

Mr. Deputy Speaker: I take it as a point of order. My ruling is this that until the moment.....

Shri Syamnandan Sahaya (Bihar): Parliamentary system of Government is by discussion and persuasion. The hon. Dr. Deshmukh is not able to persuade the Hon. Law Minister. It is possible my friend Mr. Kamath may be able to persuade the law Minister by his arguments. So, why not give some chance for discussion ?

Mr. Deputy Speaker : The point raised here is at what stage does the House get seized of a motion. It is not as if as soon as any hon. Member gives notice of an amendment, moves it, the House gets seized of it. The Speaker has to place it before the House and then only the House gets seized of it. But at that stage it is open to the hon. Member not to press it. I asked the Law Minister to give his reaction. He said briefly that he is not agreeable to it. If the hon. Member wanted me to put the Amendment to the House, I would have done so and then there could be some discussion, and the Hon. Law Minister would have convinced the House about his attitude, in reply. Then ultimately it would be for the House to decide the matter. At that later time if the hon. Member who made the motion wanted to withdraw, the consent of the House would be necessary. It is quite possible that the House might have been convinced one way or the other and therefore it would be for the House to allow the hon. Member to withdraw or not. Here I asked the Hon. Law Minister and after hearing him the hon. Mover did not press the motion. Therefore, I did not put the motion to the House and it is not seized of it. I cannot therefore, put any motion to the House merely to satisfy a number of hon. Members for the purpose of talking on this matter. I am not going to allow any improper spending of the time of the House.

So far as Mr. Sahaya's point is concerned, it is open to any other Member if he was satisfied with the amendment, to have himself given notice of the amendment. I cannot allow any hon. Member to take advantage of any amendment in somebody else's name. The time of the House is so precious that I cannot allow any discussions which are not germane to any issue before it.

Shri Kamath: Do the Rules of Procedure of the House

Mr. Deputy Speaker: Is there no rule to regulate the hon. Member not to stand in his seat when the Deputy Speaker is standing ?

Shri Kamath : There is a convention that when a Member wishes to be heard, he should be allowed to have his say.

Mr. Deputy Speaker: I am afraid that accusation cannot be levelled against me. I am always erring on the other side. I allow him to speak often. Now the amendment is not before the House. This is my ruling. The hon. Member must have some sense of decency and decorum.

Shri Kamath : I must protest against the use of the word “Decency”.

Mr. Deputy Speaker: Protesting is improper.

Shri Kamath: I must protest again.

Mr. Deputy Speaker: This kind of unruly conduct in the House cannot be tolerated. An hon. Member moves a motion and another says that he wants to speak on this. Who is to decide ? Shall I ask the hon. Member to take my place here ? There must be somebody to regulate the proceedings. I come to the conclusion that the House is not seized of this problem as the Hon. Mover does not press it. Till I put it to the House, the matter is not before the House at all. In spite of this the hon. Member Mr. Kamath wishes to speak and speak on what ? He wants to speak on a motion which is not before the House. When I say it is not right, he protests. Therefore it is for the House to regulate the conduct of Members. I am only the spokesman-. It is not right that any Member should take the time of the House and go on protesting against it. I have no objection to ignore what has happened.

Shri Kamath: I would like to protest strongly

Mr. Deputy Speaker : If he protests, then I will ask him to quit the House.

Shri Kamath: I protest

Mr. Deputy Speaker: For the day the hon. Member will not enter the House. I do not want to turn out any hon. Member but there must be some sense of decency and decorum in this House. He must submit to the ruling of the Chair, submit to the majority view. Ultimately it is the Chair that reflects the majority view. It also has the right to rule what is a point of order. In spite of that the hon. Member goes on stating that he must control the rest of the House. I do not know if the House will put up with that. It is not my intention to castigate any Member.

Shri Kamath: Dr. Deshmukh never withdrew the amendment.

Mr. Deputy Speaker: He did not press it. I come to the conclusion rightly or wrongly that this motion is not before the House. Is it not final?

Shri Kamath: By that Dr. Deshmukh means that he does not wish to press it to the vote of the House.

Dr. Deshmukh: I do not want to go back on anything that has happened but in many cases there has been discussion although the motion has not been formally put and even after two or three speeches, the motion has not been put. There have been precedents like that.

Mr. Deputy Speaker: I have been suggesting to hon. Members that if any hon. Member is insistent upon his amendment being put to the House and heard by the House, let him have the courage of moving it and insisting on it being heard by the House. But if he does not want me to put it to the House, he cannot compel the Chair to allow discussion on that.

Pandit Thakurdas Bhargava: No amendment which is not asked to be put to the House has a claim to be discussed in the House.

Mr. Deputy Speaker: I will now proceed

Shri Kamath rose —

Shri Sidhva: Order, order.

