# [Mr. Deputy-Speaker]

House as early as possible after taking into consideration all the difficulties that have been expressed.

Shri Nambiar: You may also refer the question of increase of time allotted to private Members......

Mr. Deputy-Speaker: That is a matter which has to be considered not by the Rules Committee, but by the Government. If the Bills are so important that is a matter which the Chair will consider in consultation with the Leader of the House.

Shri K. C. Sodhia (Sagar): Can we not consider that the Private Bills should not be allowed altogether?

Mr. Deputy-Speaker: The House wil now take up the Muslim Wakfs Bill standing in the name of Shri Syed Mohammed Ahmad Kazmi.

# [Pandit Thakur Das Bhargava in the Chair]

# MUSLIM WAKFS BILL

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

"That the Bill to provide for the better governance and admi-nistration of Muslim Wakfs and the supervision of Mutawallis' the supervision of Mutawails management of them in India, be referred to a Select Committee consisting of Dr. Syed Mahmud, Shri M. Hifzur Rahman, Shri Ahmed Mohiuddin, Shri Gurmukh Singh Musafir, Pandit Krishna Chandra Sharma, Shri Hira Vallahh Tripathi Maulana Mohamlabh Tripathi, Maulana Mohammad Saeed Masuodi, Col. B. H. Zaidi, Shri Mohanlal Saksena, Zaidi, Shri Mohanlal Saksena, Chaudhri Hyder Husein, Shri Amjad Ali, Shri Syed Ahmed, Dr. N. M. Jaisoorya, Shrimati Subhadra Joshi, Shri C. C. Biswas, Shri S. V. L. Narasimham, Shri Atma Singh Namdhari, Shri Piare Lall Kureel Talib, and the Mover, with instructions to report by the last day of the second week of last day of the second week of the next session."

Mr. Chairman: I do not find in the copy of his motion before me any mention of the second week of the next session.

Shri Kazmi: Instead of 8th May I am moving "the last day of the second week of the next session".

Mr. Chairman: Very well.

Shri Kazmi: This Bill was with the permission of the House circulated for eliciting opinion. At the time I moved for eliciting opinion I had given moved for eliciting opinion I had given a short summary of the Bill. I may just say that this Bill as a matter of fact is the result of a study of all the Wakf Acts which are in force in various States. But there is a large number of States which have got no Wakf Act at all. And it was for the purpose of co-ordinating the various States in the matter of supervision of Mutawallis in the administration of States in the matter of supervision of Mutawallis in the administration of Mutawallis in the administration of Wakfs that it was considered proper to have a Central Bill which can be applied to any of the States in which there is no Wakf Act at the present time. As a matter of fact for that very reason Delhi, U. P. and Bihar were exempted from the operation of were exempted from the operation of the provisions of this measure in so far as they had Wakf Boards already constituted in those places.

Now, a very large number of opinions has been received. Some of them have already been circulated to hon. Members of this House. And hon. Members will find that the material transfer will find that the material transfer will find the second transfer the second transfer that the second transfer that the second transfer that the second transfer transfer that the second transfer tr jority of them, with the exception of those that oppose it on sentimental ground, are in favour of the Bill and in favour of the principle of the Bill.

The only comments adverse to the Bill are in connection with the constitution of the Central Board, that it may prove to be an expensive one. But as a matter of fact, if you, Sir, will look to the scheme of the Bill, probably the Central Board will be the least expensive and will do probably very useful work.

In addition to the opinions that have already been circulated to the hon.

Members there is a very large amount
of opinion that has been received by the Government, which has not been published but which has been placed in the Library of the House. And in the Library of the House. And from that it appears that a very overwhelming majority of people is in favour of the constitution of Boards of Management to look to and supervise the activities of Mutawallis in various States of India. For this reason I do not think it is necessary for me at this stage to deal with the various points that have been raised, because it is for the Select Committee to consider them to consider them.

#### Mr. Chairman: Motion moved:

"That the Bill to provide for the better governance and administra-tion of Muslim Wakfs and the supervision of Mutawallis' management of them in India, be refer-red to a Select Committee con-

sisting of Dr. Syed Mahmud, Shri M. Hifzur Rahman, Shri Ahmed Mohiuddin, Shri Gurmukh Singh Musafir. Pandit Krishna Chandra Vallabh Tri-Sharma, Shri Hira pathi, Maulana Mohammad Saeed Masuodi, Col. B. H. Zaidi, Shri Mohanlal Saksena, Chaudhuri Hyder Husein, Shri Amjad Ali, Shri Syed Ahmed, Dr. N. M. Jai-soorya, Shrimati Subhadra Joshi, Shri C. C Biswas, Shri S. V. L. Narasimham, Shri Atma Singh Lall Ku-Namdhari, Shri Piare Talib. reel and the Mover, with instructions to report by the last day of the second week of the next session."

