

15th September 1939

THE

LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume V, 1939

(30th August to 22nd September, 1939)

TENTH SESSION

OF THE

FIFTH LEGISLATIVE ASSEMBLY,
1939



NEW DELHI
GOVERNMENT OF INDIA PRESS
1940.

Legislative Assembly.

President:

THE HONOURABLE SIR ABDUR RAHIM, K.C.S.I.

Deputy President:

MR. AKHIL CHANDRA DATTA, M.L.A.

Panel of Chairmen:

DR. SIR ZIAUDDIN AHMAD, C.I.E., M.L.A.

MR. M. S. ANEY, M.L.A.

SIR COWASJI JEHangIR, BART., K.C.I.E., O.B.E., M.L.A.

MR. A. AIKMAN, C.I.E., M.L.A.

Secretary:

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

Assistants of the Secretary:

MR. M. N. KAUL, BAR.-AT-LAW.

KHAN SAHIB S. G. HASNAIN.

Marshal:

CAPTAIN HAJI SARDAR NUB AHMAD KHAN, M.C., I.O.M., I.A.

Committee on Petitions:

MR. AKHIL CHANDRA DATTA, M.L.A., *Chairman.*

MR. A. AIKMAN, C.I.E., M.L.A.

SYED GHULAM BEIK NAIRANG, M.L.A.

MR. N. M. JOSHI, M.L.A.

RAJA SIR VASUDEVA RAJAH, C.I.E., M.L.A.

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CORRIGENDA.

In the Legislative Assembly Debates, Simla Session, 1939,—

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| <p>(1) Vol. V, No. 3, dated the 1st September, 1939, page 221, line 2 from the bottom, for "part (b)" read "parts (b) and (c)";</p> <p>(2) Vol. V, No. 5, dated the 5th September, 1939,—</p> <p style="padding-left: 20px;">(i) page 366, line 19 from the bottom, for "wheehher" read "whether";</p> <p style="padding-left: 20px;">(ii) page 377, line 17, for "officers" read "officer";</p> | <p>(3) Vol. V, No. 6, dated the 8th September, 1939, page 390, line 4, after "14th March, 1939," insert "in this House";</p> <p>(4) Vol. V, No. 13, dated the 20th September, 1939, page 744, in the subject-heading to short Notice Question, for "Convention" read "Conversion";</p> <p>(5) Vol. V, No. 14, dated the 21st September, 1939, page 832, line 12 from the bottom, for "presonnel" read "personnel".</p> |
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LEGISLATIVE ASSEMBLY.

Friday, 15th September, 1939.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

REPAIRS TO THE TOMB OF TAJ MAHAL.

†200. *Dr. Sir Ziauddin Ahmad : Will the Secretary for Education, Health and Lands please state :

- (a) whether Government have satisfied themselves that there are no cracks in the tomb of Taj Mahal and that it does not leak ;
- (b) whether the marble veneering of the Taj Mahal tomb is safe and in good condition, and if not, what action Government have taken or propose, to take to safeguard the marble ; and
- (c) whether Government are aware that the cost of repairs and replacements of marble slabs will amount to several lakhs if immediate repairs and replacements are not done ?

Mr. G. S. Bokman : (a)—(c). A preliminary investigation of the dome of the Taj Mahal, which has recently been made, has disclosed the necessity for a more detailed inspection of certain points. Government have now under consideration the best means of enabling a thorough examination of the dome of the Taj Mahal to be carried out. I assure the Honourable Member that Government fully recognise the importance of undertaking with the least possible delay any repairs which may be necessary.

FUNCTIONS OF THE DEFENCE CO-ORDINATION DEPARTMENT.

201. *Mr. Lalchand Navalrai (on behalf of Sardar Sant Singh) : (a) Will the Honourable the Leader of the House please state the functions of the Department for Defence Co-ordination in India ?

(b) What work has been done by this Department during the last six months ?

(c) What sort of relations have been established with the major industries in India and what are the industries with which the Department is under contract or is negotiating at present ?

†Answer to this question laid on the table, the questioner being absent.

The Honourable Sir Muhammad Zafrullah Khan : (a) The functions of the Defence Co-ordination Department are the co-ordination of the work of all departments of Government in relation to Defence and War.

(b) The Department since its inception on the 1st January, 1939, has been co-ordinating the work of other departments of Government, and has contributed very largely to the smoothness with which emergency measures were brought into operation on the outbreak of hostilities.

(c) The Department has been in constant touch with representatives of leading industries. The direct responsibility for all supply matters has now been taken over by the Department of Supply.

Mr. Lalchand Navalrai : May I know if any new industry has been created or is going to be created ?

The Honourable Sir Muhammad Zafrullah Khan : That does not arise out of this question.

Mr. Lalchand Navalrai : I would like to ask how.....

Mr. President (The Honourable Sir Abdur Rahim) : It does not arise ; the Chair does not want any argument.

Mr. Lalchand Navalrai : Is that the decision of the Chair, I ask ?

Mr. President (The Honourable Sir Abdur Rahim) : Yes.

RATE WAR BETWEEN CERTAIN SHIPPING COMPANIES.

202. ***Mr. H. M. Abdullah :** Will the Honourable the Commerce Member be pleased to state :

- (a) whether the Government of India have decided to take any steps to settle the rate war on the Konkan Coast and among Haj Shipping Companies ;
- (b) whether any informal conference is proposed to be convened by Government of the Companies interested to consider the situation arising from the prolonged rate war on the Konkan Coast and to attempt a settlement of the charges for Haj traffic to avoid rate cutting as usually happens at the time of Haj traffic ; and
- (c) whether the conference has been held ; and if not, when it is proposed to be held ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : With the outbreak of the War, the position in respect of the Konkan coast trade and the pilgrim trade is expected to alter considerably and the situation will be watched for some time with a view to see if any action by Government is called for.

Syed Ghulam Eshik Nairang : With reference to the answer given by the Honourable Member, may I ask if the Haj passages have been entirely stopped ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I have no information on that so far.—no.

Maulvi Muhammad Abdul Ghani : Do Government propose to make an inquiry into the matter ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Yes.

SHORT NOTICE QUESTION AND ANSWER.

EXEMPTIONS UNDER THE REGISTRATION OF FOREIGNERS ACT.

