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*ON VILLAGE PANCHAYATS BILL : 1

Dr. B, R. Ambedkar: Mr. President, I have listened with very great interest to the speech delivered by the Honourable Minister in charge of this Bill. Sir, I must also say that I have listened to it with very grave concern. I am sure there can be no two opinions on the fact that this Bill deals with some very vital issues. It not only deals with the question of self-government in so far as it affects the civic amenities of the rural population of this Presidency, but it also affects the question of the life, liberty and property of the rural population. Having regard to these vital issues involved in this Bill, I am bound to say that the Honourable Minister, in justice to all the interests concerned, ought to have given a longer period for the consideration of the implications involved in this Bill. Sir, he has chosen to satisfy his conscience by barely complying with the requirements of the law by allowing seven days to pass before the Bill was brought for consideration. May I say that in my opinion not only seven days but seven months are necessary for the consideration of this Bill ? And I suggest that there would be nothing wrong even now in the Honourable Minister sending this Bill for circulation in order to elicit the opinion of the general public on the issues involved in this Bill. That course I would request him with all due respect to adopt, but if he does not, I would like to address to him two other considerations which, in my opinion, are very important considerations. Sir, I would like to say that, in my opinion, the present Government is not competent to undertake this piece of legislation. The Government is aware that the present system of administration is a discredited system. I am not using that in any carping sense. I am only trying to depict the facts as we all know them. Sir, no section of the population of this country is satisfied with the administration and the working of this Government. Indeed, if one wants to state facts as they are, there is a powerful section in this country which is not prepared to admit and to acknowledge the moral authority of this Government to rule. Sir, we also know that we are on the threshold of a new constitution. We know that the constitution of India for a government of the people, by the people and for the people is on the anvil. We all know and I think we are justified in hoping that this new constitution will be

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forged within the short period of a year or two, and that a new government, supported fully by all sections of the community, will be installed. Sir, having regard to that consideration, I would like to point out to the Honourable Minister and to those honourable members who are occupying the Treasury Bench that they in their present position are no better than caretakers. Sir, by common consent a caretaker cannot undertake substantial alterations in the premises he is appointed to look after. At the most, during the interval before the real occupant comes to occupy his abode, he may undertake repairs in order to keep the building in working order.

I would also like to point out to the Honourable Minister the analogy of parliamentary life. In England where parliamentary system has been in operation for centuries now, when a Ministry is defeated and when the defeated Ministry does not resign outright and allow the reins to pass into the hands of the opposition but chooses to make its appeal to the electorate, it is an accepted convention of the constitution that the Ministry so situated must not undertake any legislation of any consequential importance. All that they can do is to look after the administration pending the decision of the electorate so that the new Government may not be embarassed by anything that may be undertaken by such a Government. I ask the Honourable Minister whether he does not wish to abide by the conventions of the parliamentary constitution. I leave it to him to decide.

Sir, I do not find any reason why the Honourable Minister should rush with this measure with such terrific speed, if I may say so, with only seven days notice. I do not find that there is any very great urge, that there is any very great necessity and urgent call upon him by the people of this Presidency to introduce this measure. So far as I am aware, no political party in this country has made this measure a party cry. I do not know that the Liberals, the Responsivists or the Non-Brahmins or the Congress members who were in this House during the last Legislative Council had ever insisted that they looked upon the introduction of the village panchayats as a fundamental part of their programme. I know of no such thing. Not only that, but I do not find that the masses themselves are clamouring for this measure. If you read the report of the Committee made in 1925 on this question appointed to report upon the working of the Village Panchayat Act of 1920, what do you find ? You find this. There are in this Presidency as many as 30,000 villages, on a rough calculation. The Act was passed in 1920 permitting the people to apply for the application of that Act voluntarily. What is the result ? The result is that the Sind people set their face against the introduction of village panchayats, so that we do not find a single village panchayat instituted in the province of Sind. In the presidency proper, there is a paltry figure of 323 or something like that. I submit that it is a sad commentary on the civic spirit of the people. Apart from that, it is a proof positive that the people are not anxious for the introduction of village panchayats. I do not wish to go into the reasons of that at this stage, but I am certain that my honourable friend the Minister for Local Self-

Government will accept that that is a correct analysis of the situation. Not only that, but I would like to suggest that the reason why he has super-added the judicial functions to the village panchayats is to sweeten the pill so that it may be swallowed more readily. In view of these considerations, I think it would be advisable for the Honourable Minister to postpone the Bill *sine die* so that it may be considered in all its implications on its merits by a new Government which will be fully representative of the people of this Presidency.

