The bill was lastly rushed through the Legislature on the 9th of April last. We were asked by our fair sisters not to oppose the Bill at that stage; it was considered to be so important that no detailed attention need be paid to it—it should be passed. So, at the last hour of the last day we agreed to allow it to be considered. I raised my feeble objection from the Hindu point of view. Am I raising any objection from the Muslim point of view? Certainly not. So, my declaration that the objection was from the Hindu point of view should not have elicited any surprise or any laughter. It is from the Hindu point of view that I am speaking. My learned sister the other day asked me, "Why is it that you are denying to your Hindu sisters rights which you are giving to your own sisters"? That is a very cardinal question. May I reply? My reply is this, that you cannot give the same kind of food to different kinds of persons. You have got to judge the position of a Hindu woman as the Hindu law conceives of it. You have got to consider the position of a Muslim woman as the Muslim law conceives it. We are not here to question the wisdom of one system or the other. I find there are two kinds of Members here: some vegetarians and some non-vegetarians. Would you give meat food to a vegetarian and if anybody gives vegetable food to a vegetarian would you accuse him of partiality? (*An honourable Member:* 'Is it logic? Very strange logic.'). The argument is as logical as the question put to me by my sister Shrimati Renuka Ray—it was not logical. You cannot give the same kind of food to two different kinds of persons ; they were indeed born and bred differently.

The Bill was rushed through the House on the 9th of April. The Honourable the Law Minister has given us a revealing passage in the Report of the Select Committee. He has made a plain admission that the Bill had not received any consideration on its merits before it was taken to the Select Committee. That was very wonderful statement to make. Originally the Bill was supposed to be well-drafted—a good Bill—it passed through the Legislature on the 9th of April and was taken to the Select committee and then comes the realisation that it had not received technical or departmental consideration. Why is it, may I ask, that although it had not received technical or serious departmental consideration at the hands of the Law Ministry, it was rushed through at that stage? (*An honourable Member:* 'We were very near 1st April'). That may be; it was very near the 1st of April and that probably has something to do with the rush. Probably no serious business was meant, some sentimental piece of literature had

to be passed through in order to satisfy our fair sisters. The Bill is driven more by "lady sentiment" than by a consideration of the necessities of the case. The Department then undertook a most unprecedented task. They came to the conclusion that the Bill was not properly drafted, that it had some defects, that it had to be recast. The Bill was composed of several individual chapters with separate numbering and separate definitions, entirely separate from each other. The Legislative Department thought that this was a blemish and that the Bill should be recast with continuous numbering and the whole blended into one complete whole.

I submit that the moment the Legislative Department came to that conclusion, then was the time to withdraw the Bill and to frame a new Bill which the Ministry was able to accept; and present that as a new Bill. Instead of that the department went through a process of legislative drafting with which I was never familiar. The whole constitutional history of India and abroad will never offer an example of a Departmental Bill being prepared after a Bill is presented and after sending it to the Select Committee. Shri Ramnarayan Singh yesterday asked as to what authority the Drafting Committee had to make a new Bill altogether. (*An honourable Member:* 'It is not a new Bill.') I shall be in the unfortunate position of being able to show that very substantial changes have been made. Although the Honourable the Law Minister yesterday tried to avoid answering the question, still he had to admit in the end that he did not make any changes, that it was the Select Committee that made the changes. I am in a position to demonstrate before the House that the changes were very serious, very radical, and not unsubstantial changes.

Shri L. Krishnaswami Bharathi : Sir, on a point of order. If the honourable member wants to base his argument for re-committing the bill to the Select committee on the fact that it was some other Bill that was considered and not the Bill sent to it, that point has been covered by Mr. Speaker's ruling ; he need not emphasise on that point. If he has other reasons, he is welcome to do so; he is speaking on his amendment for re-committing the Bill to the Select Committee. But if he stresses his argument, namely, that the Bill considered by the Select Committee was not the bill sent to it by this House, then that has been covered by the ruling of the Chair which declared that it is the same Bill.

Shri T. T. Krishnamachari (Madras: General) : That might be an argument for rejecting consideration.

Shri L. Krishnaswami Bharathi : If that is so, then that point has been thrashed out so much that if he were to argue it again it will merely be taking the time of the House. That aspect has been so thrashed out and arguments have been advanced. He is merely repeating them. I would submit to you, Sir, that we can hear any new arguments but we are not prepared to hear the same arguments being repeated by him.

Pandit Lakshmi Kanta Maitra : May I put in a few words in connection with the point of order raised by my friend Mr. Bharathi? He said that the honourable member Mr. Naziruddin Ahmad in his amendment for re-committal to the Select Committee had been raising the grounds which had been covered by Mr. Speaker's ruling. I do emphatically maintain and the House would also agree that every honourable member is entitled, without disrespecting the ruling of the Chair to give the reasons which lead him to recommend the Bill for recommittal to the Select Committee. There is no point of order as such involved in it. It is a member's legitimate right to place all arguments which he can for making a motion for recommittal to Select Committee.

Mr. Chairman : I think there is no point of order in this, because he is speaking for his amendment that the Bill be re-circulated for purposes of obtaining further opinion thereon and he is just advancing arguments how the Bill has changed ; how the original Bill has been altered in the Select Committee.

Mr. Naziruddin Ahmad : I submit, the real difficulty of my honourable friend is not there. I believe that an intelligent man as he is, Mr. Bharathi of all persons, is well aware of the real difficulties of the situation. That is why, I submit, he most intelligently wants to intercept me by Mr. Speaker's ruling. I must make a declaration at once here that of all persons in the House I have the greatest respect for the decision of the Chair.

Pandit Lakshmi Kanta Maitra : Why do you go into that ?

Mr. Naziruddin Ahmad : I am merely saying that I accept the decision of the chair. I am not going into that.

