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*ON PUNISHMENT OF WHIPPING

Dr. B. R. Ambedkar: Sir, after having heard my honourable friend the Honourable Mr. Bell, who is in charge of this Bill, and the honourable member the Remembrancer of Legal Affairs, I do not think that there remains any necessity for arguing a case for the necessity of this measure ; nor does there remain, in my opinion, any necessity for arguing the question whether whipping is a proper punishment. That we have had very serious riots in the city of Bombay and often in the mofussil, which have been a disgrace to Indian society and Indian civilization, no honourable member, I am sure, can dispute. That whipping as a method of punishment is on the Indian statute book is itself sufficient argument against those who say that we are making a new departure. Consequently, Sir, the only point that remains for discussion in my humble judgment, is whether the provisions of the Bill, as they are framed, go beyond the necessities of the occasion. That seems to me to be the only point that survives for discussion.

Sir, having read the Bill, having applied my mind to clause 2 of the Bill, which is the substantive clause, I find some difficulty in agreeing to the provisions as they are worded in clause 2. That clause as it stands says that the provisions of section 4 of the Whipping Act shall apply to every offence of rioting which may come within sections 146 and 148 of the Indian Penal Code. Now, Sir, I was under the impression that this measure was contrived and devised for the special purpose of dealing with what are called communal riots. Riots, Sir, may be of various sorts ; the purpose, the motive, the occasion may be different. We may have a riot arising out of an industrial strike in the city of Bombay; we may have a riot which is occasioned by a casual fracas between poor people who assemble together for asserting a certain right over certain properties which they may, however illegally but in their honest belief, think belong to them. Sir, this House ought to know that the offence of rioting really arises out of an offence of unlawful assembly. An unlawful assembly becomes a riot when that assembly uses force. That is the definition given in section 146 of rioting. Now, an unlawful assembly, although it may not be an offence which we can overlook, is certainly not such a serious offence as to invite such a terrible punishment

*B.L.C. Debates, Vol. XXXVII, pp. 652-53, dated 18th February 1933.

as whipping. Consequently my view is this, that if we are to introduce this punishment of whipping, we ought to amend clause 2 in such a manner that it shall become applicable only to those riots which may be said to arise out of a communal fracas and not to any other riots. The clause as it is, I submit, is worded so broadly as to embrace almost any riot, which may be occasioned by anything which may be of a very passing character or which may be so normal in human affairs that we really ought not to extend this punishment to such cases. And the Indian Penal Code, I submit, has very wisely provided the ordinary forms of punishment for ordinary offences of rioting. If this Bill is a necessity it can be a necessity only for the special purpose of dealing with a communal riot and for no other purpose. If my honourable friend the Home Member is prepared to alter the wording of clause 2 in such a manner that this punishment can be made applicable only to offences arising specially out of communal riots, he will have my support. That is all that I have to say on this occasion.

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