

[27 February, 2003]

RAJYA SABHA

Out of the above projects, the important gauge conversion projects of Agra Fort-Bandikui and Ajmer-Chittorgarh-Udaipur need to be completed at the earliest.

I, therefore, urge upon the Government to immediately sanction the release of allocated funds to complete the above projects. Thank you.

SHRI BACHANI LEKHRAJ (Gujarat): Madam, I associate myself with the Special Mention made by Shri Santosh Bagrodia.

THE DEPUTY CHAIRMAN: The House is adjourned for one hour for lunch.

The House then adjourned for lunch at eight minutes past one of the clock.

The House re-assembled after lunch at eight minutes past two of the clock,

THE VICE-CHAIRMAN (SHRI NILOTPAL BASU) in the Chair.

SUPPLEMENTARY DEMANDS FOR GRANTS (RAILWAYS) 2002-2003

THE VICE-CHAIRMAN (SHRI NILOTPAL BASU): Now, Supplementary Demands for Grants (Railways) 2002-2003. Shri Nitish Kumar.

THE MINISTER OF RAILWAYS (SHRI NITISH KUMAR): Sir, I beg to lay on the Table a statement (in English and Hindi) showing the Supplementary Demands for Grants (Railways) for the year 2002-2003.

GOVERNMENT BILLS

The Election Laws (Amendment) Bill, 2003

THE VICE-CHAIRMAN (SHRI NILOTPAL BASU): Now, we will take up for consideration the Election Laws (Amendment) Bill, 2003. Shri Arun Jaitley.

THE MINISTER OF LAW AND JUSTICE AND MINISTER OF COMMERCE AND INDUSTRY (SHRI ARUN JAITLEY) : Sir, I beg to move :

that the Bill further to amend the Representation of the People Act, 1951 and the Indian Penal Code, as passed by Lok Sabha, be taken into consideration.

Sir, the object of the amendment has been to enable those working for us in the Armed Forces and various categories governed by this Bill, to effectively exercise their right to vote. So far, facilities have been made available to a certain section of our electorate, which, on account of call of duty, either on account of election duty, or on account of call of national duty, in the security arrangements of the country, are unable to be present in their constituencies. The option available to them in lieu of physical presence at the polling booth, is to cast their vote through the postal ballot system. Since the amendments have taken place to the Representation of the People Act, and the effective period for campaign has been reduced to 14 days; this has become quite ineffective, in terms of exercise of voting right by a postal ballot. I use the word "ineffective" because, to the headquarters of the various Armed Force organizations from all constituencies all over the country, postal ballots are sent. They are then sorted out and sent to the various regions or areas where these personnel are posted. From there, the exact position of each of the serving officers or *Jawans* has to be ascertained and the ballot is then sent to them, where it is stamped upon by them, and then sent back to the respective Returning Officers; and 14 days is obviously inadequate. And experience has shown that the figures vary between the Postal Department and the Election Commission. The Election Commission felt that the figures are barely about ten per cent or so, people who are able to exercise their votes. So, when the matter was being debated in the other House, most Members of Parliament, who contested Lok Sabha elections, effectively felt that not more than 50 to 100 per constituency of these ballots are actually received back from officers of the security forces itself. There is a strong opinion amongst the security forces that some effective 'right to vote' should be given to them. Therefore, this whole idea of permitting them to vote by proxy vote, the principle in the Bill, is to make it operational. The Election Commission will have to frame detailed rules in this matter, as to how it is to be exercised. There would be a category of authorized persons, who would be authorized relatives, and there could be an assignment in advance or an authorization, much before this entire period, where a person who chooses not to be present himself because of call of duty, or alternatively, does not want to use the postal ballot system, to use proxy voting system, by which

he can ensure that his vote is cast. It is obviously a voluntary relinquishment of that right in favour of an authorized relative, and for those who don't want to exercise it this way; the other options, which are existing, are already available to them. This is, thus, only an enabling provision.

Sir, there has been a considerable debate over the last few years as to the desirability of this. Most people in the political process have felt, so also the security forces, that this right could be made more effective. There have been, at times, two views as to how to make it more effective. Within the fourteen days' period, it is quite difficult to make the postal ballots system effective. That is the reason for the conflicting views, despite that motivation from various political groups. One set of people have effectively argued that since this right to franchise is being effectively declined, denied to a large number of them, because of these procedural and logistical problems, we must support this alternative system. The other view, which has been argued is that in doing so, we are doing away with the principle of secrecy, which is also of great importance, as far as the election system is concerned. Sir, I have tried to examine how this has worked out in several other systems all over the world. There are a large number of countries, at least, about 12 of them, which in one way or the other, have today formulated this system of proxy voting for categories of electorate. The United Kingdom, France and Canada have done it; even the United States of America has done it; some of the more liberal democracies have also done it. Some have done it for their security forces; some countries have gone to the extent of doing it for those who are visually or physically challenged; there are some countries which have also done it for the people, who on the day of election, are expected to be outside the country. Therefore, this is also a facility, which has been given to them, and this system has started working, as far as those countries are concerned.

There are several other categories also, for instance, our missions abroad. But in those cases, the system of sending them through the diplomatic bag, where the ballot paper itself can reach them in two or three days, is available to them. Therefore, after considering all these views, the Government has been of the view that this, perhaps, is an issue, which this House must take up for consideration. The Lok Sabha has approved this, and, therefore, the effective choice is between a difficulty which results in denial of right of franchise to a large number of our Army and Security personnel, and alternatively giving them the option of voting also by a

system of proxy ballot. The Government has favoured the view, after an extensive discussion and consultation on the subject has gone on, that we must effectively live up to the expectations which some of our Forces have in this matter, and the system of proxy voting for this limited class must be introduced.

With these words, Sir, I commend to the hon. House that this Bill be taken up for consideration and acceptance by the House.

The question was proposed.

SHRI HANSRAJ BHARDWAJ (Madhya Pradesh): Sir, in a matter of this nature, it is our duty, the duty of the whole House, to apply our mind, objectively, as to how and why a particular measure is being brought, and what are the objections against it. When this issue was brought before the Standing Committee--and the Standing Committee represents the Members of all political parties--all the Members of the Standing Committee were in favour of it, that it should be made possible for our soldiers, our Armed Forces personnel, who defend us on the difficult terrain of our country, to exercise their right of franchise; there were no two opinions on this. And there can be no two opinions about it, because these soldiers come from each family in the country. My brother, next to me, is a soldier; he is a Lt. General in the Army. I also have two other cousin brothers in the Army. How can I say that these boys should not be given an effective right of franchise?