Pandit Thakur Das Bhargava (East Punjab : General): You must go into that. Why not ?

Mr. Naziruddin Ahmad : But what was the ruling ? The ruling was that the consideration of the Bill was not out of order; in fact, the ruling was that the members of the Select Committee had the

old Bill and the Departmental Bill and they must have taken the whole thing into consideration and on that basis the technical objection which I had raised that the Departmental Bill above was taken into consideration and not the original Bill was well founded. That is the effect of the ruling, and that is the ruling. My present purpose would be now to show that although the members of the Select Committee had the original Bill before them, although they had the Departmental Bill before them, although they had both, although they had the opportunity of comparing the two and seeing what glaring interpolations were made in the Departmental Bill, they did not do so. They discharged their duties, I should say with respect in consideration of the importance of the subject, in a somewhat hasty manner and imperfectly and rather perfunctorily. This was the point of view that I was emphasizing.

An Honourable Member : You are inciting the Law Minister to violence !

The Honourable Dr. B. R. Ambedkar : I would not do any such thing, because I have plenty of arguments to meet Mr. Ahmad.

Mr. Naziruddin Ahmad : I submit the Honourable the Law Member is fully conscious of the situation, I have a little suspicion, that he knows by this time without any doubt what serious changes have been made in the Departmental Bill.

The Honourable Dr. B. R. Ambedkar : I do not know. I am waiting to hear, though.

Mr. Naziruddin Ahmad : The Honourable the Law Member said, "There have been certain serious changes, but I did nothing. It is the Select Committee that did so. The Departmental Committee did not make any changes." In fact yesterday I put a pointed question which he kindly answered, namely, whether the Departmental Committee that was set up was instructed not to make any substantial changes. That was due to the fact that I find in the report of the Select Committee a definite declaralion by the majority of the Select Committee : "This revised draft does not make any substantial changes in the body of the original Bill." It was this declaration which I understand was also given to the Select Committee by him that no substantial changes have been made; it was on this basis that, although they had the original Bill with them, they did not look very carefully and compare them with a view to finding out whether any substantial changes have been made.

Shrimati Renuka Ray : On a point of order, Mr. Chairman. Are matters which happened in the Select Committee, are those details allowed to be brought up in this manner?

Mr. Naziruddin Ahmad : With regard to this point of order, I have already to submit that. . . .

Shrimati Renuka Ray : It is a point of order which I would like you, Sir, to decide.

Mr. Chairman : I think there is no point of order. It is only Mr. Naziruddin Ahmad's inference that the Select Committee did or did not do such and such a thing. I think the honurable member will not cast any aspersious on either the Select Committee or the members of the Select Committee. He may advance his arguments.

Pandit Thakur Das Bhargava : The manner in which the Select Committee behaved is certainly open to the criticism of the House.

Mr. Naziruddin Ahmad : I submit. ....

Pandit Lakshmi Kanta Maitra : You are right, Mr. Chairman. Without casting aspersions he may advance agruments.

Shrimati Renuka Ray : But he is casting aspersions.

Mr. Chairman : They are at best inferences.

Mr. Naziruddin Ahmad : Sir, my inference is that members of the Select Committee were definitely assured by the Honourable Minister

Shrimati Renuka Ray : I object to this Sir. This is casting - aspersions. These inferences are casting aspersions.

Mr. Chairman : Every honourable member is at liberty to draw his own inference.

Mr. Naziruddin Ahmad : I submit, Sir, it can be contradicted at once by any member of the Select Committee.

Shri L. Krishnaswami Bharathi: No; certainly we cannot con tradict. But since you are inviting a contradiction, I as a member of the Select Committee, do contradict. I say that we went through the whole thing and we were satisfied that

Mr. Naziruddin Ahmad : You are making a statement

Shri L. Krishnaswami Bharathi : You wanted a contradiction. And I contradict.

Shrimati Renuka Ray : Mr. Chairman, I would like to say that because inferences are made and aspersions are cast, the members

of the Select Committee are put in a very awkward position, because then we have lo bring forward all that happened in the Select Committee, which we are not supposed to do here ?

Mr. Chairman : Order, order. I would request the honourable member not to make any aspersions against the members of the Select Committee; he may address arguments as to how the Bill has been changed.

Mr. Naziruddin Ahmad : I would not willingly make or cast any aspersions on any honouruable member unless it is involved in the very exposition of the point. If anything was badly done which affects the fate of 30 crores of people and if any mistake or slip has been done by members of the Select Committee then I should respectfully but frankly criticise that. This amount of privilege should be given to a member of the House. I should stand corrected if I am wrong. I should not cast any aspersions merely for casting aspersions, but I will confine myself to pointing out certain serious changes and errors of procedure affecting the merits of the Bill and the discussion of the same may necessarily involve me in a criticism of the members of the Select Committee. Why should the members of the select Committee be afraid of a discussion ?

Shrimati Renuka Ray : We are not afraid of discussion. Then we must be given the right of speaking on what happened in the Select Committee.

Mr. Naziruddin Ahmad : The so-called sanctity of the Select Committee has been broken in this connection so many times.

Shri Mahavir Tyagi (U. P. : General) : There is no sanctity about it. We can discuss it.

Shri L. Krishnaswami Bharathi : We are prepared to discuss it.

Shri Mihir Lal Chattopadhyay : (West Bengal: General): Should members be allowed to carry on conversation like this, Sir?

Mr. Chairman : Order, order. I have been seeing it happening. I hope honourable members will kindly allow the speaker to proceed with his argument.

Mr. Naziruddin Ahmad : The Honourable Deputy Speaker the other day asked Dr. Ambedkar to explain why certain things took place. Dr. Ambedkar said that it was due to the influence of his enemies getting the better of his friends, they combined together and did it. Is it not giving out the so-called secrets of the Select Committee ?