شرى ايم - ايچ - رحمان (مرادآباد تسترکت-سنترل): مستر چیرمین-مسلو کاظمی نے جو مسام وقف یہس کھا ھے میں اسے بہت ھی اھم اور فروری سبجهتا هوں - جهاں تک مجھے یاد ہے اس سے پہلے مختلف صوبوں اور پرانتوں میں اس بات کی ضرورت محسوس هوئي كه لاكهون كروزون روپیه کا وقف جو لوگوں نے مستجدوں -قبرستانوں - خانقاھوں کے لیے کیا ھے تو اس میں کوئی ایسا قانون هونا چاھیکے جس سے متولی صاحبان جو اپدی ذاتی فرض پوری کرنے کے لئے اس وقف کا ناجائز استعمال کرتے ھھی اِن کو ویسا کرنے سے روکا جائے اس کا صحیم طور پر استعمال هو سکے -ابھی ابھی مستر کاضمی نے چار صوبوں اور پرانتوں کا ذکر کیا - وهاں اس بل کی ضرورت کو متحسوس کرتے ہوئے انہوں نے ایے یہاں ایکٹ بنائے لیکن اس زمانے میں بھی ھم ایسی کمزوریاں اور خامیاں محسوس کرتے ھیں جس سے پوری طرح وہ کلٹرول نے

هو سکا جو هونا چاهیئے۔ پبلک میں جس زمانے میں آزادی کی جلگ لوی جا رهی تهی تو جهاں هم نے ملک، کی آزادی کا مسئله اور بہت سی باتیں لوگوں کو بتلائی تھیں تو ان میں مذہبی حیثیت سے اس ہات کی طرف توجه دلائی گئی که جب هماری قومی حکومت قائم هو تو هم اوقاف کے بارے میں ایک ایسا انتظام حکومت کے ذریعہ سے کرائیں کے جس سے کروزرں روبیہ جو نهک کام کے لئے لوگ وقف کو چکے ھیں وہ متولیوں کے ھاتھوں تباہ نہ هو اور اس کا صحصیم استعمال هو سکے - اس کے لئے کسی ہوی تقریر کرنے کی ضرورت نہیں ھے - میں متعسوس كرتا هون كه جس وقت یہ بل رائے عامہ حاصل کرنے کے لئے شائع کیا گیا اس وقت جندے متولی اور ان کے ایجیدت تھے ان کی معمولی منالفت کے علاوہ پورے ملک نے بنیادی طور پر اس کو ویلکم کیا اور خیر مقدم کیا اور اس کی ضرورت كو محسوس كيا - هان كچه چهوتي چهودی باتول میل اختلاف بهی پیش کیا ہے اور وہ ہونا بھی چاھیئے -مخاتلف رائے جو حاصل هوئی اس کے سانہ ساتہ سلیکات کمیٹی کو بههنجنے کی جو سفارش ہے تو وہاں جب ولا چیز جائے کی تو ولا تمام باتوں پر جن میں وہ چھوٹے چھوٹے اختلاف بهی هیں ان پر پوری طور

[شری ایم ایچ رحمان]

سے اور صحفیم طور سے فیصات کر لھا: جائے کا اور رائے بدائی جائے کی -اں لئے بجائے ، اس بات پر زور دیا جاتا که اس بل کو پاس کرایا جائے بہتر طریقہ یہی سمجھا کیا که اس کو ابھی سلیمت کمیتی مہر جانا چاهیئے تاکه وهاں همیں ان سب رانھوں پر مشورہ کرنے اور ان سے فائدة الله كر ابنا فيصله كرنے مير بهت مده ملیکی -

لهکن اس شرورت کو محسوس کرنا یقیداً هاؤمر کے ذمت ھے - اس وقت ایسے حالات میں بہت سے اھے ادارے درکاھوں کے تمام معاملات -مستجدوں کے معاملات اور بہت سے یتیموں اور بیواؤں کے معاملات - آپ کو اندازه هوکا که کسی قدر خراب ایر برياد هين - اور ولا محض ماولهون کی وجہ سے - اور وہ لوگ آج بھی ہوی بھاری بھاری رقبوں خرچ کر کے کوشفر کر رہے میں کہ بہ بل ته بننے پائے ۔ اور ان کو اس کی کھای چهوت مل جائے که ولا جس طرح سے چاھیں اپنا کام جاری رکھیں -اس لئے اس بل کا مقصد صرف ایک ھی ھے - بعض اوقات لوگوں میں یه فلطفهمی پیدا کرنے کی کوشھس كى كئى كه درحقيقت يه وقف بل اس لئے پیش کیا گیا ہے که گورنمذے ان اداروں پر زبردستی تیشه

کر لے کی - اگر ایک آدمی بھی اس كا فاط مقصد كے لئے استعمال كرتا هے مری سنجهتا هون که هاؤس مین یه بات کچھ زیادہ کہنے کی نہیں تھی ۔ لیکن باوجود اس کو بار بار اس کو کہا گھا ۔ میں ان لوگوں کو مطمین كرنا چاهتا هول كه اس بل كي جتني بهي دنعات هيي اكر ايمانداري کے ساتھ ان کو دیکھا جائے تو معاوم هوکا که اس میں ایک جمله بھی ایسا نہیں ہے کہ جس میں وقف کرنے والے نے جس مطلب سے وقف کیا ھے اس کو ادھر ادھر کرنے کی کنجائش رکهی کئی هو - اور اگر کسی کو کسی قدر شک و شهم بهی هو تو يه بل جس وقت اوپهلين حاصل کرنے کے لئے بہیجا گیا تھا کہ اگر سی صاحب كو إيسا محسوس هو رها هو که اس بل میں کوئی دفعه ایسی ھے کہ جس میں وقف کرنے والے نے جس مقصد کے لئے وقف کیا ھے اس میں ادھر ادعر کیا گیا ہے تو حبین بتلایا جائے اور هم اس تجویز او منظور کریں گے - لیکن چونکه ایسی کوئی چیز نہیں تھی اس لئے اس تمام پراپیکلڈے کا کرئی فاط نتیجہ نہیں هوا - اس ليه مين سمجها هون كه جو هماری قومی پارلیاملگ هے اس کو اخلائی طور پر اس بل کے پاس کرنے میں مماری مدد کرنی چاهیئے تاکم اس طرح کا بل ایکت کی شکل

