

**Seth Govind Das:** According to the Rules also, if the Chief Whip of the Government party assures us that he is ready to take it up on an official day, earlier than a non-official day, I think there should not be any objection to it.

**Shri Satya Narayan Sinha:** I have given that assurance already. I do not know what else they want.

**Mr. Deputy-Speaker:** The hon. Minister has given the assurance that some official time will be allotted for the consideration of his matter—official time meant time for legislative business, and not for Budget discussion.

I shall now put the question to the vote of the House.

The question is:

“That further consideration of the Bill be postponed.”

*The motion was adopted.*

#### MUSLIM WAKFS BILL

**Mr. Deputy-Speaker:** The House will now take up the consideration of the Muslim Wakfs Bill, 1952, as reported by the Select Committee.

**Shri Kazmi (Sultanpur Distt.—North cum Faizabad Distt.—South-West):** I beg to move:

“That the Bill to provide for the better governance and administration of Muslim Wakfs and the supervision of Mutawallis’ management of them, in India, as reported by the Select Committee, be taken into consideration.”

Hon. Members will remember that when this Bill came up before the House on the previous occasion, it was referred to a Select Committee. In the Select Committee, most of the provisions of the Bill that were the subject-matter of criticism were very calmly considered by all the Members, and they have arrived at certain decisions which have almost taken away the objections to the Bill.

The first objection that was raised was that there was no proper representation for all classes of people. That was the difficulty felt by the Select Committee also, for it was not an easy matter to decide upon the various electoral colleges from which the representatives should come. Ultimately it was thought that the matter might better be left to Government, who may consider the various categories mentioned in the Bill, for nominating persons to the Board.

The other important matter was whether the whole power should vest in one person or in the Board. Under the present circumstances, everybody will concede that to have the power vested in a number of persons is much better than to have it vested in one particular person. Even though the administrative work is to be done by the secretary of the Board, and his appointment is to be made by Government, still he will be under the administrative control of the Board itself. That is a very important change that brings into prominence the aspects of representation and administration under the control of the Board itself.

There are certain powers given to the Board, such as that of determining the surplus funds of a wakf and the uses to which such funds should be put, in accordance with the cypres doctrine. If on this matter, the Board is required to go to court, it will mean a dilatory procedure, and also litigation without any purpose. So, the Select Committee have provided that the Board will have the power to decide the whole thing, but it will be open to any person to go to court and dispute the decision of the Board, and the decision of the court shall be final.

We have given thought to all these matters in the Select Committee. We have also decided that this Bill, as it stands, should apply to all the States, excepting those States, where some wakf Acts are already in force. The reason for doing so was that they were based mostly on an election basis, a basis which has really not

[Shri Kazmi]

been found to be successful in practice. Still, we have left it to the various States to take their own decision, and after consideration, they came to the conclusion that they should also adopt this particular piece of legislation, they are authorised to do so.

With these changes that have been made, the Bill embodies in its provisions almost all the various safeguards and powers that a Board must have for the proper management and maintenance of the wakfs, and for the supervision of the Mutawallis' management of them.

Now, there is one thing more that remains to be submitted to the House and it is that has been provided that State Governments will have the power to suppress the Board in case its work is not found to be satisfactory. There was one other provision which was the subject of very great comments from the various people and it was about the constitution of the Central Board. In the original Bill, it was provided that there must be a Central Board which must represent the various State Boards. Now, as a matter of fact, it has been considered by the Committee and they think that the expense of having a Central Board would be inconsistent with the results which are likely to be attained, because persons would be coming from the various States who would, after all, be representing the States themselves and there will not be a proper controlling authority, and if we want to have an effective Central Board which should really look after the work of all the State Boards, then the machinery will be too cumbersome and more expensive than can be easily borne by the Boards themselves. Therefore, in place of this a new provision has been added and it is to the effect that the Central Government will have the power to call for reports from various State Boards, call for explanations from them and give them general directions. That

to a certain extent, fulfils that object, which was, from the very beginning in our view that there must be one uniform policy that is to be carried on throughout the whole of India.

These are the few changes which take away much of the objections to the Bill and I move that it may be taken up for consideration.

**Mr. Deputy-Speaker:** Motion moved:

"That the Bill to provide for the better governance and administration of Muslim Wakfs and the supervision of Mutawallis' management of them, in India, as reported by the Select Committee, be taken into consideration."

**Shri Mohanlal Saksena** (Lucknow Distt. cum Bara Banki Distt.): I would like to point out that there is an omission in my Minute of Dissent. In the last sentence it is stated:

"In any case, it should not be made applicable automatically".

"To the State of Bombay" has been left out. It should be:

"In any case, it should not be made applicable to the State of Bombay automatically."

**Mr. Deputy-Speaker:** That is an omission by inadvertence. That will be included as part of it.

**Shri V. P. Nayar** (Chirayinkil): I do not want to go into the merits of this Bill. But I would like to get some information from the hon. Mover. I find that in the proviso to clause 1 it is stated:

"Provided that in respect of any of the States of Bihar, Delhi, Uttar Pradesh and West Bengal, no such notification shall be issued except on the recommendation of the State Government concerned".

I find that about 12 States did not consent to this Act being extended to

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\*The Speaker after having considered the facts has directed that the corrections need not be carried out in the report.

them. I also find that in the Report of the Select Committee it is stated that 4 States, viz., West Bengal, Bihar, Uttar Pradesh and Delhi are exempted on the ground that there are existing Acts there relating to Wakfs. What I want to know is whether the Wakfs Acts in these States have been functioning properly. If they are not functioning properly, what is the necessity to exclude them? If they are functioning, why don't we have those Acts? I would like some information either from the Law Minister or from the hon. Mover of this Bill.

**The Minister of Law and Minority Affairs (Shri Biswas):** If the opinions which were circulated are read, it will be found that some of the States where such Acts are in operation have reported that the Acts have been working satisfactorily. In respect of those States, it is not proposed to extend this Act, unless at a future date any of them should wish that it should be extended. In that case, it may be done by notification.

