

17.36 hrs.

Title: Further discussion on the Election Laws (Amendment) Bill, 1999 moved by Shri Aurn Jaitley on 18 February, 2003. (Bill passed)

डॉ. रघुवंश प्रसाद सिंह (वैशाली) : अध्यक्ष महोदय, माननीय कानून मंत्री जी दोबारा मंत्रिमंडल में आए हैं। ये जब मंत्री पद से हट गए थे, इन्हें निकाल बाहर किया था तो हम लोगों को बहुत खराब लगा था, अब फिर से शामिल किए गए हैं तो अच्छा लगा। आज ये जो प्रॉक्सी वोटिंग का विधेयक लाए हैं कि प्रॉक्सी से वोटिंग की जाए। इसमें कोई आशंका नहीं, जब हम लोग कॉलेज में पढ़ते थे तो प्रॉक्सी से हाजिरी लगा देते थे तो उस समय बड़ा खराब माना जाता था और छात्र दंडित किए जाते थे। वही चीज हमारे दिमाग में बैठी हुई है कि प्रॉक्सी खराब है। प्रॉक्सी वोटिंग कानून में रोक थी, लेकिन कानून मंत्री जी इसे ले आए हैं कि प्रॉक्सी वोटिंग हो। इसमें भी विधेयक को देखा जाए। अब मिलिट्री देश की रक्षा है। ये हमारे देश की रक्षा करने वाले हैं, हमारे देश का गौरव हैं। आर्मी के लोग देश की रक्षा करते हैं, इन्हें हर सहूलियत दी जाए और सम्मानित रखा जाए। देश का कोई नागरिक ऐसा नहीं है जो यह कह सके कि जो आर्मी में देश की सेवा और रक्षा में लगे हुए हैं उनके सम्मान में कोई कमी की जाए या उन्हें कोई अधिकार न दिया जाए। इसमें कोई विरोध देश के आम लोगों को नहीं है।

महोदय, 20-21 दिन का चुनाव प्रचार पहले होता था उसे कमीशन ने घटा कर 14 दिन किया। 14 दिनों में पोस्टल बैलेट से उन्हें वोट डालने का अधिकार था। इस तरह वोट डालने में देरी हो जाती है, 14 दिन में लोग वोट नहीं डाल पाते, बैलेट नहीं पहुंचता, इसलिए उन्हें प्रॉक्सी वोट का अधिकार दिया जाए। इसलिए यह विधेयक लाए हैं। हम लोग देखते हैं कि प्रॉक्सी वोटिंग ऐसे ही हो रहा है। चुनाव सुधार के लिए कितनी कमेटियां बनीं कि चुनाव सुधार होगा, लेकिन सरकार चुनाव सुधार नहीं, बल्कि चुनाव बिगाड़ वाला विधेयक ले आई। चुनाव में जहां फेयर एंड पीसफुल इलेक्शन की कल्पना हम लोग करते हैं कि किसी भी हालत में चुनाव साफ-सुथरा होना चाहिए, चूंकि लोकतंत्र, मतलब वोट का राज, लेकिन जब वोट सही ढंग से नहीं होगा तो लोकतंत्र भी मजबूत नहीं होगा, कमजोर रहेगा। पहले से ही कानून में रोक थी और इसमें भी लोग कहते हैं कि सिंक्रेसी भंग होगी तथा गोपनीयता समाप्त होगी। उधर के एक माननीय सदस्य, श्री वी.पी. सिंह ने कहा कि पति-पत्नी में विश्वसनीयता होनी चाहिए, पत्नी के बदले पति और पति के बदले पत्नी वोट डाल दे तो प्रॉक्सी में विश्वास की बात है। यह जो वोट में सिंक्रेसी और पति तथा पत्नी के बीच में भी सिंक्रेसी होती है, यह कानून मंत्री जी को समझना चाहिए। ये सिंक्रेसी को भंग करने वाला विधेयक लाएंगे तो कोई मानेगा और ये कहते हैं कि पति एवं पत्नी का विश्वास, तो पति के बदले पत्नी को एलाऊ करेंगे, इस तरह का तर्क सदन में दिया जाता है। पति का पत्नी पर विश्वास के मायने पत्नी के साथ प्रॉक्सी हो जाए। (व्यवधान)

अध्यक्ष महोदय, सदन की स्टैंडिंग कमेटी में आर्मी को राइट टू वोट का सर्वसम्मत प्रस्ताव है और इसमें अनेक उपाय किये जाने चाहिए, जिससे वे वोटिंग राइट से वंचित न हों। अब ये कहते हैं कि टैक्नोलोजी का विस्तार का युग है और 14 दिन में भी इनका पोस्टल मैनेजमेंट चौपट है, यह भी इनकी विफलता का सबूत है, जो ये विधेयक लाये हैं कि 14 दिन में पोस्टल बैलेट नहीं पहुंच सकता, इसलिए प्रॉक्सी वोटिंग से मिलिट्री के लोगों को अधिकार दिया जाये, आर्मी के लोगों को अधिकार दिया जाये। इसमें कुछ राजनैतिक साजिश लगता है। ये तो भगवान को नहीं छोड़ते तो मिलिट्री के लोगों को राजनीति में घसीटे बिना कैसे छोड़ेंगे। ये चाहते हैं कि लोगों को बतायें, यह दिखायें कि यही मिलिट्री के बड़े भारी सम्मान के पक्षधर हैं और राइट देने वाले हैं और लोग मिलिट्री के राइट के खिलाफ हैं, लेकिन ऐसा नहीं है। (व्यवधान)

श्री रघुनाथ झा (गोपालगंज) : तो विरोध क्यों करते हो?