میں ملک میں جا<sub>ری</sub> ھو - اور جتنے پرانت اور صوبے هدی جن میں ایسا وقف ایک نهیں هے ان میں بهی اسی روشنی میں وقف ایک ت بن سکیں اور جہاں یہ وقف ایکت بلے هوئے هيں ان ميں جو کرورياں اور شامیان هیی ان کو دور کیا جا سکے - اور اس ایکت میں جالی پرنسپل کی باتیں آئی ھیں ان کی مدد لے کو اس کو وقف ایکٹ کی شکل دے سکے - میں ان چدد الفاظ کے ساتھ اس بل کی حمایت کرتا

ھوں -

بهت سی ایسی مثالیں هیں جهان مسجدون مین - خانقاهون -مدرسون اور يعهم خانبن مهن يعهدون اور بھواؤں کی تعلیم کے بارے سین لوگوں نے روپئے خرچ کئے هیں اور مہولی لوگ اس میں کو ہو کر رہے هیں - اس کو بہتر بنانے کے لئے جو بل آپ کے سامنے پیس ھے اس کو آپ منظور کریں تاکه قانون کی صورت میں وہ آئے اور عام پہلک اس چیز کو معصوس کر سکے که قومی کاومت کے ذریعہ همیں سپورٹ ازر مدد ملی هے جو که هماری اخلاقی زندگی کو بہتر اور کامهاب بنا سکے -

ان الفاظ کے سانھ میں اس کی تائيد كرتا هون -

مواتنا مسودي (جمور ايند كشمير): جداب والا - وقف ہا کی ضرورت کے ہارے میں محصرک نے اور مولانا حفظ

الوحس ماحب نے بہت تفصیل <u>کے</u> ساتھ کہا ہے - میں سنجھتا ہوں کہ اس مرحلے ہر مزید کسی لمہی بحث کی کوئی خاص ضرورت نهیں *– اس* لله من اس بل كو سايكت كميتي کے سورہ کئے جانے کی تائید پر می اكتفا كرتاهون -

(English translation of the above speech)

Shri M. H. Rahman (Moradabad Distt.—Central): Mr. Chairman, I regard the Muslim Wakfs Biil introduced by Mr. Kazmi as very important. As far as I remember, various States have felt the need of a law which should prevent the Mutawallis from misusing the Wakfs running into crores of rupees made for mosques, graveyards and shrines. for serving their own personal ends and which should ensure their proper use. Mr. Kazmi referred to four States, where such Acts were enacted. But even at this time, we find certain loopholes on account of which the desired control could not be exercised. During the struggle for independence, along Shri M. H. Rahman (Moradabad trol could not be exercised. During the struggle for independence, along with other things we also drew the attention of the people to the fact that after the establishment of our National Government we would would be to be the stablishment of th al Government, we would urge the Government to make arrangements so that crores of rupees which have been given by the people as Wakf for noble causes should not be wasted by the Mutawallis but should be used properly. There is no need to make any big speech for this purpose.

I feel that when this Bill was published for the purpose of eliciting public opinion thereon, the whole of the country, ignoring the feeble opposition offered by the mutawallis and their agents, welcomed it in principle and expressed the need for such a measure. Of course, there are minor differences of opinion, which are in evitable. When the Bill goes to the Select Committee all these minor Select Committee all these minor points on which there is difference of opinion will be considered and a correct decision will be taken thereon. Therefore, instead of pressing for its passage, it was thought fit that for the time being it should be referred to the Select Committee, so that all the different opinions should be considered before arriving at part considered before arriving at a part considered before a part considered before a part considered before a part considered before arriving at any conclusion. At this time the affairs of many important institutions, shrines and mosques are in a mess and the condition of many orphans and institutions, shrines widows is pitiable and for all this the

2042

# [Shri M. H. Rahman]

mutawallis are responsible. These people are even today trying not to let this Bill be placed on the Statute Book by spending large amounts of money. They want that they should be free to go their own way. Therefore, this Bill has only one objective. Sometimes a wrong impression has been sought to be created among the people that through this Wakfs Bill. Government wants to take over these institutions forcibly. I would like to assure these people that if viewed honestly, it would be seen that in the whole of the Bill there is not a single clause which leaves any scope for the object of the Wakf to be interfered with or changed. As there was no such objection to this effect when the Bill was circulated for eliciting public opinion, all this propaganda has not yielded any untoward results. For this reason, I think that our National Parliament should extend its moral support for passing this Bill so that there should be a model Act in the country, and in those States which have no Wakf Act, such an Act may be enacted in the light of this Act and in others which do have a Wakf Act, their loopholes and shortcomings may be removed. With these words, I support this Bill.