As regards the other States, of course, this Act will apply.

**Shri V. P. Nayar:** My point was not answered.

**Shri Biswas:** I suppose the hon. Member wanted to know if the Acts had been functioning successfully in those States where they were in operation. The answer is: according to the reports received from those States, the Acts were functioning satisfactorily.

**Mr. Deputy-Speaker:** The question is:

"That the Bill to provide for the better governance and administration of Muslim Wakfs and the supervision of Mutawallis' management of them, in India, as reported by the Select Committee, be taken into consideration".

*The motion was adopted.*

**Mr. Deputy-Speaker:** There are no amendments to clauses except to clause 1. I will, therefore, put all

the other clauses together and come to clause 1 later on. It seems to be a formal one.

*Clauses 2 to 69 were added to the Bill.*

**Clause 1—(Short title, extent and commencement).**

**Shri Amjad Ali (Goalpara-Garo Hills):** I beg to move:

In page 1, omit lines 12 to 14.

The effect of this omission would be that this Act would apply to the whole of India and the States of Bihar, Delhi, Uttar Pradesh and West Bengal are not excluded. I have also stated this in my Minute of Dissent. In the Statement of Objects and Reasons, it was intended that one model Act for the whole of India should have to be made and it would uniformly apply to the whole of India, including all States. It was sent out for eliciting public opinion. On the opinions received, the Select Committee bestowed a lot of consideration and thought and they felt that these four States where such Acts obtained could be exempted. You will find from the Statement of Objects and Reasons:

"The management of Wakfs, though it vests immediately in a Mutawalli, is a subject which requires the supervision of the State. The need for supervision has been felt, and in addition to various enactments dealing with the subject of charitable endowments, the Musalman Wakf Act 1923 was enacted for the whole of India. This Act merely provides for the submission of audited accounts by the Mutawallis to the district judges. This Act did not prove of much practical value".

From time to time, some Muslim Wakfs Acts in different States had to be passed. The Musalman Wakf (Bombay Amendment) Act 1905 amended the Musalman Wakf Act 1923. The Bengal Wakf Act 1934 was enacted to create a machinery for the supervision of wakfs in

[Shri Amjad Ali]

Bengal. The U.P. Muslim Wakfs Act was passed creating a Central Wakf Board. Similarly, Bihar also passed a legislation almost on the same lines. The working of these Acts has brought out the necessity of bringing in some amendment. In the different provinces there were Wakfs Acts and they thought that with the help of those Acts they could better govern and supervise the Wakfs. The necessity for a uniform and Central Act was felt because it was found locally that misgovernment and mismanagement was rampant wherever wakfs were in large numbers and Local Wakf Acts were unequal to the task. So, this was framed in the nature of a model Act.

5 P.M.

[PANDIT THAKUR DAS BHARGAVA in the Chair]

It is true that the Governments of as many as 9 States objected to this being applied to those States and out of these only 4 have been exempted because the Wakfs Acts in vogue there were thought to be sufficient to deal with the matter. It is just the contrary. My object in moving this amendment is that this should apply uniformly and there is no valid reason why this should not apply to the whole of India without any exception, just to give no more opportunity to the interested for mal-practice and misgovernment.

**Mr. Chairman:** Amendment moved: In page 1, omit lines 12 to 14.

**Shri Kazmi:** Sir, he was a member of the Select Committee ...

**Mr. Chairman:** I will call upon the hon. Member to make his speech subsequently.

**Shri Mohanlal Saksena:** Mr. Chairman, with your permission and the permission of the House, I would like to move an amendment that the words 'State of Bombay' should also be added, where they have exempted the U. P., Bihar and other States.

I have affixed a Minute of Dissent; but, unfortunately, I was not here and could not move an amendment in time. So, I would like to move the amendment with the permission of the House.

**Mr. Chairman:** The hon. Member knows the rules about new amendments. If the Government and other Members do not object, then alone he can move it.

**Shri Biswas:** It is not a Government Bill and it is not for the Government to say whether they have any objection or not. I have no objection to the moving of this amendment but it will have to be put to the vote of the House. It is not to be supposed that the Government accepts the amendment.

**Mr. Chairman:** The point is not whether the Government accepts the amendment or not. If notice of a new amendment is given on the same day, unless it is accepted by the Mover of the Bill or the Government and nobody objects, only then will I allow the amendment. Otherwise, I will not allow it as there is no sufficient notice.

**Shri Biswas:** I have no objection to his moving the amendment. So far as the question of merits is concerned, it will be subsequently taken up.

**Mr. Chairman:** It appears there is no objection from any quarter so far as notice is concerned. I will request the hon. Member just to pass on his amendment.

**Shri Kazmi:** I am very sorry; I have a personal objection so far as this amendment is concerned because it has not been moved in time and the rules should not be suspended.

**Mr. Chairman:** That is exactly what I have been asking; and, now, when I have decided and asked the hon. Member to pass on his amendment, the hon. Member objects. I am sorry it is now too late.

**Shri Kazmi:** I do object.

**Mr. Chairman:** It is very late. Before the amendment is passed on, let us now discuss the amendment of Shri Amjad Ali.

**Shri Biswas:** So far as this amendment is concerned, all that I can say is this. This matter was considered at great length in the Select Committee and the decision which was come to is now embodied in the Bill as reported to the House. If you refer to the report of the Select Committee you will find that the question is dealt with there at length. In four of the States, namely, West Bengal, Bihar, Uttar Pradesh and Delhi, there are already State Acts relating to Wakfs. The Committee considered that the Central Act should not be applied to those States against the wishes of the State Governments. Provision has, therefore, been made that the Central Act may be applied to those States only on the recommendation of the States concerned.

So far as Bombay is concerned, there is a special paragraph in these terms:

"In Bombay there is no such special legislation relating to wakfs, but there is the Bombay Public Trusts Act, 1950, which in the opinion of the Committee, does not adequately meet the special problems of wakfs. They consider that the Central Act should be made applicable to Bombay also."

