

Mr. Chairman: Let it be held over, so that hon. Members may have the time to study the amendments.

Clause 48 was added to the Bill.

Dr. Ambedkar: I would request you to take up those clauses to which there are no amendments.

Clause 49.—(*Attendance of candidate at Polling Stations*)

Mr. Chairman: The amendment to clause 49 (No. 383) is the same which the hon. Member has accepted.

Shri Shiv Charan Lal: If he has no objection I will move it Sir.

Dr. Ambedkar: I have no objection.

Amendment made:

In sub-clause (2) of clause 49, after the words “A candidate” insert the words “or his election agent”.

—[*Shri Shiv Charan Lal*]

Mr. Chairman: The question is :

“That clause 49, as amended, stand part of the Bill.”

The motion was adopted.

Clause 49, as amended, was added to the Bill.

Clause 50 was added to the Bill.

New Clause—50A

Shri S. N. Das (Bihar): I have an amendment standing in my name suggesting a new clause 50a, regarding the candidate's right to send election address post-free.

Dr. Ambedkar: If I may intervene at this stage to save time. Sir, you will remember that last time this matter was discussed as to whether provision should not be made for permitting the candidate to send his election address post-free and I said that I would refer the matter to the Government and see whether such a thing could not be done. I thought the House at that time accepted my assurance without any specific amendment to that effect.

Shri Sidhva: This should be held over.

Dr. Ambedkar: No. it is not necessary.

Mr. Chairman: Am I to understand that the hon. Mover does not want to move his amendment in view of the assurance given that the Hon. Minister will refer the matter to the Government ?

Shri S. N. Das: In view of the assurance given by the Law Minister, I want to know whether I might be permitted to move my amendment.

Mr. Chairman: There is no question of being allowed. He is at perfect liberty to move it. I only suggested to him whether, when the Hon. Minister has given an assurance, it is desirable to move it.

Shri S. N. Das: It may be held over.

Mr. Chairman: There is no question of being held over. The reply will not come from the Government within such a short time. Either he should move it or not move it.

Shri S. N. Das: In view of the assurance given I do not want to move it.

***Mr. Chairman:** Then there is another amendment No. 385 in the printed list, standing in the name of Mr. Das suggesting new clause 50A.

Shri S. N. Das : (*Hindi translation of Hindi Speech*) I want to say something on it. I submitted the suggestions because of the fact that in the election campaign propaganda wields great influence.....My suggestion is that everybody should be given an equal opportunity so that he may go to the voters to explain to them the objectives for which he stands. Therefore, many candidates would be saved of expenses if railway facility was made available to them. That is the purpose of the suggestion I have put forth for the consideration of the House. If the House deems it proper, it may accept it, if not, it may reject it.

Mr. Chairman: This amendment has not been moved and it has not been placed before the House. I would rather like that the reaction of the Hon. Minister may be known to the House.

Dr. Ambedkar: I cannot agree to Government undertaking any such obligation at all.

Mr. Chairman : Does the hon. Member want the amendment to be put to the House ?

Shri S. N. Das: No Sir.

Clause 51 (Death of cordinate)

***Mr. Chairman:** Amendment (of Shri S. N. Das) moved:

For clause 51, substitute the following:—

“51. *Death of candidate before poll.*— Whenever any candidate dies after being duly nominated and before the closing of the polls, all the election proceedings shall stand cancelled and all proceedings with reference to the election shall be commenced a new in all respect as if for a new election:

Provided that the nomination of the deceased candidate was valid in the opinion of the Returning Officer:

Provided further that no further nomination shall be necessary in the case of a candidate whose nomination was valid at the time of the cancellation of the election.”

Dr. Ambedkar: I do not accept the amendment, but I would like to say that in view of the fact that the House has carried an amendment to sub-clause (2) of clause 35 with regard to withdrawal, there will have to be some small amendment made later on and I reserve the liberty to bring the matter up at a later stage

Shri J. R. Kapoor: I take it that the proposal of the Hon. Minister is to hold over this clause.

Dr. Ambedkar: I do not want to hold it over. The only point is that it will be necessary to add one more proviso. The point is this : that by amending sub-clause (2) of clause 35, it is now open for a candidate who had withdrawn to seek nomination if the contingency contemplated in clause 51 arises. Consequently a positive provision will have to be made in clause 51. That can easily be done by adding a proviso.

Mr. Chairman: As a matter of fact, in consequence of amendment No. 102 of Supplementary List No. 1 standing in the name of Shri Jaspat Roy Kapoor having been accepted, a consequential amendment is necessary and it is only for the purpose of having that consequential amendment that an opportunity is being sought to add that amendment afterwards.

