेकर गुजरात तक सारा राष्ट्र एक है, हम सब एक हैं और धर्म, सम्प्रदाय बाद में हैं। हमारा राष्ट्र हित सर्वोपरि है। इन्हीं शब्दों के साथ मैं आपको धन्यवाद देता हूँ कि आपने मुझे बोलने का अवसर दिया।

**श्री रामदास आठवले (पंढरपुर) :** सभापति महोदय, बनातवाला जी इस सदन के सीनियर मੈम्बर हैं। उन्होंने संविधान के आर्टिकल 81 और 170 में अमैन्डमेंट करने के बारे में गैर सरकारी विधेयक रखा है जिसके समर्थन में बोलने के लिए मैं खड़ा हुआ हूँ।

महोदय, मुझे नहीं लगता है कि यह विधेयक वे इस देश को तोड़ने के लिए लाए हैं। मुझे यह भी नहीं लगता है कि प्रोफेसर रासा सिंह रावत जी ने जो कहा कि यह तो ज़हर है। मुझे लगता है कि यह ज़हर नहीं है, यह राष्ट्रीय एकता की लहर है। जो कमजोर वर्ग हैं, ऐसे कमजोर वर्गों को लोकतंत्र में प्रतिनिधित्व देने के बारे में कोई सुझाव दिया है तो उसका समर्थन करना चाहिए। मुझे मालूम है बाबा साहब अंबेडकर जी ने इस देश का संविधान लिखा। ड्राफ्टिंग कमेटी का चेयरमैन होने के नाते देश की भलाई का विचार किया और हिन्दू-मुसलमान, सिख-ईसाई सबका ध्यान रखा। हमारे देश का लोकतंत्र पूरी दुनिया में इसलिए मजबूत दिखाई देता है कि इस देश में अनेक धर्मों के लोग रहने के बावजूद भी यहां कम्युनल ताकतें सिर उठाने का काम नहीं कर सकतीं। अभी हम लोग पाकिस्तान गए थे। हमने पाकिस्तान के लोगों को कहा कि आपके देश में तो दो-तीन बार मिलिट्री रूल आया पर हमारी डैमोक्रेसी इतनी मजबूत है कि इतना बड़ा देश होने के बाद भी मिलिट्री रूल नहीं आया। हमें यह भी आज्ञादी है कि हम जब भी संविधान में संशोधन करना चाहते हैं तो कर सकते हैं। यहां के अल्पसंख्यक लोगों को प्रतिनिधित्व देने के बारे में बनातवाला जी ने कुछ बातें बताई तो मुझे नहीं लगता कि वह देश को तोड़ने की बात कर रहे हैं। यहां का मुसलमान देश को बहुत प्यार करता है। पाकिस्तान में मुस्लिम आबादी 14 करोड़ है तो भारत में 18 करोड़ मुसलमान रहते हैं। आप लोग कभी कभी गड़बड़ करते हैं। कभी बाबरी मस्जिद तोड़ देते हैं, कभी कुछ और करते हैं। ऐसा नहीं करना चाहिए। न बाबरी मस्जिद टूटनी चाहिए, न चर्च टूटनी चाहिए, न मंदिर टूटना चाहिए। भारत देश इतनी जंचाई पर है कि यहां सभी जातियों और धर्मों के लोग रहते हैं। इसलिए हम उनकी रक्षा करते हैं और यह हमारे लिए अभिमान की बात है। मैं इस तरह के लोगों को इतना ही बताना चाहता हूँ कि संविधान को मजबूत करना है, देश को मजबूत करना है, हिन्दू-मुसलमानों को मजबूत करना है। आप मस्जिद तोड़ेंगे तो मंदिर भी टूट सकता है। मंदिर टूटेगा तो कल बुद्ध विहार भी टूट सकता है। इस तरह की बातें हमें नहीं करनी चाहिए। आज वह विाय नहीं है। अब बनातवाला जी ने जो प्रस्ताव रखा है, अनुसूचित जाति के लोगों को लोक सभा में 118 सीटें एस.सी. और एस.टी. के लिए होनी चाहिए। बाबा साहब अंबेडकर ने बताया था कि सैपरेट इलैक्टोरेट होना चाहिए। उस कांस्टीट्यूएन्सी में दलित उम्मीदवार जो होगा उसको दलित वोट डालेंगे। दलित जनरल कैन्डीडेट को भी वोटिंग करेंगे। मतलब यह होगा कि एक आदमी दलित होगा और एक आदमी जनरल होगा और दलित को डबल वोटिंग करने का अधिकार होगा। इस तरह का इलैक्टोरेल सिस्टम हो तो हमें फायदा हो सकता है।

