

17.09 hrs.

Title: Consideration of the Constitution (Amendment) Bill, 2000 (Amendment of articles 81 and 170).(Not concluded)

SHRI G.M. BANATWALLA (PONNANI): Mr. Chairman, Sir, I beg to move:

"That the Bill Further to amend the Constitution of India, be taken into consideration."

Sir, this Bill seeks to amend articles 81 and 170, which respectively provide for the composition of our Lok Sabha and the Legislative Assemblies of the States.

Sir, we follow a system of voting which is generally described as the majoritarian system or the 'first past the post' system of voting. In other words, a candidate who gets the majority of votes at the polls is returned to the House, and he is declared elected. This is the oldest system of voting. It is the centuries old system of voting. There is a need to look at the deficiencies of this system of voting; and for the success of parliamentary democracy in our country, we need to introduce necessary changes.

The Bill provides to introduce the list system of voting under the proportional representation. It is further provided that the present system of voting namely the 'first past the post' system will continue for the present strength of the Lok Sabha. But there would be an additional 50 per cent of the Members elected under the list system of the proportional representation. In other words, an additional 50 per cent of the Members of the Lok Sabha or additional 50 per cent of the Members of the State Legislative Assemblies will be elected depending upon the proportion of votes to total votes secured by the political party concerned. This is therefore a combination of the present system of 'first past the post' and the list system. It is time that we move forward with this important electoral reform. I am happy that I am moving this Bill at a very ripe and the opportune time.

I remember that in the leaders meetings usually called by the Prime Minister, Shri L. K. Advani – before the BJP came to power – had always advocated the list system. So, earlier, the BJP – before coming to power – had advocated the adoption of the list system, and has also advocated a mixed system which we have in Germany, to be followed here. Now, this party is in power and I hope that they, with their colleagues in the Government, will come forward with this much overdue reform in the electoral system. I must emphasize that the Bill seeks not to disturb the present system.

The Bill provides that there be a combination, as I said, of the majoritarian or first past the post system in which the candidate who gets the highest votes is declared elected and of the list system in which a political party gets, secures return of as many candidates as is their proportion to the total vote. Thus, while the present strength of the Members will continue to be elected as per the present system of voting only, that the candidate who secures the majority of votes is declared elected, at the same time, an additional 50 per cent of the Members will be elected according to the list system.

Sir, I need not emphasize that the objective of all electoral systems is to ensure the best representation possible. It is absolutely necessary that the wishes of the electorate be represented correctly and as effectively as possible. It is absolutely essential that there be no wastage of the precious votes cast by the citizens of India. It is a tragedy that under the present system of voting which we follow, a large number, even majority of the vote cast by the voters in the constituencies, are wasted because of the multiplicity of the candidates and the division of the vote. We find such a situation that a candidate with hardly 35-40 per cent of total vote cast is declared elected. The other votes get divided among other candidates of the political parties and are lost. This wastage of vote is in fact contributing to the weakness of democracy. Let not any vote cast by an honourable citizen of India at the polls be wasted. It must reflect itself in and be translated into the number of seats that are won by a Party.

Sir, our electoral system has to be fair to the voters and in all fairness without wastage of any vote the electoral system needs to translate the national vote into parliamentary seats won. I may here draw the attention of the House to the fact that the global distribution of electoral systems, lists as many as 212 parliamentary electoral systems. There are as many as 212 systems of voting for Parliament and State Legislatures. Democracy postulates the working of a system which is best suited to the peculiar needs of a society. We are, therefore, to see the features of our society and accordingly decide upon the electoral system which will be true and faithful to the nature of our society.

Mr. Chairman, Sir, we have this list system adopted by a large number countries. It is adopted by the countries in the European continent. It is adopted by Scandinavian countries. The electoral system of the Federal Republic of Germany, of Japan, of Mexico, and others have mixed system, namely, both the first past the post and the list

system of voting. Even in the case of Great Britain, the mother of all Parliaments as we say, the Independent Commission on the Voting System has in its report called Jenkin's Report suggested that it is high time that even Great Britain should adopt a mixed system of voting in order that the democracy is further strengthened in the country.

Sir, as I said, we follow the first past the post system or the majoritarian system of voting. As we all know, in every constituency, there are so many candidates put up by the political parties. There are independent candidates also. The candidate who secures the majority of votes is returned to the House. He is declared elected. We all know from our experience that in innumerable cases, the candidate declared elected is the one who has secured the highest number of votes as compared to others and as compared to each and every other candidate; but who secures lesser votes than all other candidates collectively. In many cases, we find a candidate elected with 30 per cent or 35 per cent or 40 per cent of total votes cast. He is elected with the minority votes cast because the votes given to the candidates of other parties have divided the total votes.

Not only in the case of candidates but it is our experience since the Independence of the country that even Governments are formed with minority votes. The Government of India has been formed on the basis of 30 per cent or 32 per cent or 35 per cent of votes. I have all the figures here for the various elections held since Independence. But I will not take the time of the House in only giving forth all these figures. But then it is a sad state of affairs for a democracy that majority of the votes do not get translated into the seats and the Governments are formed on the basis of minority votes. The Government may be formed with 40 per cent of votes which means 60 per cent of the voters had, in fact, rejected and had not given the mandate to that particular party to form the Government.