There are many examples in which people have invested money on mosques, shrines, schools, orphanages and on the education of orphans and widows but where the mutawallis are trying to commit irregularities. This Bill is before you to improve the state of affairs. You are urged to pass it so that it may become a law and the general public may be able to realise the Government's desire to improve the tone of our moral life. With these words I support the Bill.

Maulana Masuodi (Jammu and Kashmir): Sir, the mover and Maulana Hifzur Rehman have dwelt at length on the necessity of this Bill. I think there is no peed to discuss this matter any further at this stage. Therefore, I would just support the motion for referring this Bill to the Select Committee.

The Minister of Law and Minority Affairs (Shri Biswas): If Muslim Members of this House desire that the Bill should be referred to a Select Committee. I cannot possibly raise any objection but for the information of the House, I should like to place before it a statement which I have prepared. It does not accord with what my hon. friend. Shri Mohammed Kazmi stated that opinion was overwhelmingly in favour of the Bill. It does not appear to be so according to the information which has

been placed before me. That information is this. The Bill has generally not found favour with important States. Take the Part A States tant States. Take the Part A States first. Punjab is the only State which welcomes the Bill, and the other States are opposed to it. The opposition is based on more than one ground. It is opposed because in many of the States, they already have or are going to have Wakf Acts and they do not want this. Those Acts they do not want this. Those Acts are functioning well and they do not want that there should be Central leg slation now and those Acts should be repealed. The States of U. P., Bombay, West Bengal, Madhya Pradesh and Assam definitely declare desh and Assam definitely declare that they do not want Central legislation. They are of opinion that each State should be left to promote legislation according to its own needs. Even if an all-India Bill finds favour with the House, those States will be accompanied them its own. prefer to be exempted from its operation, and left to themselves to be governed by the Acts which they have already got. The working of this Act for the last few years in many of the States has revealed some shortcomings, and in some of these States, steps have been taken, in other States steps are being taken in other States steps are being taken or will be taken, to correct those defects. Take, for instance, the U.P. Muslim Wakfs Act of 1936. A Committee of Enquiry was constituted under the Chairmanship of a former Judge of the Allahabad High Court, Mr. Niamatullah. That Enquiry Committee has submitted its report Mr. Niamatullah. That Enquiry Committee has submitted its report and the U.P. Government have brought forward an amending Bill making ex-tensive amendments in the existing Act. They have added a new chapter Act. They have added a new chapter regarding control to be exercised on the Wakfs' Board by the State. They do not want this new Bill because it will hamper their own amending Bill. Private opinions received from Uttar Pradesh are divided.

The State of Bombay is totally opposed to this Bill. They do not want the Bill to apply to that State. In 1950, the Bombay Public Trusts Act (Bombay Act XXIX) of 1950 was passed. It is applicable to all public, religious or charitable Trusts including a temple, a mosque or any other religious or charitable endowment irrespective of the religious character of that endowment. It is considered that it would be a retrograde step to make the present Bill applicable to Bombay. That is the opinion of the Government of Bombay.

Private opinions are also mostly opposed to the Bill in Bombay.

In the State of West Bengal, they have got the Bengal Wakis Act, 1934 and they do not consider that there is any need for a Central Board. That Act has been functioning quite effec-tively and satisfactorily for the last few years since 1934. The scheme of the present Bill is considered much .
too cumbersome, and they particularly object to the vesting of judicial or ly object to the vesting of judicial or quasi-judicial functions in the Central Board. If there is to be some authority to exercise judicial functions, that should be a de facto judicial authority. Private opinions received in West Bengal are also mostly opposed to the Bill. The State of Madhya Pradesh is opposed to the Bill. They are also of the opinion that each State should be left to legislate for itself. itself.

Shri Syed Ahmed (Hoshangabad): In Madhya Pradesh, they have not legislated.

Shri Biswas: Therefore they say that each State should be left to legislate for itself.

Shri Syed Ahmed: I may inform the hon. Minister that about three years ago, a Wakf Bill was brought before the Madhya Pradesh Legislative Assembly. The Hon. Minister Mr. D. K. Mehta said that it was not their concern to control and regulate wakfs in the province and that it should be done privately. They refused to entertain this Bill.

Shri Biswas: This is what is stated in the opinions which have been re-ceived from the States and which have been circulated. I do not know what happened in Madhya Pradesh three years ago. They say that the scheme of the Bill is too cumbersome scheme of the Bill is too cumbersome and that the wakfs cannot contribute towards the expenses of the Central organisation. If you read the Bill, you will see that there is a provision that wakfs from the States will have to contribute to the central fund for the purpose of maintaining the Central Board. Private opinions from Madhya Pradesh are also divided. Madhya Pradesh are also divided.

The State of Assam is opposed to the Bill. It agrees with the opinions of two Judges of the High Court, and both of them oppose the Bill.