डॉ. रघुवंश प्रसाद सिंह : हम प्रॉक्सी वोट का विरोध करते हैं। जो देश की सेवा कर रहा है, वह प्रॉक्सी तो कर ही रहा है। आप लोग प्रॉक्सी के पक्षधर हैं। इसलिए कमेटी ने कहा कि इस पर विचार-विमर्श होना चाहिए और कोई न कोई रास्ता निकालना चाहिए, ताकि आर्मी के लोग, जो सीमा पर रहते हैं, वे वोट के अधिकार से वंचित न हों। उनका मत भी चुनाव में शामिल होना जरूरी है, इसलिए कहा कि तमाम राजनैतिक दलों से विचार-विमर्श किया जाये और प्रॉक्सी छोड़कर कोई न कोई रास्ता निकाला जाये, ताकि उनको वोट का राइट मिले और वे वोट डाल सकें।

पोलिटिकल पार्टीज के बीच में कन्सेंसस नहीं हुआ। उसके बाद भी सरकार इस विधेयक को लेकर चली आई है। यह समिति की अवमानना और पार्लियामेंटरी डेकोरम की अवहेलना हो रही है। सरकार की वचनबद्धता है कि हम कोई काम करेंगे तो उसमें कन्सेंसस का बड़ा ख्याल रखेंगे। इसमें भी सरकार से सदन को जानना चाहिए कि मिलिट्री के राइट के ऊपर भी मतभेद हो गया या विभाजन हो गया, यह सरकार को प्रयत्न करना चाहिए कि सर्वसम्मत बात हो, लेकिन ये यह दिखाने के लिए आतुर हैं कि यही मिलिट्री के लोगों के बड़े भारी पक्षधर हैं। अनेक टैक्नोलोजी के उपाय हैं, अब ये विधेयक लाये हैं कि प्रॉक्सी में कैसे बहाल करेगा, जिस आदमी का परिवार वहीं पर रहता है, वोटिंग के समय पर अपनी कांस्टीट्वेंसी से बाहर है, वह किसे प्राधिकृत करेगा, कैसे प्राधिकृत करेगा, 14 दिन के अन्दर कैसे प्राधिकृत करेगा? ये सारे सवाल इसमें हैं।

बिहार के आदमी देश भर में फैले हुए हैं, वे दूसरे राज्यों में मजदूरी करने जाते हैं, उसका कौन प्रॉक्सी होगा? उसका प्रॉक्सी क्यों नहीं होगा। राइट ऑफ इक्वेलिटी में भी सरकार को देखना चाहिए, कांस्टीट्यूशन में राइट ऑफ इक्वेलिटी है, हर एक को बराबर का अधिकार है, जो कोई भी देश में सेवा में बाहर है, उसे भी अधिकार देने का सवाल उठेगा। इसलिए इसमें राजनैतिक बू आती है, इसमें क्षुद्र स्वार्थ है और सरकार ने पूरा माइंड एप्लॉई नहीं किया है। अभी जो टैक्नोलोजी है, उसके हिसाब से आर्मी के लोगों को भी वोटिंग राइट मिले, वे इस अधिकार से वंचित न हो सकें, उस तरह का सरकार ने माइंड एप्लॉई नहीं किया और प्रॉक्सी वोटिंग का विधेयक सीधे ही ले आई। इससे चुनाव सुधार नहीं, चुनाव बिगाड़ होगा और प्रॉक्सी वोटिंग को ये लोग कैसे रोक पाएंगे, यह हम सरकार से जानना चाहते हैं।

इन्हीं शब्दों के साथ चुनाव प्रणाली में सुधार हो, इस पर हम लोगों का जोर है, लेकिन ये चुनाव बिगाड़ वाला विधेयक ले आये, वह भी मिलिट्री के नाम पर, यह बहुत खतरनाक बात है, इसलिए मैंने जो सारे सवाल उठाये हैं, माननीय कानून मंत्री जी इनका जवाब दें।

श्री प्रकाश परांजपे : बिहार में प्रॉक्सी गवर्नमेंट चल रही है, उसमें आपको क्या कहना है? (व्यवधान)

डॉ. रघुवंश प्रसाद सिंह : बिहार में जनतंत्र का जन्म हुआ था। दुनिया में पहला जनतंत्र लिच्छमी जनतंत्र था, उसमें वोट का राइट था, इसलिए आप यह बात मत बोलिये। (व्यवधान)

बिहार में डेमोक्रेसी का जन्म हुआ इसलिए हमारी जिम्मेदारी बनती है कि हम जनतंत्र को मजबूत करने का काम करें। (व्यवधान)

श्री प्रकाश परांजपे : बिहार में (व्यवधान)

अध्यक्ष महोदय : प्रकाश परांजपे जी आप बैठिये।

...(व्यवधान)

MR. SPEAKER: Mr. Radhakrishnan you may please speak.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Mr. Speaker, Sir, there can be no doubt that everybody should be given the right to vote, particularly the persons serving in the Army should be given all opportunities in respect of their franchise. Now, our Indian Constitution provides the right to vote as a Fundamental Right. The citizenship includes the right to vote and the right to get elected also. Now, in the case of the people serving in the Army and in the case of the people serving in the Government service, they have voluntarily surrendered one right, the right to get elected. But everybody is getting the right to vote. Some people have surrendered the latter part of the citizenship right that they cannot be elected because they are serving in the Army or they are serving in the Government service. They are not allowed to get elected. So, it is a non-transferrable right. The citizenship right is a non-transferrable right and it is a Fundamental Right. I say you cannot transfer that right. Citizenship right includes both these things. I would submit that it is non-transferrable.

So, I oppose this amendment for the simple reason that it is violative of the fundamentals of our Constitution. This is one thing and, secondly, another important thing I would like to say is that secrecy should be maintained. The hon. Law Minister was referring to the Supreme Court ruling. But the Supreme Court did not consider this question as such. There the question was of the corrupt practices being detected. When blatantly a corrupt practice is being introduced, the Government and the Supreme Court discuss *inter alia* not in regard to secrecy. The Supreme Court has never expressed the opinion that secrecy should not be maintained in the matter of corruption. That is not the question. So, secrecy is also a fundamental issue. So, in this particular case there are two violations, the one that I have already mentioned and the second one is that the secrecy is also lost.

