

# Open ballot plan to chain cross-voters

2-11-02 R.S.

FROM OUR SPECIAL CORRESPONDENT

New Delhi, Oct. 29: The Cabinet today approved a proposal to replace secret ballot with an open-voting system in elections to the Rajya Sabha, saying the change would help check "cross-voting" and the play of "money power".

Another proposal was cleared to allow candidates to contest from states where they are not registered as voters. At present, those contesting polls to the Upper House must be voters of the state from which they are seeking election.

The Representation of People's Act of 1951 has to be amended for the proposals to come into force. The government is planning to bring a Bill in the winter session beginning November 19 for the amendment.

Law minister Arun Jaitley, who is among those elected from outside their domicile states, said the open-voting system was meant to curb the "large-scale use of money and cross-voting".

He added that most parties had expressed the desire for the changes at an all-party meeting convened by the Election Commission in April.

The political class by and

large welcomed both the changes today, though the government consulted none before the Cabinet meeting.

However, only the Left chose to issue an official response. "The proposal for open ballot is a welcome move because of the menace of money power and cross-voting but we are not happy with the other proposal," CPM general secretary Harkishen Singh Surjeet said.

Congress spokesman S. Jaipal Reddy was non-committal. "Both are amendments that we need to consider in depth and we can neither accept nor reject them," he said.

voting by dissidents has often taken both the parties by surprise. The domicile voter provision has also given parties legal headaches.

The Congress has not yet forgotten how Sharad Pawar worked to get Sonia Gandhi's nominee R.D. Pradhan trounced in Maharashtra.

The party's senior leaders, like Manmohan Singh, have found the legality of their elections challenged on the ground that they were not voters of the states that sent them to the Upper House.

Singh, for instance, is domiciled in Delhi but is a Rajya Sabha

member from faraway Assam. The paradox is shared by several other politicians, including leading luminaries of the BJP-led government. (See chart)

Asked if the open-ballot mechanism goes against the democratic principle of secret voting, official sources cited a Supreme Court ruling of 1980.

Hearing a case in which a candidate alleged that the ballot papers were tampered with after some members were put behind bars on the eve of voting, the court said a "transparent" mechanism would take care of such irregularities.

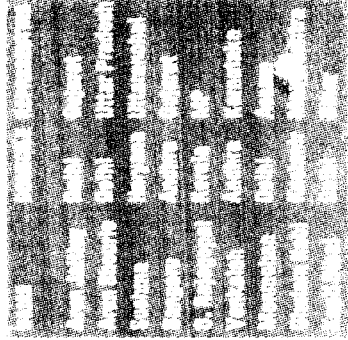
The sources said the govern-

ment believed that the open-voting system would bring in transparency and prevent manipulation of cross-voters from openly defying the party line.

The Cabinet also extended the term of the National Commission for Constitution Review up to February 28, 2002. It was to have expired on December 31.

"The national commission has already made certain proposals public but some more time is required," Jaitley said.

Reacting to the extension, Congress spokesman Reddy said: "This entire exercise is futile because the commission has been boycotted by all the parties."



However, in private, members of the Congress as well as the BJP heaved a sigh of relief as cross-

THE TELEGRAPH

As this paper has stated ... and low-minded agenda.

## 9-bleedini RS Upper House dilemmas 31/10 HT-8 ✓

WHEN THE entire electoral system is shot through with loopholes that are routinely exploited by the undeserving to enter state legislatures as well as the Lok Sabha, who would have thought that the government would waste its precious time to set right supposed malpractices in the elections to the Rajya Sabha? Surely, this is not among the most pressing of issues. In any case, it is surprising that the Union cabinet should have recommended an open ballot system in lieu of the prevailing secret ballot for these polls.

A secret ballot is integral to the democratic ethos. In its absence, a voter can easily be arm-twisted. Indeed, that is why the method of secret ballot — which allows an elector's conscience to speak without fear — was devised in the first place. No wonder it is practised even in classroom elections. The law is being sought to be changed for elections to the Rajya Sabha because in recent times there have been several instances of MLAs voting for candidates other than those of their own party. On paper there is nothing irregular about this. State legislators are required to cast their vote in their individual

capacity as MLA or MLC to elect a member of the Council of States, and not as wearers of party badges. In practice, however, party labels become important and reflect the strength of the party system in a democracy.