The main objective is that the basic framework of our electoral process should be preserved, and, to that extent, Mr. Minister, we have laboured very hard. You read the Committee Report. There was no objection to the view, that the grievance of the Armed Forces should be removed, because everybody, cutting across party lines, has high regards for them. That view is reflected in the Report. Our Chairman, who is one of the most respected and senior Members of the House and who has vast experience as a Minister, worked very hard to see to it that something is done, whereby they can get an effective right to exercise their franchise, but maintaining the basic edifice of our election law. You will agree with me because you are also a lawyer. If you refer to section 59, it says, "At every election where a poll is taken, votes shall be given by ballot in such manner as may be prescribed." The general rule is that a vote shall be cast by

ballot. "No votes shall be cast by proxy. According to the general rule, proxy voting like this is avoided. So, we thought that if, in this country, voting takes place like proxy is done in clubs or limited companies, the whole process would be vitiated. I cite to you an example. I have considered that everybody is in favour of giving an effective right to vote to the Armed Forces or to the personnel belonging to any Service. In our country, there are a large number of labourers who move from one part of the country to another. You will have problems tomorrow because they too can ask, "Why should we not be allowed to exercise the right of proxy voting? We are from Bihar, but we are now living in Punjab and Haryana." There can be some political pressure, and a demand can also be made that they should also be given the right to proxy voting. There is free movement of our labourers. The labourers who are engaged in construction works, or the contract labourers are also migratory labourers. We cannot equate the migratory labourers with our Armed Forces; I must frankly tell you. These are the problems. So, the objection here is with regard to the language of section 59 and the whole procedure down below section 60. If you refer to the conduct of election rules, you will find out that even in framing the conduct of election rules, care has been taken to preserve the sanctity of the voting right. The Commanding Officer will get the signed declaration from the soldier, attach the secrecy and all that. So our basic objection, and the direction of the hon. Chairman, was that we should find an efficacious and effective method within the framework of this law, and, as far as possible, not vitiate the whole scheme of the electoral law. So, we thought that an alternative should be found. I am not blaming you. Mr. Minister. But I am very, very pained to say that there is total lack of appreciation of this viewpoint of the Members of the Committee. I have read in several newspapers Ministers saying that 'these parties are against the soldiers, and they don't want to give them this right'. How this kind of statements by Ministers can be made when they do not know that we have unanimously supported that soldiers must be given their due, they should be accommodated within the framework of law so that they could exercise their right of franchise more effectively. I am not blaming the Minister, who is a very responsible Minister, who will seek help from us everyday on the floor of the House. In the Committee we don't work as partisan Members; we work objectively so that the best law can be given to the country. If it is not appreciated by the Government why a certain viewpoint is raised and why a legal point is raised, I am very sorry, a law will not be a law which will be tested under the principle of effective legislation. A law must be one which

is acceptable to a majority of the people. These are the basic things and majority viewpoints of thinking. Therefore, on this measure, once you sat with us and explained, we thought, the Government had explored some possibility. Our Chairman suggested the use of speed post and other methods. But, somehow or the other, that was not possible. So, we said, "okay". Definitely, my speech is limited to this aspect only. Our earnest desire is to see that it is a good law and there is no lacuna in it. and the framework is preserved. What is happening in our country is that we frame one law on the electoral process one day and another law another day and we amend it bit by bit. We are not able to comprehensively amend this whole law, which was made in 1950 and 1951. Experiments after experiments are forcing us to do that. Tomorrow, you will have to legislate to stop this kind of communalisation of politics. If your Government does not do it, subsequent Governments may have to do it. So, we have to objectively apply our mind. Let us not make any cheap popularity out of it that Congress or, for that matter, any other political party, does not want the soldiers to get their right. This is something which disappoints us and we are putting the record straight that there is a unanimous recommendation of the Committee that the Armed Forces must be given their due and something should be done so that they could exercise their right of franchise more effectively. But, our apprehension is that if the electoral process, on which the whole democracy rests, is vitiated because of lack of care, lack of proper thinking, it may spoil the whole scheme. So, we should arrest this tendency of rushing straightway to a conclusion, without exploring all the alternatives properly. As far as the legislation is concerned, when we fully debate it in the House, the purpose is to get all viewpoints. Ultimately, the majority prevails. Don't impute motives. We are sufficiently mature, at least, in the House, to see that the national interests are dear to every one of us, this side or that side. So, I want to remind you that you, as the Law Minister, may have several occasions in future, making this a precedent, for pressing for this very right in favour of others. Let us not get into such things. The Armed Forces are already a separate category of voters under the existing scheme. That is why they were allowed to cast vote by ballot, or by postal ballot. We should not go beyond this. If you go beyond this and allow proxy, etc., it will be like the elections in the corporate world and clubs. This is our basic objection. Everyone of us has a soldier in our family and they are our dear ones. We would like their viewpoints to be reflected on the ballots and their ballots

must reach in time. With these words, I want to put the record straight. Thank you very much.

SHRI LEKHRAJ BACHAN I (Gujarat): Mr. Vice-Chairman, Sir. this grievance of the Armed Forces has been going on for 50 years. They are being denied or deprived of their right to exercise adult franchise. For 50 years they have been taking up this issue with the Defence Department for redressing their grievance. I may say that in the eighties, during the regime of Rajiv Gandhi, when the adult franchise age limit was reduced from 21 to 18, this important question of allowing the Armed Forces to exercise their franchise should have been considered. But it was not considered at that time. Now, this Government has taken up this issue. Lakhs of persons, who have got the right of adult franchise, are not being given a proper chance. Hence, they are deprived of their right to exercise their franchise. It is on record that for so many years, from Panchayat to Parliament elections, the maximum percentage of voting by the Armed Forces is 10-15%. It means that 85 per cent of the Armed Forces officers and personnel, and others connected with the Armed Forces are deprived of their right to vote. Shri Bhardwaj said that they were not against this. It is good. If you are not against it, then be in favour and not be absent. I, therefore, request all the Members, let us consider the conditions in which the Armed Forces are working. It includes not only the Army, the Navy and the Air Force but also the Territorial Army, the Border Security Force, the Coastal Guard, the Central Reserve Police Force, the State Reserve Police Force, the Railway Protection Force, etc. There are lakhs of personnel who are not able to exercise their right of adult franchise, which is given to them by the Constitution. The only alternative way to give them a chance to exercise their important right to vote is this *i.e.* by proxy. They are interested not only in the Assembly and Lok Sabha elections but also in the Village Panchayat, in the Taluk Panchayat and District Panchayat elections. You know where they are working. They are working, at least, at a distance of 500 to 2,000 kilometres away from their home. We know that, in Haryana and Punjab, at least, two persons from every family are working in the Armed Forces. It is our duty to give them a chance to exercise their adult franchise. Sir, as we know that the earlier duration or the time between withdrawal and casting of vote was 21 days. Even at that time, the percentage of voting by these Armed Forces was less than 15 per cent. Now, the duration period is 14 days. If you see, out of 14 days, there will be three Sundays and two public holidays. So, five days will be deducted and hardly eight or nine days are left for the Postal Department to send and

then send it back. It is very impossible, very difficult. Therefore, the only alternative is to amend section 59 in order to give them proper right to utilise their adult franchise by proxy. Sir, when they are serving in such hard circumstances at far away places, - may be Nathula, Siachin, sandy tracks of Jaisalmer or Rann of Kutch - this task is very difficult for the Postal Department. Even if the high-speed post is there, we cannot get that. If you have seen the film 'Border', it was shown how keen the Armed Forces were to get their letters. Letters were not delivered everyday by post because the postman cannot go to that prohibited area. It is only their own persons who go and bring the post.