Then, suppose we give the right to vote by proxy. Would we achieve free and fair elections? I do not think it is possible because in our land the wife will have a separate opinion about a political matter. The wife may not agree with the husband in voting for a particular candidate. Suppose a proxy is given to the wife. How can we presume that he or she will exercise the right of her husband in the way he would like because the man is serving in the Army far away. The election focus is in the constituency. The wife is entering the polling booth and exercising his vote. How we can presume that she will be voting according to the wishes of her husband? We have instances wherein the wife is opposing the husband and the husband is opposing the wife. It is quite possible that the father is opposed by the son and the son is opposed by the father. It is quite natural. Each and everybody in a family will have his or her own opinion. We cannot presume that the wife will exercise the mandate in the way in a free and fair manner.

So, it is also not possible. We are not giving a proper opportunity for the Armed Forces personnel to exercise their franchise by proxy. We are living in an electronic age and so many scientific developments have taken place in our country. So, we can find out a remedy for this.

Sir, I have participated in the election process at all levels till date. I have contested in the Panchayat elections, I have contested seven times in the State Assembly elections and I have contested three times in the Lok Sabha elections. Many scientific developments have taken place in our country and we are now having Electronic Voting Machines. So, we can use the modern technologies and we can find out a scientific method of giving voting right to the personnel of the Armed Forces. I hope common sense will prevail on the Government. We can pass this Bill at a later date by providing some other method of voting to the Armed Forces. Therefore, I request the hon. Law Minister to have a discussion with all the parties and come to a consensus on this matter.

With these words, I strongly oppose the Bill, as it is moved before the House now.

MR. SPEAKER: With the permission of the House, I extend the time of the sitting of the House till this Bill is fully considered and voted.

SHRI ADHI SANKAR (CUDDALORE): Mr. Speaker, Sir, I thank you very much for giving me this opportunity to participate in the debate on the Election Laws (Amendment) Bill, 1999.

Sir, the Government should first convince the House as to whether each individual's voting right is transferable or not. Now-a-days, most of the people in our country do not cast their vote in the elections. Voting is a democratic right and it is also a fundamental right. It is the spirit of Indian democracy. This Bill is a long-felt need of the Armed Forces personnel. Everybody is aware that the personnel of the Armed Forces are one of the most disciplined sections of the people in our country. They must feel that this House is aware of their problems and feelings.

Sir, I feel that if this right is given to them, they will not misuse it. Our Party, the DMK, has the highest respect for the Armed Forces personnel. The Armed Forces personnel have expressed their feeling that they are not able to participate in the electoral process of the country due to the place of their posting in remote, border areas. There was unanimity in the Standing Committee also that the Armed Forces personnel must be given this opportunity to exercise their voting right. In the Parliament also, each party is very keen to see that our Armed Forces personnel

get involved in the electoral process in a manner as others do.

Sir, I personally feel that the time has come for us to give this right not only to the people serving in the Armed Forces, but also to others who are serving in other places outside their constituency where their names are enrolled in the Voters List. They should also be given this right so that they are also able exercise their democratic right.

Sir, on this occasion, I would like to say a few words about the State Election Commission in Tamil Nadu. In the last 1½ years, four or five bye elections were held to the Tamil Nadu Legislative Assembly. In these elections, the Ruling Party in Tamil Nadu have misused their powers and misused the Government machinery. The ordinary people were not allowed to cast their vote in a free and fair manner. All the polling booths were captured by the Ruling Party people with the help of rowdy elements and with the connivance of the police. Then, Voters Identity Cards were also fabricated by the Ruling Party people. ...*(Interruptions)*

SHRI P.H. PANDIAN : Mr. Speaker, Sir, this is not correct. These kind of remarks should not go on record. ...*(Interruptions)*

MR. SPEAKER: If there is anything objectionable, it will be removed.

SHRI ADHI SANKAR : Sir, in the local body elections also, the same kind of practices were adopted by the Ruling Party people and all the counting centres were captured by them. In most of the places, workers of Opposition parties were assaulted by rowdy elements. Many complaints have been given to the State Election Commission about these practices. ...*(Interruptions)*

SHRI P.H. PANDIAN : Mr. Speaker, Sir, this is not a good practice. ...*(Interruptions)*

SHRI ADHI SANKAR : But up till now, no action has taken place. At the time of election or by-election, most of the bogus voters are included in the list of voters. There is also fabrication of identity cards and misuse of Government machinery. All this is done by the AIADMK, which is the ruling party. ...*(Interruptions)*

SHRI P.H. PANDIAN : Mr. Speaker, Sir, this is not good. ...*(Interruptions)*

SHRI ADHI SANKAR : Because of all these reasons, all the regional parties belonging to the opposition have decided to boycott the Sathankulam by-election. ...*(Interruptions)*

On behalf of the DMK, I support the Bill. With these words, I conclude my speech.