Mr. F. E. James : Will the Honourable the Home Member please state :

- (a) whether the attention of Government has been drawn to the editorial in the issue of the *Hindustan Times*, dated the 9th September, 1939, headed "Part of the Game" in which the Government of India is urged to amend the "Registration of Foreigners Act" so as to exempt Burmans from registration ;
- (b) whether, as stated therein, the Bill as framed by Government excluded Afghans from the definition of foreigners but treated Burmans as aliens ; and
- (c) whether the statement that Burmans have not been exempted from the operation of the Act is correct ?

The Honourable Mr. J. A. Thorne : (a) to (c). The statements are the exact opposite of the truth. The Bill as introduced by Government excluded Burmans from its scope, and did not exclude Afghans. An amendment was moved by a member of the Congress Party which had the effect of including Burmans in the definition of foreigners. This was carried in the face of Government's opposition. The Government by order, dated June 21st have exempted Burmans, along with other subjects of His Majesty, from all the substantial provisions of the Rules.

Mr. F. E. James : Am I to understand that according to the provisions of the Act Burmans *can* be included in the definition of foreigners ?

The Honourable Mr. J. A. Thorne : According to the definition in the Act as passed by this House in the face of Government's opposition, Burmans are included in the definition of foreigners.

Mr. F. E. James : In view of the provisions of the Bill, which is now, I believe, under consideration in Burma, will Government consider the advisability of amending their old Registration of Foreigners Act in consultation with the Government of Burma so that there can be reciprocal provisions in both Acts excluding the nationals of one country or the other from the definition of foreigners ?

The Honourable Mr. J. A. Thorne : Sir, the Honourable Member assumes that the Government of India have power to amend the Act. Our experience of this Bill shows that they have not the power to pass an Act. An Act as passed is the work of the Legislature. If my Honourable friend means—"will the Government consider introducing a measure for the amendment of the Act"—I am speaking entirely on the spur of the moment and without previous consultation—I must say that that will be considered, but I can hold out no sort of undertaking that Government will adopt any such procedure.

THE HINDU WOMEN'S RIGHT TO DIVORCE BILL.

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the following motion moved by Dr. G. V. Deshmukh on the 18th February, 1939 :

“ That the Bill to give a right to divorce to Hindu women under certain circumstances be referred to a Select Committee consisting of the Honourable Sir Muhammad Zafrullah Khan, Mr. Ghulam Bhik Nairang, Maulvi Syed Murtuza Sahib Bahadur, Mr. F. E. James, Mr. Suryya Kumar Som, Mr. Bhulabhai J. Desai, Shrimati K. Radha Bai Subbarayan, Sardar Jogendar Singh and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

Mr. Muhammad Asrar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : Sir, when this motion came before the House last, I was on my legs, and the House adjourned and the question was put to me by my friend, Sardar Sant Singh : “ Was this Hindu Divorce Bill a salutary measure ? ” Sir, every measure which is for the progress of a community must be called a salutary measure. It is salutary not only in one sense, but it is salutary from many points of view. If I may mention the fact, this Bill is for the emancipation of the womanhood and especially of the Hindu womanhood. Sir, the number of Hindu womanhood in this country is not small ; it is the womanhood of the very very large Hindu community. It is not only for the emancipation of womanhood, but it is also for their equality of rights with men.

Sir, this is an age when every woman of every nationality wants its own rights and its own privileges, and I see no reason why the rights and privileges which the womanhood of other nations can claim should not also be granted to Hindu women. Sir, if Muslim women's rights are protected, if Christian ladies' rights are protected, why not also should the Hindu womanhood claim the protection of its own rights ? Therefore, I would ask my Honourable friend if he were here to believe me that this is a very salutary measure. (Interruption.) I do not care whether my Honourable friend, Mr. Lalchand Navalrai, agrees with me or not. I am expressing my own views, and I am supporting the Bill which was moved in this House by my friend, Dr. Deshmukh. Sir, if this measure is adopted, and I am sure it will be, then that will be expressing the views of the advanced section of the Hindu community. Sir, the grant of this equality of rights to Hindu women should lead to this desirable result that it will be a great restriction upon polygamy, and, therefore, it is a very salutary measure. For these three reasons, I think I am right in saying that it is a very salutary measure.

Sir, I know there are two schools. There is the old school and there is the new school, and it is not a new thing for the Hindu community alone, it is a thing which exists in every other community at present. Amongst Mussalmans also there is a progressive community. I am sure, even amongst the Englishmen there are two communities, the progressives and the non-progressives. More freedom and more rights to womanhood are being given everywhere. Even in the present war, you will find that ladies are going to serve the country and the nation. The world has advanced very far enough, and, therefore, I think there is no point in saying that this is not a progressive age. It is a very progressive age and if the womanhood want to advance their own rights and influence, I see no reason why the Hindu women should not be given

those rights. The fossils that remain in the Hindu society may talk as much as they like, but the times have changed and I am sure there will be a great advancement amongst the Hindu community. How can my Hindu friends stop civil marriages? We find boys coming from Europe with European girls. How are these marriages tolerated by my Hindu friends when they cannot even give this much right of divorce to their girls in India?

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Have you ever suffered?

Mr. Muhammad Azhar Ali : I have never suffered, because none of my sons has brought a European or a Hindu woman, but I would not have been ashamed if my sons had come out with a wife of another nationality.

I am sure, many of my friends must have seen the opinions that have been received in support of this Bill, especially the opinions which have been received from my province, the United Provinces. From these opinions I find that but for such people and such Judges as do not keep themselves abreast with the present progressive condition of the country, every one else has expressed his opinion in favour of the Bill. Barring these few persons, I find that every Hindu Judge and practically every District and Sessions Judge has supported the Divorce Bill. Of course, there might be some modifications. They might have said that such and such restriction should be placed or such and such rights should be given, for instance, for maintenance and things of that sort. Still, I find that they have all supported this Divorce Bill.

I am very sorry, Sir, that there will be a voting on this Bill or there may not be any voting, but at least it will be put to the vote of the House. It is a pity that the Party to which Dr. Deshmukh belongs is not here, otherwise I am sure they would have carried out the Bill by a vast majority. If somehow the voting could be postponed, I would ask the Government to do so till we meet in Delhi when Dr. Deshmukh and his Party will be with us. With these words, I support the motion.

The Honourable Mr. J. A. Thorne (Home Member) : Sir, it is my duty to announce the attitude of Government to this motion. The attitude of the Government towards the Bill was, in fact, declared last April by the late Leader of the House in no uncertain terms; but it might be urged that some fresh announcement of the attitude of Government might be expected in view of the altered circumstances which have emptied this House of a large Party. That is a circumstance which has been duly considered: but I can say at once that it is not regarded as justifying any change in the attitude of Government towards this motion.