Shri Kamath: You have no business to call me to order.

Mr. Deputy Speaker: The House will now proceed to its normal work.

Clause 159.—(*Requisitioning of premises*)

Amendment made:

To sub-clause (1) of clause 159, add the following Proviso:

“Provided that no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at such election.”

—[*Dr. Ambedkar*]

Mr. Deputy Speaker: The question is:

“That clause 159, as amended, stand part of the Bill.”

The motion was adopted.

Clause 159, as amended, was added to the Bill.

Clauses 160 to 166 were added to the Bill.

Dr. Ambedkar: I want clause 167 to be held over. Clauses 168 and 169 may be put to the House, as there are no amendments to them.

Clauses 168 and 169 were added to the Bill.

Dr. Ambedkar: Sir, I want the House to be adjourned and I do want to say also that it may not be possible for me to be ready tomorrow to take up the Bill again. I therefore suggest that the House might consider the possibility of taking some other Bill tomorrow and I shall be ready thereafter. There is I understand, the Boilers Bill which is a small Bill and can be taken up tomorrow. (*Some Hon. Members:* Why not today ?) The Member in charge is not ready as he has had no notice.

The Deputy Minister for Works, Production and Supply (Shri Buragohain): I have not got the papers here.

The Minister of State for Parliamentary Affairs (Shri Satya Narayan Sinha): The House may adjourn for half an hour and in the mean time he can go and get the papers.

The Minister of State for Transport and Railways (Shri Santhanam): Sir, I understand that the Hon. Minister of States, Mr. Gopalaswami Ayyangar, will be ready to take up his Bill relating to Part C States but he has had no notice. Perhaps if the House adjourns for half an hour he might be in a position to take up the Bill.

Mr. Deputy Speaker: The House may be adjourned till 11 o'clock and in the mean time hon. Members may go through the Bill and be ready with their amendments.

Dr. Ambedkar: I have also to look into the odds and ends with regard to the amendments which I have accepted on the spur of the moment. I have to see to what extent they require modification and that is why I may not be ready tomorrow.

Shri Bharati (Madras): May I suggest that the discussion on clause 7 may go on but the decision could be postponed for sometime later? (*Several Hon. Members: No, no.*) In any case the discussion on it is bound to go on and only the decision may be held over.

Mr. Deputy Speaker: The hon. Member is aware that if they come to an agreement with respect to clause 7 and other clauses relating to disqualifications much of the discussion may be avoided. Otherwise they will be only beating the air. So I adjourn the House till 11 o'clock when the House will take up the next motion on the agenda, namely the Government of Part C States Bill.

The House then adjourned till Eleven of the Clock.

REPRESENTATION OF THE PEOPLE (NO. 2) BILL

***Shri Ghule :** I beg to move :

In the amendment proposed by Dr. Ambedkar, printed as No. 2 in Supplementary List No. 7 of amendments, in sub-clause (2) of the proposed new clause 47—

(a) for the word “commencement” occurring in line 5 substitute the word “end” and

(b) before the words “counting of votes” occurring in line 7, insert the words “end of the”

My amendment is very simple. The provision here should be that before the counting is finished or before the close of the counting he should be able to revoke his name.

The Minister of law (Dr. Ambedkar): I am not accepting the amendment.

Shri Kamath: May I suggest a minor alteration in the marginal heading? The draftsman may bear in mind that the construction of the marginal heading “Revocation of the appointment or death of a polling agent” is not to my mind happy. It might mean that the word death also is qualified by the word ‘revocation’. If ‘death’ comes first, it will be all right.

Dr. Ambedkar: That will be borne in mind.

Shri Ghule: I do not press my amendment.

Mr. Deputy Speaker: I hope the House is agreeable to the amendment of the marginal heading.

Motion was adopted.

Clause 51.—(Death of candidate before poll)*

Amendment made:

To clause 51, add the following further proviso:

‘Provided further that no person who has under sub-section (1) of section 35 given a notice of withdrawal of his candidature before the countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding.’

—[*Dr. Ambedkar*]

*P. D., Vol. 12, 28th May 1951, pp. 9480-81.

** P.D., Vol. 12, Part II, 23rd May 1951, pp. 9482-95.

Mr. Deputy Speaker: The question is :

“That Clause 51, as amended, stand part of the Bill”.

The motion was adopted.

Clause 51, as amended was added to the Bill.

Clause 59.—(*Voting by certain classes of persons*)

Prof. S. L. Saksena (Uttar Pradesh): Sir, I have given an amendment to this clause.

Mr. Deputy Speaker: What is the number and on which list?

Prof. S. L. Saksena: I am unable to find it; it is not in the printed list.

Shri Shiv Charan Lal (Uttar Pradesh): It is amendment No. 233 in the Revised Consolidated No. I. p. 24.