Coming to the merits of the Bill itself, Sir, I find that the Bill has two parts. The first part deals with the functions of the panchayat as a body for local self-government. I should like to say at once that I have no objection in principle to the policy of devolution ; if it is found that the local boards of this Presidency are overburdened by the functions which are placed upon them by the Local Board Act and if by reason of that they are unable to discharge their functions efficiently, then I say "by all means institute village panchayats so as to disburden the local boards." Sir, if the desire is to constitute panchayats for their own sake, then to my mind it is a reversion to a very dangerous system. Many have eulogised the ancient system of village panchayats. Some have called them "rural republics". Whatever be the merits of these rural republics, I have not the slightest hesitation in saying that they have been the bane of public life of India.

Mr. Pestanshah N. Vakil: Question.

Dr. B. R. Ambedkar : If India has not succeeded in producing nationalism, if India has not succeeded in building up a national spirit, the chief reason for that in my opinion is the existence of the village system. It made all people saturated with local particularism, with local patriotism. It left no room for larger civic spirit. None whatever. Under the ancient village panchayats, India, instead of being a country of a united people, became a loose conglomeration of village communities with no common tie except common allegiance to a common King. I am glad to say, Sir, that this is not my opinion alone. A member of the committee which was appointed in 1925 expressed himself in that same strain. I refer to the minute of my friend Mr. R. G. Pradhan. This is what he stated in that minute :

> "The excessive village patriotism and village spirit which these communities fostered proved very fatal to the growth of a strong Indian nationality based on the realisation of the territorial unity of India as a whole or of the racial unity of each of our natural territorial divisions."

Mr. Pestanshah N. Vakil: Is Mr. R. G. Pradhan a historian ?

Dr. B. R. Ambedkar : I do not think that we need bring historians here ; we ought to be beware of historians. In these days when you are striving for bringing about a national spirit, in these days when you are striving for bringing about a common nationality and a common sense of Indian citizenship, in my opinion we ought to do nothing which will nullify and which will dilute that sense. I would like to leave this aspect of the matter at that so far as I am concerned.

My next objection is to the constitution of the panchayats themselves. The Bill, as the honourable member has pointed out, provides that the village panchayats shall be elected on the basis of adult suffrage both for males and females. I may at once state that, so far as I am concerned, I say "so far so good", but I should like to make it clear to the Honourable Minister that, speaking for the depressed classes, I have not the slightest hesitation in saying that adult suffrage is not sufficient for us. The Honourable Minister has forgotten that the depressed classes are in a minority in every village, a miserable minority, and assuming that he adopts adult suffrage, he will readily admit I am sure that adult suffrage cannot convert a minority into a majority. Consequentially I am bound to insist that if these village panchayats come, there shall be special representation for the minorities. At any rate, there shall be special representation for the depressed classes, and others of course will speak for themselves.

I know, Sir, that there is a section in this House who will at once jump and say that this is communalism. Now I agree that this is communalism. But I am also convinced that communalism must be my policy. I am not ashamed of it.

Mr. J. B. Petit: Is that compatible with nationalism ?

Dr. B. R. Ambedkar: Oh, yes. Why not ?

Mr. J. B. Petit: I am glad to hear that.

Dr. B. R. Ambedkar : I will say that India cannot proceed, in my opinion at any rate, on the path of political progress without communalism. Without communalism there can be no self-government for India. That is the proposition that I would assert without fear of challenge.