I was not present at the debate in April, but I have read very carefully the proceedings of that meeting and I have had the advantage of listening to the speeches that have been made during the present Session. What has struck me is that not a single Hindu with the exception of the Mover—I think I am right in saying that—has supported this Bill.

Mr. N. M. Joshi (Nominated Non-Official) : I have supported the Bill.

The Honourable Mr. J. A. Thorne : Mr. Joshi may think he supported the Bill, but I will deal with that presently. I will repeat that, to

[Mr. J. A. Thorne.]

my mind, not a single Hindu has supported this Bill. The only support it has received has been from Musalims ; and they will excuse me if I say that the commendation of people who in no circumstances will be subject to the provisions of this measure is one which cannot, putting it mildly, receive as much consideration as the views of those who will be subject to it.

Now, Mr. Joshi wishes to be regarded as a supporter of this Bill. Well, I should say myself that to call him even a half-hearted supporter would be the grossest exaggeration. Let me read the relevant part of his speech the other day. He wants this Bill to go to the Select Committee because the Select Committee will change it. He goes on to say :

“ I have seen Bills changed out of recognition by Select Committees in this House. If that wide direction is given by the House, as the House has several times done that, then the Select Committee will be free to change Dr. Deshmukh's Bill beyond recognition and make it a good Bill.”

I do not think that I am over-stating the case when I say that, that is not support of this Bill, however much it may be regarded as support in some vague way for some general principle of divorce among one sex of Hindus. Really, everything that has been said by the class of people who will be subject to this Bill supports the view that was so forcibly stated by Sir Nripendra Sircar, that the Bill as it stands—and that is all we are concerned with—is an impossible Bill. It is not the function of a Select Committee to change Bills “ out of recognition ”. The function of the Select Committee is to deal with a Bill and to change it, no doubt, to amend it, if necessary, but still to leave it as recognisably the Bill which was introduced in the House.

Sir H. P. Mody (Bombay Millowners' Association : Indian Commerce) : Are you for divorce or against it ? Let us hear that.

The Honourable Sir J. A. Thorne : So much for the views that have been expressed on this Bill. I have also to consider the views that have not been expressed but that might have been expressed if the Congress Party were present in this House. I am not a diviner and I cannot say what would have been said by the members of that Party if they were present here. So far as I know, there is no evidence whatever as to the view taken by the Congress Party as a whole of this Bill. Dr. Deshmukh, if I recollect, did not profess to speak for the Party. He spoke for himself and for a number of people who desire to reform the law applying to Hindu marriages. But so far as I know, I repeat, there is no indication whatever as to the views of the Congress Party : and that being so, I think we are entitled to suppose that those views if expressed in this House would show very much the same disparity of opinion as is shown in the views that have been collected in the course of circulation, that have been expressed in newspapers, and that have been uttered in this House. Therefore, I think I can claim that there will be no unfairness in maintaining today the attitude which was so vigorously expressed by the Leader of the House last April.

I have really nothing of substance to add to what Sir Nripendra Sircar then said. It would be a presumption for me to attempt to give the Bill any slight jab after that marvellous demonstration of the fine art

of parliamentary annihilation. I came across the other day a dictum of the late Lord Balfour in one of his philosophical books. He demolished one of his critics in a foot-note in these terms : he described the criticism as " a curious and interesting exhibition of bad philosophy, bad politics and bad manners ". I should not dream of applying that expression to Dr. Deshmukh in its entirety. No one could impute bad manners to the genial Doctor ; but if I may parody that expression, I would say that his Bill and his speech in support of it were a mixture of bad history, bad logic and bad feminism. And in particular it is the defect of it as a feminist measure which I should myself wish to stress today. Sir Nripendra Sircar spoke as a sincere friend of Hindu women and he ended his speech with these words : " For Heaven's sake have a better champion than Dr. Deshmukh ". While that was said not wholly in seriousness, I think myself that it is a view which can be seriously adduced ; and I hold that with this Bill out of the way, there is a better chance of a practical measure which will more effectively deal with those admitted evils which Dr. Deshmukh, if I may say so, in a rather slap-dash manner has attempted to remedy. His Bill has served to clear the air. We have collected a very interesting mass of opinion. We have at any rate achieved a negative result in that we have some indication of how *not* to proceed ; and if the reformers who have this cause so much at heart will now get down to a serious, considered and comprehensive measure which would deal with the whole subject of divorce among Hindus, I think I can at any rate say this, that Government would consider themselves in no way opposed to the principle of such a measure and would examine that Bill, as they have examined this Bill, strictly on its merits.

(Sir H. P. Mody rose to speak.)

Mr. President (The Honourable Sir Abdur Rahim) : Before the Honourable the Home Member was called upon to speak, the Chair looked round. Nobody rose to speak. At this stage, only the Mover of the Bill has the right of reply.

The question is :

" That the Bill to give a right to divorce to Hindu women under certain circumstances be referred to a Select Committee consisting of the Honourable Sir Muhammad Zafrullah Khan, Mr. Ghulam Bhik Nairang, Maulvi Syed Murtuza Sahib Bahadur, Mr. F. E. James, Mr. Suryya Kumar Som, Mr. Bhulabhai J. Desai, Shrimati K. Radha Bai Subbarayan, Sardar Jogendar Singh and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The Assembly divided :

AYES—15.

Abdul Ghani, Maulvi Muhammad.
Abdullah, Mr. H. M.
Ashar Ali, Mr. Muhammad.
Essak Sait, Mr. H. A. Sathar H.
Faisal-i-Haq Piracha, Khan Bahadur Shaikh.
Ghulam Bhik Nairang, Syed.
Joshi, Mr. N. M.
Kamaluddin Ahmed, Shams-ul-Ulema.

Mody, Sir H. P.
Murtuza Sahib Bahadur, Maulvi Syed.
Raza Ali, Sir Syed.
Siddique Ali Khan, Khan Bahadur Nawab.
Som, Mr. Suryya Kumar.
Umar Aly Shah, Mr.
Yamin Khan, Sir Muhammad.

NOES—32.