इन्हीं शब्दों के साथ बनातवाला जी द्वारा लाए गए विधेयक का मैं समर्थन करता हूँ और कहना चाहता हूँ कि अगर आपको आगे चलना है तो इन लोगों का भी सपोर्ट लेने की आवश्यकता है नहीं तो एक साल बाद आपकी खटिया खड़ी होने वाली है। **व्यवधान** पहले हम आपकी खटिया खड़ी करेंगे, फिर बाद में उधर बैठेंगे। हमारा कहना इतना ही है कि सेक्यूलरिज़्म के माध्यम से अगर आपको राज करना है तो माइनोंरिटीज़ का भी ध्यान रखने की आवश्यकता है। आप हमेशा माइनोंरिटीज़ के बारे में मन में संदेह न रखें।

**17.00 hrs.**

महोदय, यहां के मुसलमान इधर ही रहेंगे। वे इंडिया छोड़कर कहीं नहीं जाएंगे। यहां के इसाई, यहां के बौद्ध और सिक्ख यहीं रहेंगे। वे भारत छोड़कर कहीं नहीं जाएंगे। इसलिए हमें चाहिए कि हम सब मिलकर रहें और देश को मजबूत करें। हम अपने देश के संविधान को मजबूत करें। अतः मैं श्री बनातवाला जी द्वारा सदन में प्रस्तुत संविधान संशोधन विधेयक का समर्थन करता हूँ। मैं मंत्री जी से भी आग्रह करना चाहता हूँ कि वे इस अच्छे विधेयक को स्वीकार करें। वे हमारे हमारे बहुत अच्छे मित्रों में से हैं। उन्हें चाहिए कि वे इसे स्वीकार करें। मैं यही निवेदन करना चाहता हूँ।

**SARDAR SIMRANJIT SINGH MANN (SANGRUR):** Mr. Chairman, I thank you very much for allowing me to speak on the Constitution (Amendment) Bill.

Minorities always live in fear of being merged into the majority. Secondly, the minorities should be taken along and should not be expected to go along. This is the cardinal principle of all civilised societies where minorities live.

But to suspect the *bona fides* of Shri Banatwalla because he has just brought forward this Bill is not fair and there can be no greater tyranny or terrorism on this Earth. Some hon. Members suspect the very motives for bringing forward this Constitution (Amendment) Bill. What does Mohammed Ali Jinnah have to do with this Bill? Why has his name been brought in? He was a great man for Muslims, as Nehru, Gandhi, Rajendra Prasad and Patel were for the Hindus and as Ambedkar for the *dalits*.

It is a fact of history that in 1947, there were three parties that were brought to the Round Table Conference for talks and to decide about the future Constitutional system of India. Mohammed Ali Jinnah led the Muslim League; the Hindu leaders like Gandhi, Nehru, etc. led the Congress Party and Ambedkar led the *dalits*. The third party was of the Sikhs who were led by Master Tara Singh and Baldev Singh. Mohammed Ali Jinnah, Gandhi and Nehru were very competent lawyers, having studied in England and they had got something for their communities. But the Sikhs, because of illiterate leadership, were left high and dry. So, to suspect the motives of minorities in asking for representation, is not fair.

Now, what would happen if the BJP came to power with a brutal majority? They would put in the *Hindutva* agenda. That would mean scrapping of article 370 of the Constitution and bringing in Uniform Civil Code. The minorities are not ready for all these changes. Why do they want to steam-roll the whole Constitution by a majority which may come into power? If they like the majority representation in Parliament, why is it unfair for the minorities to ask for a little representation? Can India split if there are more minorities in this Parliament? We have such a brutal majority that India cannot split on the basis of allowing minorities to have special representation or proportional representation. That is my firm view. More you trust the minorities, the greater will be the strength with which India will be built. But to distrust and mistrust the minorities, and also to impute motives to what Mr. Banatwalla says since he brought forward this Bill, I do not think, it is fair.