Sir, this is how this question has been dealt with. My hon. friend's amendment is based on the assumption that the wakfs are not being properly managed anywhere. That is a question of fact on which Government have no independent information beyond what is contained in the reports which had been received from these States. They were asked to send in their opinions about this Bill and they categorically stated that so far as the administration of wakfs was concerned in these States—the present Acts were working very successfully. Thereupon, the Select Committee came to the conclusion that

the Central Act should not be imposed on those States except at their own request. That is why the Select Committee did not accept the suggestion that the Act should be made applicable to the whole of India irrespective of there being any State Acts already in force in any of these areas. So, I do not think the House will be justified in accepting the amendment of Mr. Amjad Ali.

**Shri Mohiuddin (Hyderabad City):** I oppose the amendment moved by Mr. Amjad Ali as well as the one moved by Mr. Mohanlal Saksena.

**Shri Kazmi:** It has not been moved.

**Mr. Chairman:** I only waived notice; let it be now moved.

**Shri Kazmi:** May I know the position with regard to this amendment?

**Mr. Chairman:** The objection is too late now. Of course, I asked the hon. Member at that time but he did not object to it at all.

**Shri Kazmi:** Before you made your final pronouncement, I said I objected to it.

**Mr. Chairman:** Shri Mohanlal Saksena may read it himself and move it.

**Shri Mohanlal Saksena:** My amendment is:

That in clause 3 of the Bill, in the proviso, add "the State of Bombay" after the words "West Bengal".

As I have already stated in my minute of dissent, there was opposition from a number of States to the Centre passing a Bill for all of them...

**Mr. Chairman:** If the amendment relates to clause 3, it is out of the question now. That section was already put to the House and accepted. So far as clause 3 is concerned, it has been passed by the House. I thought the hon. Member was referring to clause 1. I am sorry it is too late to

[Mr. Chairman]

say anything against clause 3, which is accepted by the House.

**Shri Mohanlal Saksena:** Then, I would like to oppose clause 1 if I cannot move my amendment that the proviso should be modified so that in addition to the four States mentioned therein, the State of Bombay is also included. That is the amendment that I wish to place before the House to the proviso to clause 1.

**Mr. Chairman:** The position is quite clear. So far as the clauses from clause 2 to the end are concerned, they have all been considered and accepted. We are now on clause 1 and an amendment has been moved to clause 1 by Shri Amjad Ali. If the hon. Member wants to say anything on it, he may do so.

**Shri Mohanlal Saksena:** I might be permitted to move that amendment.

**Mr. Chairman:** Now Shri Kazmi is opposed to it and so I am not going to allow any other amendment. If the hon. Member wants to speak, he may speak on clause 1 or the amendment moved by Shri Amjad Ali.

**Shri Mohanlal Saksena:** We are now considering the amendment of Shri Amjad Ali that the proviso should be deleted. My amendment to that proviso is that the State of Bombay should be added to the list of four States mentioned therein. My reason for it is that there is already an Act in force in Bombay which deals with all Public charitable trusts irrespective of whether they belong to one community or another. We are exempting those States where they have got Muslim Wakfs Acts and it does not stand to reason why we should not allow an important State like Bombay to have discretion in applying this Act. Why should it be made applicable automatically to the State of Bombay? After all, we have got a local legislature there and the administration of wakfs will be taken up under the Act by the States. We must, therefore, presume that the States will be interested in making the Act applicable if they find that it will serve the best interests of the

Muslim wakfs. After all, the administration of the Act will be left to the Bombay Government and our over-all policy is that we must not have the Act applied community-wise. Bombay is one of the States where they have enacted a progressive measure. I am told that the Muslim community is not satisfied with that, but we have not got any details about it or representation from the Muslim members of the Bombay Legislature. On that ground I do not think it is fair to make it applicable to Bombay automatically. In the case of the smaller States too, I think it is not fair to apply it automatically, particularly when we have had representations from 10 or 11 of the State Governments saying that they did not want this Act. For one reason or another the Government is not prepared to give the discretion of applying the Act to the States other than those mentioned in the proviso. I want that this right should not be taken away at least from the State of Bombay, which is as important as any other. Further, they have got an Act which covers charitable endowments belonging all communities. I have also put in a minute of dissent. Unfortunately I was not here when this question was taken up and I apologise to the House for not having given notice of my amendment at the proper time. I expect that some other hon. Members will take it up. I know Shri Pataskar if he were here would have told you that the Bombay members were opposed to the measure being made automatically applicable to the State of Bombay.

With these words I beg leave to move my amendment, but if it is not possible, I would then oppose the whole Bill.

**Mr. Chairman:** The question is:

In page 1, omit lines 12 to 14.

**Mr. Chairman:** It is not clear and let me put the motion to vote a second time.

**Shri M. Shaffee Choudhuri** (Jammu and Kashmir) rose—

**Mr. Chairman:** Does the hon. Member want a division?

**Some Hon. Members:** Yes.

**Mr. Chairman:** The division must be called for at the time as soon as the occasion is ripe for it. Since the hon. Member wants a division now, I am bound to allow it.

Before putting the motion to the vote of the House I will just explain what the matter is in respect of which vote is being asked. There is a proviso to clause 1 which runs thus:

“Provided that in respect of any of the States of Bihar, Delhi, Uttar Pradesh and West Bengal, no such notification shall be issued except on the recommendation of the State Government concerned.”

The amendment is meant to omit this proviso.

**Shri Biswas:** Will you kindly point out that “notification” means notification by which the Central Act may be extended to those States?

**Mr. Chairman:** If Bihar, Delhi, Uttar Pradesh and West Bengal make a recommendation and the Central Government issues a notification, then this Act will apply to those States. Otherwise this measure will not apply to those States.

To this an amendment is sought to be moved that this Act should be an all-pervading one.

**Shri Biswas:** In spite of the fact that there are States with Wakfs Acts of their own.

**Mr. Chairman:** I want the whole position to be understood. Several hon. Members who have just come to the House would not have followed the discussion.

