

*ON PROBATION OF OFFENDERS BILL

Dr. B. R. Ambedkar (Bombay City): Mr. Speaker, Sir, one notices that there is not much enthusiasm for this Bill because one does not see the same competition that is observable when other Bills are before the House, and when I rise, although I am desirous of making reference to only one section, I also confess that I do not feel any very great enthusiasm for this Bill, and that, I submit, is very natural, because the Bill does not touch any problem which can be said to be either grave or urgent. It touches a very small problem. The Bill, I am told, follows very closely an English statute. I do not know whether the English people who are made subject to the statute which is taken as a model for this Bill have derived any benefit which may be called to be considerable, but I trust that the Honourable the Home Minister has examined the position carefully and has evidently come to the conclusion that the benefit arising from this Act in the country in which it is now prevailing, is certainly so considerable that we ought also to follow it by similar legislation in our province.

Sir, I have nothing to say with regard to the detailed provisions contained in the Bill, and I say at the outset that reading the Bill as it is, I think there are principles embodied in this Bill to which I can lend my support. There is only one clause about which I feel some trouble and which I would like to place before the Honourable the Home Minister for his consideration, and that clause is clause 6. Clause 6 seems to me to embody a principle which may become in its operation somewhat oppressive, to use a very mild expression. The latter part of clause 6 says :

“and if the offender is under the age of sixteen years, and it appears to the Court that the parent or guardian of the offender has condoned by his neglect or in any other way to the commission of the offence, the Court may order payment of such damages or compensation and costs by such parent or guardian.”

It seems to me that this may rightly involve a great deal of oppression as against the parent or guardian. My learned friend the Honourable the Home Minister will agree that the words “neglect” and “negligence” are

*B.L.A. Debates, Vol. 2, pp. 425-26, dated 20th January 1938.

the vaguest of the vague words, and it is very difficult to give any positive definition of what is negligence and what is not negligence. If I may refer to what happened during the course of the Civil Disobedience Movement, I think it will give an analogy by which it might be possible for my honourable friend to realise the difficulty which I feel. I believe it is true—I will stand corrected if I am told that I am wrong—that during the Civil Disobedience Movement many civil servants who were in the service of the State and whose children had taken to the Civil Disobedience Movement, were brought under disciplinary action on the ground that they had not justified their duty to the State by seeing that the children did not follow the movement which was subversive of the Government of the day. I think I am right in saying that members who are now sitting opposite did take great objection to that principle, because, if I understand them correctly, their contention was that no parents could be responsible for the conduct of their children, especially if the conduct involved the holding of a certain opinion which may differ very legitimately from the opinion of their parents. My submission is that a child may develop criminal proclivities notwithstanding the fact that the parent has been as careful and as dutiful as ordinarily parents are; and unless the word “neglect” or “connivance” or “conducting” is properly defined, it seems to me that this Bill may lead to consequences which would be far greater than those which probably the Honourable the Home Member himself intends.

My honourable friend Mr. Bramble, who undoubtedly, as one sees from the speech that he made, has devoted special attention to the study of this problem, has pointed out that the English law contains certain anomalies, and that if the English law is to be taken as our model, we ought to take this occasion in order to see that the anomalies which are found in the English law are not introduced in the legislation that we are passing. I have every reason to believe that the statement that he has made is based upon the deepest study, and if that is so and the prestige of the Government does not come in the way, I would join in the request made by the honourable member Mr. Bramble that this Bill could very well be referred to a select committee, where all the points that may be raised either in favour of certain principles or against may be threshed out, so that the Bill may become as perfect as we in this House can make it. With these remarks, I support the first reading of the Bill.

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