Hon. Members have given reasons saying that there had been Sikh Presidents and that there had been Muslim Presidents. We know that there had been Sikh and Muslim Presidents. We do not have to be reminded about that. But that is also window-dressing, Mr. Chairman. What powers does the President of India have? Could President Zail Singh prevent Mrs. Indira Gandhi from marching the forces into the Golden Temple and destroy the Hindu-Sikh amity that was built over the centuries?

We are still not satisfied or reconciled to the fact of what Shrimati Indira Gandhi did in 1984. Shri Zakir Hussain was the President of India. He wanted to introduce Urdu in UP. There is a Constitutional provision, I think in article 349, that if a certain minority wants a certain language, they can have it. But was Shri Zakir Hussain able to get Urdu recognised for the Muslims? Members have given the example of Shri George Fernandes being a Christian in the Union Cabinet. I have always respected Shri George Fernandes but I want to ask him –since as a Christian he is represented in the House - what could he do for the Christians when they were not allowed to hold meetings in Punjab during Shri Badal-BJP regime. What did Shri Fernandes do when the Pondicherry Church was brought down? What did he do when nuns were being raped? What did he do to the Australian Missionary when he and his two sons were burnt alive?

So, Sir, minorities, when they come into power, are window-dressings. They cannot really assert themselves because they are there on a condition that they will go along with the majority. So, if you do have minorities represented in the Union Parliament, I think it will be good. We do not have any Sikh representative in the Supreme Court at present. We are not members of the Security Committee of the Union Cabinet. We have nothing to do with the Nuclear Command and Control System. The cardinal principle is that there shall be representation. When you elect Members, you give them participation. How can we defend India's policies when we are not members of the

policy making?

You may just read today's *Times of India*. The Government has disallowed the Head of Amnesty International to come to India. Firstly, India has disallowed the Amnesty International, the International Society of Red Cross, UN rapporteur on torture to visit Gujarat, Punjab and Jammu and Kashmir and now it has banned, not given a visa, to the Head of Amnesty International in London. She was just going to probe what happened in Gujarat, Punjab and in Kashmir.

The NDA Government says, its manifesto says, that it is going to have a transparent Government. What harm will come to it, if the Chief of Amnesty International is allowed to come into India? We just want transparency...*(Interruptions)*

**एक माननीय सदस्य** : आप सेना को मरवाते हो।

**सरदार सिमरनजीत सिंह मान** : हम सेना को नहीं मरवाते, आप मरवाते हैं। आप कफन के पैसे लेते हैं, आपने कफन और बोफोर्स के लिए हैं न।<sup>1</sup> (व्यवधान)

**सभापति महोदय** : आप उधर क्यों उलझते हैं। अब आप समाप्त कीजिए।

**SARDAR SIMRANJIT SINGH MANN** : Let him not interrupt into this business of getting the soldiers killed, Sir, I am asking what power does the National Human Rights Commission has. The security forces and the armed forces are outside its purview. Its verdict, its decision do not have the force of law. Just yesterday or day before yesterday the Supreme Court Chief Justice had given a suggestion that there should be a Uniform Civil Code. This is stealing the agenda of BJP and saying it through of the Supreme Court.

What else is this? So, we, the minorities, want some representation. We feel that the heavens are not going to fall if we have a few more Members sitting in this Parliament and giving our point of view and stopping repression. Please do not suspect our motives or our patriotism when we ask for more seats. We are asking for our rights. If the majority over here denies us this opportunity, then let this thing go to a Commission. Let the Commission decide. But why do you suspect our motives when Shri Banatwalla has raised a very valid point. I congratulate Shri Banatwalla for his brave and intrepid stand because minorities are so subdued that they do not have the guts to bring a Bill of this nature into Parliament itself.

**THE MINISTER OF LAW AND JUSTICE AND MINISTER OF COMMERCE AND INDUSTRY (SHRI ARUN JAITLEY)**: Mr. Chairman, Sir, the Bill which Shri Banatwalla has moved before this House has led to a very interesting debate on how democratic polity in India really is to function. Before opposing his suggestion, let me, first of all, recognise that even when for the last three to four decades a debate on the List System has gone on as a part of a larger debate on electoral reforms, one argument which is laudable, which has some merit in it and which has been given in favour of the List System is that the list system enables a more mathematical precision between the votes cast in favour of a political party and its representation in Parliament or in the State Assembly.