Sir, Dr. Ambedkar promised to make provision for the candidate and his agents, if they are working in another constituency. That has not been included in his amendment.

Pandit Thakur Das Bhargava (Punjab): He said that rules will be made by which candidates and their agents will be afforded an opportunity of voting by some other method.

Dr. Ambedkar: There is an amendment to clause 167 which deals with this matter. My friend might move his amendment when we discuss clause 167. We can consider then whether we could not add the words “a candidate”.

Mr. Deputy Speaker: I shall permit this amendment as an amendment to clause 167.

Shri Hussain Imam: In the amendment of Dr. Ambedkar no provision has been made for transferred officers. An officer transferred from Delhi to Madras, for instance has a right to demand a postal ballot. A clause should be provided here whereby government servants can on transfer demand postal ballot.

Dr. Ambedkar: That matter may also be considered when we deal with clause 167.

Mr. Deputy Speaker: The returning officer may get the ballot papers transferred through post.

Dr. Ambedkar: That is a matter which can be regulated by rules when we come to clause 167.

Amendment made:

For clause 59 substitute the following clause:

“59. Special procedure for voting by certain classes of persons.—

Without prejudice to the generality of the provisions contained in section 58, provision may be made by rules made under this Act for enabling—

(a) any of the following persons to give his vote by postal ballot, and not in any other manner, at an election in a constituency where poll is taken, namely:—

(i) a member of the Armed Forces of the Union to whom the provisions of sub-section (3) of section 20 of the Representation of the People Act, 1950 (XLIII of 1950), apply;

(ii) a person holding any office in India declared by the President to be an office to which the provisions of sub-section (4) of that section apply;

(iii) a person who is employed under the Government of India in a post outside India and;

(iv) the wife of any such person as is referred to in sub-clauses (i), (ii) and (iii) to whom the provisions of sub-section (6) of the said section 20 apply;

(b) any person subjected to preventive detention under any law for the time being in force to give his vote by postal ballot and not in any other manner, at an election in a constituency where poll is taken subject to the fulfilment of such requirements as may be specified in those rules.”

—[*Dr. Ambedkar*]

Mr. Deputy Speaker: The question is “That clause 59, as amended, stand part of the Bill.”

The motion was adopted.

Clause 59, as amended was added to the Bill.

Pandit Thakur Das Bhargava: There is an amendment to clause 34A regarding the finality of nomination papers. What is happening to that?

Mr. Deputy Speaker: It has not been taken up. I will first dispose of the Government amendments and will come back to the other amendments of private members.

What about the amendment to clause 122 in list 7 to consolidated list No. II?

Dr. Ambedkar : I am not ready with that for the moment.

Clause 7.—(*Disqualification for membership*)

Shri Syamnandan Sahaya (Bihar): We have given amendments to the amendments of Dr. Ambedkar. It is better that we take up the clause tomorrow. We have not had any time.

Mr. Deputy Speaker: They can be taken up today. All notice will be waived.

Dr. Ambedkar: Sir, I move 7A, with this modification namely, that in sub-clause (f) for the words “as such member” the words “a Member of Parliament or the Legislature of a State as the case may be” have been substituted. I beg to move:

For clause 7, substitute the following clauses;

7. Disqualifications for membership of Parliament or of a State Legislature.—A person shall be disqualified for being chosen as and being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State—

(a) if, whether before or after the commencement of the Constitution, he has been convicted, or has in proceedings for questioning the validity or regularity of an election been found to have been guilty of any offence or corrupt or illegal practice which has been declared by section 138 or section 139 to be an offence or practice entailing disqualification for membership of Parliament and of the Legislature of every State, unless such period has elapsed as has been provided in that behalf in the said section 138 or section 139, as the case may be ;

(b) if, whether before or after the commencement of the Constitution, he has been convicted by a court in India of any offence and sentenced to transportation or to imprisonment for not less than two years unless a period of five years or such less period as the Election Commission may allow in any particular case has elapsed since his release;

(c) if having been nominated as a candidate for Parliament or the Legislature of any State or having acted as an election agent of any person so nominated he has failed to lodge return of election expenses within the time and in the manner required by or under this Act, unless five years have elapsed from the date by which the return ought to have been lodged or the Election Commission has removed the disqualification;

(d) if, whether by himself or by any other person in trust for him or for his benefit or on his account he has any share or interest in a contract for the supply of goods to or for the execution of any services undertaken by the appropriate Government.

(e) if, he is a director or managing agent of or holds any office of profit under any corporation in which the appropriate Government has any share or financial interest;

(f) if, having held any office under the Government of India or the Government of any State or under the Crown in India or under the Government of an Indian State he has whether before or after the commencement of the Constitution been dismissed for corruption or disloyalty to the State unless a period of five years has elapsed since his dismissal.