The Honourable Dr. B. R. Ambedkar : I did not want to interrupt the honourable member at all. But now I think it is my duty to draw your attention and also the attention of the speaker that his motion is that because certain changes have been made in the Bill, it ought to be recirculated. I think what is most germane to that motion is that he should strightaway without any kind of preliminary discussion proceed to point out what changes have been made. I was waiting to know that from him.

Mr. Naziruddin Ahmad : That is what I was going to do when side-issues were raised.

Pandit Thakur Das Bhargava : On a point of order; I beg to submit that this question affects the previleges of the Members of the House. The question at issue is: are the members of the House not entitled to criticise the wrong behaviour or the wrong conduct of the members of the Select Committee in regard to procedure? Supposing a Bill is placed before a Select Committee and that the Bill considered by the Select Committee was not the one referred to, another Bill is substituted in its place. Are not the Members entitled' to say them by the House ? You may give a ruling on the point whether the members of the House cannot criticise this conduct of the Select Committee ? Whatever has happened in the Select Committee may not be allowed to be divulged. But the manner in which the proceedings were conducted is open to criticism, otherwise it will mean that the members of the House have no sort of control on a Bill. If a bill is introduced in the House it becomes the property of the House and every Member has a right to point out the irregularities in the Select Committee.

Mr. Chairman : This is not a point of order. The speaker will go on.

The Honourable Shri K. Santhanam : (Minister of State for Railways and Transport). May I submit that while the House is entitled to criticise the Select Committee and even censure it, it is not entitled to say that the Bill before it is not the Bill that was referred to it. It is not open to the House to say that this is not the Bill referred to the Select Committee. The House may condemn the Select Committee if it thinks that the Select Committee has not done its duty. Whenever a Bill is presented to us and is under consideration it is not open to us to say that this is not the Bill that was presented to it.

Mr. Naziruddin Ahmad : I submit that I was only going to condemn the Select Committee and nothing more.

Mr. Chairman : The honourable member will be perfectly right if he criticises the Bill as it has emerged from the Select Committee and points out the changes made. He will confine his remarks to the changes that have been made in the Bill.

Mr. Naziruddin Ahmad : I am going to submit to the House that some changes have been made, some serious changes have been made.

The Honourable Dr. B. R. Ambedkar : Point them out. I am awaiting to know the changes made. The honourable member may take his own time, but let him tell us what the changes are.

Mr. Naziruddin Ahmad : I will proceed in my own way.

The Honourable Dr. B. R. Ambedkar : He cannot go on in this manner.

Mr. Naziruddin Ahmad : I submit that the original Bill was introduced by Mr. Jogendra Nath Mandal. It bears the printing date 1st, August 1946. This was the Bill which was sent to the Select Committee. A Bill printed on 16th August 1948 is the Bill that came out of the Select Committee with the report.

The Honourable Dr. B. R. Ambedkar : What is the point on that ?

Mr. Naziruddin Ahmad : I am coming to that. There are serious discrepancies between these two Bills.

The Honourable Dr. B. R. Ambedkar : That is what we are waiting to know.

Mr. Naziruddin Ahmad : If this is accepted I will proceed to the vital points. There are serious discrepancies between the original Bill and the Bill that has been appended to the report of the Select Committee. (*Interruptions*) This is not the best way of quickening my pace. I submit that in between these two Bills, a very interesting document came in. It is a departmental draft which was printed on 17th July, 1948. It is this draft which came in between the two. All the points of order raised and argued were about this departmental draft Even in the present discussion, if I understood the Honourable the Minister of Law rightly, he mentioned nothing about this departmental Bill, but said that all the changes were made by the Select Committee and not by him. I am referring to the Bill dated 17th July, 1948.

Shri Mahavir Tyagi : That was before the date of the Select Committee meeting.

Mr. Naziruddin Ahmad : I am grateful to my friend Mr. Tyagi for pointing out that the date of printing, *viz.*, 17th July, 1948, was

before the Select Committee was first called to meet. I submit that this Bill

The Honourable Dr. B. R. Ambedkar : I would like to curtail this argument of my honourable friend by saying that it is bound to be so. The re-draft was sent one month before the meeting of the Select Committee.

Mr. Naziruddin Ahmad : That is the point I was mentioning. I am grateful for the admission. This draft was complete before the Select Committee met. I should like to state at this stage that the House was not informed about it. The authority of the House was not taken to completely change the original Bill.

Shri Mahavir Tyagi : Is the middle one exactly the same as is appended to the report?

Mr. Naziruddin Ahmad : There have been some changes. The changes made by the select Committee were slight, but serious changes were made by the Department which the Select Committee never knew.

Shrimati G. Durgabai : It is the Select Committee that has introduced the changes and not the Department.

Mr. Naziruddin Ahmad : I submit that the most important thing is that they never made a detailed examination of the Departmental draft. In fact my contention is that—I would sit down if my honourable friend Shri Santhanam can quote a single example in the whole legislative history of India or in other countries for this—a Bill that has been sent to a Select Committee has been substituted by another completely re-casting the whole thing and put along with it.

The Honourable Shri K. Santhanam : I have been on many Select Committees and in many cases the orginal Bill has been completely re-drafted by the Select Committee.

Mr. Naziruddin Ahmad : That is another matter.

Mr. Chairman : May I point out to the honourable member that Mr. Speaker has given a decision that it is the original Bill that was considered by the Select Committee along with the draft given to it by the Honourable the Law Minister? In view of that decision, the honourable member may confine his remarks to the point as to how the original Bill has undergone a change in the Select Committee. All the other remarks about what happened in the Select Committee are beyond the purview of the honourable member.