**कुंवर अखिलेश सिंह (महाराजगंज, उ.प्र.) :** अध्यक्षमहोदय, सरकार द्वारा लोक प्रतिनिधित्व अधिनियम के अन्तर्गत संशोधन विधेयक लाया गया है और इस संशोधन विधेयक के अन्तर्गत प्रॉक्सी वोटिंग का प्रावधान रखा गया है। मैं किसी एक राज्य को दोषारोपित नहीं करता हूँ। उत्तर प्रदेश, बिहार सहित बहुत से राज्य हैं जिनमें चुनाव के दौरान ये बातें सुनने को आती हैं कि बूथ कैपचरिंग के द्वारा लोगों की भावनाओं के विपरीत लोग चुनकर संसद और विधान सभाओं में आ रहे हैं। इस प्रॉक्सी वोटिंग के द्वारा सबसे ज्यादा खतरा बूथ कैपचरिंग करने वाले लोगों के पक्ष में यह बात जाती है।

**17.57 hrs. ( Dr. Raghuvansh Prasad Singh in the Chair)**

दूसरी बात हम कहना चाहते हैं कि आपने जो प्रॉक्सी वोटिंग का अधिकार रखा है, इसमें कोई आवश्यक नहीं है कि जो हमारा सैनिक सीमा पर देश के लिए लड़ रहा है, उसकी भी वही सोच हो जो उसकी पत्नी की हो या उसकी पत्नी जो सीमा पर लड़ रही हो, उसके पति की भी वही सोच हो। मैं उदाहरण के तौर पर आपको गाजीपुर जनपद के एक गहमर गांव का उदाहरण देता हूँ। गाजीपुर जनपद का गहमर गांव जिसमें प्रत्येक परिवार में एक व्यक्ति सेना के अन्तर्गत है। विश्वनाथ सिंह गहमरी इस सदन के बड़े प्रखर सांसद रहे हैं और उन्हें बड़ा घमण्ड था कि जब गहमर का बक्सा खुलेगा तो हमें जीत हासिल होगी लेकिन विश्वनाथ गहमरी को तब धक्का लगा जब गहमर का बक्सा खुला और विश्वनाथ गहमरी को अपने ही गांव के अंदर हार का मुंह देखना पड़ा। मैं यह बात यहां इसलिए कह रहा हूँ क्योंकि निश्चित तौर पर हमारे सैनिकों को सेना में या अन्य जगहों में काम करने वालों लोगों को मताधिकार मिलना चाहिए लेकिन अगर प्रॉक्सी वोटिंग के द्वारा मतदान कराएंगे तो निश्चित तौर पर उन सैनिकों का या उन कर्मचारियों की भावनाओं का सही तरीके से प्रतिनिधित्व नहीं हो सकेगा। इसलिए हम आपके माध्यम से कहना चाहते हैं कि इस प्रॉक्सी वोटिंग के अधिकार को समाप्त करना चाहिए। यह जो संशोधन लाया गया है, यह खतरनाक है। दूसरी बात हम कहना चाहते हैं कि जब आज टेक्नोलॉजी इतनी विकसित हो चुकी है कि आज जब इलेक्ट्रॉनिक वोटिंग मशीनरी के द्वारा हम राज्यों के अन्तर्गत मतदान करा रहे हैं तो जहां भी हमारे लोग हैं, जहां वोटिंग की आवश्यकता है, उनकी वोटिंग करानी चाहिए और अगर आवश्यक पड़े तो उन स्थलों पर ही उनकी मतगणना कराकर उसकी सूचना रिटर्निंग ऑफिसर को भेजनी चाहिए लेकिन अगर इस तरीके से अगर प्रॉक्सी वोटिंग का अधिकार देंगे तो इसका निश्चित रूप से दुरुपयोग होगा। मैं यह भी विनम्रता पूर्वक कहना चाहता हूँ कि श्री टी.एन.शेन से लेकर अब तक जितने भी मुख्य चुनाव आयुक्त हुए हैं, उन्होंने समय-समय पर चुनावों में सुधार लाने के लिए जितने भी प्रयास किए, वे प्रयास आज भी नाकामयाब हैं।

आज विधान सभाओं और लोक सभाओं के लिए जो धन की सीमा आपने निर्धारित की है, मैं दावे के साथ कहना चाहता हूँ कि पांच प्रतिशत विधान सभाओं और लोक सभाओं में ही उस सीमा के अन्तर्गत चुनाव होता है वरना करोड़ों रुपये खर्च किये जाते हैं और पूरी प्रशासनिक मशीनरी मूक दर्शक बनकर बैठी रहती है। आप यह जो प्रॉक्सी वोटिंग द्वारा मतदान कराने की बात कह रहे हैं, मैं कहना चाहता हूँ कि आपकी यह सोच निरर्थक साबित होगी। आज जब आप धन के प्रभाव को नहीं रोक पा रहे हैं और आज भी इस सदन के अंदर जो बैठे हुए लोग हैं, उनमें से एक तिहाई से ज्यादा लोगों के ऊपर घनपतियों और कुबेरपतियों का प्रभाव है और अगर उस धन को माइन्स कर दिया जाए तो मैं साफ शब्दों में कहना चाहता हूँ कि आज इस संसद के अंदर भी सुधार आ जाएगा और विधान सभाओं के अंदर भी सुधार आ जाएगा। जब उन स्थितियों में आप बदलाव नहीं ला पा रहे हैं तो इस प्रॉक्सी वोटिंग का अधिकार देकर आप निश्चित तौर पर और खामियों को पैदा करना चाहते हैं।

**18.00 hrs.**

इसलिए मेरा फिर एक बार विनम्रतापूर्वक आग्रह है कि आप इस पर पुनर्विचार करें और इसे प्रवर समिति को सौंप दें तथा सभी दलों की राय लेकर एक आम राय इस पर बनाकर कोई ऐसा रास्ता निकालें, जिससे हमारी सीमा पर काम करने वाले सैनिक अपने मत का प्रयोग कर सकें। अगर ऐसा नहीं होता है तो कोई दूसरा रास्ता तलाश करना होगा, वरना यह जो एक खतरनाक प्रक्रिया आप शुरू कर रहे हैं, यह निश्चित ही लोकतंत्र के लिए अशुभ होगी।