So, my humble submission is that if there was no consensus on secrecy issue in the Standing Committee, no doubt, we have to consider the question of secrecy and sanctity. But, what secrecy? The secrecy is only for the purpose of free and fair election. We have to consider that. The sanctity is for that purpose. There are judgements of the Supreme Court in which it is discussed and this free and fair election is in contrast with crime, corrupt practices, fraud and other things. So, free and fair election will not be affected by giving right to vote by proxy. Hence, as far as the argument of the Standing Committee is concerned that there will be no sanctity, there will be no secrecy, my humble submission is that the proxy will be given to a man who will have trust of the elector; may be wife, may be father or mother, may be son. But after all secrecy is there. We have got pre-poll, post-poll by the journalists and other persons. They meet the persons before election and after election. The voter or the elector gives his opinion. So, where is the question of secrecy and sanctity? This is the question of opinion. Here, Sir, in every way, secrecy is maintained; sanctity is maintained and there are no corrupt practices, there is no fraud, there is no crime or any action of such kind.

Therefore, Sir, my humble submission is that the amendment in section 59 of Peoples' Representation Act, 1951, as suggested by the hon. Minister, is very important and should be accepted. Otherwise, news will go to the Armed Forces that the Members of Parliament are not - I do not say, against - but are not considering our difficulties. Since years they have been deprived of that right and section 61 and 62 are connected sections. Section 171D is the only amendment in the Indian Penal Code, so far as impersonation is concerned. The Election Commission itself had strongly recommended it to the Government in 1997. Accordingly, this Bill was

brought in Lok Sabha in 1989. Due to the dissolution of Lok Sabha, this Bill could not be passed earlier. I congratulate the hon. Minister for coming forward with this amendment Bill at the proper time. Therefore, I request all the Members to support this Bill in order to give a positive signal to the Armed Forces. Thank you.

SHRI HANSRAJ BHARDWAJ: Sir, I would like to tell the hon. Member that we are not opposing this Bill. We are supporting it.

SHRI RAVULA CHANDRA SEKAR REDDY (Andhra Pradesh): Mr. Vice-Chairman, Sir. I rise to support this Bill. It is a long-pending Bill. It will help 15 lakh Jawans to cast their votes, who are fighting for our cause and protecting our motherland at the borders. They should feel that they are part and parcel of the country and in the decision-making process their opinion is also taken care of. They should not be deprived of their right to participate in elections. In a democracy, the majority opinion prevails and the elected representatives decide the fate of the people. In such a decision-making process, the brave Jawans are kept out, just because they are not physically present at the time of voting. They are on duty at far-flung areas. We have a classic example of Andhra Pradesh where in the Anakapalli Constituency, during the 1996 elections, we lost by only nine votes. We have another example of Lok Sabha getting dissolved because the Government got one vote less and the Prime Minister was forced to resign. So in such a decision-making process, the majority opinion prevails. The opinion and willingness of all the people should be taken into consideration. Hence every vote is very important. The opinion of every person should be reflected in the democratic process. The Defence personnel who are on duty at the far-flung areas and are unable to come at the time of voting, should have the right to cast their vote by a proxy in whom they have confidence, whether it is their mother or father or sister or brother. There should not be any procedural hurdles and nobody should be allowed to meddle with the opinion in the name of being superior.

Finally, the Government and the Election Commission should ensure necessary mechanism of communication in order to make proxy voting successful. With these words, I support the Bill. Thank you.

श्री मती सरला माहेश्वरी (पश्चिमी बंगाल): धन्यवाद उपसभाध्यक्ष महोदय। उपसभाध्यक्ष

महोदय, जनतांत्रिक चुनाव में वोट की प्रकृति के विकास का अपना एक इतिहास रहा है। भारत सहित दुनिया के तमाम उन देशों ने जिन्होंने संसदीय जनतांत्रिक पद्धति को अपनाया है, वहां भी सार्विक मताधिकार की व्यवस्था हमेशा से नहीं थी। लम्बे जनतंत्र के संघर्ष के जरिए इस अधिकार को अर्जित किया गया है।

उपसभाध्यक्ष महोदय, इसके साथ ही साथ मताधिकार के सिद्धांत का स्वरूप भी विकसित हुआ है। जनतंत्र में मतदान का अधिकार जहां प्रत्येक नागरिक का मूलभूत अधिकार है, वहीं इस अधिकार के साथ ही इस बात की गारंटी की गई है कि हर नागरिक अपने मताधिकार का स्वतंत्रतापूर्वक, बिना किसी बाहरी भय, बिना किसी दबाव के इस्तेमाल कर सके और इसके लिए गुप्त मतदान की प्रणाली को विकसित किया गया है।

उपसभाध्यक्ष महोदय, मैं यह कहना चाहूंगी कि गुप्त मतदान की प्रणाली सिर्फ मतदान की एक प्रणालीभर नहीं है बल्कि जनतंत्र की मूल आत्मा से जुड़ा हुआ प्रश्न है। इसीलिए किसी विधेयक के जरिए गुप्त मतदान की इस प्रणाली के साथ छेड़छाड़ की जाती है। वह निश्चित तौर पर हमारी जनतांत्रिक प्रणाली के लिए श्रेयस्कर नहीं होगा। इसी बुनियादी समझ के आधार पर जब मैं इस विधेयक को समझने की कोशिश करती हूँ तो मेरे मन में अनेक संशाएं, अनेक आशंकाएं पैदा होती हैं। उपसभाध्यक्ष महोदय, मैं यहां बहुत दृढ़ता के साथ यह कहना चाहती हूँ कि हम कतई यह नहीं चाहते कि हमारे देश के किसी भी नागरिक को – चाहे वह साधारण नागरिक हो या सेना में कार्यरत हो – मताधिकार से वंचित किया जाए। राज्य की ओर से तमाम ऐसे प्रयत्न करने चाहिए, जैसा कि स्थायी समिति ने भी अपनी अनुशंसा में कहा है, अपनी रिपोर्ट में कहा है कि हर नागरिक अपने इस अधिकार का बेखौफ इस्तेमाल कर सके, इसके लिए राज्य की ओर से प्रयास होने चाहिए। लेकिन इसका अर्थ यह भी नहीं है कि मतदान के मूल मर्म की हत्या करके मतदान कराया जाए। उपसभाध्यक्ष महोदय, यह सच है कि हमारी मतदान प्रणाली पूरी तरह से फुलप्रूफ नहीं है। हमारा मतदान प्रणाली में अनेक खामियां हैं जिनकी ओर अनेकों बार चर्चाएं की गयीं, कमेटियां बैठायी गयीं और हम यह भी दावे के साथ नहीं कह सकते कि हमारी जो प्रणाली है, इस प्रणाली के जरिए हमेशा ही बहुमत ही सही राय हमारे सामने आती है। अक्सर हम देखते हैं कि मतों के विभाजन से बहुत कम मत पाने वाला उम्मीदवार भी विजयी हो जाता है। इसीलिए राजनीतिक दलों से लेकर चुनाव आयोग तक ने इस दिशा में चुनाव सुधार हो – इस पर गंभीर चिंताएं जाहिर की हैं। हम तमाम राजनैतिक पार्टियां और हमारी पार्टी विशेष रूप से लगातार यह मांग करती रही हैं कि सर्वांगीण रूप से चुनाव सुधार किए जाएं। लेकिन चुनाव सुधार करते समय इस बात का जरूर ध्यान रखना चाहिए कि जनतांत्रिक चुनाव के इस मूल मर्म की हत्या न हो। किसी भी सुधार का लक्ष्य इस मूल मर्म की रक्षा करना ही होना चाहिए। आज इस विधेयक के जरिए हमारे माननीय मंत्री जी जिस प्रॉक्सी मतदान की अवधारणा हमारे सामने लेकर आए हैं, हमारे चुनाव में उस प्रॉक्सी मतदान को प्रॉक्सी मतदान को फर्जी मत के नाम से जाना जाता है। यह एक ऐसा मतदान है, जिसमें मूल मतदाता ही गायब हो जाता है। हमारे सैनिकों के लिए प्रॉक्सी मतदान की व्यवस्था करने वाले इस विधेयक में हालांकि यह व्यवस्था है जैसाकि माननीय मंत्री जी बता रहे थे कि किसी एक व्यक्ति को, विश्वसनीय व्यक्ति को, उत्तराधिकृत कर सकता है, अधिकृत कर सकता है, नियुक्त कर सकता है कि वह उसकी जगह मतदान करे। लेकिन अंतिम सच यही है कि मतदाता का चयन अंतिम समय तक सुरक्षित रह जाए, इसकी कोई