Mr. Naziruddin Ahmad : My point is that, although the Select Committee must be deemed to have considered the original Bill and

the departmental draft and to have come to this conclusion, that was done most perfunctorily and imperfectly. My point is this, that although the Select Committee considered or must be deemed to have considered the original Bill and the departmental draft and came to this conclusion and although that is so, my point is that it was necessarily done most perfunctorily and most imperfectly. They must have been, I submit, dominated by the serious changes introduced into the departmental Bill and they must have been completely under the hypnotic influence of a revised draft, a convenient readymade thing, which was placed in their hands. It must have made a tremendous psychological impression on the Members of the Select Committee, so that the Select Committee, although they had the right, largely depended upon the departmental draft and this affects the merits though not the legality of the final Bill.

My point is that any Select Committee has the right to make enormous changes, but it has never happened that a new Bill, completely changed, was placed at the hands of the Select Committee and then they would begin consideration of the new Bill. Although, technically, they had also the original Bill, still they proceeded clause by clause with the new Bill. That was a matter of merit. I submit, that the introduction of this departmental Bill has created considerable amount of prejudice to a fair and impartial consideration of the Bill. I submit that the clauses of the original Bill should have been begun one by one and changes should have been made gradually on the body of the original Bill. Instead of that it seems to have necessarily followed that the departmental Bill was taken up, although there was in them marginal references to the clauses of the original Bill. Still, I beg to submit without any disrespect to the members of the Select Committee, it was impossible for any member to really see readily what enormous changes had been effected in the departmental Bill and it is this, I submit, which has affected the merits of the final Bill. I never suggest that the Members of the Select Committee had no right to make any changes or to adopt the departmental Bill or to proceed with the original Bill. I submit that the work was, speaking again with respect, necessarily done perfunctorily and considerable responsibility in the work of the Select Committee must rest upon the departrmental draft. On a consideration of the departmental draft, therefore, the merits of the present Bill should be considered.

Shri L. Krishnaswami Bharathi : Let us see all the points of difference.

Mr. Naziruddin Ahmad : I submit that the entire legislation began with a blunder and it proceeds from blunder to blunder until we come to **a** capital blunder, namely the present Bill. I submit that the mistake first arose in the year 1937. The mistake arose there and I shall show at once that one mistake led to another mistake and that mistake led to other mistakes and all these mistakes led the Select Committee and then ultimately (*Interruption*) I ask Shri Krishnaswami Bharathi in all seriousness, should I be disturbed like this ?

Mr. Chairman : If the honourable member addresses the Chair, I think the disturbance will be much less.

Mr. Naziruddin Ahmad : Sir, I submit, you will be pleased to consider that in the year 1937, a Bill was passed into law and that is the Hindu Married Women's Right to Property Act, 1937. That, I submit, was a hasty legislation. It contained within itself ill-digested, little understood law that has led to all this trouble. In fact the author of the Bill was Dr. Deshmukh. So, Dr. Deshmukh—I am happy to find it is not our present Dr. Deshmukh—unconcentously with the *bona-fide* belief of doing good to Hindu society, introduced that Bill. The effect of the Bill was to introduce some change in the law of Succession in the compact series. According to Hindu Law, as I have understood it, when a man dies, his heirs are son, grandson and great, grandson, In the presence of the son the grandson by a pre-deceased son inherits—the grandson represents his deceased father and takes his father's share. So in this way the son. grandson and the great-grandson in three generations inherit the property. Dr. Deshmukh was enthused with the idea that the widow must be given a definite status and a definite right. So he made the widow of the propositus **a** share-holder, and not only the widow of the propositus, but the widow of a deceased son, the widow of the deceased grandson and the widow of a deceased great-grandson. They were also included within the ambit of the shareholders. That, I submit was most ill-considered, although the author was imbued with the highest sense of patriotism and welfare of the community I submit, that this was then .....

The Honourable Shri K. Santhanam : Would my honourable friend like me to inform him that this Bill was actually accepted by the late Sir N. N. Sircar, who was the greatest authority on Hindu Law ?

Mr. Naziruddin Ahmad : I am in a position to show, although not only he, but mere was a time when I also accepted it. (*Interruption*). I beg to submit that I am in possession of the House.

Mr. Chairman : The honourable member is going into the history of the amendments to Hindu Law.

Mr. Naziruddin Ahmad : I submit that the Hindu Married Women's Right to Property Act was the first mistake and I shall show that this contained within it seeds of other blunders culminating in the present Bill.

Shrimati G. Durgabai : That was a serious reflection of the legislature then existing.

Mr. Naziruddin Ahmad : I submit that the mistake was admitted by that legislature itself and I can quote passages that that legislature admitted that mat was a mistake. (*Interruptions*).

Mr. Chairman : Order, order.

Mr. Naziruddin Ahmad : I submit, I should show how the mistake came about. In fact in providing for the widow of the propositus of the deceased son, grandson and of the great-grandson, the position of the daughter became absolutely uncertain. Nobody knew what the position of the daughter was at that time under this Act.

The Honourable Dr. B. R. Ambedkar : An undertaking was taken from my friend Dr. Deshmukh by Sir N. N. Sircar that the Government will support the measure only if he agreed to drop the word daughter and he promised that he would drop the word 'daughter'

Mr. Naziruddin Ahmad : I am as much familiar with the history of that law as the Honourable Dr. Ambedkar.

Mr. Chairman : Is the honourable member going to take more time?

Mr. Naziruddin Ahmad : Yes, Sir.

Mr. Chairman : In that case, he may resume his speech later and we may now adjourn.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Thursday, the 3rd March, 1949.

* HINDU CODE—*contd.*

Mr. Deputy Speaker : I have to inform honourable Members that the following dates have been fixed for receiving nominations and holding elections, if necessary, in connection with the following Committees, namely :—

	Date for nomination	Date for election
1. All India Council for Technical Education 2. Committee to review the working of the Railway Convention.	2-4-49	5-4-49

The nomination for these Committees will be received in the Notice Office upto 12 Noon on the date mentioned for the purpose. The elections, which will be conducted by means of the single transferable vote, will be held in the Assistant Secretary's room (No. 21) in the Council House between the hours 10-30 a.m. and 1-00 p.m.