**17.12 hrs. (Mr. Speaker in the Chair)**

A disparity that with 37 per cent of the votes, you can have 65 per cent of the seats is something that the List System negates. Historically, all those who have been the champions of the cause of List System have recognised the merits of this argument which in effect means that every vote will carry the same weightage in the matter of selection of a Government. But as we have seen our democracy function, there are several arguments against this also. This was one of the principal arguments in favour of the List System with which Shri Banatwalla started very eloquently when he opened the debate.

Sir, amongst the criticism of the List System – I must confess that I personally do subscribe to that criticism; when the Law Commission was in the process of formulating its proposal in this regard, I was then neither in Parliament nor a Member of the Government; I had even at that stage sent this suggestion to the Law Commission, which is one of the essential aspects of a List System – even if part of Parliament is to be elected by a List System – would be to completely reduce and eventually eliminate the impact of the leadership of the candidates in their constituencies and overwhelmingly increase the role of the patronage of the political parties. The political parties will have to decide the list of candidates and in proportion to the number of votes which are cast in favour of the political party, they would have a right to nominate those many candidates. Now, immediate impact of this would be, the creation of leadership which is essential in a democracy at the level of grassroot – which is the constituency – would be completely eliminated and rather than be in constituencies, in order to become elected representatives, you will have a large number of leaders moving in Lutyens' Delhi, around the houses of leaders, and the offices of the political parties so that they can find a place within the list that the party is going to nominate. Therefore, the decimation of the creation of a leadership at the level of constituencies -- which is vital to a democracy like India and which is a volatile and a very active democracy -- would be a great disadvantage which a List System could do as far as our democracy is concerned.



The second disadvantage of a List System would be that there would be a considerable gap between the constituents and the constituency on the one hand and the Government on the other. After all, whether it is an MLA or a Member of Parliament, he/she has to get elected from a constituency; he/she serves the constituency; he/she makes sure that the schemes of the Government are implemented in his/her constituency; he/she voices the grievances of his/her constituency in the House of which he/she is a Member and not only has he/she to be active in New Delhi or in the State Capital or in the House; but he/she also has to be a link between his/her constituents and the Government. Now, the moment there is a dis-connect between the constituency and the elected representative – because an elected representative does not have to seek votes for his/her own performance from the constituency, his/her party has to seek votes, whichever party gets votes on whatever considerations – he/she has to make sure that he/she carries enough favour either in New Delhi or in the State Capital to be a part of the List System. So, there would be a gap created between the Members of the House and the constituency itself.

Sir, the third disadvantage of this system would be – that is the kind of a churning out in Indian democracy we are seeing; we may use phrases such as social representation and composition of the society which takes care of various caste interests, various social and religious interests – that there has been an increased tendency, which has been witnessed, to have the creation of political parties which have a certain social constituency as their support base and therefore when you seek votes in the name of that particular political party rather than the candidate, there would be some increased tendency for a further bifurcation in the polity. The creation of such political parties that would have sectional appeal and therefore, an appeal to have a particular section or a combination of those sections could then be created. That is one of the social realities of Indian polity. The immediate impact of this would be that you would have a further bifurcation in the polity. Not only would bifurcation in the polity take place, you would have a large number of small groups of political parties that would come into existence. The impact of this – one may argue that they answer the aspirations of the people – would be to bring in a great amount of instability as far as the polity is concerned. Instability in a country like India would not only hurt governance, but it is also capable of putting back the ideological issues into the background, the programmes into the background and promoting those sectional appeals which these new generation political parties in this particular system would try and create. It is for this reason – even though we had discussions with regard to the merits of the List system, which I admittedly conceded that the List System has one advantage essentially that it is capable of bringing an arithmetic precision between votes cast in favour of a party and the number of representatives in Parliament; as against this there would be several factors that would be detrimental and from the nature of the debate in the House also it is clear that there does not seem to be any consensus on this particular issue – I would express the inability of the Government today to agree to a proposal of this kind.