Shri J. R. Kapoor: I entirely agree with the Hon. the Law Minister that another proviso will have to be added, in view of the amendment which has already been accepted (Amendment No. 102). but apart from that, Sir, I think that the suggestion contained in the amendment just moved by my hon. friend Shri S. N. Das deserves serious consideration..... There are two points contained in the amendment of Shri S. N. Das. His first contention is that if a particular candidate dies after scrutiny, but before the commencement of the poll, then the electorate should be given an opportunity for making another nomination in place of the candidate who is dead. This is an accepted principle.

The next question that arises is that why should this principle be confined to cases of candidates who die only after scrutiny? A candidate may die between the date of nomination and the date of scrutiny.

Dr. Ambedkar: That is not the position.

***Mr. Chairman :** What is 'due nomination'? Is it after or before security ?

Dr. Ambedkar: In view of the fact that this clause will come back again to the House for the purpose of considering the proviso to which I have already referred, the whole thing might be held over.

Mr. Chairman: Very well. Clause 51 is held over.

Clause 52.—(*Procedure in elections*).

Amendment made;

In sub-clause (3) of clause 52, for the Words ... the members of the State Legislative Assembly or electoral college concerned” substitute the following:

“the elected members or the members of the State Legislative Assembly or the memembers of the electoral college concerned”.

—[*Dr. Ambedkar*]

Further amendment made.

In the Proviso to sub-clause (3) of clause 52, for the words “the members of the State Legislative Assembly or of the electoral college” occuring in lines 1 and 2, substitute the following:

“the elected members or the members of the State Legislative Assembly or the memembers of the electoral college concerned”.

—[*Dr. Ambedkar*]

Mr. Chairman: The question is :

“That clause 52, as amended stand part of the Bill.” The Motion was adopted.

Clause 52, as amended was added to the Bill.

Clause 53 was added to the Bill.

Clause 54 was added to the Bill.

*** Clause 56.**—(*Adjournment of poll*)

Pandit Munishwar Datt Upadhyay: I have an amendment. No. 389 in the Consolidated List to include the words “on other polls” after the words “such election” in sub-clause (2). I think these three words would be necessary because otherwise you do not define to what election it refers.

Dr. Ambedkar: Election means election under the Act.

Pandit Munishwar Datt Upadhyay: You mean election in respect of the same constituency. Then you have got to say “on other polls”. The sub-clause read :

“and fix the polling station or place at which, and the hours during which, the poll will be taken, and shall not count the votes cast at such election until such adjourned poll shall have been completed”.

“..... That such election on other polls” makes the thing clear. Otherwise it is ambiguous.

Shri Santhanam: "Such election" covers it.

Dr. Ambedkar: I do not think it is necessary.

Mr. Chairman: The question is :

"That clause 56 stand part of the Bill."

The motion was adopted.

Clause 56 was added to the Bill.

Clause 57.—(*Fresh poll*)

Shri Shiv Charan Lal: May I be permitted to move amendment No. 390 standing in your name, Sir?

Mr. Chairman: It would be better to know the reaction of the Hon. Minister.

Shri Shiv Charan Lal: It seeks to substitute the words "before the votes are counted" for the words "at any election" in sub-clause (1).

Shri Santhanam: It may be at any stage.

Dr. Ambedkar: I do not think it is necessary.

Pandit Munishwar Datt Upadhyay: I have an amendment (301) that in sub-clause (1) after the words "presiding officer" the words "or any other person on their behalf" be inserted. It may be that the boxes are in transit, they might be placed somewhere else, they might be in the custody of someone else. And these things may not be covered, by the present working. I consider that the introduction of these words appears to be necessary.

Shri T. T. Krishnamachari (Madras): The other words which follow are : "or is or are in any tampered with..." That covers that condition. It is unnecessary.

Dr. Ambedkar: I do not think it is necessary.

Mr. Chairman: The question is :

"That clause 57 stand part of the Bill."

The motion was adopted.

Clause 57 was added to the Bill.

Clause 58 was added to the Bill.

***Shri Karunakara Menon:** I emphasize the words : “to enable a person to vote in a particular manner”.

Dr. Ambedkar: The clause as it is quite all right.

Shri Shiv Charan Lal: If the Hon. Law Minister does not think that these words are necessary, then I do not press it.

As for amendment No. 117, I find that clause 59(d) reads as follows : “the wife of any such person as is referred to in clauses (a), (b) and (c) to whom the provisions of sub-section (6) of the said section 20 apply” I do not know why we are giving this right to the wife.

