

AS INTRODUCED IN THE RAJYA SABHA

Bill No. LXXXII of 2001.

**THE REPRESENTATION OF THE PEOPLE (AMENDMENT)
BILL, 2001**

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BILL

further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

1. This Act may be called the Representation of the People (Amendment) Act, 2001. *Short title.*

43 of 1951.

5 2. In the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), in section 3, for the words "in that State or territory", the words "in India" shall be substituted. *Amendment of section 3.*

Amendment
of section 59.

3. In section 59 of the principal Act, the following proviso shall be inserted at the end,
namely:—

"Provided that the votes at every election to fill a seat or seats in the Council of
States shall be given by open ballot."

Amendment
of section 94.

4. In section 94 of the principal Act, the following proviso shall be inserted at the end, 5
namely:—

"Provided that this section shall not apply to such witness or other person
where he has voted by open ballot."

Amendment
of section
128.

5. In section 128 of the principal Act, in sub-section (1), the following proviso shall be
inserted at the end, namely:— 10

"Provided that the provisions of this sub-section shall not apply to such officer,
clerk, agent or other person who performs any such duty at an election to fill a seat or
seats in the Council of States."

STATEMENT OF OBJECTS AND REASONS

Section 3 of the Representation of the People Act, 1951 prescribes residential qualification for contesting elections to the Council of States. There have been numerous instances where the persons who are normally not residing in a particular State have got themselves registered as voters in that State, simply to contest an election to the Council of States. The Chief Election Commissioner, while discussing this aspect in the all party meeting held on 29th April, 2000 was of the view that a precise definition of 'ordinarily resident' was very difficult and emphasised that it was for the political parties, acting through Parliament, to carry out what is their judgment, might be the best possible solution, in the light of the experience of the past fifty years.

2. The Ethics Committee of Parliament in paragraph 19 of its first report presented to Parliament on 8th December, 1998 recommended that the issue relating to open-ballot system for elections to the Rajya Sabha be examined. The issue has again given rise to concerns in the wake of allegations of money power made in the media in respect to biennial elections to the Council of States held in March-April, 2000.

3. In the light of the above, the aforesaid issues were examined in depth by the Government and it has been decided to do away with the requirement of residence of a particular State or Union territory for contesting election to the Council of States from that State or Union territory and also to introduce open-ballot system for elections to the Council of States. Accordingly, suitable amendments are proposed to be in certain sections of the Representation of the People Act, 1951 relating to qualification for membership of the Council of States, the manner of voting of elections, secrecy of voting and maintenance of secrecy of voting by officers, clerks, agents or other persons performing the election duty.

4. The Bill seeks to achieve the aforesaid objects.

NEW DELHI;

ARUN JAITLEY.

The 20th November, 2001.

ANNEXURE

EXTRACTS FROM THE REPRESENTATION OF THE PEOPLE ACT, 1951

(43 OF 1951)

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PART II

QUALIFICATIONS AND DISQUALIFICATIONS

CHAPTER I

QUALIFICATION FOR MEMBERSHIP OF PARLIAMENT

Qualification for membership of the Council of States

3. A person shall not be qualified to be chosen as a representative of any State or Union territory in the Council of States unless he is an elector for a Parliamentary constituency in that State or territory.

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Manner of voting at elections

59. At every election where a poll is taken votes shall be given by ballot in such manner as may be prescribed, and no votes shall be received by proxy.

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Secrecy of voting not to be infringed

94. No witness or other person shall be required to state for whom he has voted at an election.

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Maintenance of secrecy of voting. Inspection of premises, etc

128. (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

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RAJYA SABHA

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BILL

further to amend the Representation of the People Act, 1951.

(Shri Arun Jaitley, Minister of Law, Justice and Company Affairs)