Sir, as far as reservations based on religious lines is concerned, let me first of all rebut one criticism which was made by the last speaker. We have had social tensions in India. But we also have a very powerful civil society in India which is quite capable of emerging out of this tension and finding a political answer to these tensions itself. I was a little surprised when it was mentioned that when Gandhiji and Pandit Nehru went for the Round Table Conference, they went as representatives of a religious denomination. One may agree or disagree with that but this country as a whole would rebut any suggestion of this kind that they went to the Round Table Conference as representatives of any particular religious group. They went representing India's national interest for the cause of our freedom and therefore, any suggestion, as was made by Shri Mann, that they went as representatives of a religious group, has to be completely rebutted.

We have had cases, as some of the Members pointed out, where there have been some unfair treatment or even atrocities in a given case on the members of a particular religious community. We are ashamed of them. We have also had such cases where communities, which may even be majority communities, have also suffered. We have had cases where two of our former Prime Ministers have been assassinated. We have had cases where the members of the majority community were brought down from buses and shot *en mass* after segregating them from others. We have had cases where from one State a particular community has almost been driven out because of the situation that exists in that State. But this society, because of its inherent strength and the kind of sovereignty and integrity that exists in India, because of the power of the civil society in India, has the capacity to live with each of these crises to eventually put them into the background and then finally bring this country together. As a result of it, we do not turn back and say that because such unfortunate incidents have taken place, whether against the minority or the majority community, we must think in terms of this country disintegrating. That has never been the entire spirit. Our elected representatives who represent constituencies on the basis of their secular character and not on the basis of the reserved character as far as religious denominations are concerned, actually function on this basis.

Speaking for myself, I see a danger – and I am not attributing any motive as this is an honest and intellectual debate which has been going on – if we start having constituencies reserved on religious denomination. Today when a Member of Parliament belonging to any religious denomination formulates his stand, his party's stand, when he speaks within his party on what the stand of his party is going to be, when he speaks in this House, when he



functions in his constituency, he knows fully well that he has to go back to his constituency and he knows that he has to get the votes of his constituents who may be belonging to any particular religion. His stand is driven by this market place reality of the Indian democracy because he is accountable to his constituency. He is concerned with regard to minority in his constituency, he is concerned with regard to the majority in his constituency, he is concerned with regard to the weaker sections in his constituency. So, his stand is tailored accordingly. That is the strength of India's democracy. His stand is determined by the market place reality of Indian politics.

If we start constituencies reserved on religious considerations where only one religious denomination can contest, we may well be leading for a situation where two, three or more candidates of a religious constituent knowing fully well that nobody else can contest here, will then attempt to contest as to who can speak a language which will please that particular constituent the most because he knows that nobody else with a different ideology, with a different attitude is going to come into it. Therefore, in the present system, our Members of Parliament have always tailored their personalities, their ideological stand, their constituency performance, their stand within their political party, keeping the composite character of their constituencies in mind. If we destroy that and instead convert into a situation where constituencies are reserved on religious ground, perhaps this kind of a healthy functioning that we have seen in the last over five decades may cease to exist. Therefore, I do believe and I think there is a larger consensus in this House, that to think in terms of reserving them on religious consideration is perhaps not the answer. The answer would be, we would like to see people from all religious denominations represented in this House.

In fact, one of the strengths of this House is, when the last hon. Member was speaking, I could see the sense of the House that most of us were in disagreement with him, we all heard him in rapt attention because we do permit in our legislative process even such views to go through. We do not stop them. This is one of the strengths of our democracy. Therefore, we would like to see representatives of all religious groups come into this House. To come to this House, they will have to play the basic rule of Indian democracy. You will not have to think of one religious denomination. You will have to think of different groups within your constituency. It is this kind of politics that the present system seeks to encourage. I do see that there is no reason why we should think in terms of changing this system and go in for religious constituencies.

For this reason, I would appeal to Shri Banatwalla to consider withdrawing his Bill.

SHRIMATI MARGARET ALVA (CANARA): But this was the recommendation of the Dinesh Goswami Committee which was set up by the Government.

SHRI G.M. BANATWALLA (PONNANI): I am thankful to all the hon. Members who have participated in this debate on my Bill. I am also thankful to the hon. Minister for his very illuminating intervention and observations. Indeed, we have set in motion a very good dialogue on the electoral system suited for our country. Electoral reforms are a continuing process.