**श्री प्रभुनाथ सिंह (महाराजगंज, बिहार) :** सभापति जी, सेना में काम करने वाले चाहे छोटे स्तर के सिपाही हों या बड़े पदाधिकारी हों, उनको चुनाव के समय अपने मताधिकार का अवसर नहीं मिलता है। वैसे भी डाक से वोट जाता है, आपके क्षेत्र में भी जाता होगा, हमारे यहां भी जाता है। लेकिन उसकी संख्या 50-100 से ज्यादा नहीं होती।

जब जार्ज फर्नांडीज साहब रक्षा मंत्री बने तो वे बराबर सीमा पर जाते थे। उस समय सेना के सिपाहियों और पदाधिकारियों ने उनसे आग्रह किया था कि हम लोग सीमा पर जान की बाजी लगाकर रहते हैं, देश के लिए मर-मिटने के लिए तैयार हैं, युद्ध का समय आता है तो हम अपने सीने पर गोली सहते हैं, लेकिन हम लोगों को यह अधिकार प्राप्त नहीं है या कोई ऐसी व्यवस्था नहीं है कि इस देश में किसकी सरकार बने, कौन बनाए, उसमें हम अपनी सहभागिता नहीं निभा सकते। फिर एक प्रक्रिया शुरू हुई। बीच के दिनों में कुछ इधर-उधर भी हुआ। हमें मालूम पड़ा कि विधि मंत्रालय ने इस सम्बन्ध में चुनाव आयोग को पत्र भेजा था। लेकिन जब चुनाव आयोग से सम्पर्क किया तो उन्होंने कहा कि हमारे यहां इस सम्बन्ध में कोई कागज नहीं है। हम जार्ज फर्नांडीज साहब को बधाई देते हैं कि उन्होंने प्रयास करके एक बैठक की, जिसमें कानून मंत्री भी थे, अन्य सम्बन्धित विभागों के मंत्री, पदाधिकारी और चुनाव आयोग के पदाधिकारी भी थे। उसको लेकर एक प्रक्रिया शुरू हुई। यह खुशी का दिन है हम इसके लिए कानून मंत्री जी को बधाई देते हैं कि देश की सुरक्षा करने वाले लोग अब अपने मत का प्रयोग कर सकेंगे। अब उनके माध्यम से भी यह तय होगा कि इस देश में किसकी सरकार बने। इस सम्बन्ध में उनका विचार भी सामने आएगा।

जहां तक गलत और सही वोटिंग का सवाल है, तो सभापति जी इसे आपसे और हमसे ज्यादा कौन जानता है। गड़बड़ कैसे होती है या नहीं होती है, अगर गड़बड़ नहीं होगी तो उसमें भी लाभ बिहार सरकार को होगा। बिहार में पुलिस बक्सों में वोट डलवाती है।

सभापति जी, आप विद्वान आदमी हैं। आपकी विद्वता पर हम जैसे लोगों को गर्व है। लेकिन लगता है कभी-कभी आप सिखाई बातों को बोल जाते हैं, अपनी बात नहीं कहते हैं। आप कहते हैं कि देश के कोने-कोने में काम करने वाले मजदूरों को भी यह अधिकार देना चाहिए। एक तरफ सीमा पर गोली खाने वालों से आप मजदूरों की तुलना कर रहे हैं। लगता है आपको किसी ने सिखाया है। जब आप सेंट्रल हाल में बैठे हुए थे, किसी ने आपको समझाया था इसलिए आपने ऐसी बात कही।

**सभापति महोदय :** आसन के प्रति कोई आक्षेप न हो। आप उधर करके बोलें।

**श्री प्रभुनाथ सिंह :** जहां पर पति और पत्नी के विश्वास का सवाल है। गांवों में आज भी पति और पत्नी में विश्वास बरकरार है। हो सकता है शहरों में यह दो-चार प्रतिशत इधर-उधर हो। लेकिन शहरों में भी ज्यादा ऐसे परिवार हैं, जहां पति और पत्नी के विचार मिलते हैं। जब इनमें एक-दूसरे के प्रति विश्वास नहीं रहता, तो सम्बन्ध गड़बड़ा जाते हैं। इसलिए विश्वास मजबूत होता है, तभी रिश्ते का निर्वाह होता है। मैं कानून मंत्री जी से कहूंगा कि जहां अगर पत्नी न हो तो कोई निकटतम सम्बन्धी हो, उसको यह अधिकार देना चाहिए, ताकि सेना के लोगों का मतदान हो सके। इस तरह की व्यवस्था होनी चाहिए।

**सभापति महोदय :** बिहार में जुगल किशोर सिंह समाजवादी पार्टी के थे और श्रीमती रामदुलारी सिन्हा कांग्रेस पार्टी की सदस्य होकर मंत्री थीं।

**डा. विजय कुमार महोत्रा :** चेयर पर होकर ऐसा न बोलें।

**सभापति महोदय :** आसन को निपक्षता माननीय सदस्य से नहीं सीखनी है। मैंने केवल सूचना दी है और माननीय सदस्य को सूचना देने का अधिकार आसन को है। साथ ही यह भी अधिकार है कि माननीय सदस्य को सही जानकारी दी जाए।

**SHRI PRAVIN RASHTRAPAL (PATAN):** Will the Minister of Parliamentary Affairs let me know where Shri Swaraj is? Is he in the same Party or in a different Party?