As regards Bihar, opinion was received only the other day, and there also opinion is against the Bill. Madras has made no comments. But. the Board of Revenue of Madras is definitely opposed to the Bill. The opinions received from private persons and associations are divided, but the majority are against the Bill. Orissa is opposed to the Bill and is contemplating separate legislation of its own with reference to the peculiar needs of the wakf properties in that State. Coming to Part B States, PEPSU, Rajasthan and Saurashtra have no comments to make. Madhya Bharat is the only State which favours the Bill.
Hyderabad, Travancore-Cochin and
Mysore are opposed. In Hyderabad,
there is a uniform law governing Muslim and Hindu endowments.
Therefore, they do not welcome the present Bill. Their own Act is working satisfactorily and the present Bill, it is said, will have the effect of promoting sectarianism. The States of Travancore-Cochin and Mysore do not want All India legislation; or at any rate, they would like to be left outside the scope of this Bill if it is passed.

As regards Part C States, Bhopal and Coorg agree with the principle of the Bill. But, the other States have no comments to make. So, among the States, it would not be correct to say that there has been a warm or enthusiastic welcome to this measure. A very large number of measure. A very large number of letters and telegrams have been received in the Ministry from private persons; that number is very large. It is said that the Bill is a Jamaitul-Ulema group's move. (Some Hon. Members: No. no.) I do not know, I am not expressing any opinion; I amonly stating the opinions which have only stating the opinions which have been received in the Ministry. From these opinions it is gathered that the Sunni Mohammedans consider too nauch prominence has been given to Shias in this Bill. Many say that no distinction should be made between Sunnis and Shias. Those Muslims who belong the the Berling has been sunnis and Shias. school of thought or are associated with the Jamiat-ul-Ulema group, support the Bill.

As I said, most of the States who have opposed the Bill have considerhave opposed the Bill have considered that except very rich wakfs, wakfs generally will not be able to contribute to the expenses of the Central organisation. A uniform levy of 5 per cent is provided for in the Bill. In Bombay and U.P. the charges are not more than 2 per cent. Even then the wakfs find it very difficult to pay. Therefore, the only suggestion that I Therefore, the only suggestion that I am making is,—possibly, it will be advisable to ascertain the probable and the probable expenses of the Central organisation. The paying capacity of the wakfs in general should also be ascertained, before a scheme like that proposed in the Bill is promoted.

The other objection to which I have also referred to is that the scheme is considered to be cumbersome. It is said that a body of 30 or 32 persons will constitute the Central body. If there is to be any scheme, many of

# [Shri Biswas]

2045

the States want a common scheme for all Muslim wakfs, without any distinction between Shias and Sunnis. Hyderabad, as I said, goes further and wants a common law for endowments of all classes, not merely Muslim, but Muslim, Hindu and so on. That is That is the position.

It is proposed now to refer the matter to a Select Committee. If my Muslim friends want it let them have it. Having regard to the facts....

Shri S. S. More (Sholapur): On a point of order, Sir, the hon. Member has been repeatedly saying that if the Muslim Members want that the Bill should go to the Select Committee, he has no objection. Is it an explusive matter than Muslim and the select that the Muslim and the select than the select tha clusive matter for the Muslims alone or for the whole House? Will that be consistent with the Constitution?

Mr. Chairman: On this ground the hon. Minister has not stated so far whether he is opposed to the Bill or agreeable to it. He is only stating the facts. He has yet to say whether the Government is agreeable to this or not. If he says that Government is agreeable he is projectly entitled is agreeable, he is perfectly entitled to say it.

Shri Biswas: What I was suggesting was that Government do not take up a definite attitude one way or the other.

# Shri S. S. More: Why not?

Shri Biswas: I have placed this summary of opinions before the House. It will be for the House to consider what action it should take: whether it should support the motion for reference to a Select Committee or oppose it. So far as the Governmnt are concerned, they want to maintain an absolutely detached view.

#### Shri S. S. More: Non-committal.

Shri Biswas: That was what I was saying. As a matter of fact, if the House so desires, they may refer the Bill to a Select Committee. Speaking personally, if you ask my personal opinion and if I am at liberty to expense the state of the second sec press my opinion, I do not think that on the materials which have already been placed before the House and the opinions which have been circulated, there is any case for referring the Bill to a Select Committee. I would rather suggest to my friend that he might withdraw this Bill and prepare a better Bill. As a matter of fact, he had framed a Bill at an earlier stage. That was very defective. It was examined in the Ministry and the present Bill no doubt incorporates many of the suggestions which the Ministry had made on that occasion.

Shri Kazmi: No all the suggestions.

Shri Biswas: As I said, there are two matters which ought to be examination. The question as to the capacity of the State wakfs boards to contribute should be examined. It is no use laying down that 5 per cent. shall be paid, or alternatively reducing it to, say, 3 per cent. It is a matter for investigation. More time is necessary for that purpose. If Central legislation is promoted, it will be much better to carry the States with us. That attempt has not been made. We have the opinions of the States which are opposed to Central legislation. Therefore if my hon friend will withdraw this Bill—that is only a suggestion that I can make; nothing more than a suggestion—and take time to consider all these aspects, it is possible a better Bill may be introduced, if all the States agree to Central if all the States agree to Central legislation. That is all I have got to SAV.