**Shri K. K. Basu (Diamond Harbour):** Unless the State Governments ask for it, the Act will not be made applicable to them?

**Mr. Chairman:** The fact is that there are various States in which particular laws of those States are in operation today. They are deemed to be good so far as their States are concerned, as they have been in existence there since some time. These States will be governed by these laws, unless the Central Government issues a notification on the request of the States concerned.

**Shri K. K. Basu:** If the proviso is dropped, what is the position?

**Mr. Chairman:** In those four States their particular laws will not be operative; they will be governed by this Bill. If the proviso is passed their laws will continue as they are; if the motion is passed this law will apply to all those States.

I will now put the amendment to the vote of the House again.

The question is:

In page 1,

omit lines, 12 to 14.

*House Divided: Ayes, 23; Noes 117.*

## AYES

### Division No. 5

Amjad Ali, Shri  
Basu, Shri K. K.  
Chowdary, Shri C. R.  
Chowdhury, Shri N. B.  
Das, Shri Sarangadhar  
Deogam, Shri  
Gopalan, Shri A. K.  
More, Shri S. S.

Nambiar, Shri  
Nayar, Shri V. P.  
Raghavachari, Shri  
Randaman Sijgh, Shri  
Rao, Dr. Rama  
Rao, Shri T. B. Vittal  
Reddi, Shri Madhao  
Reddi, Shri Bswara

Shastri, Shri B. D.  
Singh, Shri R. N.  
Sinha, Th. Jugal Kishore  
Subrahmanyam, Shri K.  
Sundaram, Dr. Lanka  
Swami, Shri Sivamurthi  
Velayudhan, Shri

5-23 p. m.

## NOES

Aehint Ram, Lala  
 Agrawal, Shri M. L.  
 Alva, Shri Joachim  
 Asthana, Shri  
 Balmiki, Shri  
 Bansal, Shri  
 Barupal, Shri P. L.  
 Basappa, Shri  
 Bhargava, Pandit M. B.  
 Bhawanji, Shri  
 Chanda, Shri Anil K.  
 Charak, Th. Lakshman Singh  
 Chatterjee, Dr. Suallranjan  
 Chaturvedi, Shri  
 Chaudhary, Shri G. L.  
 Chavda, Shri  
 Choudhuri, Shri M. Shafiq  
 Dabbi, Shri  
 Damar, Shri  
 Das, Dr. M. M.  
 Das, Shri B. K.  
 Das, Shri K. K.  
 Das, Shri S. N.  
 Deshmukh, Shri C. D.  
 Deshpande, Shri G. H.  
 Dhulekar, Shri  
 Dhusiya, Shri  
 Dube, Shri U. S.  
 Gandhi, Shri M. M.  
 Ganga Devi, Shrimati  
 Ganpati Ram, Shri  
 Guha, Shri A. C.  
 Hyder Husein, Ch.  
 Iyyani, Shri E.  
 Jagjivan Ram, Shri  
 Jajwara, Shri  
 Jena, Shri K. C.  
 Jena, Shri Niranjan  
 Jethan, Shri

Joishi, Shri Jethalal  
 Joishi, Shri M. D.  
 Joishi, Shri N. L.  
 Kale, Shrimati A.  
 Kasliwal, Shri  
 Katham, Shri  
 Katiya, Dr.  
 Kazmi, Shri  
 Keskar, Dr.  
 Khoingmen, Shrimati  
 Krishna Chandra, Shri  
 Kureel, Shri B. N.  
 Lallanji, Shri  
 Lotan Ram, Shri  
 Mathodaya, Shri  
 Malliah, Shri U. S.  
 Malviya, Shri B. N.  
 Mandal, Dr. P.  
 Mathew, Shri  
 Matthen, Shri  
 Mehta, Shri B.G.  
 Mishra, Shri Bibhuti  
 Mohd. Akbar, Sofi  
 Mohiuddin, Shri  
 Morarka, Shri  
 More, Shri K. L.  
 Mukne, Shri Y. M.  
 Muthukrishnan, Shri  
 Naakar, Shri P. S.  
 Natarwadkar, Shri  
 Nehru, Shrimati Uma  
 Neswi, Shri  
 Palchoudhury, Shrimati<sup>1</sup>La  
 Pannalal, Shri  
 Paragi Lal, Ch.  
 Patel, Shri B. K.  
 Prabhakar, Shri Naval  
 Prasad, Shri H. S.  
 Rachiah, Shri N.

Radha Ramani, Shri  
 Raghunath Subai, Shri  
 Raghunath Singh, Shri  
 Rahmani, Shri M. H.  
 Raj Bahadur, Shri  
 Ram Dass, Shri  
 Rammanand Shastri, Swami  
 Ramaswamy, Shri P.  
 Ramaswamy, Shri S. V.  
 Rambir Singh, Ch.  
 Raut, Shri  
 Roy, Shri Biswaa Nath  
 Rup Narsin, Shri  
 Sahu, Shri Rameshwar  
 Samanta, Shri S. C.  
 Sanganna, Shri  
 Satyawadi, Dr.  
 Sharma, Pandit K. C. <sup>1</sup>  
 Sharma, Shri K. R.  
 Shivananjappa, Shri  
 Shofia Ram, Shri  
 Shukla, Pandit B.  
 Singh, Shri H. P.  
 Sinhasan Singh, Shri  
 Snatak, Shri  
 Suresh Chandra, Dr. <sup>1</sup>  
 Suriya Prasad, Shri  
 Swaminadhan, Shrimati Amma  
 Syed Ahmed, Shri  
 Thomas, Shri A. M.  
 Tiwari, Shri R. S.  
 Tripathi, Shri K. P. <sup>1</sup>  
 Upadhyay, Shri Shiva Dayal  
 Upadhyay, Shri S. D.  
 Vaishya, Shri M. B.  
 Varma, Shri B. R.  
 Varmā, Shri M. L.  
 Venkataraman, Shri  
 Vidyalankar, Shri A. N.