Dr. Ambedkar: Because she may be with him.

Mr. Chairman : Supposing she is not with him, she is not given any right to vote in any other manner ?

****Shri J. R. Kapoor:** I beg to move:

After part (e) of clause 59, add the following new part as part (f):

“(f) any person subjected to preventive detention under any law for the time being in force.”

This is one amendment. Another amendment, which I would like to move with your permission. Sir, is No. 396 in the printed list, which has the privilege of standing in your name. I beg to move:

After part (e) of clause 59, add the following new parts:

“(f) the candidates, their election agents and polling agents ;

(g) the President, the Governors and the Rajpramukh of the States.”

Dr. Ambedkar: Why does he want specifically reference to them ? They are voters.

Shri J. R. Kapoor: So far as amendment No. 396 is concerned, there are two parts which are intended to be inserted, parts (f) and (g). You may take them separately, because it is just possible that while the insertion of part (f) may be agreed to, perhaps part (g) may not be agreed to for reasons best known to the Hon. Law Minister.

*P.D., Vol. 12, Part II, 21st May 1951, p. 9202.

***Ibid*, p. 9204.

***Mr. Chairman :** Amendments moved :

(i) After part (e) of clause 59, add the following new part as part (f):

“(f) any person subjected to preventive detention under any law for the time being in force.”

(ii) After part (e) of clause 59, add the following new parts:

“(f) the candidates, their election agent and polling agents ;

(g) the President, the Governors and the Rajpramukh of the States.”

Shri Sonavane (Bombay): I rise to support part (f) of the amendment standing in the name of Pandit Thakur Das Bhargava. I also support the addition of the new part (f). It is necessary to allow a candidate to vote through the post because he may be in a place which is not a constituency in which he is registered as the candidate. It may not be possible for him to go to that particular constituency and so he should be allowed to vote through the post. Similar circumstances may arise in the case of the election agents and polling agents also and so they also must be allowed this facility. When they have to work as election or polling agents, they may have to go to different places and they may not be able to be present in the constituency in which their names occur in the electoral rolls. So it is but proper that this facility should be extended to them also.

Dr. Ambedkar : Sir, Mr. Kapoor has placed before us three propositions, namely, that the facilities for voting by post may be extending to persons under detention, and to candidates, their election agents and polling agents and thirdly, to the President, the Governors and the Rajpramukhs of the States.

I should like to say at the very outset that postal ballot is a very dangerous thing—one of the most dangerous thing that I have come across. I have noticed candidates appointing persons to go to various individuals who become entitled to voting by post, collect their ballot papers, get their signatures, and just post it themselves and thus a vast amount of illogical pressure—something like requisitioning—is brought about. I therefore think that this system ought to be confined to the shortest extent possible.

Shri J. R. Kapoor: Then do not extend it to the wives of voters who live far away.

Dr. Ambedkar: They are only (a), (b) or (c).

As regards the candidates, election agents and polling agents, I do not see why the rule of postal ballot should be applied to them. I can quite understand that the candidate may not be present in the constituency in which his name is enrolled, because we have given the facility that a candidate can stand anywhere he likes. It is also possible that the various persons whom he engages such as the election agents, polling agents and so on, may not be able to work in the constituencies in which their names are enrolled. In such cases it is perhaps desirable to make it possible for them to vote in a constituency where they are working although that is not their constituency by registration. But that is a matter which must be considered separately and not under the postal ballot section.

With regard to Rajpramukhs, Governors and the President, I do not see what valid ground there is for permitting them to cast their vote by postal ballot, except the fact that they are certain dignitaries of the State. But I do not think that the law in the matter of election should recognise any such distinction at all.

An Hon. Member : They may be living far away from their constituency.

Dr. Ambedkar: I do not think so. They can arrange their tours in such a way as to be in their headquarters at the proper time. That is not a very difficult thing.

Shri Sidhva: They have all the facilities for that.

Dr. Ambedkar: With regard to persons under detention, I think the general rule of law is this. First of all, whoever is under detention is not in a position to exercise the rights that are given to him. That is the rule under the English Law. The English Law makes no provision for what might be called "convicts" to vote, by reason of the fact that they have placed themselves, so to say, beyond the pale of the electoral law.

Shri T. T. Krishnamachari: But that disqualification would not operate in this case.