**Shri S. S. More:** Will it not be possible for Government to give their consideration to this matter and come out with legislation covering all religious endowments, irrespective of religion, because such a measure is absolutely necessary? If Government can take the initiative, they can push through the Bill easily.

Shri Syed Ahmed: I am entirely in favour of that provided Government do not take too much time. They may take 20 years.

Shri Biswas: But, I may informthe House...

Shri S. S. More: Why not two months? Such a measure is absolutely necessary.

Shri Biswas: As soon as I came to know about this, I at once issued instructions to my Ministry to collect materials and facts for a comprehensive Bill on endowments. As a matter of fact, you will see I have before me here a book on endowments, both ndu and Muslim. My object is topromote a Bill which will cover endowments of all kinds. But then this

ments of all kinds. But then, this Private Member's Bill has been introduced, and therefore, all I could do was to place before the House the oninions I have received As a matter of fact, Government will do its duty. If I am here, I shall certainly bring forward a Bill which I consider satisfactory, dealing not merely with Muslim endowments or Hindu endowments, but all kinds of endowments. It is very necessary. I feel that. I have felt it all along. The materials are being collected.

Shri S. S. More: Such a measure will be consistent with our secular character.

Shri Biswas: I cannot promise that. I shall be in a position to bring it forward in the course of this year, but certainly next year it will be before the House.

श्री अलग् राय शास्त्री (जिला धाजम गढ़—पूर्व व जिला बिलया—पिचिश्म): ग्रध्यक्ष महोदय, मैं यह निवेदन करना चाहता हूं कि यदि ला मिनिस्टर का यह विचार है कि वह इस तरह का एक व्यापक विधेयक यहां पेश करेंगे तो फिर इस में समय लगाना बेकार होगा, खासकर इसलिये कि यह एक ग्रलग ग्रलग धार्मिक भावनाश्रों को ले कर कोई विधेयक ग्राय तो वह ग्रच्छा नहीं है, एक व्यापक विधेयक ग्राय तो ग्रधिक ग्रच्छा

Mr. Chairman: Order, order. The motion was placed before the House and the hon. Minister has replied to it. This is not the occasion for allowing fresh speeches. I will put the motion before the House.

ملستر أف ايجوكيش ايلذ نهجرل سائلتينفك ريسرج ايلڌ ريسورسز ( آزاد ( مولانا سمجهتا هول معاملة كي حيثيت صاف هو جانی جاهیئے اس لئے میں آپ کی اجازت سے جدد الفاط کہنا چاعتا ہوں - میرے دوست لاء منستر نے بتا دیا ہے که گورنمنت کا طوز عبل اس ہارے میں کیا ہے ۔ اگر ہاؤس کے مسلمان ممہروں کی مجاریتی اس بل کو آکے بوھانا چامتی هے ، تو گورندنت ان کی راه میں نہیں آئے کی - باقی رهی ولا

بات جسے انہوں نے ایلی ذائی رائے کی شکل میں ظاہر کیا ہے ، یعلی ایک نیا بل گورنمنٹ تیار کرے و تو اس بارے میں یہ بات ھییں یاد رکھنی چاھھئے کہ اس طرح کا کوئی فیصلہ ابھی گورنمنت نے نہیں کیا ہے اور نهیں کیا جا سکتا که گورنمنت اس طرے کا کوئی فیصلہ ابھی کر سکے گی یا نہیں - اکر آئے چل کر کوئی ایسا ہل یارلیملت کے سامنے آیا جس کے فريعه هلدو ۽ مساعاتين ۽ جهلهون اور سکھوں کے تمام اوقاف کی حفاظت و نکرانی کا انتظام کیا جائے گا ، تو ظاهر هے که که مرجودہ بل اس کی رالا میں حائل نہیں ہوکا اسے پارلیمنت ملظور کر کے اس ایکٹ کو ختم کر دیگی -

اس میں شک نہیں کہ اس بل میں بہت سی باتیں ایسی هیں میں بہت سی باتیں ایسی هیں جن پر مزید فور هونا چاهیئے لیکن اگر سلیکٹ کمیٹی میں یہ چلا گیا تو امید هے که ان پر پوری طرح فور کر لیا جائے کا اور پھر پارلیملٹ کو پررا موقعہ ملے کا کہ اپنا فیصلہ صادر کرے ۔

[English translation of the above]

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): I want the position to be clarified. Therefore I would like to say a few words with your permission. My friend, the Law Minister has explained the attitude of Government in this regard. If the majority of Muslim Members of the House want to pursue this Bill, Government would

2050

not come in their way. Regarding the point, which he has expressed in the form of his personal opinion i.e. Government should frame a new Bill, we should bear in mind that no such decision has been made by the Government as yet and it is too early to say whether it will be able to make such a decision. If in future a Bill seeking to preserve and administer all the Wakis belonging to Hindus, Muslims, Jainis and Sikhs comes before Parliament, the present Bill, it is clear, would not prove an obstruction. By passing this Bill, Government would repeal this Act.

There is no doubt that this Bill contains many things which require fur-ther consideration, but if it is refer-red to the Select Committee, it is hoped these will be fully considered and then Parliament will have ample opportunity to pass its verdict.