Abdul Hamid, Khan Bahadur Sir.	Lalchand Navalrai, Mr.
Ahmad Nawaz Khan, Major Nawab Sir.	Mackeown, Mr. J. A.
Aiyar, Mr. T. S. Sankara.	Mudaliar, The Honourable Diwan Bahadur Sir A. Ramaswami.
Bhandarkar, Mr. K. Y.	Mukerji, Mr. Basanta Kumar.
Bosman, Mr. G. S.	Nehru, Mr. B. K.
Campbell, Mr. D. C.	Parma Nand, Bhai.
Caroe, Mr. O. K.	Rahman, Lieut.-Colonel M. A.
Chow, The Honourable Sir Andrew.	Raisman, The Honourable Sir Jeremy.
Crofton, Mr. D. H.	Roughton, Mr. N. J.
Dalal, Dr. R. D.	Sher Muhammad Khan, Captain Sardar Sir.
Dalpat Singh, Sardar Bahadur Captain.	Spence, Sir George.
Gorwala, Mr. A. D.	Sukthankar, Mr. Y. N.
Jawahar Singh, Sardar Bahadur Sardar Sir.	Talukdar, Mr. J. N.
Khaloeli, Mr. A.	Thorne, The Honourable Mr. J. A.
Khan, Mr. N. M.	Zafrullah Khan, The Honourable Sir Muhammad.
Khuraheid Muhammad, Khan Bahadur Shaikh.	
Kushalpal Singh, Raja Bahadur.	

The motion was negatived.

THE CONTEMPT OF COURTS (AMENDMENT) BILL.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Sir, I move :

“ That the Bill further to amend the Contempt of Courts Act, 1926, for certain purposes be taken into consideration.”

The Contempt of Courts Act of 1926 has defined and limited the powers exercisable by High Courts and Chief Courts in punishing contempts of court. But it has not laid down any definition of the offence of contempt of court nor has it laid down the procedure and practice which should be followed in dealing with such offence. As the law stands now, one cannot speak with confidence as to what constitutes a contempt of court. There are different categories of contempt. Is it intended merely to prohibit interference with or obstruction of the administration of justice during the pendency of a case or should the law of contempt go further and penalise all such adverse criticism of judges and their decisions even after the disposal of cases as may bring a court into contempt and scandalise a judge? In the absence of a definition different courts will inevitably take different views. It should not be impossible for the legislature to formulate a workable definition of an offence which it seeks to punish. In any case, the Court will in each case have to find a definition for itself. It is not fair and reasonable to enact penal legislation without a cut and dried definition of what the offence is. While preventing interference with the course of administration of justice, this Bill seeks to give perfect freedom to the press and the public in the matter of comments upon judicial decisions. As regards procedure, the jurisdiction in contempt is now exceptionally summary and arbitrary. The powers of the Court are now extraordinary, uncontrolled and unfettered. But even a judge of the High Court is a

human being and not a superman. The prosecutor himself should not be the judge of the accused. Besides there should be all the safeguards of a regular trial. The procedure should be laid down. This Bill seeks to fill up this two-fold lacuna in the existing law. The freedom of the press is not infrequently in jeopardy without the definition and procedure prescribed in the Act.

I find, Sir, there is an amendment for circulation and I have reason to believe that Government are agreeable to that. In view of that and also in view of the fact that on account of the war we are in no mood to apply our minds seriously to such things I should not like to take any more time. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Motion moved :

“ That the Bill further to amend the Contempt of Courts Act, 1926, for certain purposes be taken into consideration.”

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I move :

“ That the Bill be circulated for the purpose of eliciting public opinion thereon.”

The amendments contemplated by this Bill with regard to the Contempt of Courts Act are very necessary but there is no reason why the Bill should be hurried through. The Bill affects the public as well as the profession and also the powers of the courts in connection with contempt. It is, therefore, necessary that this Bill should be circulated for opinion. Three main points have been raised : first, that there is no definition of the words “ contempt of court ” and it is being construed differently in courts in any manner and on any occasion. Without any cut and dried definition it is necessary that it should be considered whether it is or it is not very necessary that a definition should be laid down so as not to have it to anybody to interpret it in any way he likes. The second point is where a certain matter in court has actually been adjudicated upon, what are the rights of the public to criticise those judgments. We must get opinions on that also. The third point is this : where adjudication has been made by one court and it is subject to an appeal or revision, whether any comments should be allowed or not. In my humble opinion the comments should be on what has been decided, and the criticism be restricted to any flaws or defects in it, I should think the judges should welcome that criticism. Then the most important point is about the procedure that is being adopted in convicting persons or trying them for contempt of court. At present it is a summary procedure : the High Court summarily decides cases and punishes for contempt. That is not sufficient, especially at this day an improvement is absolutely necessary in that direction. This Bill has provided that the procedure should be that of the Criminal Procedure Code, Chapter XX, so that the case may be tried like other cases and there will then be confidence in the procedure and also in the decisions. With these submissions I move my amendment.

Mr. President (The Honourable Sir Abdur Rahim) : Motion moved :

“ That the Bill be circulated for the purpose of eliciting public opinion thereon.”

The amendment and the original motion are now before the House for discussion.

The Honourable Mr. J. A. Thorne (Home Member) : Sir, Government will not oppose the motion for circulation ; but I think it necessary that when the Bill goes for circulation the proceedings of this House which will accompany it should contain some statement of the attitude and of the provisional views of Government as to the merits of the Bill ; and at the risk of wearying the House I must ask for a few minutes in which to make that attitude clear. Our refraining from opposition to the motion for circulation does not in any way indicate the present approval of Government of this Bill or commit Government to accepting it at a later stage. The Government, as at present advised, regard the Bill with disapproval. They consider it an unnecessary Bill, and in some ways a bad Bill, and they would have had no hesitation in voting against any motion except that for circulation. The Bill has two quite distinct objects : first, to define contempt, and the second, to prescribe the procedure which the courts should follow in trying cases of contempt. It is the first object, the definition of contempt, to which I want particularly to refer. This attempt to define contempt—cases of which High Courts and Chief Courts can take cognisance as contempts—is not a new one. I need not go farther back than 1925 when the Government introduced a Bill which in the end became the Act of 1926—the Act which this Bill sets out to amend. In the Government Bill of 1925, when introduced, there was a definition—sub-clause (1) of clause 2—and that is the definition which the Mover of this Bill has evidently taken as his model ; but in the process he has so mangled it as to make it unacceptable. I will deal in a moment with the question whether we need, and should have, any definition at all. But if we are to have one, it should not be in the terms of the definition contained in clause 2 of this Bill. Now, there are three differences between the present definition and the definition which was contained in the Bill of 1925. I will read clause 2 (1) of the Bill of 1925 :

“Whoever by words, either spoken or written or by signs or by visible representation or otherwise, interferes with or obstructs—(that is also contained in my friend's Bill)—or attempts to interfere with or obstruct—(those words the present Bill omits—that is the first difference)—the administration of justice; in, or brings or attempts to bring into contempt, or lowers or attempts to lower the authority of, a court—(these last words are omitted from the present definition—and this is the second difference from the original definition)—specified in the schedule or a court subordinate thereto, is said to commit contempt of court.”