*The motion was negated.*

**Mr. Chairman:** I shall now put clause 1 to the vote of the House. The question is:

"That clause 1 stand part of the Bill."

*The motion was adopted.*

*Clause 1 was added to the Bill.*

*The Title and the Enacting Formula were added to the Bill.*

**Shri Kazmi:** I beg to move:

"That the Bill, as amended, be passed".

**Mr. Chairman:** Motion moved:

"That the Bill, as amended, be passed."

**Shri Raghavachari (Penukonda):** I wish to say just one point, and it is this. This Bill is an attempt to bring the Muslim religious institutions under one uniform law. But the proviso to clause 1 exempts particular States. We stand for, and the purpose of the Government also is that there must be a uniform law in the whole country. That is why they are busy with abolishing all differences in Hindu Law and every other Law. So



the ideal, the aim and the much-talked-of object is to have uniformity of law for all States. This amendment was meant to serve that purpose. The law, as it emerges, defeats that particular principle which they want to adopt in every branch of law. Therefore I oppose the Bill.

**Shri N. B. Chowdhury (Ghatal):** I have only to make one request. I would request the hon. Minister to send a copy of the Bill, as it would be passed, to all the States...

**Mr. Chairman:** Order, order. This Bill will be published in the Gazette, it will be sent to all the States, and any person can obtain a copy of the Gazette. What is the point he wants to make?

**Shri Syed Ahmed (Hoshangabad):** He does not know the procedure.

**Shri Biswas:** The copies will be available for a few annas.

**Shri N. B. Chowdhury:** My intention was to request the hon. Minister to send a copy of the Bill, or the Act as it would become, to the States to which it is not going to be applied, for their opinion so that they may consider the Act and then, if they think that it is an improvement upon the existing Act, they may come forward with a request to the Central Government.

**Shri Syed Ahmed:** Yes, yes, sit down.

**Shri S. S. More (Sholapur):** Has he become the Minister in charge?

**Shri Mohanlal Saksena:** I do not want to waste the time of the House, but I want to point out one thing because this matter is going to come up before the other House as well and it may take notice of it.

This Bill is going to enact a uniform law for Muslim wakfs and charitable endowments in all the States except four which have been mentioned where they have already got their own laws and they can, if they so choose, apply this Act after

it has been passed. For the reasons. I have already stated in the Minute of Dissent I would like to state once again that I am only for enacting a model Act which might be adopted by the different States. After all, the States are autonomous, and this is a Concurrent subject. In the original scheme of the Bill there was a provision for a Central Board which was to supervise the working of all the State Boards. But that scheme has been given up. There was a provision for election of the members of the Central Board. That has also been given up. The only thing left is that we are enacting a law and we expect the States to administer it. The best course would have been to have passed the law and to have given them an opportunity of considering it and deciding as to whether this law was to be enforced in their respective States or not. That was not acceptable to the majority of the members of the Committee. Therefore my suggestion was that at least States like Bombay, where they have got a general law applicable to charitable trusts belonging to all the communities, should also have the same right to decide whether this law was necessary for the State or not. That was not accepted. And today, as I have already stated, for reasons over which I had no control, I was not in a position to move an amendment in time. An objection was taken by the hon. Member and I could not move it. Otherwise I am sure if there was a division on my amendment, the verdict would have been quite different.

Therefore, I want to state at this stage for the information of the Members in the other House that they have to consider this aspect of the question before the measure is passed. On this ground I would like to oppose the Bill as a whole.

شہری ایم - ایچ - رحمان (ضلع)  
 مراد آباد - سنگھنل : چھوڑو میں صاحب -  
 شہری موہن لال جی نے اپنی جو  
 دائے میں جاوے میں ہی ہے - میں

[شہری ایم۔ ایچ۔ رحمان]

سمجھتا ہوں کہ جب یہ بل پیش ہوا تھا اس وقت بھی یہی بحث آئی تھی۔ اور جہاں تک مجھے یاد ہے۔ مولانا آزاد نے اور میں نے اس بات کو صاف کر دیا تھا کہ جہاں تک چھوڑتھیل ٹرسٹ کا تعلق ہے گورنمنٹ خود بھی اپنی جگہ سوچ رہی ہے کہ ایسا کامن لا بلائے جس میں سب مذاہب کے جو اوقاف ہیں ان کا ایک مشترک بورڈ کی حیثیت میں مشترکہ انتظام ہو اور ہر فرقہ کے اپنے اوقاف کے لئے جدا جدا سب کمیٹیاں یا سیکشن بنا دئے جائیں اور وہی الگ الگ سٹیٹوں میں تسلیم کئے جائیں۔ لیکن ہم یہ چاہتے تھے کہ ہداری پارلیامنت کم سے کم اس وقت سے پہلے ہمیں اتنی مدد دے کہ لاکھوں کروڑوں کے وقف جو مسجدوں۔ درگاہوں۔ دینیہ اور مذہبی مدرسوں اور بیواؤں اور بچوں کے اسکالرشپس کے لئے ہوں ان میں متولی جس قسم کی حرکتیں کر رہے ہیں ان سے ہم ان کو محفوظ کر دیں۔ اس وجہ سے یہ بات کہی گئی تھی کہ ایسا وقف ایکٹ بن جائے اور وہ قانون کی شکل اختیار کر لے۔ جس سے ہم اس بارے میں مدد لے سکیں۔ اس وقت سے پہلے ایسا ایک ایکٹ بن جانا ہمارے لئے مفید پڑے گا۔ ان لوگوں کے لئے جو ایک پارٹ ہیں۔ ایک حصہ ہیں۔