SHRI RAMESH CHENNITHALA : What about those persons who do not cast their votes?

SHRI G.M. BANATWALLA : That is a different aspect. At present, I am talking of the votes that are cast. People take all the trouble to walk up to the polling station.

SHRI RAMESH CHENNITHALA : Do you mean to say that voting should be made compulsory for all?

SHRI G.M. BANATWALLA : No. I do not accept the idea of compulsory voting. That is a different discussion altogether. We can take it up at a different time. There can be a lot of discussion whether voting is to be made compulsory or not. I do not agree to it. It is also a fact that casting of votes is not a Fundamental Right of the citizens of India today. It looks like that. There are court judgements to that effect. There is no Fundamental Right to contest elections. I have another Bill on this subject in order to see that casting of votes and contesting of elections are made Fundamental Rights of the Indian citizens. But that is not a subject to which I am referring to, at present. I am speaking at present on the deficiencies, the grave deficiencies of the majoritarian first-past-the-post system that we are having and we have adopted in our country in these 50 years or so.

समापति महोदय : श्री बनातवाला जी, आप कितना समय लेंगे ? अभी साढ़े पांच बजे आधे घंटे की चर्चा शुरू होनी है। वैसे अभी आप तीन मिनट तक बोल सकते हैं। आधे घंटे की चर्चा के बाद यदि आप बोलना चाहें तो आपको समय मिलेगा।

SHRI G.M. BANATWALLA : Sir, I am only at the introductory stage of my speech. I will continue next time whenever this subject is taken up.

SHRI RAMESH CHENNITHALA : We can continue after half an hour.

SHRI G.M. BANATWALLA : We can take up this subject next time when the Private Members' Business is taken up. I can understand that you want to speak today itself and get rid of it but then it is an important subject.

Sir, the Law Commission has recommended the List System. Though there are certain variations and differences in my Bill with that of what has been recommended by the Law Commission, as a matter of principle, the Law Commission, in its 170th Report recommended the adoption of the List System. The BJP was craving for the List System before coming to power. I am sure, after coming to power they would remember what submissions Shri L.K.Advani had made in the Leaders' meetings and meetings of the Election Commission at the time when the BJP was in the Opposition.

Sir we have to see that the wastage of votes obtained by a defeated candidate is avoided as far as possible. Otherwise, there is a distortion with respect to the expressed wish of those who actually vote. Their wishes are distorted. A large number of people may not have voted for the candidate declared elected and they find that all the trouble that they had taken to come to the polling booths is wasted and the vote that they have cast as honourable citizens of India have gone waste.

समापति महोदय : बनातवाला जी, साढ़े पांच बज गये हैं इसलिए आप बैठ जाइये।

SHRI G.M. BANATWALLA : Sir, I will speak next time.

विधि और न्याय मंत्री तथा वाणिज्य और उद्योग मंत्री (श्री अरुण जेटली) : सभापति महोदय, क्या आधे घंटे की चर्चा के बाद फिर यह डिसकशन शुरू होगी ?

सभापति महोदय : यह हाउस के मूड पर डिपेंड करेगा।

SHRI RAMESH CHENNITHALA : Sir, we lost one hour time. It should be compensated.

MR. CHAIRMAN: Yes. It will be compensated.

SHRI G.M. BANATWALLA : Mr. Chairman Sir, for our convenience, you may please clarify whether the Bill would be taken up next time or whether you want to continue with the Bill after the Half-an-Hour Discussion. I want to know because I have to rush to the airport.

MR. CHAIRMAN : You will speak after the Half-an-Hour discussion.

SHRI G.M. BANATWALLA : So, the flight is lost.

MR. CHAIRMAN: It is up to you.

SHRI G.M. BANATWALLA : 'Up to me' means I have to be necessarily here because I have not yet started making my submissions.

18.08 hrs.

MR. CHAIRMAN : The House will now take up item No. 31. Shri G.M. Banatwalla.

SHRI G.M. BANATWALLA (PONNANI): Mr. Chairman, Sir, I was speaking of the grave deficiencies of the 'first past the post' system of voting. I had pointed out that there was much wastage of votes also under the system. ...*(Interruptions)*

संसदीय कार्य मंत्रालय में राज्य मंत्री तथा श्रम मंत्रालय में राज्य मंत्री (श्री विजय गोयल) : सभापति जी, मैं बनावाला जी से पूछना चाहता हूँ कि क्या उन्होंने कहा है कि उनका बिल अगली बार ले लिया जाए?

वेई (व्यवधान)

सभापति महोदय : यदि सदन की सहमति हो तो यह बिल अगले सप्ताह ले लिया जाए?

अनेक माननीय सदस्य : हाँ, हाँ।

सभापति महोदय : सदन की सहमति है कि यह बिल अगले सप्ताह ले लिया जाए। अब सभा सोमवार पूर्वाह्न 11 बजे तक के लिए स्थागित होती है।