गारंटी हमारे माननीय मंत्री महोदय भी नहीं दे सकते। इसीलिए मैं यह कहना चाहती हूँ कि इस तरह का जो प्रॉक्सी मतदान है, वह एक तरह का समझौता है और इस दिशा में कदम बढ़ाने से पहले हमें बहुत गंभीरता के साथ जैसाकि माननीय श्री हंसराज भारद्वाज जी कह रहे थे कि यह बहुत ही गंभीर मसला है और हमें गंभीरता के साथ इस दिशा में सोच समझकर आगे बढ़ना चाहिए। क्योंकि इससे परिवर्ती समय में, जैसाकि यहां पर भी कहा गया है कि समाज के बहुत सारे तबकों से, बहुत सारे समुदायों से इस तरह की मांग उठायी जा सकती है। संसद की स्थायी समिति ने, जिसने इस विधेयक पर विचार किया था, वह भी सिद्धांततः प्रॉक्सी वोट की इस अवधारणा से सहमत नहीं थी। लेकिन स्थायी समिति ने जो शंकाएं उठाईं, जो संशाएं उठाईं, जो प्रश्न उठाए, सरकार ने उनकी ओर कतई ध्यान नहीं दिया। स्थायी समिति ने कहा था कि "The other section of the Members strongly feel that the introduction of the system of proxy voting would militate against the whole system of historically-evolved electoral process of our country, the backdrop of which is the secret ballot. Proxy voting has seriously jeopardised the basis of electoral process in the country." उपसभाध्यक्ष महोदय, लेकिन मुझे अफसोस इस बात का है कि इस विषय में तार्किक ढंग से सिद्धांतों पर अडिग रहते हुए गंभीरता से विचार करने वालों पर ही अंगुली उठाई जा रही है और कहा जा रहा है कि इससे आप हमारे सैनिकों का विरोध कर रहे हैं। महोदय, मैं, यह कहना चाहूंगी कि हमारे सैनिक अगर किसी भावना से बंधे हुए हैं तो वह देश-प्रेम की भावना है। यह महज भावना नहीं है, इस देश की सम्प्रभुता, उसकी अखंडता के प्रति उनकी प्रतिबद्धता, उनका प्रण, उनकी प्रतिज्ञा है जो हिमालय की तरह इतनी अडिग है कि उन्हें किसी तरह गुमराह नहीं किया जा सकता है।

उपसभाध्यक्ष (श्री नीलोत्पल बसु): सरला जी, आपकी पार्टी का जो समय था, वह समाप्त हो चुका है।

श्री मती सरला माहेश्वरी: बस दो मिनट और बोलूंगी। महोदय, मैं यह कहना चाहूंगी कि हमें अपने देश के जांबाज सैनिकों पर पूरा भरोसा है। परीक्षा की हर घड़ी में हमारे सैनिक खरे उतरे हैं। हमारे सैनिकों के सामने देश-प्रेम की भावना ही सबसे बड़ी भावना रही है और उसके सामने हर भावना छोटी पड़ गई है। इसीलिए मैं सत्तारूढ़ पक्ष के लोगों से कहना चाहूंगी कि दया करके भावनाओं के नाम पर कोई राजनीति मत करिए। इससे आप अपने आपको तो धोखा दे सकते हैं पर इस देश के सैनिकों को नहीं, इस देश के अवाम को नहीं।

उपसभाध्यक्ष महोदय, हमारे सैनिक एक नागरिक के रूप में मतदान के अपने पवित्र अधिकार का इस्तेमाल करें, यह हम सभी चाहते हैं। संसद की स्थायी समिति ने भी यह कहा था और देश का हर नागरिक यह चाहेगा कि हम अगर अपने जनतंत्र को सही स्वरूप प्रदान करना चाहते हैं, सही अर्थवत्ता प्रदान करना चाहते हैं। तो देश का हर नागरिक अपने पवित्र अधिकार का बेखौफ इस्तेमाल करे। इस बात की गारंटी करना, इस सरकार का कर्तव्य है और सत्ता का कर्तव्य है। इसीलिए यह पोस्टल बैलेट की प्रणाली भी शुरू की गई थी। लेकिन हमारे अनुभव क्या बताते हैं? हमारे अनुभवों ने यह सिखाया के पोस्टल बैलेट की यह प्रणाली उतनी कारगर नहीं हुई, उतनी सफल नहीं हुई। सरकार की ओर से आंकड़े दिए गए। चाहे उन आंकड़ों में

जितना भी विरोधाभास हो जो डाक विभाग देता है, लेकिन मैं आंकड़ों के फेरे में नहीं जाती। हमारे देश का एक भी नागरिक यदि अपने मताधिकार का इस्तेमाल नहीं कर पाता तो यह हमारे लिए गंभीर चिंता का विषय है। इस चिंता में शामिल होते हुए मैं अपनी पार्टी की ओर से यह कहना चाहूंगी कि हम चाहते हैं कि हमारी सेनाएं, हमारे सैनिक अपने मताधिकार का इस्तेमाल करें लेकिन मताधिकार का इस्तेमाल करते हुए हम इस बात की गारंटी जरूर करें कि मतदान तो हो जाए लेकिन मतदान का मूल मर्म ही खत्म हो जाए, हम ऐसा मतदान नहीं चाहते। इसीलिए आज के इस युग में जिसे संचार-क्रांति का युग कहा जाता है और हमारा देश जिसमें संचार-क्रांति का विस्फोट हो रहा है।

उपसभाध्यक्ष (श्री नीलोत्पल बसु): अब समाप्त कीजिए।

श्री मती सरला माहेश्वरी: बस मैं खत्म ही कर रही हूँ महोदय। अंतिम बात पर आ रही हूँ। वहां क्या हम और तरीके इजाद नहीं कर सकते हैं कि पोस्टल बैलेट की प्रणाली को और दुरुस्त बनाएं या आधुनिक संचार माध्यमों का, इंटरनेट का इस्तेमाल करके, आज के युग में जब डिजिटल हस्ताक्षर से सारे काम हो रहे हैं, मैं समझती हूँ कि इस संचार-क्रांति के युग में किस तरह हम नवीनतम उपार्यों का इस्तेमाल कर सकें और हमारी जनतांत्रिक प्रणाली का जो मूल मर्म है, जो मूल सार है, उसकी रक्षा करते हुए हम अपने सैनिकों का जो अधिकार है, उस अधिकार को सुरक्षित कर सकें, उसकी ओर हमें जानना चाहिए न कि इस अवधारणा की ओर। मैं माननीय मंत्री जी से कहूंगी कि वे इस पर पुनः विचार करें।