اپنے ملک۔ اپنے وطن میں بسنے والوں کا۔ اگر موہن لال جی بمبئی چھوڑتھیل ٹرسٹ کو پروگریس سمجھتے ہوں تو آپ کامر، چھوڑتھیل ٹرسٹ کے نام سے جب آپ قانون بلاتے ہیں اس وقت مسلم نقطہ نظر سے جو ضروریات ہوں گی ان کو ہم اس وقت پیش کریں گے۔ بمبئی کو اس قانون میں اس لئے مستثنیٰ نہیں رکھا گیا کہ کمیٹی میں شہری موہن لال جی کے علاوہ سبھی نے متفق ہو کر یہ بات سوچی اور وہ بہت غور کے ساتھ سوچی کہ وہاں جس قسم کا پبلک ٹرسٹ ایکٹ بنایا گیا ہے وہ اس مقصد کے خلاف جاتا ہے جس کے لئے ہم نے یہ بل پیش کیا ہے۔ اسی لئے وہاں کے مسلمانوں نے۔ جہنی بھائیوں نے۔ پارسیوں نے۔ سبھی نے اس کی مخالفت کی۔ اور اس کی بنا پر اس کو ان لوگوں پر لاگو نہیں کیا گیا۔ تو ایک ایسے ٹرسٹ کو جس کو خود وہاں کی مختلف کمیونٹیز کے آدمی ایوز کر رہے ہیں۔ اس کو ہم جیوں کا تھوڑے دہلے دیں اور اس بل کو بمبئی پر مائد نہ کریں۔ تو اس سے تو بہتر ہے کہ یہ وقف بل بلایا ہی نہ جائے۔ یہ باتیں صاف سامنے آ چکی تھیں اس لئے میں جہاں تک سمجھتا ہوں کہ موہن لال جی کو یہ مناسب نہیں تھا کہ وہ اس بل کی مخالفت کریں کیونکہ

سچی اور حقیقی بات تو یہ ہے کہ  
 ہاؤس نے ان تمام باتوں کو سوچ کر  
 ہی اس بل کو لانے کا موقع دیا -  
 شری تلڈن جی نے یہ بھی کہا تھا  
 کہ اگر کوئی قانون مسلمانوں کے نام  
 سے آ جائے کہ یہ مسلم وقف ہے تو  
 یہ ایسی چیز نہیں ہے جو سکولرزم  
 کے خلاف ہو بلکہ ایسی چیز یہ ہے  
 جس کی بنیاد اچھی باتوں پر ہے اور  
 اس سے صرف متولیوں کی زیادتیوں  
 کو روکنا ہی مقصود ہے - اس میں  
 کوئی بھی سکولرزم کے خلاف بات نہیں  
 ہے - البتہ چار صوبوں - اتر پردیش -  
 دہلی - بہار اور ریست بنال کو اس  
 لئے اس رپورٹ میں مستثنیٰ کیا کہ  
 ان چاروں اسٹیٹوں میں مسلم وقف  
 ایکٹ اسی مقصد کو پورا کرنے کے لئے  
 بنایا گیا جس مقصد کے لئے پارلیمنٹ  
 میں یہ بل پیش کیا گیا ہے - اور  
 اسی لئے منظور کیا کہ وہاں مسلم  
 وقف ایکٹ بلے ہوئے ہیں اور ان  
 چاروں جگہوں پر وہ مقصد پورا ہو  
 رہا ہے - پھر ہمارے لاہ منسٹر صاحب نے  
 توجہ دلائی تھی کہ پارلیمنٹ کے  
 لئے یہ صورت حال مناسب نہیں ہے  
 کہ وہ اس کو کسی سٹیٹ کے اوپر  
 فورس کرے -

اس لئے چار جگہوں کو مستثنیٰ  
 کر دیا جائے اور باقی پر لاگو کیا  
 جائے - میں سمجھتا ہوں کہ جس  
 مقصد کے لئے یہ پیش کیا گیا اس  
 کو دیکھتے ہوئے سہلیکٹ کمیٹی نے

بہت سوچ بوجھ کے ساتھ اور پوری  
 سمجھ کے ساتھ - پورے غور و فکر کے  
 ساتھ جس طرح کی رپورٹ پیش  
 کی ہے وہ بہتر ہے - وہ ایک  
 بہترین مقصد پیدا کرتی ہے -  
 جس مقصد کے لئے ہم مذہبی اور  
 مدہم کی چیزوں کے لئے تحفظ چاہتے  
 ہیں وہ سب اس میں آ جاتا ہے -  
 اس لئے میں ہاؤس سے گزارش کروں گا  
 کہ وہ اس کو منظور کرے اور ہمارے  
 ان بہترین کاموں کے لئے مدد کرے  
 کہ جن کو ہم سمجھتے ہیں کہ وہ  
 زیادہ سے زیادہ مفید ہیں -

(English translation of the above  
 speech).

**Shri M. H. Rahman** (Moradabad  
 Dist.—Central): Sir, the opinion  
 given by Shri Mohanlal in this con-  
 nection is, I understand, the same as  
 said by him in the debate when the  
 Bill was introduced. So far as I re-  
 member, Maulana Azad and myself  
 had made it clear that with regard to  
 the Charitable Trust the Government  
 thought of making a common law  
 which would bring under its purview  
 the wakfs of all religions, and as a  
 Board carry on their combined  
 management, and that separate sub-  
 committees or sections for wakfs of  
 each sect be made and recognised in  
 the various States. The help that we  
 want to seek at this time from the  
 Parliament is that the wakfs worth  
 crores of rupees for mosques, holy  
 places, religious and sectarian schools  
 and for scholarships of widows and  
 children be saved from the nefarious  
 activities of Mutwalis. This was the  
 reason why we insisted on converting  
 this wakf Bill into an Act, a law which  
 would help us at this juncture. To  
 have such an Act would have been  
 useful for those who form a part of  
 the people of our land. If Bombay  
 Charitable Trust is thought to be pro-  
 gressive by Shri Mohan Lal, we shall  
 present the needs from Muslim point.