My friend's Bill omits those two important elements. The third difference is that it whittles down the scope of the definition in a very drastic fashion by inserting the words “during the pendency of any case”. I hope the House will appreciate the significance of those apparently innocent words. In the Statement of Objects and Reasons my friend claims that the effect of that will be “perfect freedom to the press and the public in the matter of comments upon judicial decisions”. But to talk of perfect freedom obscures the fact that the High Courts would be rendered practically impotent to punish any attack, however scandalous, on a judicial decision. The Court's only remedy would be the quite inadequate one of prosecution for defamation. I cannot believe that in these days any responsible Government would seriously desire to leave their courts so much at the mercy of malicious, factious, or perhaps communally pernicious attacks.

Now, Sir, I come to the question whether the attempt to enact a definition of contempt is one which deserves support. My Honourable friend thinks it should be quite possible to define the offence, and he thinks it not

fair or reasonable that Courts should be left without a definition. He has either forgotten, or he prefers not to remember, the discussions of 1925 on this very point. Then, in the Bill of 1925, the Government themselves had the definition which I have read to the House, but the Legislature cut it out. I will read the remarks made by two distinguished gentlemen in the course of that debate. This is one extract :

“ All that was necessary, to my mind, was to have enacted a section or two merely saying that the High Courts shall be deemed to have always had the power of punishing contempt of subordinate courts without attempting to define contempt, leaving it to the High Courts to decide what was contempt according to the established traditions and practices of the High Courts. In that case you would have avoided all the controversy that has taken place today.”

This is an extract from the speech made by Sir Chimanlal Setalvad. Then another comment made is as follows :

“ The attempt to achieve the impossible, namely, to define contempt of court, which has not yet been defined in any part of the world, is, I think, a fruitless attempt.”

That is a quotation from the speech of Pandit Motilal Nehru. Those objections, not to the particular terms in which the definition was then framed, but to attempting a definition at all, ultimately prevailed. That Bill of 1925 went to a Select Committee, and the definition disappeared from the Bill. The Select Committee, which contained many eminent persons, reported on that point—‘ The definition of contempt of court has been omitted. We are of opinion that the case law on the subject will form an adequate guide ’,—and on that point, so far as I can see from the Report of the Select Committee, only one member out of the 15 members of that Committee dissented. Sir, I suggest that it is by no means as evident as my friend maintains that the offence of contempt should be precisely defined.

Now, Sir, clause 3 of the Bill deals with the procedure for trial of contempt offences. The object of that provision is admittedly to restrict the powers of the High Courts, and the Statement of Objects and Reasons describes those powers as “ extraordinary, uncontrolled and unfettered ”. Well, here again, I would remind the House that the Bill of 1925 contained provisions for the procedure of courts ; that is in clause 4 of the Bill of 1925 ; and here again the Select Committee deliberately cut out those provisions, and gave as their reason the ground that “ the procedure at present followed by High Courts in respect of such offences is adequate ”.

Sir, the House will see that my friend's Bill is in the main a mere resurrection of proposals which received a decent burial many years ago ; and where, as in this definition of contempt, he departs from the proposals that were then made, it is an innovation which, it appears to the Government, should not be supported.

Mr. Akhil Chandra Datta : Sir, it has been admitted that the attempt to define contempt of court is not a new one. In fact, that attempt was made in 1925 by the Government themselves, and if I have been able to follow the Honourable Member's speech, I think he did not dispute the principle that there should be a definition. I for my part cannot imagine how you can prescribe some punishment for some offence unknown and unknowable, and if this attitude is correct,

The Honourable Mr. J. A. Thorne : On a point of personal explanation, Sir. My friend did not rightly understand me. The Government do not accept the principle that there should be a definition of contempt.

Mr. Akhil Chandra Datta : I stand corrected, but at all events, the Government in 1925 did make a very serious attempt for defining the offence of contempt of court. Before some court gives its verdict and punishes the offence of contempt, that court must make up its mind as to what that offence is. You may find that the court will have to define the term for itself, and the inevitable result will be that different courts are bound to give different views in the absence of a definition given by the Legislature.

Then, Sir, it is said that you give practically unfettered power to the press. My answer to that is, the Indian Penal Code makes a provision for that eventuality. There are sections in the Indian Penal Code,—at present I cannot lay my finger on it,—but there are provisions which deal with this matter, and my submission is that we have enough provision in law to deal with such a situation.

Then, the last point raised related to procedure. I think, Sir, some procedure should be laid down. What that procedure should be, there may be difference of opinion, but certainly there must be some procedure. These are questions which we may be in a better position to discuss and decide after getting the opinions from all parties.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That the Bill be circulated for the purpose of eliciting opinion thereon.”

The motion was adopted.

THE INDIAN BAR COUNCILS (AMENDMENT) BILL.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions . Non-Muhammadan Rural) : Sir, I beg to move :

“ That the Bill further to amend the Indian Bar Councils Act, 1926, be taken into consideration.”

Sir, the object of this Bill is to bring about certain reforms in the legal profession. There are two objects of the Bill.
12 Noon. One is the unification of the profession and the other is substantial autonomy to be given to the legal profession in the management of their own affairs. For the reasons which I have stated with regard to the preceding Bill, I shall be very brief. There has been a growing demand for some time past that different grades of lawyers should be abolished and there should be one set of lawyers practising in all the courts from High Courts down to the lowest court, including the revenue courts. That demand was first made in a Resolution moved in this Assembly in 1921 by Munshi Iswar Saran and opinions were invited by the Government from the country. We find that the Local Governments were unanimous in recommending the removal of these distinctions. The same was the case with most of the High Courts. These opinions were collected in 1923 and after that an Indian Bar Committee was appointed in 1923. I may say at once that the proposals that I have made in this Bill are not my own proposals at all. These proposals are based on the recommendations of the Bar Council Committee of 1923. I would like also to draw the attention of the House to the personnel of that Committee. I need not read the names. They are all eminent jurists and

Judges of the different High Courts. This Bill seeks to give effect to the recommendations of the Bar Councils Committee. I shall read only one paragraph from that report :

“ We look to the time when there will be in each province a single grade of practitioners practising in all the courts—from the High Court down to the lowest Civil, Criminal and Revenue Courts. We do not propose to discuss fully in this report this matter but content ourselves with expressing the opinion that the disappearance of these grades is an ideal which should be kept prominently in view.”