If a particular party is so weak that it cannot enforce internal discipline, it has only itself to blame. The obvious corrective is for the party to pull up its members who may sometimes be swayed by wider political considerations, or even by the lure of lucre. It simply will not do to undermine a key democratic principle through legislative change to take care of either aberrations or weak party discipline. The other amendment proposed by the government — doing away with the provision that Rajya Sabha aspirants from a state must be registered as voters in that state — is less contentious. This is because tinkering with the original provision can hardly be taken as ending a malfeasance. The Vajpayee government is in a minority in the Upper House. This often stymies its political goals. But one hopes that it is not trying to offset this disadvantage by negating the democratic principle in the elections to the House.

**THINK IT OVER...**

Immigration ... to change

THE HINDUSTAN TIMES

# Mixed response to RS open ballot

STATESMAN NEWS SERVICE

NEW DELHI, Oct. 30. — The government's decision to have an open ballot for the Rajya Sabha elections has evoked mixed response among the Opposition. While the Congress seems to be keeping its options open, the CPI-M has opposed it.

The Congress Working Committee today, during its meeting to formulate party strategy in the all-party forum on war in Afghanistan, discussed the issue.

Later, the party spokesman, Mr Jaipal Reddy, said: "The CWC has felt that we should have wider consultations before we finalise anything.

"However, these amendments will come before Parliament and by that time the party would have finalised its posi-

tion."

Mr Reddy said the government had not taken the Opposition into confidence on these amendments in the recent past though the amendments may have been discussed in the distant past. The party's cautious reaction is seen by many as an indication of a possible support to some of the amendments.

Many say, some senior Congress leaders, like the BJP, get into the Rajya Sabha from other states on finding it difficult to win the Lok Sabha polls from their locality.

The support of the Congress will assure the passage of these amendments in Parliament, more so in Rajya Sabha where the party is the largest group.

Meanwhile, the CPI-M has come out

against the proposed amendments charging the BJP with "attempts to tamper with the structure of the Constitution".

Mr Harkishen Singh Surjeet said: "The amendment of the RP Act to remove representation based on states to the Rajya Sabha will violate the very nature of the Upper House

To make the elections for Rajya Sabha open and doing away with the secret ballot is an ill-thought step. The secrecy of vote is there in all levels of elections, from panchayat to Parliament. Why should one category alone be elected through open vote?

"If MLAs are being purchased or swayed to vote, then it reflects on the quality of persons selected by the parties concerned," Mr Surjeet said.

THE STATESMAN

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## HIGHLY RETROGRADE 3/10

THE UNION CABINET'S decision to initiate a statute change to dispense with the 'domicile' qualification for election to the Rajya Sabha is a highly retrogressive one and, worse, it seeks to undermine its Constitution-endowed distinctive character, which its very name and the manner of its composition connote. The rationale for the Upper House reflecting the popular will as manifested in the various State legislatures has its roots in the federal type of governance the country has opted for. If the law, as it now stands, stipulates that the aspirant to a Rajya Sabha seat should be an elector registered in any parliamentary constituency of the State which he (or she) seeks to represent in the House — and this in turn means the person must 'ordinarily' be a resident of that constituency — it is also because the Constitution-framers were convinced that those elected must have personal or political stakes in the State from which they are returned.

In spite of the special domiciliary requirement, political parties — particularly those who happened to be in power at the Centre — have had little compunction in making a mockery of it to serve their partisan interests by securing the election of rank 'outsiders' to represent different States in the Upper House by virtue of their numbers in the legislatures concerned. This dubious practice, which necessarily required a blatantly untruthful declaration by the candidate about his (or her) status as 'ordinarily resident', would perhaps have gone on as merrily as ever if it were not for the surge of assertiveness on the part of the Election Commission which decided, over five years ago, to take a hard look at the 'facts' behind such declarations, the case of Dr. Manmohan Singh (who had got elected from Assam) serving as the focal point of contention.