SHRI R. SHUNMUGASUNDARAM (Tamil Nadu): Sir, I rise to support the Bill. But there are certain doubts. I have a feeling that we are going from one archaic procedure to another unsafe and complicated procedure. This Bill will, definitely, invite trouble because it will infringe the secrecy of voting. What is the guarantee that the proxy holder will truly execute the wishes of the electorate? This must be taken care of on an experimental basis. The Minister should implement this legislation and if it is not workable, then, it should be withdrawn. I also support the view expressed by the hon. Member, Shrimati Sarla Maheshwari... I support the view expressed by Shrimati Sarla Maheshwari that when there is a scientific advancement like internet which is available, which can be used for voting, as it is being used in Australia. The hon. Minister was referring to various countries; it is being used in Australia, when a person leaves the country on the date of polling, he is compelled to vote. As voting is compulsory in Australia, on the date of polling, if a person is leaving the airport, he is asked to vote through the internet and it is practicable there. It cannot be achieved here. Therefore, when the intention of this legislation is to ensure 100 per cent voting, we should take necessary steps to introduce some modern developments, like internet, fax, telefax or any other procedure to

ensure 100 per cent voting. Sir, the object behind this legislation is to ensure 100 per cent voting. This is very important. Usually, voters have a laid-back attitude. They prefer to sit in front of their television sets rather than going to polling booths to cast their votes. The scientific advancements like internet will definitely ensure 100 per cent voting. With these words, I support the Bill.

श्री लालू प्रसाद(बिहार): माननीय उपसभाध्यक्ष महोदय, हमारे देश के बहादुर सैनिक जो अपने देश के लिए अपनी जान गंवाते हैं, हमारी सरहदों की रक्षा करते हैं, उसके लिए प्रोक्सी वोट के लिए कानून में संशोधन करने के लिए यह बिल आया है। जो मौजूदा सरकार है, लगता है कि हमारे देश के सैनिकों को कोई तोहफा दे रही है। माननीय भारद्वाज जी ने कहा कि इस देश की राजनीति में हमारे देश के बहादुर सैनिक अपने मन पसंद प्रतिनिधि चुनना चाहते हैं। बिहार रेजिमेंट के हजारों सैनिक जहाज में इधर-उधर मिलते रहते हैं जब वे छुट्टियों में अपने घर आते हैं। इसी प्रकार साऊथ के सैनिक भी मिलते हैं। सन् 1977 से हम लोग चुनाव लड़ रहे हैं, सभी पोलिटिकल पार्टी के लोग और उम्मीदवार यह अपेक्षा करते हैं कि हमारे वीर सैनिकों को वोट भेजे जाएं। परन्तु यह सभी को मालूम है कि वहां से कितने वोट भेजे जाते हैं। कहीं तो उनकी संख्या अधिक होती है। कहीं से पांच वोट आते हैं तो कहीं से तीन ही वोट आते हैं। इसमें भी अधिकांश जो उच्च अधिकारी हैं, अफसर हैं उन्हीं के ही वोट आते हैं। जो लड़ने वाले हैं वे वोट डालने से वंचित रह जाते हैं। भारत के हर नर और नारी को, जो बालिग है, वोट देने का अधिकार है। हम लोग गोपनीयता की बात पर चर्चा करने लग जाते हैं। इस देश में गोपनीयता कागजों में लिखी हुई है लेकिन किताबों में कहाँ है? हम परिवार के लोग जब वोट देने जाते हैं जो परिवार में एक राय बन जाती है कि किस पार्टी को वोट देंगे। पति जिसको वोट देगा, पत्नी को भी वहीं वोट देनी पड़ेगी, माता-पिता को देनी पड़ेगी, बेटा-बेटी को देनी पड़ेगी। अगर इससे आगे भी देखें तो लोग जाति में प्रवेश कर जाते हैं। जहां पर जाति वोट देगी, पूरी जमात भी वहीं वोट देगी। हर जगह की यही स्थिति है। इसमें असहमति कहाँ है? सीमा पर हमारा सैनिक चाहे पढ़ा लिखा सैनिक हो या अनपढ़ हो, हम जो जनप्रतिनिधि या पोलिटिकल पार्टी के लोग हैं, हम लोगों का वे लोग भी हिसाब-किताब रखते हैं। उनको हमारी ज्यादा जानकारी है। जोखिम से भरा हुआ उसका काम है। उन्हें छुट्टी नहीं मिलती है। जब वोट होते हैं उस समय भी उन्हें छुट्टी नहीं मिलती है। अगर किसी के मन में गोपनीयता का विचार है तो हम यह कहना चाहते हैं कि जब भी वोट हों तब हमारे सभी सैनिकों को वहां पहुंचाया जाए। यहां से ले जाकर पहुंचाए। यह सरकार हमारे सैनिकों को वोटिंग राइट से वंचित करने में विफल रही है। ये लोग बहुत विलंब से हमारे सैनिकों के लिए यह बिल लाए हैं। घालमेल करना चाहते थे। विपक्ष के दबाव की वजह से यह बिल लाए हैं। इस बिल से हम लोगों को क्या असहमति होगी? हमारे सारे गरीब सिपाही, कांस्टेबल, सोल्जर कारगिल में हैं, लेह में हैं। हम मैनबर ऑफ पार्लियामेंट चुनाव लड़ते हैं। हमें पंद्रह दिन चुनाव प्रचार का समय मिला हुआ है। छह सौ असेम्बली सेगमेंट है। जा भी नहीं पाते हैं। महोदय, मेरी और मेरे दल की मान्यता यह है कि इस देश की सरकार की सरकार सैनिकों को तोहफा नहीं दे रही है। चुनाव में इस देश के सैनिकों के लिए आसानी कर रही है। नोमिनेशन में मालूम हो जाएगा कि वह कौन-से क्षेत्र का

3.00 p.m.

रहने वाला हैं। कौन सी पार्टी को वोट देना चाहिए। वह वहीं से अधिकार प्राधिकृत पत्र निर्मित कर दे। सबसे पहले पत्नी को दे दे। अविवाहित हैं तो अपने माता-पिता को दे दें। माता-पिता नहीं है तो अपने भाई को दे दे। अगर यह भी संभव नहीं हैं तो वोट के समय हमारे देश के सब सैनिकों को अपने खर्च पर वहां पहुंचाए। हमारे सैनिक कई अवसरों पर देश की रक्षा के लिए सरकार के आदेश की प्रतीक्षा करते रहते हैं। सरकार चुपचाप बैठी रहती है। देश के सैनिकों के लिए यह जो बिल आया है इसमें गोपनीयता भंग होने का कहीं प्रश्न नहीं उठता है। यह उनके वोट का अधिकार है। उनके वोट को कैसे डिलीवर करें, इसी के लिए हम उन्हें यह छूट दे रहे हैं। यह छूट उन्हें देनी चाहिए। और भी कई बातें हैं। जो बाहर रहते हैं, वह और बात है। हम सब बिल का परजोर समर्थन करते हैं। जहां तक साइंस, इंटरनेट की बात है तो इंटरनेट सब घरों में कहा है ? यह सब घरों में नहीं है। आप इंटरनेट के भ्रम जाल में लोगों को डालने जा रहे हैं। बेहतर यह है कि वे कागज पर लिखकर दे दें। चिट्ठी में लिखकर भेज दें। मोहर भी पड़ जाए तो भी ठीक हैं। उसकी पत्नी को यह अधिकार रहे कि लालू यादव को वोट देना है/ नहीं देना हैं।