That was suggested in 1923. I am trying to give effect to these recommendations 15 years after the recommendations were made. Sir, the Act of 1926 gave the first instalment of reforms to the lawyers practising in the High Courts and this Bill seeks to give the remaining instalment. I mean to the lawyers practising in the subordinate courts who are still governed by rules framed under the Legal Practitioners Act by the High Courts. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Motion moved :

“ That the Bill further to amend the Indian Bar Councils Act, 1926, be taken into consideration.”

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I move :

“ That the Bill be circulated for the purpose of eliciting opinion thereon.”

The contents of this Bill are well-known to those professional advocates and Vakils who have been practising in courts. There is at present an Act called the Indian Bar Councils Act. Now, this Act was passed in 1926. The object of that Bill was to give authority to the professional men—the members of the Bar to decide their own destinies. With that view a Bill was moved in 1926. Since then, we have felt some difficulties and it has been recognised that the Act ought to be amended. It is with that view that this amending Bill has been introduced. But I would submit that this matter should not be decided at once for the suggestions that have been made by the Honourable Member are his own suggestions which would be either supported or commented upon or improved by circulation. Such a Bill as this cannot be passed by this House forthwith. The House cannot frame a sufficiently appropriate Bill without consulting the members of the Bar and the Judges. Therefore, I hope the House will accept my amendment for the circulation of the Bill.

Now, the features of this amending Bill are that it is claimed that under the Bar Councils Act, lawyers who are working at present in the lower courts or in the subordinate courts, as they are called, have not got sufficient representation on the Bar Councils. There is a clause in the Bill which requires that three members should be elected by the legal practitioners practising in the courts subordinate thereto from amongst their number. I have got an experience of this myself. In Karachi there is a Bar Council for the whole of Sind, but whenever elections are made for securing members on the Bar Council, generally the Mofassil suffers, because in Karachi itself there are several Advocates and whenever there is a question of vote they overwhelm the seats and the Mofassil gentlemen do not get representation. The result has been that in order to remedy that evil, which is so apparent, the Judicial

[Mr. Lalchand Navalrai.]

Commissioner in Sind actually nominates members from the Mofassil on the Bar Council. Now, Sir, that defect must be removed and that is one of the questions to be considered when the Bill is circulated. In that connection I would only say that it would be necessary to have joint election. I do not object to it at all. Let it be joint by all the advocates, pleaders both in the Mofassil and in the urban towns but I want reservation of seats for the members of the subordinate courts.

An Honourable Member : That is a reactionary proposal.

Mr. Lalchand Navalrai : It is not reactionary under the present conditions. At present you cannot avoid reservation even in political bodies for all communities. I would ask you to move with the times.

The second point is with regard to the removal of class distinction. There ought to be no distinction between advocates and pleaders and barristers. Their privileges should be the same. An amendment has been proposed in this Bill with a view to the removal of that class distinction.

The third point is with regard to the autonomous character of the present Bar Councils. In the Statement of Objects and Reasons it is stated that the object of the Bill is the ultimate unification and eventual autonomy of the legal profession. The time has now come for that. Though there is a Bar Council well constituted by elected members of ability and efficiency, even though they have got their bar council, the Bar Councils Act provides that if there is a question affecting the conduct of any of the legal men or if there is any question affecting the profession, that has first to come before the Bar Council. That is the present Act and the Bar Council appoints a tribunal in which there is generally a judge also to decide the matter, but their decision is not final at all. The final word rests with the High Courts or the Judicial Commissioner's court. I do not know why this should happen. The tribunal is quite competent to act honestly and judicially. I think autonomy must be given in this matter. Then, Sir, with regard to the fees to be charged at the time of enrolment, they are not uniform and in the majority of High Courts the fees are considered to be very heavy. That is also a point to be considered. For all these reasons, I submit that the Bill should be circulated for the purpose of eliciting opinions.

Mr. President (The Honourable Sir Abdur Rahim) : Motion moved :

“ That the Bill be circulated for the purpose of eliciting opinion thereon.”

Mr. J. Ramsay Scott (United Provinces : European) : We support the motion for circulation.

The Honourable Sir Muhammad Zafrullah Khan (Law Member) . Sir, this Bill has three important features. Apart from matters of detail, it seeks to place all categories of legal practitioners on one level ; it seeks to a certain extent to democratize the Bar Councils by allotting a certain number of seats to mofassil lawyers to be filled by election by mofassil lawyers ; and the most important feature is that it seeks to take away the control at present exercised by High Courts over members of the legal profession. So far as the attitude of Government here is con-

cerned, I may state it broadly that they think that the provisions of the Bill go too far and that the pace sought to be set is too fast in respect of these matters. This is a matter falling under Article 16 of List III of the Seventh Schedule to the Government of India Act, that is to say, it is a matter in the concurrent legislative list, so that if the Bill is passed into law, the administration of that law will be the concern of the Provincial Governments. Therefore, the people who are interested mainly in this Bill are the members of the legal profession, the High Courts and the Provincial Governments, and, I think, it is eminently desirable that before any further progress is sought to be made with this Bill, the views and opinions of the members of the profession, of the Honourable Judges of the High Courts and of the Provincial Governments should be available to this House. Therefore, though, as I have said, the Central Government do not view this Bill with any favour, they will not stand in the way of this Bill being circulated for eliciting opinion thereon.

Mr. Akhil Chandra Datta : I am thankful to the Honourable the Leader of the House for the attitude that he has taken. I must confess that I absolutely agree that opinions should be obtained from the Bar, the Provincial Governments and the High Courts. Sir, I accept the motion for circulation.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That the Bill be circulated for the purpose of eliciting opinion thereon.”

The motion was adopted.

THE HINDU WOMEN'S RIGHTS TO PROPERTY (AMENDMENT) BILL.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Sir, I move :

“ That the Bill further to amend the Hindu Women's Rights to Property Act, 1937, be taken into consideration.”