Now, there was an accusation from an hon. Member that they had expected Banatwalla's Bill to address the question of money power in the elections, that it will address the question of muscle power in the elections and it will address so many other problems. Yes, these problems are there. We are much concerned about them and the electoral reforms have to take stock of those situations. But here is a Bill with a particular objective with respect to our electoral system.

There has been, I am afraid, a lot of confusion about my Bill. The hon. Minister has very clearly understood the Bill. I may reiterate and clarify that the Bill has two distinct parts, as was very eloquently brought out by the hon. Minister to whom I am grateful on this point.

One part of the Bill deals with List System. It is the other distinct part which deals with the question of reservations for the minorities. Take up the question of the List System first. We have been asking for proportional representation or the List System. We have been asking for this for the past several decades, since Independence of our country. The Law Commission has also recommended this system. In its 170<sup>th</sup> Report, the Law Commission has dealt with the various objections which can be raised against the List System. Some of them were enumerated by the learned Law Minister, Shri Arun Jaitley and discussed by the Law Commission in its 170<sup>th</sup> Report. If I take them up and start rebutting the criticism levelled against the List System, it will be a mere repetition of what the Law Commission has already said in its 170<sup>th</sup> Report.

I will draw the attention of the House to a study of the 170<sup>th</sup> Report of the Law Commission. For example, it is said that the relation between the elected representative and the constituency is snapped under the List System. But, it is for this particular purpose that my Bill and also the 170<sup>th</sup> Report of the Law Commission suggested a mixture of the system that the present strength of the Parliament and the Legislatures be elected under the present system.

But in order to reduce the dis-proportionality which is the inherent weakness of our representative democracy, the

Law Commission and also my Bill suggested that in addition to this, a particular percentage of additional Members will come to the legislatures under the List System.

Sir, a very important point comes up. A person elected from a particular constituency may be a very high person in the governance. He may even be the Prime Minister or the Chief Minister or a Minister. With the loaves of that Office, he tries to nurse the constituency. This is a great disadvantage, this is an unfair competition. The Law Commission has referred to all these things at page 72. At page 72 of its 170<sup>th</sup> Report, the Law Commission says:

"It is indeed a case of misuse of authority and public money. It is not a good idea that one particular constituency should be rewarded unduly merely because the Prime Minister or the Chief Minister happens to contest from that constituency. "

Sir, a detailed discussion is there in the Law Commission Report on all these aspects. It was for this purpose that the Law Commission came forward also to endorse the idea of the List System.

Now, I will have to remind our friends in the ruling party, especially the BJP friends, of an important thing. Before coming to power, it was the demand of the BJP to bring the List System in our country. It was before coming to power. I have had the opportunity, honour and the privilege of participating in the Leaders meeting, meetings called by the then Prime Ministers or the Election Commission at different levels. I have heard very eloquent defence of the List System and the demand that the system of proportional representation be adopted, from no less a person than Shri L.K. Advani, who is the Deputy Prime Minister at present. I find that today the BJP is repudiating the thoughts presented all these years by Shri L.K. Advani, the present Deputy Prime Minister. I do not want to go into the views and thoughts of Shri L.K. Advani. I should be happy that even the BJP Members who have spoken today have repudiated this personality. I should be happy because I consider that it is a misfortune for the largest democracy which our country is to have a Home Minister or a Deputy Prime Minister who stands accused before the court for a heinous crime of the demolition of the *Babri Masjid*. I will, therefore, be happy if the BJP today comes forward and their eloquent Members come forward to repudiate the advocacy that was being made by the BJP for the adoption of the proportional system.

If certain reservations were coming, they were, perhaps, coming from the then ruling parties. However, what I am saying at present is not to enter into an encounter. I express my happiness that an intellectual debate should take place; a very good dialogue should take place on the present deficiencies of our electoral system so that we can come forward with solutions. Let us not dismiss the recommendations made by the Law Commission and others in such a fashion. Let us study them further.