उपसभाध्यक्ष(श्री पी.प्रभाकर रेड्डी) पीठासीन हुए

बी.जे.पी हराना हैं। कांग्रेस को देना हैं। कांग्रेस को वोट मिला जाएगा। अगर यह लिखी हुई चिट्ठी मिला जाए तो इसमें कोई विरोध नहीं हैं। देश के सैनिक डटे रहो। पूरे देश की संसद आपके साथ हैं। आपके हक, हुक्म, अधिकार की लड़ाई में हम मैम्बर ऑफ पार्लियामेंट कोई कोताही नहीं करने वाले हैं। आपको सारी सुविधाएं हम लोग देंगे। यह भाजपा सरकार सुविधा नहीं देना चाहती है। हम देने के लिए तैयार हैं। इसीलिए आप इसमें डटे रहिए। इन्हीं शब्दों के साथ मैं इस बिल का समर्थ करता हूँ।

PROF. SAIF-UD-DIN SOZ (Jammu and Kashmir) : Sir, Shri Lalu Prasad, and earlier Shri Hansraj Bhardwaj, correctly said that we hold our Armed Forces in high esteem. That is a natural emotion. So, the spirit behind the Bill is welcome and acceptable. But, unfortunately, the hon. Minister is not present, and I have a couple of suggestions to make. Should I wait for the Minister, or should I continue, Sir?

THE VICE-CHAIRMAN (SHRI P. PRABHAKAR REDDY): There is somebody else taking down the notes. Please continue.

PROF. SAIF-UD-DIN SOZ: So, Sir, the spirit of the Bill is welcome. I have, personally, high regard for the Armed Forces. But I would like the hon. Law Minister to examine the implications of the Bill further because franchise, right to vote is something secret. It is a Fundamental Right and this is not transferable. The secrecy, which is the edifice of the whole

system of franchise and this Fundamental Right, both will be getting violated. Therefore, the hon. Minister would be well advised to look into the safeguards. It would be desirable for the hon. Law Minister to study the implications of the Bill with the Election Commission of India. He did say that he would get back to the Election Commission of India, after the Bill is passed here. But that will be a compulsion for the Election Commission of India. That is a constitutional body. But, we are the law-makers. If we enact the law, then, they have to implement it. A suggestion came out that you must study the implications, after you work on this Bill, and when it becomes an Act. But, before that, the hon. Minister could get into the implications. For instance, I raised a question before this august House. As I said in the beginning, we have high regard for our Armed Forces. But, we have high regard for our *kisans* also. There was a time when our nation coined a salutation and said, "*Jai Jawan and Jai Kisan*". Now, *kisans* of Bihar who cannot eke out their existence in that State or other States move to other States. In our State of Jammu and Kashmir there are a lot of *Bihari* labourers who are working there. We have respect for the Armed Forces. But, we cannot disregard the *kisans* and labourers working. I feel that the hon. Minister knows it better because he is a brilliant lawyer and he knows the constitutional law. He knows the implications of the Bill. Why doesn't he temporarily withdraw the Bill and come forward before the House with a comprehensive measure? It is not a concession which you are giving. Laluji was right when he said that it is not a *tohfa* to the Armed Forces. We are basically concerned about them. They must vote. They face a lot of difficulty. The postal service is not good. But the hon. Minister could have shown us the way. He could have come forward with an innovation how to "make the process quicker. Maybe, the Election Commission would have helped him. But, after passing the Bill, he would go to the Election Commission of India. So, I say that it is not only the Armed Forces that need this facility, and we tell them, 'come forward and vote'. What about the kisan? What about the labourer? Therefore, I would humbly suggest -- I am not a law graduate - like many other sciences, law is also based on common sense - that the hon. Law Minister should look into the implications of the Bill. I would say that this measure is acceptable; the spirit of the Bill is welcome; but the hon. Minister should kindly study the implications of the Bill and get before the House with a comprehensive Bill that does answer not only the requirement of the Army, but the requirement of *kisans* and labourers who are spread far and wide in this country. At that time, he will have to answer the need of the society; otherwise, as

Shrimati Sarla Maheshwari and others said, there will be so many implications in the implementation of this Bill, and the whole edifice of franchise gets vitiated because the secrecy and will of the ballot will be lost. That is a fundamental thing in the Constitution of India. Thank you very much.

SHRI V.V. RAGHAVAN (Kerala): Sir, I stand up to oppose this amendment Bill. We do agree that arrangements should be made for our armed forces' personnel to fully use their franchise. There is no difference of opinion on that. But, Sir, proxy voting is not the way. The secrecy of the franchise is one of the basic features of our election laws. When you adopt proxy-voting system, whom are you going to authorise to use this proxy voting? These days, even husband and wife differ on political views and affiliations. Every Member of a House may differ on political views and affiliations. The proxy-voting would be manipulated by vested interests and there would arise so many controversies. These controversies would hurt our armed forces in the front. That can very easily be avoided by withdrawing this Bill.

The postal voting system can be organised in a speedy way by the armed forces units. You, the Government, can organise it promptly. Let the ballots be used. You must find a way to organise quick postal voting system. That is possible these days. If that is not possible, in this age of electronic voting it is not difficult for any scientist to find an alternative way. Anyhow, this proxy voting system, ultimately, will hurt the personnel of our armed forces.

Sir, in this connection, let me point out a thing to the hon. Minister. Sir, we are proud of our armed forces. They are from all religions, of all castes, of all languages, of all regions, yet they are one. This is an example for all of us. But, these days, there is an organised attempt to propagate communal leaflets, communal reading material, among the personnel of our armed forces. Last week, I was watching a channel wherein a retired General of fame, was saying, "I have every right to propagate my views among the armed forces. I have sent these leaflets and magazines." Sir, if you allow such types of activities, it would damage the armed forces. Hence, please, stop it. Don't interrupt the solid integration of our armed forces. We are proud of it. Don't allow the communal propaganda to be waged inside the camps of armed forces.

Sir, every voter has a right to keep his voting a secret. Now-a-days, this can't be revealed to anybody else. If you give the proxy to another person, I can't believe that even the armed forces personnel can rest assured that his opinion would be expressed in the voting.

Hence, I oppose this amendment. I also request the Minister to withdraw this Bill and find out an alternative way to give full arrangements for our armed forces personnel to exercise their franchise. Thank you.