7A. *Savings*.—(1) Notwithstanding anything in section 7—

(a) a disqualification under clause (a) or clause (b) of that section shall not, in the case of a person who becomes so disqualified by virtue of a conviction or a conviction and a sentence and is at the date of the disqualification a member of Parliament or of the Legislature of a State, take effect until three months have elapsed from the date of such disqualification, or if within these three months an appeal or petition for revision is brought in respect of the conviction or the sentence until that appeal or petition is disposed of;

(b) a disqualification under clause (c) of that section shall not take effect until the expiration of two months from the date by which the return of election expenses ought to have been lodged or of such longer period as the Election Commission may in any particular case allow ;

(c) a disqualification under clause (d) of that section shall not where the share or interest in the contract devolves on a person by inheritance or succession or as a legatee executor or administrator take effect until the expiration of six months after it has so devolved on him or of such longer period as the Election Commission may in any particular case allow;

(d) a person shall not be disqualified under clause (d) of that section by reason of his having a share or interest in a contract entered into between a public company of which he is a shareholder but not a director holding an office of profit under the company or a managing agent and the appropriate Government.

(e) a person shall not be disqualified under clause (e) of that section by reason of his being a director is declared by Parliament by law to so disqualify its holder;

(f) a disqualification under clause (e) of that section shall not, in the case of a director, take effect where the law making any such declaration as is referred to in clause (e) of this section in respect of the office of such director has come into force after the director has been chosen a member of Parliament or of the Legislature of a State, as the case may be, until the expiration of six months after the date on which such law comes into force or of such longer period as the Election Commission may in any particular case allow;

(g) a disqualification under clause (f) of that section may, in the case of any of the candidates for the first elections under this Act, be removed by the Election Commission for reasons to be recorded by it in writing.

7b. *Interpretation, etc.*—(1) In this chapter—

(a) “appropriate Government” means in relation to any disqualification for being chosen as or for being a member of either House of Parliament, the Government of India, and in relation to any disqualification for being chosen as or for being a member of the Legislative Assembly or Legislative Council of a State, the Government of that State;

(b) “public company” means a public company as defined in section 2 of the Indian Companies Act, 1913 (VII of 1913).

(2) For the avoidance of doubt it is hereby declared that where any such contract as is referred to in clause (d) of section 7 has been entered into by or on behalf of a Hindu undivided family and the appropriate government, every member of that family shall become subject to the disqualification mentioned in the said clause (d); but where the contract has been entered into by a member of a Hindu undivided family carrying on a separate business in course of such business, any other member of the said family having no share or interest in that business shall not become subject to such disqualification.”

(3) If any question is raised as to whether a person who, having held any office referred to in clause (f) of section 7, has been dismissed is disqualified under that clause for being chosen as a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State, the production of a certificate issued in the prescribed manner by the Election Commission to the effect that such person has not been dismissed for corruption or disloyalty to the State shall be conclusive proof that he is not disqualified under that clause.”

Mr. Deputy Speaker: Amendments moved.

12-00 NOON.

Mr. Deputy Speaker: Are there any amendments ?

Prof. K. T. Shah: I have an amendment in consolidated list No.1

Mr. Deputy Speaker: But it seems to be an amendment to old clause 7 ?

Prof. K. T. Shah: That is our difficulty. This new clause has been suddenly put forward. If you do not allow us to move our amendments and at least try to bring out the new ideas that are there

Mr. Deputy Speaker: I understand the difficulty of hon. Members. The notice of the new amendment proposing substitution of old clause 7 seems to have been circulated only last night or this morning. That has to be remembered. So, we shall take up clause 7 at 3-30 P.M. And whenever notices are given they will be cyclostyled and circulated to all hon. Members. Without any formality all amendments may be handed over to the Secretary. We will take them up at 3-30 today.

So clause 7 will stand over. What other clause shall we take up now ?

Dr. Ambedkar: Sir, I want to add a new clause 166A.

Mr. Deputy Speaker: Clause 7 has been held over. Let us proceed in order. The other ones that are standing over are clauses 122, 123 and 124. I do not know when they will be ready—it depends upon how soon the draftsmen will be ready. If they are ready this afternoon we will take them up.

Shri Kamath: There is a lot of last skipping. Sir.

Mr. Deputy Speaker: We will not skip over—of course whenever a clause is not ready we will skip it over.

New Clause 166A

Dr. Ambedkar: We shall take up clause 166A. My amendment is No. 8 in supplementary list No. 7 to consolidated list No. 2. But I have to make one or two verbal changes in that amendment. In line 9 of sub-section (1), instead of “nomination as a candidate”. I want to put it as “nomination as such candidate”, thereby substituting “such” for “a”. Then in sub-section (2) I want to renumber (a) and (b) as (b) and (c) and I want to add a new part (a) which will read as follows:

“(a) “Candidate” has the same meaning as in section 78.”