Speaking for the depressed classes, therefore, I can never accept the principle of self-government for India unless I am satisfied that every self-governing institution has provisions in it which give the depressed classes special representation in order to protect their rights, and until that is done, I am afraid it will not be possible for me to assent to the first part of the Bill.

Sir, in respect of this, I am glad to find that two members of the committee which was set up in 1925 to discuss this question supported the plea of the depressed classes for special representation. I refer to the minute of Mr. R. G. Pradhan. This is what he said :

> "I am of opinion that provision should be made for the representation of the depressed classes on the village panchayats by nomination. The nomination should be made either by the Collector or the President of the district local board, preferably the latter. It is eminently desirable in the interests of the proper representation of the depressed classes and much more with a view to raising their general status and making the other classes realise their communal identity with them that there should be at least one member of the depressed classes in every village panchayat. In cases, therefore, where no member of these classes has been able to get in by election, recourse should be had to nomination."

Sir, I should also like to refer to the minute of my honourable friend Mr. P. R. Chikodi. He also wrote a separate minute and this is what he said :

> "I think it is necessary that some arrangements ought to be made to secure on panchayats the representation of the depressed classes by means of nomination or by the system of reserved seats in villages where there are at least 50 adult persons belonging to these classes. It is not likely at present that any representative of these stands a chance of being elected at an open election, the failure of such an attempt having come to my notice very lately."

In this connection, I would also like to draw the attention of the Hindu members of this honourable House to the recent events that have happened. I refer to the Poona Pact between the Caste Hindus and the Depressed Classes that was signed on the 24th of last month. Many members, I am sure, must have read the terms of that Pact, but I should like to draw particular attention to one section of it. In that section it has been agreed that the right of the depressed classes to representation in all local bodies shall be accepted and an endeavour shall be made in order to give effect to that part of the agreement. Sir, I would like to draw the attention of the Hindu members to that part of the Pact and I am sure whatever may have been the opinions before 24th of last month, they will now loyally abide by the terms of that Pact.

Now, Sir, I come to what I call the second part of this Bill. I ought to have stated at the very start that when I read this Bill, I was inclined to say that this Bill was, like the curate's egg, bad in parts only. But after having read the whole Bill and gone through all the provisions of the Bill. I am obliged to revise my opinion. I now think that it is worse than the curate's egg. It is not only bad in some parts but it is rotten in others. I refer, Sir, to the judicial provisions of the Village Panchayats Bill. Sir, I do not know what is the view of the Honourable Minister for Local Self-Government as to the requisites of a proper judiciary which could be trusted to deal with civil and criminal justice. I was expecting to hear from him on that point in the course of the opening remarks which he addressed to this House, but he was silent on that point. I think it will be agreed that a judiciary before it could be entrusted with the duties of discharging civil and criminal justice, must have three requisites. It must be trained in law, it must be impartial in its outlook, and I submit, it must be independent in position. Let us apply these three requisites to the provisions of this Bill. What does the Honourable Minister provide in this Bill ? He says, "We shall elect a panchayat based on adult suffrage, consisting of five or seven members ; those gentlemen will hold office for three years. During the course of these three years they shall not only discharge the functions of a local self-governing body, but in addition to that they will also discharge the functions of trying certain criminal and civil cases." That is, in substance, the provision of this Bill.

Now, the first question that I would like to ask the Honourable Minister is this : Does he expect that these five gentlemen who will be elected on the basis of adult suffrage will have sufficient judicial training to discharge the duties of judges ? Sir, I would like to submit that judicial decisions demand a developed judgment; they demand a vast amount of legal knowledge. (Laughter.) Let there be no laughter, because it is a serious matter. Just take this into consideration. We are all agog when members of the I.C.S. want to have certain places reserved for them in the High Court or in the judiciary. What is the reason for our objection ? If I have understood the objection correctly, it is this, that these gentlemen who have passed the I.C.S. examination have no judicial training, and not having judicial training, we cannot entrust them with judicial powers. That is the gravamen of the objection. They not only want justice, but they want judges who are competent to discharge their duties. Now, I ask the Honourable Minister whether he thinks that a population which is illiterate, which is steeped in ignorance, which is swallowed up in superstition, can produce five good men who can be entrusted to discharge the duties of judges.