**स्वास्थ्य और परिवार कल्याण मंत्री तथा संसदीय कार्य मंत्री (श्रीमती सुमा स्वराज) :** पार्टी में होना जरूरी नहीं है, लेकिन अगर स्वराज जी यह कहें कि मेरी तरफ से वोट फलां जगह पर डालकर आना तो निश्चित तौर से उनकी बात को सिरें चढ़ाते हुए वोट वहीं डालूंगी। अलग दल में होने के कोई मायने नहीं हैं, विश्वास के मायने हैं और साथ ही यह भी कि उनकी बात को सिरें चढ़ाना है या नहीं चढ़ाना है।

**श्री प्रभुनाथ सिंह :** विश्वास बिहार में देखा जा सकता है। बिहार के राज्य सभा के एक सांसद हैं जिनकी पत्नी बिहार की मुख्यमंत्री रावड़ी जी हैं। वे आंख के इशारे से कहते हैं कि इस कागज पर दस्तखत कर दो, रावड़ी जी कर दिया करती हैं। (व्यवधान) इसलिए आप यह नहीं कह सकते हैं कि पति-पत्नी में विश्वास नहीं होता। पति और पत्नी का रिश्ता विश्वास पर चलता है। इसी विश्वास के चलते हम इस बिल का पुरजोर समर्थन करते हैं और मैं सरकार से कहूंगा कि इस तरह की वैकल्पिक व्यवस्था भी की जाए कि पत्नी के अलावा भी दूसरा कोई वोट डाल सके। रक्षा मंत्री माननीय जार्ज फर्नांडीज जी और कानून मंत्री माननीय जेटली साहब को मैं इसके लिए बधाई देता हूँ कि उन्होंने लाखों सैनिकों की भावनाओं का आदर और सम्मान किया है और इस बिल से सैनिकों को मतदान देने का अवसर मिलेगा।

**SHRI P.H. PANDIAN (TIRUNELVELI):** Sir, I rise to support this Election Laws (Amendment) Bill, 1999 on the following grounds. It was earlier piloted by a very senior advocate and former Law Minister, Shri Ram Jethmalani, and now again it is being piloted by the present Law Minister who happens to be a senior counsel. The proxy voting is not unknown to the world. It is known to the entire civilised world. In the United States, there is proxy voting. The handicapped and other people, who have deformities, can be represented by proxy at the booth. So also, proxy voting is in vogue in Japan-- the most industrialised country--Belgium and in some other countries of the world. So, the right to vote is a Constitutional right. Right to stand for election is a statutory right. Shri Varkala Radhakrishnan had said that the right to get elected is a fundamental right. Nobody has got the right to get elected. The people have to decide that. But you have got the right to stand for election.

**SHRI VARKALA RADHAKRISHNAN :** That is what I said.

**SHRI P.H. PANDIAN :** So, the whole Bill is not defective. It is totally appreciative of the present circumstances. It is totally legal. It is Constitutional. It can stand the test of the law before any court because they have said it will attract article 14. It is not like that.

While exercising the franchise for the Army personnel, the wife is going to deliver the wishes of her husband. All these years, the Army personnel, who are deployed on the border, were not able to cast their votes. Now, they are able to exercise their Constitutional right of casting votes. So, at this time, the Government of India has given the Constitutional right to the Army personnel. So, I appreciate the Government because both the former and the present Law Ministers, Shri Ram Jethmalani and Shri Arun Jaitley, have brought out this Bill without any legal defect.

There is no legal defect. That is why I said that it has been tested in the United States and other countries. It would stand the test here also because our courts would follow the decisions taken in foreign countries. The entire Bill is in legal form.

I support this Bill in the interest of the personnel of the Armed Forces who sacrifice their lives. They are given this right for serving in the Forces. We have taken this decision after a big deliberation in our Parliamentary Party meeting chaired by our General Secretary and Chief Minister of Tamil Nadu, Dr. Jayalalithaa. We had a discussion because I happen to be a member of the Standing Committee. We had a different view in the Standing Committee. That is why it was referred here. Some hon. members of the Standing Committee had a different view saying this right should not be given because it might be misused and some other hon. members said that it should be passed in the present form. So, we came to a conclusion in our Party meeting. The All India Anna DMK Party has taken the Parliamentary Party and the Legislature Party and everybody into confidence because Armed Forces personnel and ex-servicemen constitute a very big population in Vellore, Tirunelveli and some other parts of Tamil Nadu. We, from Tamil Nadu, have produced many freedom fighters. A lot of our freedom fighters like Vanchinathan, V.O. Chidambaram Pillai and Subrahmanya Bharathi hail from Tamil Nadu. So, we have a patriotic feeling and out of that patriotic feeling we are extending our support to the Law Minister for having piloted this Bill. I support this Bill fully on behalf of the All India Anna DMK.

**SARDAR SIMRANJIT SINGH MANN (SANGRUR):** Mr. Chairman, Sir, I want to dispel some misconceptions about the Indian Armed Forces that have crept up in this House.

The Treasury Benches have tried to ask, 'What message would the Opposition be sending to the Armed Forces if this Bill were not passed?' Now, this is clearly an emotional blackmail. I think, the Opposition is as patriotic as the Treasury Benches as far as the Armed Forces are concerned.

Secondly, India luckily has a voluntary Army. It is not a conscripted Army. If our soldiers are fighting in Siachen, Bomdilla or in the North-East, they have gone on their own option. Nobody has forced them to go to these heights.

With the advent of militancy, now, we are all frontline soldiers. The other day, our Parliament was attacked. If the militants had come into Parliament, do you think anyone would have laid down and got shot? We would have grappled with the militants. Even if Parliament tells us now that we, as Members of Parliament, have to go to the borders to defend the country, we have to go and we would do so willingly. But where is the sense in this emotional blackmail that if we do not vote for this Bill, what sort of message would we send to the Armed Forces? My party and I debunk this theory totally because the Armed Forces have been left out of the purview of the National Human Rights Commission. I do not see any reason why anybody should enjoy a special status if there is equality in India and its Constitution. So, my Party's view is that the Armed Forces should have the right to vote. We will stand by them. But they will not get any extra things that a common citizen does not get.

Sir, an hon. Member from Bihar has challenged your statement that you wanted the Bihari labourers to get the right of proxy vote. Now, I want to tell you that in Punjab, the Bihari labourers have been shot down just like any other person. So, if you say that the Bihari labourers should get the right of vote, why should not they get the right of vote? They have also faced the same difficulties as the Armed Forces face on the border. So, I do not think that this argument will serve the purpose that just because they are serving on the heights of India and they are living in a danger zone and in a precarious situation, they should be given special rights.