The Vajpayee Government's decision to remove the 'irritant' is a skewed and cynical response typical of the political class in general to

situations where the laws are found to be troublesome or embarrassingly inconvenient. After all, the idea was being canvassed from the times of the Congress regime under Mr. P.V. Narasimha Rao. What is being attempted, by throwing open the Rajya Sabha membership from a State to a "resident anywhere in the country", is the obliteration of a vital and fine distinction between the two Houses of Parliament so thoughtfully conceptualised in the Constitution in keeping with its federal framework. Unfortunately, this distinction has become increasingly blurred, with the federal spirit that defined the role of the Upper House becoming progressively diffused. When the endeavour should be to reverse the process of erosion, the proposal to dispense with the special domiciliary requirement will only serve to hasten it. Rather, the remedy lies in honouring the spirit of the qualification, which has been prescribed with a definite purpose.

*J. Bheem R S.*

The other change decided upon by the Cabinet, which has to do with the method of balloting in the Rajya Sabha elections, however makes a lot of practical sense, given the worrying dimensions the canker of cross-voting has assumed in recent years, feeding itself on monetary inducements. Unlike the secret ballot, the open system now proposed will lend itself to more effective surveillance and identification of the black sheep by the party leaderships. This can be expected to have a deterrent effect, at least to a limited extent, on potential cross-voters who are willing to offer themselves as horses-in-trade. But the real question relates to the inadequacies of the party system, as for instance the predominance of opportunism, the near total absence of an ideological platform, the promotion of personality cults and a lack of inner-party democracy. As long as these basic problems are not addressed seriously, any change in law, however good in itself, can only be a palliative.

THE HINDU

31 OCT 2001

# Voters, not robots <sup>96-8</sup>

Don't change the character of the Upper House

<sup>3- Election RS</sup>  
**T**HE Centre's decision to have open ballots and do away with the residency condition on the candidates in elections to the Rajya Sabha is a short-sighted move. The ostensible reason for open voting is the unexpected results that some Rajya Sabha elections have witnessed in certain states. A political heavyweight like Sushma Swaraj, for instance, who was expected to win in the first round, when she stood for Rajya Sabha elections last year, had to scrape through in a state where her party rules, while Rajiv Shukla — who had only a faint chance of making it — turned out to be a hot favourite. There have also been cases of upset defeats of candidates fielded by political parties which enjoy adequate strength in the House concerned. All this has happened because of cross-voting. By making the voting open, it makes it obligatory for the legislators to comply with the whips issued by their respective political parties. Those who favour the change argue that it will help remove the influence of money power in these elections. But is the problem so serious that it warrants a change in the Representation of the People Act? Secrecy is an important characteristic of a democratic election. Election outcomes will be on predictable lines once secrecy is dispensed with. Besides, legislators will not be able to exercise their conscience vote except by risking their membership of the House.

While the amendment will prevent individual legislators from falling to the temptations offered by money bags, it does not address the problem of leaders of political

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parties falling to such temptations. This is particularly true about smaller parties, where heavyweights will be able to sell their votes for a price. It was an open secret that the late Jaipal Singh, a Jharkhand Party leader, used to sell party nominations at a price enabling hotel barons and business magnates to get elected to Parliament. The tradition still continues. Perchance, a conscientious member decides to oppose the wrong nominations by the concerned party leaders, it will be tantamount to defying the whip and thereby inviting the provisions of the anti-defection law. Independents will still be able to sell their votes for a price.

More unacceptable than this is the proposal to remove the residency clause from the nomination form. Hitherto only an "ordinarily resident" of a state could contest for the Rajya Sabha from that particular state. This was built into the law to protect the representative character of the Rajya Sabha, which is after all a House of the States. Of course, most political parties have in the past paid scant regard to this clause by fielding partymen from states where they are not "ordinarily resident" but where the parties had the requisite strength to get them elected. Even in the present House, there are a few members who have circumvented the law by filing false affidavits. Since there is a consensus among most parties on these amendments, the proposal is unlikely to find any roadblocks in Parliament. But that does not make the move any more acceptable to those who lay great store by the democratic character of the Upper House.

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## A WIDERANGING EXERCISE

9-66 election ✓

THE ELECTION COMMISSION'S announcement of the timetable for the Assembly elections in Uttar Pradesh, Punjab, Manipur and Uttaranchal has come amidst a worrying escalation of tension on the Indo-Pakistan border and heightened concerns on the internal security front in the wake of the audacious December 13 terrorist attack on Parliament House. In a way, this may be seen as reflecting the panel's supreme confidence in the innate strength of the country's democratic will and the resilience of the electoral system; after all, a much wider exercise as parliamentary elections was conducted successfully less than three years ago in the shadow of the Kargil war. Yet, given the exacting demands on the security forces for counter-terrorism operations and the consequential limitations on the uniformed personnel's availability for poll-related work, it would certainly require all the skills and ingenuity of the administrative and law enforcing authorities to see the event through as scheduled and, more importantly, to ensure that the voters are enabled, by and large, to exercise their franchise freely and fairly. Logistics, particularly the part relating to deployment of security personnel in requisite strength, is indeed going to be quite a challenging task.