Mr. M. M. Karbhari: Are we so bad as that ?

Dr. B. R. Ambedkar: I do not know we may have a difference of opinion on that. But that is my contention. And, supposing it may not be held necessary for these gentlemen to have the necessary legal training. I think we ought at least to expect this much, that they should have proper notions of right, of duty, of equity and good conscience. A population which is hidebound by caste, a population which is infected by ancient prejudices, a population which flouts equality of status and is dominated by notions of gradations in life, a population which thinks that some are high, that some are low—can it be expected to have the right notions even to discharge bare justice ? Sir, I deny that proposition, and I submit that it is not proper to expect us to submit our life and our liberty and our property to the hands of these panchas.

The next proposition that I would like to place before this House is this : Is it possible to expect this panchayat to be an impartial body of judges ? Let us consider the facts as they are. No honourable member of this House, I am sure, will deny that there are very few villages which are not rent by faction feuds. There are quarrels between the Brahmins and non-Brahmins .....

Dewan Bahadur D. R. Patil: They will remain for ever.

Dr. B. R. Ambedkar: So much the worse for you if they do. There are, I submit, Sir, factions between Brahmins and non-Brahmins, and I think I may as well cite a case, in view of the fact that the honourable member Rao Bahadur Kale is laughing at the suggestion, from what I know of his own district, namely, Satara. I remember at one time the feud between the Brahmins and non-Brahmins had gone to such an extent in a certain village in Satara District that a complete boycott of the Brahmins was proclaimed by

the non-Brahmins. They could not get a barber to shave them ; they could not get the village Baniya to sell them provisions ; they could not get people to do any service for them. The Brahmin had either to grow a beard or walk seven miles to Satara to have a shave. So, there are quarrels between the depressed classes and the non-Brahmins.

An Honourable Member: They are over.

Dr. B. R. Ambedkar: Unfortunately, far from being over, they have become the order of the day. Not only are there quarrels amongst the Hindus themselves, but there are quarrels between the Hindus and the Mahomedans, and these quarrels are of no ordinary importance, they are serious. I would like the Honourable Minister and the House to consider whether a panchayat elected in an atmosphere of this sort would be impartial enough to distribute justice between men of different castes and men of different creeds. That is a proposition, I submit, which the House and the Honourable Minister should consider seriously.

The next question I would like to ask is, does the Honourable Minister expect that the judiciary he is bringing into being will be an independent judiciary ? Sir, what is his proposition ? His proposition is that the judiciary shall be elected, because that is what the provisions for a panchayat means. The panchayat which will administer justice will be a panchayat elected by the adult population of the village. I would like to ask him whether he expects that a judge who has to submit himself to the suffrage of the masses will not think twice before doing justice, whether, while giving justice he is offending the sensibility of the voter. Suppose there was a Hindu-Mahomedan riot ; suppose a Mahomedan was brought up before a panchayat for an offence which is triable by the panchayat; suppose one Hindu member of the panchayat thought that there was justice on the side of the Mahomedan. Does the Honourable Minister and does the House think that this gentleman, who may have to submit himself to an election within the course of a few months or a year, will think that he ought to do justice to the Mahomedan rather than keep his seat ? What will he do ?

Dewan Bahadur D. R. Patil: A riot case is not triable by a panchayat.

Dr. B. R. Ambedkar: I am giving it as an example; it may be for some other offence.