Dr. Ambedkar: I do not know. Our disqualification would arise if the period is 2 years or if the detention is an indefinite sort of thing. So I would not commit myself to the proposition suggested now. I feel that we are really breaking a very salutary principle that a man if he wants to exercise his legal rights of voting, he must be within the pale of the law and not outside it. Therefore, on that ground I am not prepared to accept the suggestion with regard to persons under preventive detention.

As I said I am prepared to consider the question as to whether a candidate, his polling agents and other agents who are working for him and who are not registered as the voters in that particular constituency in which they are present, should be permitted to vote in that very constituency notwithstanding the fact that they are not registered there. But that is a matter which cannot come under this clause.

Mr. Chairman: The present rule is then that they are allowed to vote wherever they happen to be ?

Dr. Ambedkar: If necessary, that will be provided for separately.

Shri T. T. Krishnamachari: Sir, I would like the House to be permitted to discuss this matter more fully, in regard to the persons under preventive detention. At the time the amendment was moved, we thought that as a matter of course, it would be accepted. Several Members hold that the persons detained under the Preventive Detention Act under the Constitution are detained for something for which they are not responsible and Government fight shy of taking these persons to a court and get them convicted. And so long as they are not convicted, they must be held to be innocent of all crimes.....It is a matter of principle with many of us and in view of the importance of this question we want a separate vote taken so that we can voice our opinion on this matter.

Mr. Chairman: There are two questions—not only the question whether these persons should be allowed to vote.

***Dr. Ambedkar:** I think I could set matters right?—at any rate put them in a proper perspective so that the House may come to its own conclusion.

I first of all wish to dispose of the point with regard to sub-clause (d) of clause 59, relating to wives. I think in order to understand what exactly sub-clause (d) seeks to do, it is necessary to go back to section 20 of the Representation of People Act. Section 20 of that Act deals with the question of the meaning of the words “ordinarily resident”. What is the meaning of the words “ordinarily resident”? Now, the words “ordinarily resident” are quite clear with regard to persons who are residing in India-. But with regard to persons, for instance, who are in the armed forces of the Union and who under the Army Act and Regulations can be transferred from one place to another, they cannot be presumed to have any particular fixed place of residence. They are in one place for a few months, they are then transferred to some other place. They are there for a few months and again they are transferred. They are so to say a mobile force with no particular attachment to any particular area. In that case, the question arises as to what is to be their constituency.

Similarly, there is another class of people who are employed in the service of the Government of India outside India. In regard to these persons the provision that is made in section 20 of the Representation of People Act is this: that option would be given to them to make a statement as to which constituency they regard to be their constituency and whatever choice they make is accepted by the Registration Officer for the purpose of recording their names in the electoral roll. That is the position.

Obviously along with that the question of wives of such persons also arises, because they are also sometimes living with their husbands who are either in are armed forces of the country or in the services outside India. Just as the question arises with regard to the males who are employed, the question also arises with regard to their wives. The answer given in section 20 is that the constituency of their husbands

* P. D., Vol. 12, Part II, 21st May 1951, pp. 9220-25.

shall also be deemed to be the constituency of the wives. Consequently it is necessary to make a provision for voting by postal ballot with regard to the wives also.

Shri R. K. Chaudhuri: If the wife is here in India ?

Dr. Ambedkar: If the wife is here, that will be the constituency, because she will be entered in the electoral roll independently of the provisions contained in section 20 of the Act.

Suppose she is outside and her husband selects a particular constituency. If the husband has a right to vote by ballot, obviously the wife must be given the same right and I do not see any reason why my hon. friend Mr. Chaudhuri got so excited over such a simple proposition.

Shri R. K. Chaudhari: Supposing the wife is employed ? Will the husband get the same privilege?

Dr. Ambedkar: That is a contingency that may arise.

Now, I am coming to the question of detenus. Personally, I do not mind saying that I have a great deal of sympathy with the proposition that no person in India who has got the right to vote should not be free to vote. But I would like the House to consider what actually we could do in order to ensure that the detenus will be able to vote. There are three possible ways of doing it. One is this that we have to set up a polling station in each jail so that all persons who are placed in that particular jail may have the right to vote and to constitute the Jailer either the Returning Officer or the Presiding Officer or the Polling Officer. That is one way of doing it. The second way is that we should allow the detenus to be taken to the general polling booth, undoubtedly accompanied by police and probably handcuffed and taken out of the jail walking two or three miles. And the third way would be by the postal ballot. Obviously it would be very difficult in my judgment to constitute a polling station in each jail, because there may be in some jail quite a large number of detenus, in some other jail there may be one or two, in some there may be none.

The Minister of State for Parliamentary Affairs (Shri Satya Narayan Sinha): It will be possible.