HINDU CODE—*contd.*

Mr. Deputy Speaker : The House will now proceed with the further consideration of the following motion moved by the Honourable Dr. B. R. Ambedkar on the 31st August, 1948, namely:—

> "That the Bill to amend and codify certain branches of the Hindu Law, as reported by the Select Committee, be taken into consideration."

Pandit Lakshmi Kanta Maitra (West Bengal: General): Sir, before you call upon my honourable friend Mr. Naziruddin Ahmad to continue his speech, I feel constrained to bring to your notice once again the irregular manner in which this motion is being brought to this House from time to time. I think very few of us knew up till yesterday that this Bill was coming up again for consideration. As a matter of fact the House was under the impression that so heavy was the pressure of urgent government business that no day could be found for it; in fact several Members of this Parliament who came over here to participate in the deliberations on this subject went back under the impression that this matter was not going to be taken up again in this session. I can particularly mention an honourable Member, Pandit Govind Malaviya, who came over here and who wanted to speak for a very long period of time, and when he was assured that the matter was not coming up.....

* C.A. (Leg.) D., Vol. III, Part II, 1st April 1949, pp. 2211-43.

Several Honourable Members : Assured by whom ?

Pandit Lakshmi Kanta Maitra : Most people knew. It was not a case of ordinary business of this House. No single Member of Government stands, up and says. "I give you an assurance that this will be discussed". Nothing like that. Everybody got the impression from Party talks and elsewhere that the matter was not going to come up at any rate in this session. (*Interruption*). That being so, if it is taken up now it will be showing very scant courtesy to the House. I feel this Bill is of such a controversial nature that I do not think that you should allow this Bill to be proceeded with in the way in which it is being done repeatedly in its different stages. Sir, it is for you to consider the point of view which I am placing before the House. The House is attenuated, and because the whole Budget discussion was over most Members were under that impression—and quite reasonably. When they had no idea of the change suddenly to spring a surprise by bringing in a motion like this at this late stage, of the session, is, I think, hardly fair.

An Honourable Member : We want your decision, Sir.

Mr. Deputy Speaker : But there is no point of order here.

Shri Mahavir Tyagi (U.P. : General): But then I want information as to how long the discussions are proposed to be held. There are friends in my Province who had requested me to inform them when the Hindu Code Bill comes for consideration. I could not inform them because, I did not know whether the Bill will be considered only for today or for tomorrow or any other day or till the end of the session. So, Sir, will you now be in a position to tell the House how long we are going to discuss this Bill so that it there is time for them to come, I might inform them.

Mr. Deputy Speaker : I am in full sympathy with what Pandit Maitra has said, but I do not find any way out of it. As far as I am aware—I have been here for a number of years in this Assembly—when any matter of such importance where a number of people are interested, comes up, the agenda for the next week would be at least read out on the previous Friday. I have been accustomed to some procedure. Evidently it was not expected that there would be time for this Bill, but it was put in when one day was extended and time found for today and tomorrow. That is why previous notice could not have been given. I believe the honourable Members would try to take as good advantage of it as possible by sending telegrams, etc.

and get other Members. Therefore, so far as Mr. Tyagi is concerned, if he thinks that other Members outside are interested in the proceedings, I may say that the proceedings will be broadcast, this evening or tomorrow morning and then they will come to know of it.

An Honourable Member : How can they come tomorrow?

Mr. Deputy Speaker : They can come by aeroplane! It is not for the Chair to decide how they can come. All that I can say is that on an important matter of this nature, certainly Government must have given proper notice; it is not as if Government could lose sight of this important matter. The general public is interested, a large number of the Members from the Provinces and States are not here. Even it they were here, it cannot be expected that everybody should be expected to read all the books and carry all the information for use at a moment's notice. These are the disadvantages but I am sure the honourable Members will try to do as best as they can of the opportunity. Nobody can guarantee how long the discussion will go— it may conclude this evening or go on till tomorrow.

Shri T. A. Ramalingam Chettiar (Madras : General): What is the programme for this Bill ?

Mr. Deputy Speaker : It is entirely in the hands of the House. I do not think we can have a cut-and-dried programme. It is for the House to see whether it is necessary to continue discussion, and if there is sufficient debate to close it as early as possible.

Shri Mahavir Tyagi : Sir, I will put the question the other way round. May I know if there is any other Government Bill for the rest of the Session or this Bill is the only work before us, so that I can make out how long this Bill will go ?

Mr. Deputy Speaker : As the honourable Member will see from the Order Paper, there is so much other work. This no doubt happens to be the first Bill for the day but tomorrow other Bills will come which are on the list. We need not spend any more time on this question.

Mr. Naziruddin Ahmad.

Shri B. Das (Orissa: General) : Will you please fix **a** time-limit for speeches ?

Mr. Deputy Speaker : I cannot fix any time-limit on a controversial matter of this kind. I shall try, so long as I am in the Chair—certainly the Speaker will do it better—to see that repetition is avoided. That

is all that I can do, and I shall to the best of my ability, avoid all irrelevant matters being brought in Subject to this. I would like to give as much freedom as possible.

***Mr. Naziruddin Ahmad** (West Bengal: Muslim) : Mr. Deputy Speaker, it is a strange irony of fate that apart from the interrupted nature of the debates on this Bill, it has been decided by Government that the chequered career, of this Bill and the intermittent debate should, after an interval be seriously resumed on the All-Fools' Day. On the last occasion, when I pointed out that the Bill was sent to the Select Committee in a great hurry on the 9th of April last, some honourable member reminded us that 9th April was very near the 1st of April. Somehow or other this Bill is associated with the 1st of April. On this day, we are accustomed from time immemorial to deal with each other in a playful spirit. We issue bogus invitations, bogus marriages are announced and various other bogus things are done.

