

The Representation of the People (Amendment) Bill, 2014

By

Shri. Baijayant “Jay” Panda

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BILL

To further amend the Representation of the People Act, 1951

BE it enacted in Parliament in the sixty-fifth year of the Republic of India as follows:

1. (1) This Act may be called the Representation of People (Amendment) Act, 2014

(2) It may come into force on such date as the Central Government may, by notification in the Official gazette, appoint.

2. In Section 70 of the Representation of the People Act, 1951(hereinafter referred to as the principal Act), the following section shall be substituted, namely:-

“70. Election to more than one seat in either House of Parliament or in the House and/or either House of the legislature of a State

(1) If a person is elected to more than one seat in either House of Parliament or in the House or either House of the Legislature of a State then, unless within the prescribed time he resigns all but one of the seats [by writing under his hand addressed to the Speaker or Chairman, as the case may be, or to such other authority or officer as may be prescribed], the returning officer [shall, in the absence of any direction by the Election Commission to the forthwith] declare the candidate in such constituency, receiving the second highest number of votes to be elected.

(2) If a person is elected to one seat in either House of Parliament and either House of the Legislature of a State (in case of elections to either House of Parliament and either House of the Legislature of a State held in the same election cycle) then, unless within the prescribed time he resigns all but one of the seats [by writing under his hand addressed to the Speaker or Chairman, as the case may be, or to such other authority or officer as may be prescribed], the returning officer [shall, in the absence of any direction by the Election Commission to the forthwith] declare the candidate in such constituency, receiving the second highest number of votes to be elected.

STATEMENT OF OBJECTS AND REASONS

The Representation of the People Act, 1951 provides for the conduct of elections of the Houses of Parliament and to the Houses of Legislature of each State. Section 33 of the current law allows candidates to contest elections from up to two seats in either House of Parliament and either House of the state legislature. The same law (Section 70) also provides that in the event that a candidate wins from both seats in either House of Parliament and/or either House of the state legislature, he or she has to resign from all but one seat, which in-effect triggers bye-elections.

This provision is often as safety-net to ensure electoral success. More often than not, the candidates win from the two seats, necessitating bye-elections. The ex-chequer has to bear additional cost of conducting these bye-elections. More importantly, the representative effectively abandons the constituents of one of his winning seat to serve the other, thus significantly affecting public morale.

This bill seeks to amend the Representation of People Act to provide that in case a candidate is elected from more than one seat in either House of Parliament or either House of State legislatures or from one House of Parliament and a House of State legislature (when elections are held in the same election cycle), on his resignation from all but one seat, in the other seats, the candidate securing the second highest number of votes shall be declared elected.

The bill indirectly penalises political parties who use this provision as political insurance and at the same time, also prevents an additional burden on the ex-chequer as it prevents resultant bye-elections. Therefore, this bill imposes costs on political parties for taking un-due advantage of the law to their benefit. Although not a perfect solution in our imperfect system, this bill is an attempt to dis-incentivise political parties from manoeuvring the system to their benefit.