Dr. Ambedkar: I think the Home Minister might be in a better position to enlighten the House as to how it could be done.

Shri Satya Narayan Sinha: I have consulted the Home Minister.

Dr. Ambedkar: With regard to the second method I do not think that any detenus would like the alternative of being taken under police escort, handcuffed and paraded for a distance of two or three miles.

Mr. Chairman: Why two or three miles ? It may be fifty miles or more because the constituency may be very far from the jail.

Dr. Ambedkar: That is another difficulty. The only other method that is therefore left for consideration is the postal ballot. I want to point out what is likely to happen under the postal voting system. It is quite obvious that the ballot paper will have to be distributed a long time before the date of polling takes place. For that purpose the Election Commissioner will have to write a circular to the various Jail Superintendents to find out how many detenus there are under their custody and in accordance with the information so obtained he will, on the estimate made on that day—this is important—distribute the ballot papers. The circular must certainly go to the Jail Superintendents at least some time before, may be a month or three weeks before the actual polling takes place, and then accordingly the ballot papers may be sent to the Jail Superintendents to be distributed to the various detenus under their custody. The question that the House has to consider is this : what is to happen to the detenus who are brought into jail custody between the date on which this enquiry is made and the date on which the polling takes place ? Obviously there could be no ballot papers in respect of them because the ballot papers would have been sent to the jailor on the basis of the estimate that he has submitted on that particular day. It may be that after that date is over fifty more detenus are sent to the jail. They are there. Therefore, by adopting this system of postal ballot you are not giving effect to a general desire that every person under

detention should get the right to vote. (*Interruption*). Most of them will get, but some will not. If you are keen that every person who is under detention shall get an opportunity to vote...

Shri J. R. Kapoor: So far as is physically possible.

Dr. Ambedkar:that purpose is not going to be carried out. There are some people who are bound to be omitted. And it is perfectly possible, so far as I can imagine, that the number of people who may be sent under preventive detention after or just nearer the time when the polling takes place may be much larger than before. I do not want to anticipate anything, but my fear is that this sort of thing may happen. Therefore you are really not making a provision which is, shall I say, either fool-proof or knave-proof. (*Interruption*). This matter really has been raised without reference to the clause. This matter can arise only under clause 61 because there is a specific provision in sub-clause (5) of it. It cannot come under clause 59. Sub-clause (5) of clause 61 says that "No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police, or is subjected to preventive detention...". Therefore, if any amendment is to be made, it must be made to sub-clause (5) of clause 61. I think this matter is quite outside the scope of clause 59.

Shri Sidhva: If we pass it, it will go under 61.

Dr. Ambedkar: How can we pass it now? I have told you what difficulty is likely to arise, If notwithstanding it you want it to be done, it is a different matter. It is not a matter of conscience with anybody. I do not know what arrangements Government can make.

Shri Bharati (Madras): One difficulty is that some of them may be illiterates.

An Hon. Member: They are too literate !

Dr. Ambedkar: I have only pointed out the administrative difficulties. If supposing for instance there is a very large

concentration of detenus in a particular jail and a candidate comes to know that a good many of them are illiterate and not able to sign, it is perfectly possible that he may approach the jailor and say "Get these things signed for me ?

Shri Sidhva: There are so many officials. There is a Superintendent, jailor and so many officials are there. Should we assume that all of them are going to be corrupt ?

Dr. Ambedkar: If the evil exists on a small scale, should we tolerate it on a large scale ? (*Interruption*).

Several Hon. Members: Put it to vote.

Mr. Chairman: Order, order.

Shri T. N. Singh (Uttar Pradesh): I would like the Law Minister to explain as to what will be the position of a husband whose wife is employed outside, in government service and whether he will exercise the right of vote or not ?

Dr. Ambedkar: So far as the law is —my women friends in the House will forgive me—the husband does not carry the status of the wife; it is the wife that carries the status of the husband.

I cannot consent to this kind of irregularity. I said there is a regular clause for it, namely 61(5). When you want to move an amendment, move an amendment to that. But there is no text of amendment before us.

Mr. Chairman: There is an amendment which has been moved. This amendment has not been ruled out of order. At the same time the acceptance of this amendment involves two things, not only the right of voting but voting in a particular manner, that is by postal ballot. Therefore, even if this amendment is not accepted by the House it would not preclude its consideration under clause 61. So I would rather prefer. If the House agrees, that it may be taken under clause 61.

Shri J. R. Kapoor: May, I submit that I have tabled an amendment to the same effect under clause 61 also? But if I have tabled an amendment there also it is because I consider it necessary that the amendment here also should be made.