I am thankful to the hon. Law Minister that he has conceded that there are certain advantages in the List System. He has brought out certain difficulties with the List System, namely, the proliferation of the political parties, the instability in the governance as a result of the multiplicity of political parties and so on and so forth. I have already dealt with these matters while moving the Motion. Today, my disadvantage is that my speech got divided into two parts. A part of the speech was made while moving the Motion in the last Session. Then so much inter-Session time passed. Today, I had listed the other part. I am sure, *Insha Allah*, wiser counsel will prevail and it will be seen in proper perspective. I have pointed out the experiments of other countries. I have pointed out the experiments of Germany, of France, of the Scandinavian countries and various others. I am sure, this will be studied and the parties will remember that it is not good, it is not fair and it is a betrayal of the nation to take one stand before coming to power and take another stand after coming to power.

This was one aspect of my Bill covered by the recommendations of the Law Commission in its 170<sup>th</sup> Report. I must say that it is with all sincerity that I come to this House with this particular Bill. I am left with no doubt in my mind that, *Insha Allah*, the system as suggested in my Bill will lead to strengthening of national unity and consolidation which is the need not only of the hour but it also will remain the need for ever.

It is with this honest intention that I come to the second part of my Bill. It is the second distinct part of my Bill which says that the minorities be given certain reservations. I hope the hon. Minister has a little bit confused himself about the provision that I have suggested. He has confused the point of reservation of minorities with the question of separate electorates by advancing his various arguments. The various arguments that he has advanced – though faulty they are – may be with respect to the separate electorates. I will support even the separate electorate system and say that it will go towards furthering the national unity. But then that is not the point. At present I have been talking of the reservation. I welcome the noble sentiments expressed by the hon. Law Minister that they want the various classes and all the sections of our society to get representation in the House.

This is a noble sentiment. I welcome it but then I would like to say that we have to find out a way to see that proper representation is given to all the various sections of our society including the Minorities, the Other Backward Classes, the Scheduled Castes, the Scheduled Tribes and so on and so forth.

Sir, if we get reservation and if we come here, where do we come? We come to our own House, we come to our own brethren. If we have certain grievances, where do we go to present them? We present them in our own National Assembly. We present them before our own brethren. If we are not to present them here, where should we go to present our grievances, if any? Why, therefore, is this stubborn attitude that "no, they will be thrown out of the mainstream by the operation of the present electoral system"? I am asking for the Minorities not to be debarred from the mainstream. ...*(Interruptions)* What is the harm if a few more persons belonging to the Minorities come before you? If it is not before you, before whom can we go? I have figures which show that the representation of Muslims in the Lok Sabha from several States is 'nil'. This is leading to frustration and this frustration should not be allowed to accumulate.

Sir, I have referred to a number of social scientists and they have all said that there are several devices and mechanisms in order to resolve the conflicting and competing claims of the various sections and that these devices are a means to strengthening our democracy.

Sir, I am happy that a discussion has taken place today. I am sure that with such a dialogue there would be light-bearing and fruit-bearing results. I am sure that this House would consider and ponder over the realities of the situation and, therefore, in order that this process of dialogue continues, in order that the process of electoral reforms that are urgently needed, including what has been suggested by me in this Bill, continues, I seek the leave of the House to withdraw the Bill. I seek this leave not because I am influenced by certain irrelevant and prejudicial remarks that have been made over here. But I hope that better counsel will prevail upon them. ...*(Interruptions)*

MR. CHAIRMAN : Why are you disturbing?

...*(Interruptions)*

SHRI VIJAYENDRA PAL SINGH BADNORE (BHILWARA): Sir, let there be voting on the Bill. ...*(Interruptions)*

MR. CHAIRMAN: He is going to withdraw the Bill. Please sit down.

...*(Interruptions)*

MR. CHAIRMAN: Shri Banatwalla, are you going to withdraw this Bill?

SHRI G.M. BANATWALLA : Sir, I am explaining why I am seeking leave of the House to withdraw the Bill. I do it with the hope that in future this dialogue will continue and better counsel will prevail and the realities of the situation will be felt. The time is not far off, I am sure, when according to the principles of my Bill, the ruling party, whoever they may be, will come forward for their adoption.

With this hope, I beg to move for leave to withdraw the Bill further to amend the Constitution of India.

MR. CHAIRMAN: The question is:

"That leave be granted to withdraw the Bill further to amend the Constitution of India."

*The motion was adopted.*

SHRI G.M. BANATWALLA : I withdraw the Bill with the remarks I have made.

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MR. CHAIRMAN : Now, item No. 26, Shri Vilas Muttemwar. He is not present.

Item No. 27. Shri Ramdas Athawale.