Shrimati Ammu Swaminadhan (Madras : General) : Sir, has this got anything to do with the Hindu Code ? Just now you said that no irrelevant matter will be allowed. Has all-fools' day anything to do with the Hindu Code

Mr. Deputy Speaker : I have not heard the honourable Member sufficiently to come to a conclusion as to whether it is irrelevant or not.

Mr. Naziruddin Ahmad : Sir, I was merely emphasizing the unsatisfactory manner in which the Bill is being brought up from time to time. A Bill of this importance and magnitude requires that it should be sat over continuously by honourable Members.

Pandit Lakshmi Kanta Maitra : Spat over ?

Mr. Naziruddin Ahmad : Sat over. Pandit Maitra thought "spat over". I did not mean that. I submit, Sir, a Bill of this magnitude requires that Members should sit over it continuously for a long time. The disadvantage of considering this matter at long intervals is that Members lose the thread of argument and it is very difficult for them to appreciate what has already been said so as to connect with what is said on each occasion. I submit, therefore, that this is not dealing seriously with the Bill or with the House.

On the last occasion when I was dealing with the history of this important legislation, I pointed out that the first mistake was committed in 1937 with the passage of the Hindu Married Women 's Rights to Property Act, 1937.

*C.A. (Leg.) D., Vol. IE, Part II, 1st April 1949. pp. 2213-43.

The mistake was to have rushed to the legislature and without sufficient consideration to have passed a Bill of that complicated nature. In fact, an honourable Member of that House at that time, Mr. Deshmukh, had a happy idea and without giving sufficient consideration to the subject, he came to the House and the House in a generous mood passed the Bill. By that Act, certain women were given the right of direct inheritance along with the sons, grandsons and great-grand sons. They were given independent right. They were not merely Hindu women's rights, but absolute, transferable and inheritable rights. Soon after that, a distinguished lawyer from Bengal—Mr. Rishindranath Sircar—drew attention to certain difficulties which would arise in connection with the Act. Mr. Rishindranath Sircar is a distinguished lawyer and author of a text book on the Hindu Married Women's Right to Property Act, and connected Acts. He pointed out certain inherent difficulties which would arise in connection with the Bill, and in 1938, the Act had to be amended by Act, XVI of 1938. The trouble, however, did not cease there and difficulties arose afresh. A further difficulty arose by the Act as it-was amended in 1938. By the Act even as amended, right was given to the widow of the deceased, the son's widow, grand-son's widow and the great-grandson's widow and considerable difficulties arose as to the position of the daughter. In fact, there was a great deal of controversy and Mr. Sircar again pointed out the difficulties of the situation created so far as the daughter was concerned. This question was agitated throughout the country, and we find about half a dozen Bills were submitted to the Legislative Assembly to clarify the position of the daughter, to give her also that right, along with the son, grandson, and the widows of the various persons. Those Bills were presented to the House and they were on the agenda. I believe experienced Members of this House, like Pandit Lakshmi Kanta Maitra will be able,to recall the situation with which the Government was faced, when it had a large number of Bills before it—about six Bills. Sir Reginald Maxwell, the Home Member, at that time pointed out in the House that it was always a bad thing to rush legislation on social matters, without adequate consideration. And the difficulty was more and more increased as there were more and more legislations. He was, therefore, in full sympathy with the position taken by those members, and he agreed to have the matter examined properly, from every point of view, before legislation was undertaken. This led to the birth of

the Rau Committee. That Committee prepared a Draft Bill and sent questionnaires to various people, and considered and analysed the answers and they prepared another Bill. But before proceeding any further with their work, they were met with an initial difficulty. They found that there was another blunder in connection with the Acts of 1937 and 1938. They were of opinion that the Act of 1937, as it was amended by the Act of 1938 did not apply to agricultural land. the difficulty arose in this way that the first Act of 1937 was passed by the Legislative Assembly when agricultural land was a subject no longer cognizable by the Centre.

Mr. Deputy Speaker : The House stands adjourned to 2-30 p.m. *The Assembly then adjourned for Lunch till Half-Past Two of the Clock.*

The Assembly re-assembled after Lunch at Half-Past Two of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

Sreematty Annie Mascarene (Travancore State): I wish to raise a point of order. May I know whether it is the duty of a Member of this House to attend the session of the legislature throughout ?

Mr. Speaker : It is hardly a point of order. A member need not attend any discussion if he does not like to do so. But I will make one observation. If a member makes a speech in support of or in opposition to a Bill, it is his duty to remain present in the House to hear the reply.

Sreematty Annie Mascarene : If he is absent for a few days and then comes back and complains that he is not aware of the agenda of the House, can that be excused, Sir ?

Mr. Speaker : He will be judged by his statement before the House.

Mr. Naziruddin Ahmad : Before we parted for Lunch today I was dealing with the first part of the history of this legislation. The Act of 1937 and the amending Act of 1938 led to difficulties with regard to the daughter and a large number of Bills were brought forward to clarify her position. At that stage the government agreed to have the matter examined and appointed the Rau Committee. The Rau Committee soon found that the legislature had no jurisdiction to pass the Acts so far as agricultural land was concerned. The point arose

in this way : Agricultural land was in the Legislative List of the Centre under the previous constitution. The Bill was passed by the Lower House in March 1937 when it was functioning under the old Constitution. The Upper House passed it sometime in April when the new constitution of 1935 had come into force. So, when the Bill was passed by the Upper House, it had no jurisdiction to legislate for agricultural land. The amending Act of 1938 was passed when none of the Houses had this jurisdiction. These were capital blunders committed by the Legislature of the time. The Rau Committee referred the matter for opinion to the Federal court. The Federal court gave a ruling that the House had.....