The other amendment is a consequential one. Because clause 59 relates to the manner of voting and clause 61 relates to the right to vote..... When we come to clause 61 the following words occurring in sub-clause (5) “or is subjected to preventive detention under any law for the time being in force” should be deleted there.

Mr. Chairman: Order, order. Unless and until we succeed in getting it established that the detenu has a right to vote we cannot do anything. The manner how he would vote would naturally come after that. In the present arrangement, clause 59 precedes clause 61. So it would be better first of all if the House establishes that a detenu has got a right to vote. Then the question will arise how he should vote. If the House is of the opinion that the detenu has the right to vote, then the Government shall have to make some arrangements as to how he should exercise the vote.

Shri J. R. Kapoor: But not without this law authorising the Government to make any such arrangement.

Mr. Chairman: Order, Order. Let us hear the Hon. Minister.

Dr. Ambedkar: If the House adopted it, what I would do would be to delete the last sentence, namely “or is subjected to preventive detention under any law for the time being in force” and then say “that for purposes of enabling persons under preventive detention to cast their votes, the Government may make provision either by establishing polling stations or by ballot paper” or put something like that.

Shri J. R. Kapoor: The other course will be to take clause 61 and then clause 59.

Shri T. T. Krishnamachari: It does not preclude this House from deciding on the amendment proposed by Mr. Kapoor because the acceptance of the amendment will naturally involve a deletion in clause 61..... The procedure is quite right. I think you can put Mr. Kapoor’s amendment to vote...

An hon. Member: What about the illiterate voters ?

Dr. Ambedkar: I would prefer this matter to be considered under 61 (5) which is more direct rather than to do it in this indirect fashion.

Mr. Chairman: I think that so far as the right to vote is concerned, first of all it should be established by the House. As Mr. T. T. Krishnamachari pointed out there is no rule precluding us from considering clause 59 because the acceptance under clause 59 also establishes two things, namely, the right to vote as well as the right to vote in a particular manner. All the same it is an accepted principle that before we take to the latter course, it would be better to get the right to vote established. Then the Government shall have to prescribe the manner in which that right is to be exercised. Then when the amendment comes in, it will be right for us to say whether the particular mode which the Government proposes for obtaining the vote of the detenu is proper or not. We shall have occasion then to consider whether establishing polling stations or the voting by postal ballot would be a preferable method. Then, we shall have occasion to agree to that method. I think Mr. Jaspat Roy Kapoor has already agreed that this may be taken up when we consider clause 61.

Shri T. T. Krishnamachari: My suggestion is that the House should decide this matter. If you think that the House had better decide clause 61 first leaving clause 59 without being decided on now. I am quite agreeable to that. But we do not want this House to leave it to the tender mercies of the mover of the Bill either to move a similar amendment or not. We would like clause 61 to be disposed of first before clause 59.

Mr. Chairman: Order, order. It is not right to suggest like that, because the matter is in the hands of the Chair. The Chair has to find which thing has to be moved first and which thing next. The Mover has expressed his sympathy with the amendment. Why should it be said that the matter be left to his tender mercies ?

Shri J. R. Kapoor: I would submit that there does not seem to be any difference of opinion with regard to the acceptance of the principle of my amendment. So, I would say nothing on that. The only question is how the substance of

it should be incorporated and where..... The right to vote already exists under the existing statutes. Clause 61 is a disqualifying clause. It does not confer any right of voting. It takes away the right of voting from certain persons who are enumerated in clause 61. But, here, we must specifically provide for that because here we are laying down the procedure by which various classes of persons are enabled to vote and this is the proper place.

Mr. Chairman: Order, order. The point is absolutely clear. There is no dispute about that. The right of voting and the method in which the vote will be recorded, are the two matters before the House. There is provision in clause 61 which takes away the right of a detenu. We have first to see whether we succeed in seeing that that right is not taken away. Then the question will arise as to the method in which that vote is to be recorded. Then we can revert to clause 59, to see whether we can adopt this method of recording their vote or the other methods suggested by the Hon. Law Minister.

With the concurrence of the hon. mover of the amendment. I am not putting this amendment to the House now. We can come back to clause 59 again if necessary.

Several Hon. Members: All right.

Mr. Chairman: I shall put the other amendment to the House. No. 396.

Shri Shiv Charan Lal: About that. I want clarification on one point.

Mr. Chairman: All the points have been clarified.