As for the calendar itself, while Uttar Pradesh is to have a three-phase polling, Manipur will go through the exercise in two stages and this staggering is understandable, given the large number of 'hyper sensitive' constituencies in the two States, classified as such for different reasons — fragile communal equation, insurgency and so on. It will be a one-day affair in Punjab and the recently formed Uttaranchal. With the announcement of the poll schedule, the model code of conduct has become operative and this means the Governments of the day in the four States cannot carry on the business of distributing largesse or launching populist welfare schemes. Although the judiciary

itself is yet to pronounce conclusively on the cutoff date for enforcement of the (non-statutory) 'code', the issue is no longer a bone of serious contention, what with the Election Commission having succeeded in getting the major political parties to see the logic behind its stated position — that the code should apply right from the day on which the panel announces the poll timetable, not from the date of poll 'notification'. Realistically speaking, however, the question of 'cutoff' date is only of a limited relevance in a situation where unalloyed populism and vote-bank politics have become the defining principles of governance.

Beyond the nitty-gritty of the code, there are quite a few portents in the current political course that sound particularly ominous for the impending electoral process, to the point of threatening to undermine the very basics of India's democratic polity. And these have to do, first, with the hawkish rhetoric indulged in by the powers that be at the Centre after the December 13 attack and, second, with the systematic and calibrated build-up by the VHP and others of its ilk in the Sangh Parivar for the construction of a Ram temple at the disputed site in Ayodhya, which is slated to commence any time after March 12, 2002. Given the brazenly defiant way in which they are pursuing the temple agenda and with their campaign in the run-up to the D'Day all set to reach a decisive stage in mid-February, the threat to the core values of a democracy, especially in Uttar Pradesh, is very real. The unfortunate part of it all is that the BJP leadership at the Centre has been singularly soft in its responses to the VHP's provocative acts on the Ayodhya front. Now that the Election Commission has set the ball rolling, the Centre and the Rajnath Singh Government will have to ensure that the electoral process is not vitiated or hijacked by the peddlers of a viciously sectarian and divisive agenda.

THE HINDU

31 DEC 2001

# Elections in 4 States between February 13 and 21 *By Election*

By Our Special Correspondent *22/12*

**NEW DELHI, DEC. 26.** Elections to the Assemblies of Uttar Pradesh, Punjab, Uttaranchal and Manipur will be held between February 13 and 21, 2002.

Announcing the schedule, the Chief Election Commissioner, Mr. J. M. Lyngdoh, said polling in Uttar Pradesh would be spread over three days — February 14, 18 and 21. Punjab and Uttaranchal would go to the polls for a day on February 13 and February 14, while Manipur would have a two-day polling on February 14 and 21. Counting of votes for all the States would begin on February 24.

The elections to the four State Assemblies would be notified on January 16. The last date for filing nominations would be January 23. They would be scrutinised on January 24, and January 28 would be the last date for withdrawals, Mr. Lyngdoh said.

He also announced simultaneous byelections to six Lok Sabha and six Assembly constituencies. The Lok Sabha byelections would be held in Guna (Madhya Pradesh), Mirzapur (Uttar Pradesh), Kaliabor (Assam), Jammu, Kanakapura (Karnataka) and Tripura West.

The byelections in Assam, Jammu and Kashmir, Haryana, Karnataka, Madhya Pradesh, Maharashtra and Rajasthan would be notified on January 16. They would follow the election schedule applicable to the four States.

The notification for byelections in Tamil Nadu and Tripura would be on January 17, with January 25 being the last date for filing nominations. The rest of the schedule would remain the same.

The seat in Guna constituency fell vacant following the death of the senior Congress leader, Madhav-rao Scindia, and in Mirzapur, the death of the Samajwadi Party leader, Phoolan Devi, has made byelection necessary. Kaliabor fell vacant after Mr. Ta-

run Gogoi resigned to take over as the Assam Chief Minister. Vacancies arose in Jammu, Kanakapura and Tripura West due to the deaths of Vishnu Dutt of the BJP, M.V. Chandrasekhara Murthy of the Congress, and Samar Choudhury of the CPI(M).