श्री राधेलाल व्यास (उज्जैन ) : माननीय सभापति जी, जो बिल हमारे सामने आया है उस के सम्बन्ध में अभी कई राज्यों की राम हमारे सामने आई है। नेरा ऐसा ख्याल है। कि अभी इस बिल को सिलैक्ट कमेटी को सप्दं करने में हाउस को जल्दबाजी नहीं करनी चाहिये। पहले तो सवाल यह है कि हिन्द-स्तान में केवल मुस्लिम वक्फ्स की ही हालत सराब हो ऐसी बात नहीं है, वल्कि हिन्दू वक्फ जितने हैं उन की भी वैसी ही हालत है। इस के अलावा और भी दुसरी कम्यू-निटी ब हैं। उनके जितने वक्फ़ हैं उन की भी हालत वैसी ही है। वाक़ई में जब ऐसी स्थिति है तो मैं गवर्नमेंट से यह निवेदन करूंगा कि उन को इन सब वक्फ की हालत को स्धारने के लिये और इनका पैसा फिज्ल खर्च न हो, इस का दुरुपयोग न हो, लोग बेजा फ़ायदा न उठायें, इस के लिये एक मुकम्मिल क़ान्न मेंट्रल गवनंमेंटको सारे हिन्दुस्तान के लिये जल्दी से जल्दी लाना चाहिये। यह प्रश्न इस तरह का नहीं है कि जिस की हम टकड़ों में तय करें। इसलिये इस में और भी पेचीदगियां होंगी।

अभी ला मिनिस्टर साहब ने फ़रमाया कि वम्बई गवर्नमेंट ने एक ऐसा कानून बनाया है कि जो सभी जाति के लोगों के वक्फ को सामने रखता है और वह एक सा सब के ॅलिये लाग होता है ।

مولانا آزاد - لاكو نهيل هوتا - مكر اس کو ایسا انہوں نے بنایا ہے کہ جو کامیونتی خود اینی خوشی سے چاھیکی تو اس يو لاكو هو جائے كا -

[English translation of the above] Maulana Azad: It does not apply to all, but it has been so formulated that it may be extended to any community which likes to have it.

भी राधेलाल व्यास : ती इसी तरह का एक कानून हमारे यहां भी बनान की जरूरत है।

एक और भी बात है कि इन वक्फों के सम्बन्ध में जहां तक हो, अदालतों को उन के साथ ज्यादा सम्बन्ध रहे। कोई भी मुत्वल्ली हो, और किसी तरह का भी उसका प्रावीजन हो वक्फ़ का कि किस तरह से वह खर्च किया जायगा, किस काम में खर्च किया जायगा, जैसाकि ट्रस्ट ऐक्ट के अन्दर एक तरीका बतलाया गया है, लेकिन उस के अनुसार कार्रवाई होती है या नहीं, यह अधिकार अदा-लतों को ही प्राप्त होना चाहिये। जिस तरह से कि बोर्डस वगैरह की बात इस में सुझाई गयी है, मेरा ऐसा स्थाल है कि उस से आगे चल कर कोई अच्छा नतीजानहीं निकलेगा बल्कि अलहदा अलहदा काम्युनिटीज कें उन की जात के बने हए बोर्डस कायम होगें।

Shri Raghunath Singh (Banaras Distt. Central): The Judge has got the right still.

> भी राष लाल व्यास: जज को राइट न साथ ही . . . . . . .

205I

श्री राघेलाल ग्यास : जी हां, आपने पढ़ा है, आपने सुने बगैर ही कह दिया। मेरे पास निशान लगा हुआ है।

एक माननीय सबस्य : पेज क्या है ?

श्री राधेलाल भ्यास : पेज ४, सैक्शन ८।तो इस तरह का इस का कांस्टीट्यूशन है:

Clause 8: "The Board shall consist of,-

- (a) four members to be elected in the manner prescribed by Muslim members of the respective State Legislatures,
- (b) four members to be elected in the manner prescribed by the Muslim members of the district boards. Municipal Boards; Town area and Notified area Committees of the respective States,
- (c) four members to be elected in the manner prescribed by the Jamiatul-Ulema and the teachers of the Sunni Madarsas Arabia.

मेरा ऐसा ख्याल है कि जहां ऐसे वक्क के सवाल हो वहां इस तरह के जातियों के आघार पर बोर्डस बनें, यह कोई एक अच्छी प्रया नहीं है। यह बात जरुर है कि पुराने जमाने में ऐसी प्रथा रही है। जितने हिन्दू वक्त है उन में हिन्दुओं को ही उन्होंने रखा है। लेकिन मैं यह भी कह सकता हं कि अभी कछ ऐसे भी वक्त मिलेंगे कि जिस में हिन्दु वक्फ़ में मुसलमान भाई भी शामिल हैं। मैं आप को मिसाल के तौर पर कहता हं कि मध्य भारत में यह चीज है । मध्य भारत सरकार की तरफ से जरूर इस बिल के पक्ष में राय आई है और में मध्य भारत का प्रतिनिधि हुं। लेकिन मैं अपनी निजी राय आप के सामने रखना चाहता हूं स्टेट में वक्क का कानून या और वह कानून औका का था वह केवल हिन्दुओं से ही सम्बन्ध नहीं रखता था, बल्कि मुसलमानों के या और किसी के जितने भी औकाऊ