Shri Shiv Charan Lal: The Hon. Minister while replying to amendment No. 396 said that this is not the place for bringing in the candidates, their election agents and polling agents. My submission is that the heading of this clause is "Special procedure for voting by certain classes of persons" and I think this is the proper place to bring them in.

Mr. Chairman : The hon. Member will realise that herein the special procedure is given for postal ballot. The Hon. Minister has already explained that this is not the proper

method. It is for the Hon. Minister to make provision somewhere to see that these persons get the right to vote.

Dr. Ambedkar : If my friend wants an explanation, I would like to give this explanation to him. This clause 59 makes special reference to provision for voting by postal ballot by certain persons. It does not take away the right of the Government or the Election Commissioner to make provisions by rules for the method of voting of some other classes of people. If he wants specifically any rule, he can do so when we come to clause 167 where power to make rules is given.

Mr Chairman: I shall put amendment No. 396 to the House.

Shri J. R. Kapoor: I would request you, Sir, to put it in parts separately (f) and (g).

Mr. Chairman: The question is:

After part (e) of clause 59, add the following new part:

“(f) the candidates, their election agents and polling agents ;”.

Shri J. R. Kapoor: The Ayes have it. Sir.

Mr. Chairman: I will again put it to vote.

Shri J. R. Kapoor: Sir, most of the Members have not understood what is being put to vote.

Dr. Ambedkar: This matter will be provided for separately, and I do not understand why my friend should insist on introducing this clause for the purpose of postal ballot.

Shri J. R. Kapoor: Then I take it that it will be provided for somewhere else ?

Mr. Chairman: Then I think the hon. Member wants to withdraw his amendment ?

Shri J. R. Kapoor: Yes, on that assurance. I beg for leave to withdraw my amendments.

The amendments were by leave withdrawn.

Mr. Chairman: The amendment is withdrawn subject to our right to revert to clause 59, if the right is established in clause 61. We shall consider this amendment subsequently. The amendment is held over.

Shri T. T. Krishnamachari: There is no point in proceeding with it now. It may be held over.

Clause 60.—(*Prevention of personation*).

Shri Shiv Charan Lal: I want to move my amendment No. 120 in the Supplementary List 1, asking for the deletion of the clause.

Mr. Chairman: That is a negative amendment.

Shri Shiv Charan Lal: Then I shall only speak on the clause.

This clause 60 requires the finger of the elector to be marked by some ink when the ballot paper is given to him..... There has been no such provision in our country till now and I do not think there is the slightest need for it even now. So we need not have this clause 60.

Shri T. T. Krishnamachari: The position seems to be that the hon. Member has not understood the implication of clause 60. We are now experimenting with adult suffrage and we are not having registration of voters followed by giving them identification cards. I believe certain State Governments contemplated taking photographs of voters and giving them identification cards, but the cost involved was tremendous and so we have to make some other arrangements. False personation is an inevitable factor associated with votings, especially when such huge numbers are involved and so we have the method suggested in clause 60. There is nothing wrong about it, when the rich man and the poor man have all to get their thumbs marked. There is nothing *infra dig* about it. Because of our poverty as a country we cannot give registration or identity cards to everybody and you cannot expect every voter to sign in a particular place either for purposes of identification as many would be illiterate. So we have this device—a temporary expedient as I hope—during the first two or three elections. There is no use importing sentiment into this matter. It is just a wholesome provision against impersonation which is a common feature in all elections where such large numbers are involved. Dishonesty has to be provided against and if for that purpose we have

to put ourselves to some inconvenience, I do not think there is anything seriously wrong. The arguments that have been quoted in support of the amendment to delete this clause are made wholly without considering all aspects of the situation. Therefore I support the clause as it stands.

Mr Chairman: The question is:

“That clause 60 stand part of the Bill”.

The motion was adopted.

Clause 60 was added to the Bill.

Clause 61—(*Right to vote*)

Amendment made:

In sub-clause (5) of clause 61, omit the words “or is subjected to preventive detention under any law for the time being in force”.

—[*Shri J. R. Kapoor*]

Dr. Ambedkar: The House should also take into consideration what I stated that although postal ballot appears to be the easiest method to adopt, as I said, unless elections are to be indefinitely postponed, we will have to make some provision for administrative difficulties and not being able to give ballot paper to everyone. That has to be borne in mind. What I thought was,—as I am not in a position to at once suggest an amendment which would give the persons under preventive detention the right to vote and also to meet the administrative difficulties,—I wanted to put it to the House whether it would not be desirable to deal with this matter under clause 167 which gives power to make rule.