The object of the Bill is to make provision about the inheritance of Hindu daughters. I shall say at once that it is not proposed to give any new right to the Hindu daughter. It seeks only to restore her to the position which she had occupied from time immemorial. Every one who has studied the Hindu law knows that, under both the schools of Hindu law, the Dayabhaga and the Mitakshara, Hindu daughters come in after sons, grandsons and great grandsons. Then comes the widow and then comes the daughter. But the law, as it now stands, or rather as it has been standing for the past eighteen months, has already changed. However, I do not like to take up the time of the House further at this stage. It cannot be disputed that all that the Bill seeks to do is to give her a right which, according to the Hindu scriptures, according to case law, and according to all authorities, she did enjoy ever since ; that is the position sought to be given. So at this stage I should not like to say more. There is a motion also for circulation. I may say I shall accept it when it is moved.

Mr. President (The Honourable Sir Abdur Rahim) : Motion moved :

“ That the Bill further to amend the Hindu Women's Rights to Property Act, 1937, be taken into consideration.”

Dr. P. N. Banerjee (Calcutta Suburbs : Non-Muhammadan Urban) : Sir, I move :

“ That the Bill be circulated for the purpose of eliciting opinion thereon.”

Sir, this Bill seeks to amend the existing law relating to Hindu women's rights to property. Although I think the object is a desirable and a laudable one, there may be differences of opinion amongst members of the Hindu community. Therefore, I think it necessary that the Bill should be circulated for eliciting opinion thereon. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : Motion moved :

“ That the Bill be circulated for the purpose of eliciting opinion thereon.”

Mr. Lalchand Navarai (Sind : Non-Muhammadan Rural) : Sir, I shall support this motion with a few words. Sir, this is a social legislation and should not pass through this House without full and free opinion from the Hindu public. It has been the declared policy I should think of the Government of India that Bills of this nature, social Bills, cannot be supported by the Government unless there is a majority opinion of the Hindus in favour of it. With that view, we have now known the fate of Dr. Deshmukh's Bill. Therefore, we should not be in a hurry, and this Bill must go before the general Hindu public. (Interruption.) So I think we should wait till all the opinions come.

Sir, we have seen that there is some sympathy for inheritance by daughters, but the country has still to consider and the public opinion has to be obtained, whether the daughter, according to the Hindu law, the commentators, and the case law, should get this kind of inheritance or not. My Honourable friend, the Mover of this Bill, has referred to the text of Yaggavalka, but there are many other old texts which have to be consulted. In Bengal, in Bombay, in Madras there are different schools of Hindu law and they should be consulted. Then one thing which has also to be considered during circulation by the public is this, whether the married daughter should have inheritance or not, because, if she goes into another family and she does get her inheritance to property there the question before the public would be to consider whether she should have this double inheritance both from the parental house and from her husband's house. I shall not take further time of the House for the moment. I support this amendment for circulation.

The Honourable Mr. J. A. Thorne (Home Member) : Sir, I shall not attempt to say anything on the merits of the Bill—for the very good reason that the subject of succession to property amongst Hindus is one which is completely beyond my understanding. But the experience of this House during the last two years has convinced me that it is also a subject which Hindus themselves should not attempt to touch without a good deal of circumspection. May I remind Honourable Members that Dr. Deshmukh's Bill, which was introduced in 1935, was passed in 1937 after circulation and consideration in the Select Committee and elaborate discussion. Yet, even so, the Act was found to be very in-

perfect, and almost immediately it was necessary to introduce a Bill to make it workable. That amending Bill was passed in April, 1938, less than a year and a half ago. How that law is working I do not know, and I very much doubt whether anyone can say; I should have thought it would take some years before anyone could say, how a law which was recently enacted was affecting the community which it touches. But it does seem to me that for the Legislature to attempt yet another amendment is liable to introduce bewilderment, or perhaps to increase bewilderment and confusion,—and succession, I should also think, is a subject upon which one particularly needs stability and certainty as to the law. For these reasons the Government view is that it would be improper for this Bill to be considered by the House at this stage or for it to go to a Select Committee. I may say that there is another reason, and that is, that the subject of succession occurs in the concurrent legislative list and, in the view of the Government of India, it is ordinarily essential that where legislation is introduced here on a subject occurring in the concurrent list, the Provincial Governments should have a due opportunity to consider it. The motion for circulation gives that opportunity, and the Government are prepared to accept it.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That the Bill be circulated for the purpose of eliciting opinion thereon.”

The motion was adopted.

THE MUSLIM INTESTATE SUCCESSION BILL.

Khan Bahadur Nawab Siddique Ali Khan (Central Provinces and Berar : Muhammadan) : Sir, I beg to move for leave to introduce a Bill to declare that properties of a Muslim dying intestate and without any heir devolve upon the Muslim community.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That leave be granted to introduce a Bill to declare that properties of a Muslim dying intestate and without any heir devolve upon the Muslim community.”

The motion was adopted.

Khan Bahadur Nawab Siddique Ali Khan : Sir, I introduce the Bill

THE INDIAN PENAL CODE (AMENDMENT) BILL.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I move for leave to introduce a Bill further to amend the Indian Penal Code.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That leave be granted to introduce a Bill further to amend the Indian Penal Code.”

The motion was adopted.

Mr. Lalchand Navalrai : Sir, I introduce the Bill.

THE INDIAN MERCHANT SHIPPING (AMENDMENT) BILL.

Khan Bahadur Shaikh Fazi-i-Haq Piracha (North-West Punjab : Muhammadan) : Sir, I beg to move for leave to introduce a Bill further to amend the Indian Merchant Shipping Act, 1923.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That leave be granted to introduce a Bill further to amend the Indian Merchant Shipping Act, 1923.”

The motion was adopted.

Khan Bahadur Shaikh Fazi-i-Haq Piracha : Sir, I introduce the Bill.

THE PRESS AND REGISTRATION OF BOOKS (AMENDMENT) BILL.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I beg to move for leave to introduce a Bill further to amend the Press and Registration of Books Act, 1867.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :

“ That leave be granted to introduce a Bill further to amend the Press and Registration of Books Act, 1867.”

The motion was adopted.

Mr. Lalchand Navalrai : Sir, I introduce the Bill.

THE MUSLIM INTESTATE SUCCESSION BILL.