The Honourable Dr. B. R. Ambedkar (Minister of Law): The history is wholly wrong.

Shri L. Krishnaswami Bharathi (Madras : General): How could the Rau Committee refer to the Federal Court ?

Mr. Naziruddin Ahmad : It is wholly wrong ?

The Honourable Dr. B. R. Ambedkar : Yes, wholly wrong.

Mr. Naziruddin Ahmad : In what respect ?

The Honourable Dr. B. R. Ambedkar : I will deal with it in my reply.

Pandit Lakshmi Kanta Maitra : He is substantially correct

Mr. Naziruddin Ahmad : The Rau Committee reported to Government and the Governor General referred the matter to the Federal Court. I was wrong only in a minute technical detail. I repeat: The Rau Committee referred the matter to the Federal Court through the appropriate channel—the Governor General. Is that wrong ? I was absolutely right and never wholly wrong. *(Interruption).*

Mr. Speaker : The honourable Member may proceed.

Mr. Naziruddin Ahmad : The point was thus referred by the Rau Committee to the Federal Court and they gave the ruling that the Legislature acted *ultra vires* so far as agricultural land was concerned. That was a capital blunder which was revealed at the time. As soon as the ruling of the Federal Court was known I come upon the scene My connection with the Hindu Code is not casual or recent. I am in a position to show to the House that I took legal steps in connection with this legislation as far back as 1941. I was then a Member of the Bengal Legislature and I submitted a Bill even before the first report of the Rau Committee was out. As soon as the judgment of

the Federal Court was known I introduced a Bill in the Bengal Legislature to apply the Act to Bengal so far as agricultural land was concerned. That was the first attempted legislation of the time in this connection in India.

Mr. Tajamul Husain (Bihar: Muslim): May I know from my honourable friend if at that time he was in favour of the Hindu Code Bill from what time did he change his mind?

Mr. Naziruddin Ahmad : The Hindu Code Bill was not even born at the time. At that time, like many others—many more famous men as far even as the topic was concerned, it turned out later that I had taken a wrong step. In fact I wanted to extend the Act to agricultural land in Bengal. That was the object of the Bill which I submitted to the Bengal Legislature. It was circulated for opinion throughout Bengal and a large body of public opinion was in favour of the Bill. Everybody at the time like me thought that that Bill was right.

Mr. Tajamul Husain : Sir, the honourable Member has not given his reasons why he changed his mind.

Mr. Speaker : That is not relevant at all. He may change his .mind any number of times.

Mr. Naziruddin Ahmad : The honourable Member should try to wait. The House will be pleased to note that the Bill was submitted by me in 1941, 14th July, and that a very large section of Hindu public opinion in Bengal was then in favour of it. Then the Bill was placed on the agenda for a Select Committee. I have got a copy of the agenda paper with me, dated 25th September 1942. I was then in a position to get it passed by the Bengal Legislature where the Hindu Muslim Coalition party had a large majority. The Party by a majority had decided in favour of the Bill and it was going to be sent to a Select Committee. By that time, however, Hindu opinion had been sufficiently crystallised against the Bill. I was told that serious difficulties would arise if the Bill was passed. Many people, including myself, then realised that if the Bill was passed, the position of daughters and others would lead to chaos. In the meantime the Rau Committee report had been published and the Bill drafted by them was before the country. A large number of meetings were held in connection with it in 1941 and 1942. There was a meeting held in my native place of Burdwan and many similar meetings were held throughout Bengal condemning the main Bill. Though I had the requisite majority in favour of my Bill, I did not proceed with it as

it was a Matter affecting the Hindu community alone and it was opposed by them. I felt that it was no good passing a measure by sheer majority of persons who were not affected by it. I was never in favour of the Hindu Code Bill, though I was for a time in favour of my own Bill. This will I hope satisfy my honourable friend Mr. Tajamul Husain. I asked the Hindu members to let me know what to do and they were against my Bill and so the Bill was dropped. I am not afraid in the least to make this admission that everybody thought and even the Rau Committee thought that a Bill foreshadowed by my Bill should be introduced to extend the Act of 1937 in every local legislature to Agricultural land. I also fell in line, but then I found this volume of Hindu opinion against my Bill. No province has ever applied the Act of 1937 to agricultural land. Thence forward, Sir, a large number of meetings have been held in Bengal and the Rau Committee Bill has been uniformly condemned.

Now with regard to this Rau Committee's report, they prepared a Bill, that is the "Hindu Code Bill—Part I intestate Succession" and that was introduced in the Central Legislative Assembly and that was sent to a very strong joint Select Committee of both. Chambers of the Central Legislature. I have got a report of the Select Committee with me. It was very strongly supported on one side, but equally strongly opposed on the other, and this Bill as reported by the Select Committee came to the Legislature once again. the Rau Committee had in 1941 reported that the Hindu Code Bill should be taken up by compartments. It is a very important joint and I wish to draw special attention to the fact that the Rau Committee actually reported that the Hindu law should be taken up by compartments, succession marriage, guardianship and others. They said at page 23 of their report of 1941.

> "The recommendation which we should like to stress most strongly is that relating to the preparation, in gradual stages of a complete code of Hindu beginning, as we have said, with the law of succession, to be followed by the law of marriage and in due course by the other topics of Hindu law. It is true that even these large groups are to some extent inter-connected; but it will be easier for the draftsman to see what he is doing if he deals, for example, with the whole law of succession than with isolated rules relating to the property rights of widows. This plan would also offer a better chance of agreed solutions on disputed points, for the larger the field, the more room there is for compromise. The aim should be, as far as possible, to arrive at agreed solutions and to avoid anything likely to arouse acrimonious controversy. This need not mean any real slowing down of the pace of reform; for true reform proceeds by persuasion rather than coercion."