Mr. Chairman: Two courses are open—either it may be provided in the rules or since the amendment of Mr. Kapoor is before the House, any amendment to that may be moved.

Dr. Ambedkar: What I wanted to say was this that some such words ‘as far as practicable’ would be necessary. The words ‘as far as practicable’ do not occur in any of the clauses of 59.

Shri T. T. Krishnamachari: The clause itself reads like this:

“Provision may be made by rules made under this Act”.

There is nothing mandatory about it.

Dr. Ambedkar: My point is, under this rule it would be obligatory to provide a ballot paper for every one of the voters who is covered by this while so far as detained persons are concerned, on account of the difficulties that I have mentioned it may not be possible to provide a ballot paper for everyone. Otherwise the detenu may file a suit.

Mr. Chairman: Supposing the words “so far as practicable” are put in here along with the amendment.

Dr. Ambedkar : I do not think the words “so far as practicable” should be made applicable to any of the other categories specified, because it is possible to provide a ballot paper for every one who comes under these categories. Only in regard to this will only cause bitterness among people. And if it is done it would only produce obstacles in the way of a popular Scheduled Caste candidate in contesting elections for the general seats. Not only this much but his right to contest elections for the general seats and win them would also be nullified. Keeping this in view I think, Shri Sonavane should realize that he should not move such an amendment which may result in accelerating communal differences and bitterness and which might prove dangerous for the Scheduled Tribes or Scheduled Castes themselves. My impression is that even if he does not get sufficient votes after contesting for the general seat, he would at least get the seat reserved for the Scheduled Tribes. And in case he gets sufficient number of votes while contesting for the general seat then he would be elected on both the seats, the general as well as the reserved one. We should therefore declare it a separate seat, because this procedure cannot be followed with respect to a joint seat. And if the number of seats would be more in a plural constituency the voters only will have a right to *give* vote in the manner they like; of course the Harijans and the non-Harijans should have an equal footing for contesting elections for the general seat. In case the voters think that the Harijan candidate is a proper one and is capable, he will get votes of non-Harijans too and will be elected from that constituency. But in case he does not poll more votes then also he would

be entitled to get the second seat that has been reserved for the Scheduled Castes and Scheduled Tribes.

1-00 P.M.

Dr. Ambedkar: I am not prepared to accept this amendment.

Shri Sonavane: I beg for leave to withdraw my amendment.

The amendment was, by leave, withdrawn.

Shri J. R. Kapoor: I beg to move:

For sub-clause (2) of clause 62, substitute the following:

“(2) If an elector gives more than one vote to any one candidate in contravention of the provisions of sub-section (i) both the votes will be rejected.”

Dr. Ambedkar: This matter was considered at great length in the Select Committee.

Shri J. R. Kapoor: Many a thing was very seriously considered by the Select Committee. But you find what that careful consideration has come to when the report is scrutinised here.

I would therefore, like to argue it out.

Mr. Chairman: The hon. Member will do it tomorrow.

The House then adjourned till Half Past Eight of the Clock on Tuesday, the 22nd May, 1951.

Clause 62

***Mr. Speaker:** Amendments moved:

(i) In sub-clause (1) of clause 62, for the words “but no elector shall give more than one vote to any one candidate”, substitute the following :

“and may give all those votes to one candidate or distribute between such candidates and in such a manner as he thinks fit”.

(ii) Omit sub-clause (2) of clause 62.

Shri R. Velayudhan (Travancore-Cochin): May I speak on a few points ?

Mr. Speaker: There was an informal conference yesterday and the hon. Member I believe was present. I agree that he has the right to speak, but I do not know what right morally he has to take up the time of the House after having taken up three hours of the House yesterday in an informal conference. I do not want to come in the way of his right to speak as long as he likes.....

Shri R. Velayudhan: But the other hon. Member spoke just now.

Mr. Speaker: He was not present at the meeting as he did not belong to the Congress Party, to which the hon. Member belongs and that makes a lot of difference.

Dr. Ambedkar: In view of what I stated in the remarks which I made on my motion I do not think I can accept this amendment.

The motion was negatived.

Clause 69

***Mr. Speaker:** Is he suggesting that the Election Commissioner should be given the power of making rules like that?

Pandit Thakur Das Bhargava: He can ask the candidate to choose one seat. Under the rules he can himself say that he wants to retain such and such a seat. In case of illness or other contingency he should be asked by the Election Commissioner which seat he wants to retain. In case of gross contingency the penalty may come in if at all.

Dr. Ambedkar: What the hon. Member is suggesting is really unnecessary, because this is entirely left to the