I want to move the amendment, as modified above. I beg to move:

In Part X after clause 156, insert the following clause:

“166A. *Special provisions with respect to Rulers of former Indian States* —(1) If the Ruler of a former Indian State is nominated as a candidate for any election under this Act, the provisions of sub-section (i) of section 87B of the Code of Civil Procedure, 1908 (Act V of 1908) and of sub-section (2) and (3) of section 197A of the Code of Criminal Procedure, 1898 (Act V of 1898), shall not apply in relation to such Ruler during the period commencing on the date of his nomination as such candidate and ending on the date on which the result of the election is published under section 66, and shall not apply thereafter in relation to any proceedings for questioning the validity or regularity of such election under Part VI of this Act or in relation to any criminal proceedings against such Ruler for any offence under Chapter IX-A of the Indian Penal Code or Chapter III of Part VII of this Act alleged to have been committed by him at or in connection with such election.

(2) In this section—

(a) “Candidate” has the same meaning as in section 78;

(b) “former Indian State “ means any such Indian State as the Central Government may, by notification in the *Official Gazette*, specify for the purposes of this section.

(c) “Ruler”, in relation to a former Indian State, means the person who for the time being is recognised by the President as the Ruler of that State for the purposes of the Constitution.”

Mr. Deputy Speaker: Amendment of Dr. Ambedkar moved.

Prof. K. T. Shah: Sir, we cannot follow the amendment. Will you please give us some explanation? Are the Rulers also going to be candidates and will they be exempt from the Criminal Procedure Code?

Dr. Ambedkar: The position is this. As the House will remember, when the report of the Select Committee was discussed, it was suggested that the ruling princes should be disqualified from being members of a legislature. Various grounds were urged. One of them was that they were holding a sort of office of profit under the Government of India by virtue of the engagements that they had with the Government of India and under which the Government of India had agreed to give them certain sums annually. I then said that it did not appear to me that this was an office of profit and therefore, it could not come under the provisions of the article in the Constitution which deals with the holders of offices of profit. I also said at the time when the matter was discussed that

I did not find any valid justification as to why a ruling *prince*, qua a ruling prince, should be disqualified from being a member of a legislature. Subsequently it was urged that these ruling princes had been given certain protection under 'the Criminal Procedure Code and the Civil Procedure Code, by virtue of which it was not possible for a person to file a criminal complaint against them or to file a civil suit without the previous sanction of the Government of India. On this ground it was said that if this protection extended to the period intervening between the nomination and the polling, a Prince may commit any offence or he may commit any corrupt practice or illegal practice and it would not be possible for any individual to bring him to book, because the permission of the Government of India was necessary. I felt that this was a legitimate complaint—that if a Prince wanted to stand for election he should not be permitted to claim the protection, that has been given to him by the provisions in the Criminal Procedure Code and the Civil Procedure Code.

Therefore, what is proposed in this amendment is this that if a Prince stands as a candidate for an election, whether it is an election from a Parliamentary constituency or an election to the State Legislative Assembly, he shall automatically cease to obtain the benefits conferred upon him by the provisions contained in the Criminal Procedure Code and the Civil Procedure Code so that he may be prosecuted for an offence without the sanction of the Government of India. An election petition may be lodged against him without the consent of the Government of India and any other proceedings may be taken against him as though he was a common citizen having no special privileges. This, I think, is a *via media* between the old provision in the Select Committee's Report that they should be qualified to stand for election and be Members of Parliament without abrogation of the privileges that were given to them under the Civil and Criminal Procedure Codes and the other position taken by other Members of the House that they should be straightway disqualified from standing for election.

I hope the House will accept this amendment, because it strikes a middle path.

Moulvi Wajed Ali (Assam): May I put one question to the Hon. the Law Minister? If the candidate fails to be elected or for some reason or other does not stand for election will the exemptions stand or will they be revived?

Dr. Ambedkar: The suspension of the protection will operate only during the period of the nomination and the ending of the election.

Dr. Pattabhi (Madras): Will he have to face all the natural consequences of the election?

Dr. Ambedkar: He will be subject to all the consequences of the election.

Prof. K. T. Shah : May I enquire if the House is committed to the principle that the Princes may be allowed to stand for election?

Mr. Deputy Speaker: There is no restriction in the Bill as it emerged from the Select Committee—there is no prohibition prohibiting a Prince from standing as a candidate either in the Constitution or in the Bill as it emerged from the Select Committee. Hon. Member ought to put the question the other way.

The motion was adopted New Clause 166A was added to the Bill.