I do not think that either the Judiciary or the President is out of the purview of discussion in this sovereign Parliament. We can impeach the President over here and we can even impeach the Supreme Court judges here. So, I do not think that it is a taboo, not to discuss the Army and that we should give them special rights.

My Party and I are totally against this new concept of building something special and extraordinary in India. This happened in the Emergency also when you could not criticise the Government machinery and the Government, and if you did so, you were peremptorily sent to jail. So, this concept of a special status for anybody, I debunk and I reject it. I do not want this sort of thing to happen.

THE MINISTER OF LAW AND JUSTICE AND MINISTER OF COMMERCE AND INDUSTRY (SHRI ARUN JAITLEY): Mr. Chairman Sir, I am extremely grateful to the hon. Members who have expressed their detailed views on this Bill. As I had said in my opening remarks while introducing this Bill, there were possibly two opinions even in the Standing Committee and the reason why there were two opinions in the Standing Committee was that one set of opinion was that because of the procedural and the logistical difficulties, we virtually have a very large section of our security forces who, on the polling day, are disfranchised. There are several categories of persons who, on account of the call of duty on the day of the polling, because they are serving a public duty, are outside their constituencies. There has been a reference to certain other categories also and I will deal with them. But the security forces and those who will get covered are approximately 15 lakh people who are living in far-flung areas. The logistical difficulty really being that in a Lok Sabha election, 540 Returning Officers will send Ballot Papers to the Army Headquarters or the Naval Headquarters where they will have to sort them out and then trace out as to where a particular *jawan* or a particular officer is posted. Then, they will send it to that regional zone base and from there it will be sent to the border where he is posted. It is only then that he can exercise his vote and it is sent back to the Returning Officer by post, as a result of which a very minuscule percentage of votes come back after the elections are over. Even when there has been a gap between the polling and the counting, not many votes have come back.

Now, the Lok Sabha election is almost spread over three weeks. So, in the first round it is not that the number of votes which are returned back from the borders are numerically much larger than the others. So, virtually, a large section of our Armed Forces are disfranchised because of these procedural difficulties. The alternate view was that this would be finalised later because this is only an enabling Bill. The rules for conduct of elections will have to be amended in consultation with the Election Commission. It is not necessarily the wife, it could be wife, it could be father or it could be an adult child. Those rules will have to be framed in consultation with the Election Commission as to who could be the authorised proxy holder and those authorisation procedures would all be finalised under the rules so that an additional option is given to them.

After this Bill is passed, the personnel of the Armed Forces would have three options. If he is available near his constituency, he can go to the polling booth. He will still have the option of postal ballot. The third option would be that he would have the option of appointing a proxy from amongst the authorised persons. One of the doubts which was expressed by those opposing this Bill was what if you have no faith in your wife, what if the wife has political independence or political conflict with your views? Well, if somebody is in that difficulty, I am sure that he will not exercise the option of appointing his wife. He may appoint his adult child or he may appoint his father. If he has no faith in anybody, he may still exercise the option of postal ballot. It is not a compulsory option. It is only an enabling provision which is given to him. Those who do not trust the authorised persons, do not have to go *via* this route. They can still go *via* the traditional route of either coming to the polling booth and voting or alternatively, casting their votes through a postal ballot with the risk involved that it may or it may not reach.

The second argument which was given was that it is going to effectively violate the principle of secrecy. Violation of the principle of secrecy is important in every election, but I know of political parties which have expressed disagreement with this Bill, but which are openly supporting the other proposals which we have brought. Let us take open voting in a Rajya Sabha election. One of the principles on which this principle of open voting in a Rajya Sabha election is being brought is that if secrecy breeds corruption, then transparency perhaps may remove it. If secrecy principle in the case of Armed Forces is trying to ensure that it leads to deprivation of the voting right, then you have to make a judgement call.

On the one hand, you can stand by the principle of secrecy and go by the existing principle. Even 90 per cent of your Armed Forces will not be able to vote. ...(*Interruptions*)

SHRI PRAVIN RASHTRAPAL : I am sorry that it does not convince us. ...(*Interruptions*)

SHRI PRAKASH PARANJPE : It does not matter whether they are convinced or not, but the majority is convinced. ...(*Interruptions*)

SHRI ARUN JAITLEY: Sir, I may not be able to convince every Member of this House. I am conscious of the virtues of unanimity. We have endeavoured to achieve unanimity on this Bill. When the Standing Committee expressed its opinion on the 13<sup>th</sup> September, 2001, an all-party meeting was called. We attempted to attain unanimity in that meeting, but we did not succeed. We have had informal consultations with political parties thereafter also. We have not succeeded in persuading everybody to come around unanimity, but absence of unanimity cannot mean that we paralyse the decision-making process and this Legislature abandons its responsibility of thinking about those who strongly feel that because they are in far-flung areas, because they are responding to the call of duty, because on the polling day, they are away from their constituencies, they must be deprived of their voting rights because the procedures we have followed are so long winded. So, if unanimity or consensus is not possible, I think, it is known to parliamentary democracy that in that event, let the vote prevail. We have tried our best to obtain unanimity. We

are conscious of the virtues of unanimity, but unanimity will not be for the sake of sacrificing principles if you tend to believe in them.

Sir, this is not the only case. I referred in the case of corruption the Supreme Court's observations which almost said that secrecy is not so vital. If secrecy, at times, leads to corruption and corrupt practice in an election, then the Supreme Court also said let transparency come in.