Byelections to three Assembly seats — Yamunanagar in Haryana, Arvi in Maharashtra and Ajmer West in Rajasthan — would be held simultaneously on February 21, the Chief Election Commissioner said.

The Dumka Lok Sabha seat from Jharkhand had been vacated by Mr. Babu Lal Marandi, who took over as the Chief Minister of the State but byelection was not being held there, as an election petition was pending, he said.

The model code of conduct would come into immediate effect. Besides the four States where general elections were being held, it would also apply to the districts where the seats for which byelections were being conducted were located. The code would be applicable to all the political parties and the Central and the State Governments.

## Separate accounts

For the first time, political parties would be required to maintain separate accounts of the election expenses, from today till the end of the polls.

Electronic voting machines would be used in all the Assembly constituencies except Manipur where only six would vote with the machine. Voter identification would be compulsory.

## Byelections in Tamil Nadu:

The byelections to three Assembly constituencies in Tamil Nadu — Andipatti, Saidapet and Vaniyambadi — will be held on February 21. The former Chief Minister, Ms. Jayalalithaa, is expected to contest from Andipatti.

9/6/2001

## POLL FEVER AND RHETORIC

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WITH ONLY A couple of months left before parties plunge into campaign mode in three States — Uttar Pradesh, Punjab and Uttaranchal — where Assembly elections are due before March 2002, partisan political considerations alone have come to guide the positions of parties across the spectrum. For example, the debate on the Bill replacing POTO is coloured heavily by concerns relating to the elections in Uttar Pradesh, the debate over deletions in history texts (particularly portions about Guru Tegh Bahadur) is influenced by considerations about the poll atmosphere in Punjab. Rhetoric rather than reason is on the rise and parties and their leaders refuse to bother about the adverse impact of all these on civil society. It is in this context that there is ample cause for concern over the revival of the Ayodhya rhetoric by the Hindutva brigade. The setting of a deadline by the VHP and the manner in which its leaders have gone about whipping up the temple issue is indeed a development that the BJP leaders cannot feign ignorance about. Instead, the VHP and its other associates from the Sangh Parivar have resorted to this new agenda only to aid the BJP in the coming elections.

It may be true that the temple agenda, raised by the BJP in the course of its election campaign, did not lead to a landslide in favour of the party on the past couple of occasions. This was particularly true in the 1999 Lok Sabha polls when the party's tally from Uttar Pradesh was the lowest in ten years. The 1999 Lok Sabha polls saw the BJP losing more than half the 70-odd seats it had from Uttar Pradesh in 1998. This happened despite its leaders resorting to the Ayodhya rhetoric and the notions of cultural nationalism (with direct reference to Ms. Sonia Gandhi) during the campaign. In this sense,

it remains to be seen whether the temple agenda would fetch any votes for the party in a big way. But then, the Sangh Parivar's calculations are not restricted to votes alone; instead, it aims at conjuring up images of the Hindu faith being in danger to lead civil society into a state of polarisation. It is in this context that one finds in the VHP's activities in the past few weeks cause for serious concern. And the fact that those in power, both in Uttar Pradesh and at the Centre, have never concealed their sympathies for the VHP agenda adds to the concern.

Apart from the fact that such rhetoric contributes immensely to the building of a sense of insecurity among members of the minority community, there is the danger of this insecurity leading them to gather around fundamentalist platforms of another kind. There is evidence of such ghettoising in most towns in Uttar Pradesh even otherwise. Incidents of violent clashes between the police and armed youth, as witnessed in Kanpur some months ago, are indeed a fallout of this process. And there can hardly be any doubt over the proportions such a development could take in the midst of an election. In a State where poll-related violence is even otherwise an integral part of the harsh reality, such polarisation on communal lines in civil society can only lead to a further distortion of the democratic structure. It is for this reason that one finds the resort to the Ayodhya rhetoric at this stage a cause for concern. Hence, it is imperative for those in power — both in Uttar Pradesh and at the Centre — to resist the temptation of playing with passions. They are, after all, bound by the positions they hold (as Ministers) to prevent all such attempts that challenge and undermine pluralist and democratic values.

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