Khan Bahadur Nawab Siddique Ali Khan (Central Provinces and Berar : Muhammadan) : I beg to move :

“ That the Bill to declare that properties of a Muslim dying intestate and without any heir devolve upon the Muslim community be referred to a Select Committee consisting of Khan Bahadur Sir Abdul Hamid, Major Nawab Sir Ahmad Nawaz Khan, Syed Ghulam Bhik Nairang, Maulvi Syed Murtaza Sahib Bahadur, Maulana Zafar Ali Khan, Mr. Muhammad Azhar Ali, Sir Muhammad Yamin Khan, Mr. Muhammad Nauman, Mr. F. E. James, Mr. Lalchand Navalrai and the Mover, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

Sir, in view of the undertaking which I have given not to speak at great length and in view of the splendid example set up by my Honourable friend, Mr. Ramsay Scott, I do not want to say much, and it will be sufficient to say that the Bill be referred to a Select Committee. I am thankful also to the Government for helping me to send this Bill to a Select Committee.

Mr. President (The Honourable Sir Abdur Rahim) : Does the Honourable Member know that it is the convention of the House that no motion is made for reference to a Select Committee or any other motion of that character on the same day as the motion for leave to introduce the Bill is made ?

Khan Bahadur Nawab Siddique Ali Khan : I submit that the convention has been broken twice, once when the Temple Entry Bill which was moved by Mr. C. S. Ranga Iyer.....

An Honourable Member : Request the Chair to suspend the convention.

Mr. President (The Honourable Sir Abdur Rahim) : The convention is not there to be broken.

The Honourable Sir Muhammad Zafrullah Khan (Law Member) : What is the history of this matter ? You can ask for an exception to be made in view of what has happened so far.

Khan Bahadur Nawab Siddique Ali Khan : This Bill was introduced into this House on the 17th April, 1936, by Sir Muhammad Yakub, then it was circulated for eliciting public opinion in 1937 and this was supported by the then Home Member, Sir Henry Craik, and, afterwards, it was referred to a Select Committee. Government at that time remained neutral and the Congress also did the same. But afterwards, unfortunately for us and fortunately for Sir Muhammad Yakub, he became the Commerce Member of the Government of India with the result that the Bill automatically lapsed. I want, Sir, that this Bill be restored to the same position which it occupied before at the time of reference to Select Committee. In view of these special circumstances and also in view of the fact that the Government have no objection, I request you to allow it to be referred to a Select Committee.

Mr. President (The Honourable Sir Abdur Rahim) : Under the circumstances, the Chair takes it that the House will have no objection to this motion being made now. Motion moved :

“ That the Bill to declare that properties of a Muslim dying intestate and without any heir devolve upon the Muslim community be referred to a Select Committee consisting of Khan Bahadur Sir Abdul Hamid, Major Nawab Sir Ahmad Nawaz Khan, Syed Ghulam Bhik Nairang, Maulvi Syed Murtuza Sahib Bahadur, Maulana Zafar Ali Khan, Mr. Muhammad Azhar Ali, Sir Muhammad Yamin Khan, Mr. Muhammad Nauman, Mr. F. E. James, Mr. Lalchand Navalrai and the Mover, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

Mr. M. S. Aney (Berar : Non-Muhammadan) : I do not want to make a long speech in view of the exception you are pleased to make, granting permission to the Honourable Member to move the motion for reference to a Select Committee. Though I do not want to make any long speech, at the same time, I do not think that the principle underly-

[Mr. M. S. Aney.]

ing this Bill) is one to which one can easily give one's assent without due consideration of the principles of the Muhammadan law itself. I have not come prepared with a speech over this motion today, but if I remember aright, even in the opinions that were received I think there were some at least which showed that the principle which is attempted to be laid down here is not free from controversy. Therefore, I only want it to be understood clearly that in allowing this motion to be moved now the House does not necessarily commit itself to the principle underlying the Bill.

The Honourable Sir Muhammad Zafrullah Khan : Sir, the attitude of Government towards this Bill was declared by Sir N. N. Sircar when Sir Muhammad Yakub moved for reference of an identical Bill to the Select Committee. Sir N. N. Sircar, I think, to the satisfaction of the greater part of the House, if not the whole of it, demonstrated that this Bill was ill conceived, was ill drafted, and was ill placed in the sense that it had been brought before this House, whereas, having regard not merely to the form of the Bill, but to the object of the Bill, it deals with matters which are comprised in the provincial list. He pointed out very forcibly the numerous and serious defects in this Bill, and I am very sorry to find that, though the same matter has been brought before this House in the shape of a new Bill this Bill is identical in terms with the one to which objection was taken on the previous occasion and that advantage has not been taken of the opportunity afforded by the lapse of the previous Bill to remove the defects which were pointed out by Sir N. N. Sircar. I shall, however, not go into that matter on this occasion. As this Bill was referred to a Select Committee on a previous occasion Government see no reason why reference to a Select Committee should be opposed on this occasion.

Mr. President (The Honourable Sir Abdur Rahim) : But the Chair must point out to the Honourable the Leader of the House and also to other Members that if the House votes for a reference to a Select Committee, it commits itself to the principle of the Bill.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : I have been put on this Select Committee, but in view of what has been stated by the Leader of my Party just now, I also reserve to myself to say that I will not be bound by the principle of the Bill.

An Honourable Member : You have given your consent to be on the Select Committee.

Mr. Lalchand Navalrai : I have given my consent, but in view of the statement of the Leader of our Party, I want to be given freedom as regards the principle of the Bill, but if it cannot be done, I do not want to work on the Committee.

The Honourable Sir Muhammad Zafrullah Khan : On the previous occasion when all those defects to which I have referred were being pointed out, it was submitted, I believe by Sir Muhammad Yamin Khan on behalf of the Muslim Members—I do not think the Muslim League Party as such existed then—that they proposed to set right the defects in the Select Committee, I do not see how that is possible, and it was

pointed out then that this was not the way to do it, but as, in spite of those things being pointed out, the matter went to the Select Committee on that occasion; I am content to leave it as it stood at the end of Sir Nripendra Sircar's speech.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair will strike out the name of Mr. Lalchand Navalrai from the list of Members of the Select Committee as he does not wish to serve.

The question is :

“ That the Bill to declare that properties of a Muslim dying intestate and without any heir devolve upon the Muslim community be referred to a Select Committee consisting of Khan Bahadur Sir Abdul Hamid, Major Nawab Sir Ahmad Nawas Khan, Syed Ghulam Bhik Nairang, Maulvi Syed Murtuza Sahib Bahadur, Maulana Zafar Ali Khan, Mr. Muhammad Azhar Ali, Sir Muhammad Yamin Khan, Mr. Muhammad Nauman, Mr. F. E. James and the Mover, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Monday, the 18th September, 1939.