श्री शंकर राय चौधरी (पश्चिमी बंगाल): माननीय उपसभाध्यक्ष महोदय, मैं माननीय मंत्री जी को इलेक्शन लॉज अमेंडमेंट बिल पेश करने के लिए बधाई देता हूँ।

इस बिल पर एक लंबे अरसे डिस्कसन हो रहे हैं। हमारी डिपार्टमेंट रिलेटेड पार्लियामेंट स्टैंडिंग कमेटी ऑन होम अफेयर्स के चैयरमैन आदरणी प्रणव मुखर्जी साहब ने बहुत बारीकी से इस बिल की छानबीन की है, जांच की है। उसके बाद इस स्टैंडिंग कमेटी ने अपनी रिपोर्ट पेश की है। महोदय, इस कमेटी की रिपोर्ट में सबसे बड़ी बात यह है कि उस में कहा गया है "Notwithstanding the sharp division, there is complete unanimity in the Committee that all out efforts need to be made to ensure fullest participation by the members of armed forces of the union in the country's electoral process." मान्यवर, मेरी फौज में 40 साल की नौकरी रही है, मैं पोस्टल बैलट के जरिए सिर्फ दो बार वोट कर सका हूँ। जब हम वोट की बात करते हैं तो हमारा ध्यान रहता है पार्लियामेंट की इलेक्शन पर, लोकसभा की इलेक्शन पर, स्टेट असेम्बली की इलेक्शन पर, लेकिन हमारे जवान के लिए सबसे अहमियत रखने वाली इलेक्शन जो है वह है ग्राम पंचायत की इलेक्शन। पंचायत की जो पोस्टल बैलट हैं या जो कुछ है वह तो जवान के हाथ में नहीं पहुंचती। लोकसभा इलेक्शन या स्टेट असेम्बली की पोस्टल बैलट शायद ही पहुंच जाए क्योंकि मेरे अपने क्षेत्र में 40 साल में सिर्फ दो दफा पहुंची है, पंचायत इलेक्शन की तो पहुंची ही नहीं है। पंचायत, कारपोरेशन इलेक्शन होते हैं, हम उनके साथ वाकिफ नहीं हैं। इसलिए कोई तरीका ढूंढना चाहिए। There is complete unanimity, क्या तरीका ढूंढा जाए?

उपसभाध्यक्ष महोदय, माननीय सदस्य इस बिल के साथ जो अपना शक जाहिर कर रहे हैं वह सही शक हैं। ऐसी बात नहीं है कि इसमें सीक्रेसी भंग होती है, गोपनीयता भंग होती है। मैं सिर्फ इतना कहना चाहूंगा कि कोई अंधा वोटर जब वोटिंग करता है तो उसको वोटिंग मशीन तक ले जाने के लिए एक सहायक मिलता है, उसको बताना पड़ता है कि यह बटन दबाओ या जो भी वह दबाना चाहता है।

श्री एस.एस.अहलुवालिया(झारखंड): सर, सिर्फ अंधा ही नहीं बल्कि जिसकी आंख में कन्जेक्टिविटीज होती है तो प्रीसाइडिंग आफीसर उसको एक असिस्टेन्ट देने के लिए बाध्य हैं, आंख से अगर न दिख रहा हो तो।

श्री शंकर राय चौधरी : ठीक हैं, मेरा मतलब यह है कि सीक्रेसी हम सब चाहते हैं। मैं यह नहीं मानता कि अगर एक जवान, एक आफीसर, एक जेसीओ अपना मनोनीत करे किसी को घर में, वह चाहे उसकी वाइफ हो या कोई और संबंधी हो ता इन-प्रिंसिपल इसमें सीक्रेसी का उल्लंघन हो रहा है। इसलिए मैं सहमत नहीं हूँ कि अपने किसी नुमाइंदे के थ्रू वोट डालना सीक्रेसी का उल्लंघन इन-प्रिंसिपल होता है। अगर यह प्रोक्सी वोटिंग की जगह और कोई प्रेक्टीकली सोल्यूशन हैं, जैसा सारी पार्टी कह रही हैं, इसका सोल्यूशन दो। तो हां, इंटरनेट और इलेक्ट्रॉनिक का कुछ है, मगर क्या आज के हालात में इसे लागू कर सकते हैं? अगर आज के हालात में लागू कर सकते हैं तो बड़े शौक से करिए, लेकिन जब यह चीज लागू नहीं कर सकते तो मैं तो नहीं समझता कि प्रोक्सी वोटिंग अपनी पत्नी या नजदीकी रिश्तेदार से या और किसी नुमाइंदे के करानी हो तो यह इन-प्रिंसिपल इसको वायलेट करती है।

उपसभाध्यक्ष महोदय, यह पार्लियामेंटरी स्टेडिंग कमेटी की रिपोर्ट हैं, जो पार्लियामेंट के पटल पर "ले" की जा चुकी है। इसमें एक नमूना दिया गया है, *Movement of ballot papers of Army officers*. बैलट पेपर का इसमें एग्जाम्पल दिया गया है और यह सही एग्जाम्पल दिया गया है। जो आर्मी आफीसर हैं, इसमें किसी खास का नाम ले रखा है, वह आंध्र प्रदेश के वारांगल में रहता है। अगर वहां चुनाव होता है तो वारांगल से उसका बैलट पेपर आर्मी हैडक्वार्टर जाता है दिल्ली में, फिर उसकी यूनिट, जैसा इसमें मान रखा है अरुणाचल प्रदेश में हैं, तो वारांगल से दिल्ली, दिल्ली से 99 एपीओ कलकत्ता, कलकत्ता से यूनिट अरुणाचल को। अब अरुणाचल में मैं एग्जाम्पल के तौर पर ले रहा हूँ कीबीटू को, यह ओइलीयांग से आगे कीबीटू एक जगह हैं, जहां हमारी आर्मी काफी तादाद में रहती हैं, मैं इतना बताना चाहूंगा कि कीबीटू में पहुंचने के लिए मैंने खुद एज ए चीफ स्टाफ तीन दफा कोशिश की और चौथी दफा जाकर वहां पहुंचा, सारे अरेंजमेंट होने के बावजूद।

मेरा ख्याल है यह सब बड़ी अच्छी बातें हैं। इलेक्शन में सीक्रेसी रखनी चाहिए, जरूर रखनी चाहिए हम मानते हैं, लेकिन अगर और कोई तरीका नहीं हैं, इलेक्ट्रॉनिक तरीका या और कोई तरीका तो मेहरबानी करके आप सब एकमत होकर इस बिल को पारित कर दीजिए। धन्यवाद।

SHRI AURN JAITLEY : Mr. Vice-Chairman, Sir, I am extremely grateful to the hon. Members who have participated in this debate. I am also particularly grateful to Shri Pranab Mukherjee, one of our senior Members, who headed the Department-related Parliamentary Standing Committee on Home Affairs, which went into this question, in depth, to find out a solution to this whole problem. Hon. Member Shri Bhardwaj rightly mentioned that there is a genuine concern among all segments to see that our security personnel are not denied their right to vote. There may be difference of perception as to how this right can be given. The Standing Committee, as well as the Government, in both formal and informal discussions with important leaders of the Opposition, as also with the experts on the subject, tried to explore what options are available.