At page 11, they say :

> "We do not suggest that all parts of the law should be taken in hand at once. The.....law of succession.....may be taken up first, then the law of marriage; and so on. After the law relating to each part has thus been reduced to statutory form the various Acts may be consolidated into a single Code."

That was the report and in pursuance of their report they submitted their Bill relating to the Hindu Code Part I, intestate succession. Before the Bill relating to succession as settled by the Joint Select Committee came up before the Assembly, the Joint Select Committee had itself recommended that it is no good passing this part alone, but that they should have a true picture of the entire Hindu Code as it will stand, as the different parts are inter-dependent and in this way, they recommended that this Bill should not be passed and a truer and a more comprehensive view of the Hindu law should be taken. In their report the Select Committee say:

> "We think that steps should be taken to resuscitate the Hindu Law Committee and to encourage the formulation and enactment of the remaining parts of the proposed Code in the interval which is to lapse between the present Bill when passed comes into force. It may well be found that the present Bill will require before it is allowed to come into operation, readjustment and amendment in the light of the decisions taken in connection with the other branches of the Hindu Law."

So they recommended that the House and the country should have a fuller picture. The Hindu Law Committee which had been dissolved was thus revived and they were asked to give us a picture of the other branches of the Hindu Law. The first thing which they did was to produce another Bill, the "Hindu Code Part II—Marriage." The second Bill was produced by them and later on they produced the other parts. The point which I am trying to emphasise is that these were separate self-contained Bills. The law of Inheritence was absolutely self-contained and separate and was capable of being enacted separately. The law of Marriage also could be enacted separately. There are three other parts which were in separate parts though printed in one volume was circulated. Then after obtaining opinion, they introduced some changes also by way of supplement. The House will, therefore, be pleased to note the real meaning and purpose of completely separate Bills printed in the same book as separate self-contained subjects with separate numbering. The Law Ministry, however, it seems mistook the purpose of the separate parts with separate numbering. In fact in the report of the Select Committee on the present Bill, the members of the majority say that separate

numbering and separate parts was a thing unknown and purposeless, and therefore, they wanted to blend the different parts into one complete whole with consecutive numbering. That is clearly mentioned in the report. That is the reason why they produced a Hindu Code which they thought was self-contained and more logically arranged. The purpose of the Rau Committee of separate enactments and their subsequent consolidation was entirely missed.

The first point, which I should like to take in this connection is that the changes made by the Departmental Committee set up by the Ministry of Law went beyond the purpose of the original Bill, or rather the different Bills. In fact the blending of the different parts of the original Bill into one is the thing which has created a lot of difficulties and has made confusion worse confounded. As was suggested by the Rau Committee, the better thing would have been to pass separate parts separately, so that there will be the least objection and the attention of the House as well as of the country could be focussed upon individual subjects, though they may have a comprehensive view of the entire Hindu Law. Now the blending of the different parts or Bills into one whole with running numbers has placed us in this difficulty that we find in the House that there is hardly any Member who has spoken; who is completely in favour of the consoclidated Bill as it has emerged from the Select Committee. Some are in favour of the marriage provisions; others are in favour of the inheritance; with regard to guardianship and other things, there is the least objection. Separate Bills as in the original scheme would have simplified matters and reduced our troubles.

Pandit Lakshmi Kanta Maitra : Maintenance portion is the best; all the rest is rubbish.

Mr. Naziruddin Ahmad : Maintenance portion, as Pandit Maitra reminds us, is the least objected to. So if the parts were kept separate, then the House would have been in a position to deal more easily with individual subjects. The subject of maintenance is not controversial. It does not affect the religious structure of the society. It does not wound the religious feelings and age-long beliefs of the Hindus and it could have been passed at once. That was the reason for the separate treatment. But the Departmental Committee rather, missed the purpose of the separate treatment and blended the whole thing into one.

Sir, I would point out that in the second Rau Committee report also, the Bill was prepared in different compartments, they repeated

their advice that it should be taken up separately. The Bill was intended to be taken up in parts separately and should be dealt with individually.

Mr. Tajamul Husain : Why don't you bring amendments to this effect ?

Mr. Naziruddin Ahmad : My honourable friend by the interruption means to say "I shall mix up things in any way I like, and it is for you to bring suitable amendments to separate them.". It is impossible. If you cook meat, fish and vegetables together and ask a vegetarian to separate them by means of an amendment and then take the vegetables alone, that would be to putting the cart before the horse. The Bill has mixed up distinct and separate categories of law into one complete whole.

Shri L. Krishnaswami Bharathi : No, no. There are separate chapters.

Mr. Speaker : The honourable Member is expressing his own view and other honourable Members will have an opportunity of expressing their own views. What is the good of interrupting ? It will only prolong his speech.

Mr. Naziruddin Ahmad : The sections of one part have been lifted . from that and placed in another part.

Shri L. Krishnaswami Bharathi : On a point of order, Sir. Am I not entitled to correct, when his statement that it has mixed up different chapters is open to correction?

Mr. Speaker : That way he will be entiteld to correct again. There - should be no interruptions. I think, we are unnecessarily impatient. Whatever our views in respect of the Bill for or against, we must give a patient hearing to the opponent and try to meet his points I am going to give the fullest opportunity to every one. So let there be no interruptions.

Mr. Naziruddin Ahmad : I am very grateful for this direction. The point is that the definitions and other clauses in each part were absolutely separate. It is easy for any one who has the patience to compare the original Bill presented by Mr. Jogendranath Mandal to - the House with the revised Bill to see the difference.

An Honourable Member : Who was Jogendarnath Mandal ?

Mr. Naziruddin Ahmad : He was the previous Law Member. If any one compares the old Bill presented by him and the present Bill, it would be easy to see that portions from different parts have been