Here, the principle of secrecy, which we are following by a postal ballot, is leading to deprivation of the right to vote. It is leading to 90 per cent of our Armed Forces virtually being de-franchised. Do we then not have a little more dynamic thinking and look how people elsewhere in the world have thought of it? Now, I have cases. I have tried to study as to what they do in the other countries. It is not that we are experimenting it here for the first time. Liberal democracies in the world have experimented it. The United States of America, the United Kingdom, the Netherlands, Japan, Ivory Coast, France, Canada and Belgium are all countries which have now in a general election experimented the principle of proxy voting. They used the word 'proxy'. We are confining it to only Armed Forces, but they have, in some cases, gone a step ahead of us. There are some countries where visually challenged people, physically challenged people can appoint a proxy holder to vote for them.

We are not making such an exception today. There was a question yesterday which an hon. Member had raised, but we first have to see how our experiment succeeds because in the case of diplomatic staff in our country, we do not have to go *via* the Army Headquarters and the regional headquarters and then to the frontiers. We have a two-day service where you can send the vote through the diplomatic bag and in another two days it can come back through the diplomatic bag. We do not have a problem of this kind. In the case of diplomats, most diplomats have their immediate families residing with them in whichever sector of posting they are there. So, this problem which is peculiar to the Armed Forces in the non-family stations does not apply to diplomats. There may be some who have the same constraints, but there are countries which I have named, where diplomatic staff and those working in Missions abroad, have been allowed proxy voting.

United Kingdom has gone to the extent that if somebody on the date of elections is travelling outside the country, he can go to the returning officer before his travel, take a proxy form and authorise somebody else. It is because it is not something which you are compulsorily imposing upon another person, it is a voluntary exercise of that proxy. So, if the person who has a right to cast his vote voluntarily decides that I do not want the postal ballot, I do not want to go myself, I am 2,000 kilometres away, I am authorising my father or my son or my daughter or my wife and I trust them that they would cast their vote according to the principle, this is the principle on which the proxy voting has been given.

The other option is, if you do not follow this route, then continue the present *status quo* where 90 per cent of the Armed Forces are virtually deprived of their right to vote. Now, in these situations we have to make a choice as to which of the two principles we really follow. We in the Government and those hon. Members supporting us consider that given a choice between virtually defranchising them or giving them a voluntary option of appointing a proxy, we feel that the second option perhaps will be a more balanced option. This will be an experiment which we should try in a democracy like ours, particularly when officers of the Army have appeared before our Standing Committee. They have strongly argued the case. Our Armed Forces strongly feel that there must be a system where they must get a right to vote and, therefore, perhaps we have felt that this system would be the best.

We have considered other options. Even Members who are opposing say, 'we are not opposed to the army getting this right, make it more effective but think of another alternative'. Sir, in the All-Party Meeting, in informal consultations, and even here the Members made a suggestion which is this other option. The other option will not fly from heaven. The options have to be made by human beings. So, please suggest a better option. Suggestions have been made. Can you agree to extend this 14 days time to 21 days or 28 days?

Most Lok Sabha Members feel that this would again increase the cost and the effort involved in elections, so it is not a viable option. After the voting is over, wait indefinitely for two to three weeks for the ballots to come. People are not prepared for this. Even when in the first phase of Lok Sabha elections you have three weeks before the counting, it has not increased the number of army ballots which are coming.

Well, we are in an age of electronic revolution, and in an age of electronic revolution find out an electronic method by which the vote will be cast. Now, leaving aside the argument that hacking is not unknown to electronic methods and the entire secrecy would disappear the moment hacking takes place, how would it take place? You will have a small contingent of the Armed Forces in a ship, the naval officers, somebody on an airbase, some 1,000 people on a mountain somewhere, somebody on a border frontier, 540 Lok Sabha constituencies. So, if there are 10,000 army personnel in a given place, we send 540 electronic machines there, 25 at another place, there may be 100 at another place because these forces are going to be located not at hundreds but at thousands of places. To send 540 electronic machines at all places and, therefore, by that process you cast your vote, is probably a remedy which would be worse than what the existing problem really is. Therefore, to simply suggest 'to find out an

electronic method or find out a better way', even though I cannot suggest a better way, will not serve the purpose. We have tried this for the last four years and we have not got a better suggestion as yet.

Therefore, this seems to be a new experiment which we must make. If this experiment succeeds, we can always decide how to go further about it. If improvements are required at a later date, I am sure, this House is always there to make those improvements.

With these words, I commend to this hon. House that this Bill be accepted and taken into consideration.

MR. CHAIRMAN : The question is:

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

*The motion was adopted.*

MR. CHAIRMAN: The House will now take up clause by clause consideration of the Bill.

The question is:

"That clauses 2 to 5 stand part of the Bill."

*The motion was adopted.*

*Clauses 2 to 5 were added to the Bill.*

### **Clause 1**

*Amendment made:*

Page 1, line 4,--

for "1999"

substitute "2003" (2)

(Shri Arun Jaitley)

MR. CHAIRMAN: The question is:

"That clause 1, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 1, as amended, was added to the Bill.*

### **Enacting Formula**

*Amendment made:*

Page 1, line 1,--

for "Fiftieth"

substitute "Fifty-fourth" (1)

(Shri Arun Jaitley)

MR. CHAIRMAN: The question is:

"That the Enacting Formula, as amended, stand part of the Bill."

*The motion was adopted.*

*The Enacting Formula, as amended, was added to the Bill.*

*The Title was added to the Bill.*

SHRI ARUN JAITLEY: Sir, I beg to move:



"That the Bill, as amended, be passed."

MR. CHAIRMAN: The question is:

"That the Bill, as amended, be passed."

*The motion was adopted.*

सभापति महोदय : अब सदन की कार्यवाही 20 फरवरी, 2003 के 11 बजे पूर्वाह्न तक के लिए स्थगित की जाती है।

18.33 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Thursday, February 20, Phalguna 1, 1924 (Saka)

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