Sir, I have never seen anywhere a judiciary that is elected. The only country where we know that the judiciary is elected is America, and you know that it has brought judges into disrepute in all the American Commonwealth and has small justice a by-word for corruption. I am sure my honourable friend does not want us to have that experiment tried on us. In view of this, I must say at once, as I do not wish to trespass too much upon the time of the House, that I cannot accept the principle embodied in the second part of the Bill, that judicial powers, both civil and criminal, should be handed over to a panchayat, which, in substance, is an elective judiciary. Sir, I am bound to say, watching as I have been the affairs that are going on in this presidency and especially what is happening to the depressed

classes, that so far as we are concerned we can never consent to judicial affairs being administered by a panchayat. Ours is a very peculiar and, if I may say so, a very pitiable position. We are a small body of people, occupying a corner of a village. We are never looked upon as part and parcel of the village community. Although living in the village, we are all the same an alien body, whose progress is looked upon with great jealousy by the rest of the community. My honourable friend Mr. Kamat shakes his head, and therefore I think I must read to him from the report of the State Committee, which I did not want to do. In paragraph 102 of that Committee's report, the condition of the depressed classes in the village is described at great length. This is what the Committee say :

> "Although we have recommended various remedies to secure to the Depressed Classes their rights to all public utilities, we fear that there will be difficulties in the way of their exercising them for a long time to come. The first difficulty is the fear of open violence against them by the orthodox classes. It must be noted that the Depressed Classes form a small minority in every village, opposed to which is a great majority of the orthodox who are bent on protecting their interests and dignity from any supposed invasion by the Depressed Classes at any cost. The danger of prosecution by the Police has put a limitation upon the use of violence by the orthodox classes and consequently such cases are rare.
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> "The second difficulty arises from the economic position in which the Depressed Classes are found today. The Depressed Classes have no economic independence in most parts of the Presidency. Some cultivate the lands of the orthodox classes as their tenants at will. Others live on their earnings as farm labourers employed by the orthodox classes and the rest subsist on the food or grain given to them by the orthodox classes in lieu of service rendered to them as village servants. We have heard of numerous instances where the orthodox classes have used their economic power as a weapon against those Depressed Classes in their villages, when the latter have dared to exercise their rights, and have evicted them from their land, and stopped their employment and discontinued their remuneration as village servants. This boycott is often planned on such an extensive scale as to include the prevention of the Depressed Classes from using the commonly used paths and the stoppage of sale of the necessaries of life by the village Bania. According to the evidence sometimes small causes suffice for the proclamation of a social boycott against the Depressed Classes. Frequently it follows on the exercise by the Depressed Classes of their right to the use of the common well, but cases have been by no means rare where a stringent boycott has been proclaimed simply because a Depressed Class man has put on the sacred thread, has bought a piece of land, has put on good clothes or ornaments, or has carried a marriage procession with a bridegroom on the horse through the public street."

That Sir, is our position. We are a besieged people, so to say, and I cannot

allow, and I cannot consent to so much judicial power, both civil and criminal to be handed over to a people who are perpetually in an organised conspiracy to defect our aims and objects.

An Honourable Member: No, no.

Dr. B. R. Ambedkar: I perfectly sympathise with the Honourable Minister's underlying purpose. If I have understood him correctly, all that he wants is that the villagers should get justice cheaply, and it should be more easily accessible to them. I believe that is the underlying motive he has for the judicial provisions he has made in his Bill. If that is so, then I think that there is a better method of doing that. It is not necessary to give the judicial powers to the village panchayats. We have already in existence what are called honorary bench magistrates in towns. It should be perfectly possible to extend that system whereby we can divide each district into judicial circles extending over an area of two or three miles suited to convenience, and for Government to nominate—I emphasise the word "nominate"—three or more persons to discharge the judicial functions in that circle. These three gentlemen would on one day sit as magistrates to deal with criminal cases and on another day they will sit as civil judges to try civil cases. By this method, you will secure cheap justice, easy justice, at the same time you will secure a judiciary that will be independent of local influence, a judiciary that will be free from the disadvantages of an elective system. I think, Sir, this ought to satisfy the requirements of the case. At any rate, I have to make it plain that, if the Honourable Minister insists that the Bill be put through as it is with all the provisions in it, especially those provisions which he regards as matters of principles, I must say that I shall oppose this Bill. (Applause.)

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