Clause 167.—(*Power to make rules*)

***Dr. Ambedkar:** I beg to move :

After part (c) of sub-clause (2) of clause 167, insert the following:

“(cc) the manner in which votes are to be given by a presiding officer, polling officer, polling agent or any other person, who being an elector for a constituency is authorised or appointed for duty at a polling station at which he is not entitled to vote.”

Mr. Deputy Speaker : Amendment moved.

Mr. Deputy Speaker : The effect of the amendment will be, the rules may provide for regulating the manner in which a candidate or the election agent or other agent of a candidate in which he is not a voter can vote.

Shri J. R. Kapoor (Uttar Pradesh): That will not solve the difficulty, because the candidate may be a voter in a particular constituency, but the constituency is such a wide one that at the particular time that he has to record his vote, he may not be at the particular polling station within the area in which his vote has to be recorded.

Mr. Deputy Speaker: The constituency is there. There are a number of polling stations in a constituency. After all, there may be two or three divisions in a constituency. He will be in some polling station. Is it necessary to provide for all this ?

Pandit Thakur Das Bhargava: So that, he may be allowed to vote in any of the polling stations where he happens to be at that time. He may be in the constituency, but not in the particular polling station. The constituency may extend to a whole district. He will be in one polling station. He should be allowed to vote at the polling station where he happens to be at that time.

Dr. Ambedkar: There are two questions to be considered with regard to candidates. One question is that a candidate belongs to another province altogether. His constituency is not in the State in which he stands. That is one question. The other question is this. In a constituency, there are various polling stations. He is residing in the area of a particular polling station, he is supposed to go and vote. That is the logical consequence. Suppose in his daily peregrinations on the election day, he is not anywhere near the particular polling station or the polling booth, but somewhere else.

Mr. Deputy Speaker: The Law Minister may kindly consider whether the words candidate or his agent may not be included in the clause (ee) which he has proposed.

Dr. Ambedkar: I am coming to that. What I suggest is this. As I said, there are two cases which have to be provided for. Prof. Shibban Lal Saxena is providing only for the case of a candidate who is coming from another province. The other case still remains unprovided.

Mr. Deputy Speaker: That can be included here “the manner in which votes are to be given by a presiding officer, polling officer, polling agent or a candidate or his agents etc.”

Dr. Ambedkar: The clause refers to presiding officer, polling officer, polling agent or any other person who being an elector for a constituency is authorised or appointed for duty at a polling station at which he is not entitled to vote. It does not include the two categories of candidates. Therefore, one has to make provision for both categories.

Mr. Deputy Speaker: You may include them.

Dr. Ambedkar: Probably, the better course would be to reconsider the amendment. We can take it up at 3 o'clock so that we can have a proper amendment.

Pandit Thakur Das Bhargava: Include candidate and his election agent.

Shri Hussain Imam: I suggested in the morning that Government servants who are transferred from one place to another should be given facilities for recording their vote. This may be included in the rule making power of Government. I may remind the Hon. Minister that proper facilities should be extended to government servants and those engaged in local self-government and public utility services who have been transferred from one place to another after enrolment.

Shri Kamath: Sir, I have two amendments.

Mr. Deputy Speaker: I am coming to them. Let me put Prof. Saksena's amendment to the House.

Dr. Ambedkar: I am thinking that perhaps if it is put in a proper form I may be in a position to accept it. So we may hold it over to 3 o'clock. In the meantime we may be able to find some suitable language.

Mr. Deputy Speaker: The remaining amendments also may be handed over to Dr. Ambedkar.

Shri Kamath: I beg to move:

After part (g) of sub-clause (2) of clause 167, insert the following new part and re-letter the subsequent part accordingly:

“(h) the maximum scales of expenses at elections- and the numbers and descriptions of persons who may be employed for payment in connection with elections.”

Mr. Deputy Speaker: In the section relating to expenses, we have already provided for this. We have it stated that the maximum scales and election expenses shall be as may be prescribed, and any other matter required will be prescribed. Since that is already there, is it necessary to have this amendment now? I think it is unnecessary.

Shri Kamath: All right Sir. But I have another. I beg to move:

After sub-clause (2) of clause 167, insert the following new sub-clause :

“(3) The rules so made shall be laid before Parliament as soon as may be after they are made and shall be notified in the *Official Gazette* with such modifications as may be made therein by Parliament within a period of ten days after they are so laid.”

Shall I speak on it, or is to be held over till 3 o'clock?

Dr. Ambedkar: He may speak now, but the voting may be held over.

Clause 7

***Shri R. K. Chaudhuri:** I have only one amendment unlike other Members who had several amendments to place before the House. My amendment is No. 201 in the Revised Consolidated list on page 20. I beg to move:

To clause 7, add the following explanation :

“Explanation.—A lawyer who renders professional services to Government or any department thereof and who is paid by retaining fees and other fees shall not be deemed to be holding an office of profit and shall not be disqualified to be chosen as a member of either House of Parliament or Legislative Assembly or Legislative Council of a State.”