[Shri M. H. Rahman.]

of view whenever a law in the name of Common Charitable Trust is framed. Bombay was not excluded from the purview of this law because all the members of the Committee other than Shri Mohan Lal were agreed on the decision that the Public Trust Act framed there was contrary to the object with which the Bill was introduced. This was the reason why Muslims, Jains and Parsis of Bombay opposed it, and hence it was not applied there. How can we allow such a Trust to continue as it is when the people of different communities are opposing it there? It is better not to frame the wakf Bill at all. All these things were clear to us, and so far as I understand it would not be proper on the part of Shri Mohan Lal to oppose the Bill. The fact remains—reality as it is—that the House introduced the Bill after considering all these things. Shri Tandon in his speech said **this much also** that this Muslim Wakf was not a thing opposite to secularism, but was a measure based on good principles as its object was mainly to stop the excesses committed by the Mutwallis. There is nothing pugnacious to secularism in it. The four provinces, viz., Uttar Pradesh, Delhi, Bihar and West Bengal were not purviewed in this report as the object of making Muslim Wakf Act in all the four provinces was the same with which the Bill was introduced in the Parliament and as such it was agreed to because the Muslim Wakf Act framed there fulfilled this object. Our Law Minister invited our attention to it and said that it was not proper for the Parliament to force this on any State, and so this Act should be applicable to all the places other than these four provinces. Looking to the object of the Bill, I understand, the report, as it has been submitted after full consideration and proper thought by the Select Committee, is quite apt. It inspires in us the over-all object—an object for which we want to protect the religious sanctuaries; and that is covered in this Bill. With these words I will request

the House to accept it and help in noble task so useful to us.

**Shri Pataskar (Jalgaon):** I wish to say a few words with respect to this Bill, not because I am opposed to the principle of the Bill, but because I think there is something, which, to my mind, is wrong so far as the Bombay State is concerned. In Bombay we have the Public Charitable Trusts Act. The history of that Act is that that Government appointed a Committee consisting of an eminent High Court Judge as Chairman to consider the question from all points of view. That Committee went through all possible formalities, collected all statistics, consulted all manner of people and then that Government passed the Act, which is applicable not only to a particular community, but to all Muslims, Hindus, Christians, Parsis, etc. I would make it clear here that that Act does not interfere with what you do. Wakfs are dealt with under that Act. Under that Act, there is no interference with what they do. It provides that all manner of public charitable trusts have to render accounts as to whether moneys are properly spent.

We have that legislation in the Bombay State, which is already in force. Of course there may have been a few complaints here and there: I do not know. But, the Act is in force. I am surprised to find that in the Select Committee, they have exempted four States, Bihar, West Bengal, etc. because they have got a Wakf Act. Why is not Bombay exempted? The report of the Select Committee says:

“In Bombay there is no such special legislation relating to wakfs, but there is the Bombay Public Trusts Act, 1950, which, in the opinion of the Committee, does not adequately meet the special problems of wakfs.”

I do not know how the Select Committee have arrived at this conclusion. But, I find that the Bombay Government had clearly given its opinion that they have already an Act of this kind. It would be a retrograde step now to pass a measure the result of which will be that that Act will not be

applicable to wakfs in the State of Bombay, because this will be a measure passed by the Central Legislature. The subject is in the Concurrent List. I do not mind this if there are any hardships of which I am convinced. If the management of wakfs in the Bombay State are suffering in any way because the Public Charitable Trusts Act of Bombay governs them, I can understand that. I have not heard a word about that. Nor do I find from the report of the Select Committee what the difficulty is, except some sentiment or some such thing. I find the Bombay Public Charitable Trusts Act does not interfere in any way with the objects of the Trust. There are Jain trusts, Parsi trusts, etc. The Act does not propose to interfere with what the Parsis want to do by their trusts. It only says that the trustees should properly carry out the objects for which the trusts are made. It does not propose to interfere in any way with whatever they do so long as it is proper. Therefore, to my mind, so far as Bombay is concerned, this Act is not necessary. I would like my hon. Muslim friends not to misunderstand me for a moment. If this Act were not in existence in Bombay, I would not have objected at this stage to the passing of the Wakf Act which may be made applicable to Muslims all over India. At any rate, we have achieved some progress. We feel that there should be uniformity of laws so far as wakfs are concerned throughout the country. I think administration of public charitable trusts is a part of the civil law of the land. So far as the civil law is concerned, our Constitution lays down that our objective is to attain uniformity of civil law in its application. What we are doing here so far as the Bombay State is concerned, is exactly the reverse. At least, we should have left Bombay outside the scope of this Bill. I would still appeal to the hon. the Mover not to be guided by a few complaints here or there which may or may not be correct. So far as the Bombay State is concerned, I find that there are not only Muslim trusts; there are Parsi trusts, Jain trusts etc. They are governed by a uni-

form civil law. Except for a few complaints here and there, I do not think there is anything seriously wrong there. The passing of this law will amount to a retrograde step. This is a subject in the Concurrent List. That constitutional aspect also must be taken into account. In the Bombay State, after a good deal of consideration, after going through all the formalities—I claim that the Bombay State is very progressive in matters of social reform—on the report of a Committee presided over by an eminent Judge of the Bombay High Court, they have passed this Act and the law is in force for the last few years. The result of the passing of this legislation will be, at least by not exempting the Bombay State, so far as wakfs are concerned, they will be governed not by the Bombay Act which is already in operation, but by an Act which we will be passing. I have nothing more to say; I would only appeal to the hon. Members of this House to seriously take note of this. This is not good. In the Constitution we have laid down our objective. We may not be able to reach it. It may not be possible for India to have a uniform civil law for all the Muslims, Hindus, Christians, etc., for the time being. It may take some time before we reach that goal. But, in a small matter like this, where in a progressive State, there is already a piece of legislation which applies to all people, I do not understand why we should be a party to passing a legislation which will only introduce discrimination? What will be the result of this Act? Muslim wakfs will be excluded. Tomorrow, the Parsis may come forward and say, we may also be excluded. So also the Jains. We know that when once this process of disintegration starts, there is no limit to it. Already we are suffering from the fact that people do not think of India as a whole, but think of India in sections. That is our grievance and complaint. To the application of this Act to the rest of India, I do not grudge. I would say that in the whole of India there should be a legislation like the one we have in Bombay. If it is not possible, for the time

[Shri Pataskar]

being, at least do not disturb what has been there in Bombay. I would therefore make an appeal to the House, particularly to my hon. Muslim friends, because I am liable to be misunderstood. They may say we have been born and bred to think in terms of different communities. That is wrong. As a matter of fact, if I am convinced that the Bombay Act affects the Muslims in any way and that the money which is provided for the wakfs is being utilised for something else, I can understand that.