Sir, the General, who spoke just now, both as an hon. Member of this House and as a soldier, explained the difficulties of a soldier where in his entire career could vote only twice and that too in the national elections and not in the local elections. The easiest suggestion to make is: expedite the postal system. Or, alternatively, find out electronic methodologies. Let me just test each of these two suggestions that have been made. The General just now read out the route that a ballot paper has to take. Sir, there are 540 Constituencies for the Lok Sabha and a few thousand constituencies for the State Assemblies. The Returning Officers of these Constituencies have no knowledge of where each soldier of the Indian Army is posted. So, all that a Returning Officer can do in the postal ballot system is to send lakhs of ballot papers to the Army Headquarters. Now, this will happen after the withdrawal date. This is sent by post or through a special messenger. It may take a couple of days. From the Army Headquarters, these lakhs of ballot papers are then to be segregated as to which soldier is posted at which point in the country. It will then be sent to that region, as he mentioned like 99 APO in Kolkata. From Kolkata, it will reach Arunachal Pradesh. From Arunachal Pradesh, you will start identifying the actual physical movement of each soldier in the case of Army, on the border in the case of the BSF and on a ship in the context of Navy and then reach this in a couple of days. To reach these places, it may take a couple of days walk. Then, this ballot will be cast and, through the nearest postal system, we, again, sent back the same to the Returning Officer. Now, the practical experience has shown that there is no alternative to this route being followed. As a result of which, lakhs of our personnel, covered under this facility, are not able to exercise their vote. One view is that the percentage of votes is 10 per cent and other view is that it is even less than 10 per cent. Now, it is very easy to suggest that we have consulted the best of experts on the subject. So, the first factor you must have, when you say, 'Find out electronic methodology in this advanced age' is this. There have to be 540 electronic machines in the case of Lok Sabha elections because all soldiers, at a given point, don't belong to one constituency. If there are 10,000 soldiers posted at a point, they may be representing 500 constituencies. In the case of an Assembly, they may be representing thousands of constituencies. So, thousands of ballot papers must be sent to all those unreachable places that the General was mentioning. And, then, you have to see whether you have wire-line connectivity. Therefore, the whole procedure -- anybody, with a reasonable knowledge on the subject, would know that it is almost impossible to carry 540 electronic

machines to thousands of places and keep them there so that polling can take place - is not practicable. Now, these are very generalised suggestions to find out a better system. But, a better system does not have to fall from the sky. It has to be invented by this hon. House with the help of experts. And, having consulted them - in fact, Shri Bhardwaj rightly mentioned that some senior Members have some reservations - and after the discussion, when it was pointed out that the alternatives being suggested, however well meaning that may be, it has become clear that they are not implementable. So, we just felt that, perhaps, in view of this, there is no option left but to experiment this new system of allowing vote through a proxy system.

The second important question is a vote through this system destroys the basic tenets of our democracy, which is secrecy of a ballot paper. Sir, the choice, here, is not between secrecy and openness. The choice here is, either allowing effectively no right to vote to our security personnel, or giving them an additional option of voluntarily relinquishing their votes to a proxy of their choice, which is permitted under norms. This question of secrecy would arise if an alternative system of effective exercise of vote were available, and we were denying it to them. Mr. Raghavan said that people might not trust their wives. Well, there will be a series of relatives, who, as mentioned in the rules, will be the authorised persons. If you don't trust your wife, you will trust your parents, or, you will trust your adult children. And, if you don't trust anybody, then, please have some faith in the postal system. This is only an additional option that is being given to you. You may be a lucky one of the five per cent who may be able to vote through postal ballot. If you don't want to take a chance, you may take leave and cast your vote personally at the polling booth. These are all additional options that are available to you. There are, certainly, problems that you are created. But let me just mention - a number of Members would appreciate - that secrecy, in an election, is important. But secrecy does not get primacy over the very 'right to vote' itself. When a number of us vote in a Legislative House, we vote by an open ballot. A number of Members have started thinking - that is one of the issues that this House may discuss in the near future - on the right to an open ballot in a Rajya Sabha election. I am conscious of the fact that there are two views on the matter. But that is also an issue that is pending before this hon. House. When we speak in terms of secrecy, let me just read out one paragraph from a judgement of the Supreme Court which arose in the

context of a Rajya Sabha election where secrecy was used to perpetuate corruption. It says, "The interpretation of section 94, which appeals to us, ensures free and fair election. Secrecy of ballot was mooted to ensure free and fair elections. If the very secrecy of ballot, instead of ensuring free and fair elections, strikes at the root of the principle of free and fair elections, the basic postulate of democracy would be utilized for undoing free and fair elections, which provide life and blood to parliamentary democracy. If secrecy of ballot, instead of ensuring free and fair elections is used, as it was done in this very case, to defeat the very purpose for which it was enacted to suppress a wrong-coming to light, and to protect a fraud on the election process, or even defend a crime, that is, forgery of a ballot paper. The principle of secrecy will have to yield to the larger principle of free and fair elections. In that case it was a case of corruption, so they said, "If secrecy breeds corruption, then, perhaps transparency may bring sunlight to the electoral process." So, secrecy is important. But, here, in the context of security personnel, we are speaking in terms of either giving them an absolute secrecy, which may effectively mean virtually no right to vote because a miniscule percentage is able to vote, or, by this alternative system, giving them an enabling provision whereby to a large number of them, who choose to exercise their vote by proxy, this facility is also available. Sir, this system is being tried in, at least, ten countries for different categories of voters. Belgium is trying it; Canada is trying it; France is trying it; Netherlands is trying it; United Kingdom is trying it; USA is trying it. These are trying it for different categories of voters. And, I think, as a live democracy, it is one new methodology that we have to try. And, we will see how the results of this work out whether it can be extended, or, it has to be improved upon further. With these few words, I commend that this Bill be accepted by the hon. House.

THE VICE-CHAIRMAN (SHRI P. PRABHAKAR REDDY): The question is:

That the Bill further to amend the Representation of the People Act, 1951 and the Indian Penal Code, as passed by Lok Sabha, be taken into consideration.

The motion was adopted.

THE VICE-CHAIRMAN (SHRI P. PRABHAKAR REDDY): We shall now take up the clause-by-clause consideration of the Bill.

Clauses 2-5 were added to the Bill. Clause 1, the Enacting Formula, and the Title were added to the Bill.

SHRI ARUN JAITLEY: Sir, I beg to move:

That the Bill be passed.

The question was put and the motion was adopted.

THE VICE CHAIRMAN (SHRI P. PRABHAKAR REDDY): We shall now take up the Special Protection Group (Amendment) Bill, 2002.

THE SPECIAL PROTECTION GROUP (AMENDMENT) BILL, 2003.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS
(SHRI I.D. SWAMI): Sir, I move:

"That the Bill further to amend the Special Protection Group Act, 1988, as passed by Lok Sabha, be taken into consideration."

Sir, I may only reiterate in the beginning that the Special Protection Group Act was passed in 1988. And within a period of ten years, it has already been amended thrice. It was amended in 1991 because, to begin with, when this specialised agency for the protection was...(Interruptions)...

श्री लालू प्रसाद(बिहार): महोदय, मैं प्वाइंट आफ आर्डर पर खड़ा हुआ हूँ। विशेष संरक्षा ग्रुप (संशोधन) विधेयक, 2003 को पढ़ लीजिए। एक तरफ एक्स प्राइम-मिनिस्टर को कहा गया है कि एक साल तक पद से हटने के बाद, त्याग पत्र करने के बाद उनको और उनके परिवारजन को एस.पी.जी.ग्रुप मिलेगा और फिर वहीं पर सरकार ने अपना अधिकार ले रखा है दूसरे खंड में कि एक साल बाद सरकार देख लेगी कि इनके ऊपर खतरा है या नहीं है। यह बात बहुत गलत है। आप यहां स्पेसिफिक लाइए कि एक साल रखना है तो एक साल रखना है, फिर अपने हाथ में क्यों रखते हैं। ऐसा देखा जाता है कि ...(व्यवधान)

उपसभाध्यक्ष(श्री पी.प्रभाकर रेड्डी): बिल पर डिस्कसन होने दीजिए फिर बाद में