This is the only amendment that I have and I shall deal with it with all the firmness that it deserves and I hope the Hon. Law Minister will also be so pleased as to give some attention to what I say on this occasion.

Dr. Ambedkar: I always do. I think.

***Mr. Chairman :** Amendment moved :

In part (f) of sub-clause (1) of clause 7, for the words "five years" substitute the words "three years".

Dr. Ambedkar : I could have adopted the same procedure which I had adopted with regard to most of the amendments, namely, to stand up and say that I do not propose to accept these amendments. In this case it seems somewhat necessary to make an exception, because some questions have been raised which I think call for some explanation.

In the first place, I would like to give a reply to my hon. Friend there who said that the House has been taken by surprise at the fag end of the debate on this Bill by bringing in clause 7 at this time. It is quite true that clause 7 is brought before the House in a formal way only today. But I think my Friend will agree that there is no clause in this Bill to which the House as a whole, although informally, has devoted such a large part of its attention as clause 7.

Dr. S. P. Mookerjee (West Bengal): Most important clause.

Dr. Ambedkar: I cannot remember the number of meetings that were held of the Select Committee, of the larger Committee that was appointed, and also of the Committee of the whole House. I do not therefore think that there is any ground for the complaint that sufficient attention has not been paid to the provisions of clause 7. I think the clause has undergone a great deal of examination both from the point of view of propriety and from the point of view of meeting practical difficulties.

Now, Sir, I will take some of the individual points that were made by various speakers. I will not devote any attention, to what my Friend Mr. Kamath said, and I do not think that he expects much attention being paid to his suggestion for provision being made for shutting out the deaf and the dumb.

Shri Kamath : It exists in England.

Dr. Ambedkar: It is true that it exists in England but I think we can very safely leave it to our electorate to see that this Parliament is not constituted of the deaf, the dumb and the maimed and that we have people here who are physically fit to hear, to speak and to move about.

Some Members have said that we have not included in our disqualification clause persons like blackmarketers and so on. I think that was a point made by Prof. K. T. Shah. With regard to that all that I would like to say is that in making a law it is not enough to pursue an ideal: It is very necessary to see that the ideal must be a practical one. And I do not think that my Friend Prof. K. T. Shah has applied his mind to the practical side of giving effect to some of the idealistic theories that he has propounded with regard to this clause.

Another point was with regard to disqualifications arising out of offences and sentences passed for certain crimes. With regard to that it is possible to take three different positions. One position is this that punishment for a crime is enough of a punishment and that it should not involve any further disqualification for standing as a Member for Parliament. I think that is one view which can be taken. The other view that can be taken is this that we should have a disqualification attached not to the punishment but to the nature of the offence, whether it involves moral turpitude or does not involve moral turpitude. That is the second view that one can take. The third view is the view that is taken in this Bill. This view has been adopted in this country ever since elections began. I do not know of any period when we had a provision in our law saying that although a man has committed an offence and has been sentenced to imprisonment for a certain period he shall not incur any disqualification.

Right or wrong, that is the law that we have adopted throughout. Consequently there has been no departure so far as this Bill is concerned. We are not introducing anything that is new. We are merely adopting what has already been in existence.

Sardar Sochet Singh: What about heavy fines such as Rs. 50,000?

Dr. Deshmukh: May I know, Sir, under what provision so many of the Congress people who went to jail and were convicted were able to stand and how their disqualification was removed ?

Dr. Ambedkar: The disqualification was removed by the Governor-General. In some cases the time expired and in some cases he was empowered to issue an order to remove the disqualification. That is the second point. With regard to the other points that have been raised about public company directors, etc. I think it is unnecessary for me to defend the clause as it stands. All those points were raised at the various meetings where these questions were considered and ultimately the Committee came to the conclusion that the clause should stand as it has emerged from the midst of that Committee, and I, therefore, do not propose to go at any length with regard to the question.

Shri Sondhi: Co-operative Society.

Dr. Ambedkar: I am coming to that.

Shri J. R. Kapoor: There was no definite decision in the informal meeting with regard to

Dr. Ambedkar: I do not propose to go into the details of what happened at the informal meeting, because we are not supposed to disclose what happened there.

Shri J. R. Kapoor: The quantum of financial interest in a limited company

Dr. Ambedkar: Ultimately, as I said, this is how the clause emerged. With regard to the question of co-operative societies, I do not wish to commit myself nor should I be understood to have enunciated a legal proposition to which I would be bound for all times; but it does seem to me that a co-operative society is incorporated under a separate law and, therefore, as we are referring to a public company incorporated under the Indian Companies Act, 'co-operative societies' in my present judgment would appear to be excluded.