6 P.M.

I would warn hon. Members to think seriously of the results that will follow if we should interfere with such provisions as exist in the Bombay Act for all irrespective of whether they are Muslims, Christians or Jains, merely because we want a Wakfs Bill for all the Muslims in the whole of India. What is the direction in which we are proceeding? Are we making for progress or are we going in the reverse direction? I would appeal to the Mover that he should consent to make an exception so far as Bombay is concerned. If that is possible, I will have no objection to the Bill.

**An Hon. Member:** Is it not very late?

**Shri Pataskar:** It may be said that I am late, but I had raised this objection even at the time when the Bill was taken into consideration. It may be the third reading, but even then I believe we should not be a party to a measure which is not going to be a progressive one, but which is going to be a retrograde one. We should not be carried away by mere feelings and sentiments in this matter. It should not be difficult even at this stage to exempt Bombay.

**Pandit K. C. Sharma (Meerut Dist.—South):** I am one with Mr. Pataskar that there should be uniformity in legislation, and in the Select Committee I fought for this view point. But it was agreed that where there are wakf laws in operation exclusively dealing with Muslim wakfs, there this

should not operate. That is, U.P., West Bengal and Bihar have their own Acts in operation. Therefore, they were exempted. In the case of Bombay there is no Act exclusively dealing with Muslim wakfs as such. Now, the question arises that there is already a law in existence, but that law unfortunately is an optional law.

**Shri Pataskar:** No, no. Muslims are governed by that Act.

**Pandit K. C. Sharma:** Muslims have refused to be governed by that. So far as I understand there is an optional section in that Act.

**Shri Pataskar:** May I clear the impression? Last time I had read out the very section itself which makes it clear that it is not optional. It applies even at the present day to all sections of the citizens in Bombay.

**Pandit K. C. Sharma:** Anyhow, Sir, that Act was read by the Committee and it was found that it is proper that this present Act would be better and that it does not run counter to that Act. The provisions are almost the same, because it is a question of governing the property, giving the accounts and taking proper precautions to see that the property is rightly managed, that the account is rightly given etc. There is nothing in this Bill which goes specifically against any accepted principle about charitable disposition of property. It is a simple, innocent sort of legislation. Therefore at this stage I submit it is better that this Bill be passed, and we should wait till we get a uniform law dealing with all the charitable properties.

**Shri Kazmi:** The position that has been placed by Mr. Pataskar was placed before the Select Committee also. As a matter of fact, when this Bill was referred to the Select Committee, Mr. Pataskar had made that position clear. My hon. friend Mr. Mohanlal Saksena was of the same view, and it cannot be said that this view has not been considered. We were all in the hands of the Members of the Committee. I am perfectly in favour of one uniform law for the

whole country, but so far as the Bombay Act is concerned, I may just draw the attention of the House to the provision of giving all the powers to one man. This is a serious question that has to be considered by the House not only today, but also in the future when a common legislative measure for all the communities comes up before the House. The question is whether you are going to have all your powers of management, administration etc. in the hands of one single person, or you are going to appoint a Board. Personally I am not in favour of one person being nominated to carry on all the work with full powers.

Now, what is there in the Bombay Act, with due reference to the opinion of Shri Pataskar? I do not want to criticise his opinion or the Bombay Government. But all the powers are vested in the Charity Commissioner. Government appoint a Charity Commissioner and a Deputy Charity Commissioner, and they are the sole authorities for deciding anything, and if in any particular matter, they want some help, they can have assessors. While we see that everybody has been against assessors, the Bombay Charitable Trusts Act has once again brought in these assessors to the forefront, and it is provided in that Act, that due weight shall be given to the opinion of the assessors. So, I personally fail to understand whether that Act can be called a model Act at all. As a matter of fact, the Committee that was appointed was only for Hindu trusts.

**Shri Pataskar:** No, no, it is wrong. It was not for Hindu trusts.

**Shri Kazmi:** These are all controversies.

**Shri Pataskar:** It was not for Hindu trusts. It is a fact.

**Shri Kazmi:** It was. For that, I have the authority with me. The Tendulkar Committee was appointed for enquiring into Hindu trusts only, but when the measure came up before the Legislature, they wanted to include others. The Jains said that they

8 P.S.D.

were not Hindus, because they did not want to be included in it; the Parsis protested against it, and the Muslims protested against it. I know personally well that representation after representation was made to the Home Minister of the Bombay Government saying that this measure should not be applied to the Muslims, the Parsis etc. If my hon. friend feels that it is a model measure, let it be brought before the House, and if the House accepts it, I am prepared to abide by it. But so long as a common measure has not been enacted, let us carry on the administration of the wakfs in the way it has been carried on up till now, viz. let there be some sort of management, board or trust, the persons on which may be either nominated by Government or elected. But there must be a number of persons who should carry on the management of the trust, and the powers should not be vested in one man, as the Charity Commissioner of Bombay.

I want to take this opportunity of thanking the Members of this House, and the Members of the Select Committee, and also the Chairman of the Select Committee, who has taken very deep interest in the measure and has brought it to a successful conclusion.

I thank the House once again.

**Mr. Chairman:** The question is:

"That the Bill, as amended, be passed."

*The motion was adopted.*

#### CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL

(REPEAL OF SECTIONS 266, 267 ETC. AND AMENDMENT OF SECTIONS 272, 375 ETC.)

**Shri S. V. Ramaswamy (Salem)** rose—

**The Minister of Home Affairs and States (Dr. Katju):** Before my hon. friend makes the motion, I would like to make a statement that might be of some help to the House.