Now, I come to the question about the lawyers. I do not know whether my Friend, Mr. Chaudhuri has gone (*An hon. Member*: He is here). There are two different questions that have been put. The question that has been put by Mr. Chaudhuri is this: There are many people, lawyers, I mean, who are engaged by the various Governments to be their Government pleaders ; either they are paid a salary or they are paid a retainer and for every case that they do, they are paid a certain amount of money according to rates prescribed. He wants that a Government Pleader who has been engaged by a Government as its lawyer should not be disqualified from being a Member of the Legislature. As one of our friends here has referred to the matter, a lawyer who is a Government Pleader has been held long long before to be a person holding an office of profit. That seems to me to conclude the matter and if we wish, notwithstanding the provisions contained in Article 102 of the Constitution, to remove the disqualification, then there must be some good ground for saying that a Government pleader may be excluded. I do not think that my hon. Friend, Mr. Rohini Kumar Chaudhuri has adduced any argument. He has only appealed, I believe, to my sympathy and to my professional interest in the lawyers (*Interruption*). Well I am not going to commit any kind of indiscretion or illegality for the purpose of helping my own profession.

The other question that was raised was by my hon. Friend, Mr. Khandubhai Desai. His complaint has taken me by surprise, I must say. His complaint was that there were many lawyer Members of Parliament who appear before the different members of Government for their clients and charge fees, and that that also happens in the local legislatures. I say I am completely surprised at it because a lawyer has the right to practice in a court of law and I do not know whether there is any law which says that a Minister in the administration of a department is a court. Therefore, a lawyer cannot insist upon exercising the constitutional right that has been given to him to practice his profession, to go before a Minister and obtain a hearing. If any Ministers in the Government of India—they will forgive me—are permitting

lawyers to appear before them, it seems to me that they are acting contrary to the provisions of law. If our Ministers were to observe the common rule that they are not courts and therefore they will not hear any lawyer, I think the practice which has been referred to by my hon. friend Mr. Khandubhai Desai will completely disappear.

Mr. Chairman: Is there any such practice ?

The Prime Minister (Shri Jawaharlal Nehru): I have never heard of this practice or of any instance. I would like it to be stated where this has taken place and when.

Dr. Ambedkar: I do not know. That is what Mr. Khandubhai Desai has said.

The Minister of Works, Production and Supply (Shri Gadgil): On the other hand, the complaint has been that some of us have refused audience to lawyers.

Dr. Ambedkar: That is the proper thing.

Shri Hussain Imam: Have any lawyer Member of Parliament been refused audience by the Hon. Ministers ?

Shri Jawaharlal Nehru : So far as I know, there has been no case of lawyers appearing before the Ministers as lawyers.

Dr. Ambedkar: I do not know what that is: but this is what he said. I think that matter can be regulated in the manner I have suggested. Therefore, no legal provision of that sort is necessary.

I now come to the amendment moved by my hon. Friend Pandit Kunzru. He wants to drop the words "disloyalty to the State". To some extent, I accept his argument that the wording "disloyalty to the State" is not a very precise phrase. What does it mean ? It has nowhere been defined. But the point is this. When the Select Committee discussed this matter, they were considering two different categories of servants of the State. One was the personnel of the civil services ; they were also considering the army personnel. In

their judgment it was possible for an army officer to do an act which may undermine the security of the State, or may prove to be an act of disloyalty to the State and he may have been dismissed on that account. They did not want to confine the restriction to corruption of civil servants. They also wanted to extend the same provisions to any act done by a military officer. I admit that it has not been possible to use a precise phrase. But I would like to say this that there is sufficient protection in one part of clause 7, where the question whether one has been in fact dismissed for corrupt practices or for disloyalty has been left to be decided by the Election Commission. I should submit that if the Election Commissioner is an independent officer and we have every hope and right to believe that he shall be an independent officer—I think in sub-clause (3) there is enough protection against any kind of misuse of the provisions contained in the earlier part of clause 7.

I do not think that there is any point which was made by any hon. Member which calls for explanation and with which I have not dealt in the course of my reply.

Shri Kamath: I must bring to your notice Sir, a slight lapse on the part of Dr. Ambedkar whereby he transformed Mr. Chaudhuri into a woman by calling him Rohini, the name of a woman. I hope the name will be correctly put in the official reports. Rohitkumar is a man's name.

Mr. Chairman: Order, order.

Mr. Kamath: This is a serious matter, Sir.

Dr. Ambedkar: What did I say?

Mr. Kamath: You said, Rohini.

Dr. Ambedkar: That is the name by which I call him.

Mr. Kamath : He is Mr. Rohini Kumar Chaudhuri and not Rohini.

Dr. Ambedkar: I do not think he has misunderstood me.

Shri R. K. Chaudhuri: No.

Dr. Ambedkar: He would refuse to misunderstand. I am sure.