थे, बाहे मन्दिर हों, मस्जिद हों, गिरजा हो, हर एक धार्मिक स्थानों से बराबर उस का सम्बन्ध था। औकाफ़ कमेटी होती थी, उस में हिन्दू, मुसलमान, सभी रहते थे। उस औकाफ कमेटी के सामने जब कभी भी दाखिल खारिज के मामले आते थे वह बराबर उन को तथ करती थी। जिला औकाफ़ कमेटियां भी थीं। इनाम कमिशनर बनेरह भी थे। वहां तक मामला जाता था। तो वक्फ़ दों तरह के हो सकते हैं, धार्मिक भी हो सकते हैं और दूसरे लोगों को मदद पहुंचाने के लिये, उन की पढ़ाई लिखाई के इन्त जाम के लिये, इस तरह के वक्फ भी हो सकते हैं।

तो में चाहता तो यह हं कि इस तरह की कमेटी बने, सारे देश में, कि जो सभी तरह के जितने भी बक्फ़ हों. उन को एडमिनिस्टर करे। उन को देखे और उन की देखभाल करे। उस का इन्तजाम करने के लिये समय समय पर उचित कार्रवाई करे, उस के नियम बने। में इस के डिटेल में तो नहीं जाना चाहता। लेकिन जबकि हिन्दुस्तान में अब आजादी बाद यह बात हो रहा है तो जो पिछली चीवों हैं, जिनका जिक्र स्टेटमेंट आफ आब-जैक्ट्स एंड रीजन्स में है, कई तरह के वक्क ऐक्ट में थे जो उस जमाने में बनाये गये थे जब हम आजाद नहीं थे लेकिन अब हमें मौजुदा स्थिति के अनुसार उन में अमैं-डमेंट करने की जरूरत है। में हाउस से यह गुज़ारिश करूंगा कि आज़ादी के बाद में जबिक हम जातीयता के आधार पर कोई भी काम नहीं करना चाहते, बल्कि सब के लिये समान व्यवहार करना है, तो जबकि सभी वक्कों की हालत खराब है तो एक ऐसा बिल गवर्नमेंट सामने लाये जोकि सभी की हालत को सुधारे। इस तरह छुट पुट एक एक करने में गवर्नमेंट का भी काम बड़ेगा। वह मसलमान भाईयों के लिये एक बोर्ड बनाये,

[श्री राषेलाल व्यास]

2053

हिन्दुमों के लिये दुसरा बोर्ड बनाये और फिर सरकार सिक्खों के लिये एक अलग बोर्ड बनाये और ऐडमिनिस्ट्रेशन चलाये, तो इससे तो सारे देश भर में बहुत काम फैल जायगा और मैं समझता हूं कि ऐसा करने में गवर्नमेंट का बहुत समय जाया होगा और साथ ही पैसा भी खर्च होगा अलग २ बोर्ड कायम करने में इसलिये मेरा यह नम्म सुझाव है, वैसे में मौजूदा बिल के उसूल के खिलाफ नहीं हूं और में चाहता हं कि इसके लिए वाकई कोई मा.हल इन्तजाम होना चाहिये, क्योंकि हमारे देश का करोड़ों रुपया ऐसे कामों में लगा हुआ है और लोग उससे बेजा फायदा उठाना चाहते हैं और उठा रहे हैं और पैसे का दुरुपयोग हो रहा है, इसलिये गवर्नमेंट को जल्द से जल्द कोई ऐसा कानुन सामने लाना चाहिये कि एक दम सारे देश भर में से वह इस बुराई को खत्म कर सकें, इस बेसिस पर और इस बिल के जो उसुल और प्रिंसिप्लस हैं, उनके आधार पर में इस बिल का विरोध नहीं करना चाहता हुं।

डा० सैय्यद महमूद (चम्पारन पूर्व) : मुझे बहुत ताज्जुब हुआ कि ऐसे इन्नोसेंट बिल के मुताल्लिक यहां पर इस कदर बहस मुबाहिसा हुआ। जहां तक मृतवल्लियों की राय का ताल्लुक है, वह तो इसके खिलाफ़ जायगी ही क्योंकि यह तो उनको इस तरह लोगों का जो रुपया लगा हुआ है, उसका नाजायज इस्तेमाल करने से रोकेगा, मुझे पुरा इल्म है कि मुतवल्लियों ने इस बिल के खिलाफ़ कितने तार भिजवाये, यह तो कोई ताज्जुब की बात नहीं है, वह लोग हजारों रुपया इस तरह के प्रोपेगेंडा पर खर्च कर सकते हैं और हजार पांच सौ तार भिजवा दिये, लेकिन आपको समझना चाहिये कि यह तार और रिप्रेजन्टेशन्स सारे इन्हीं मुतबल्लियों द्वारा भिजवाये गये हैं और आप यह न समझ बैठें कि राय आम इस बिल के खिलाफ़ है। बाक़ी जहां तक कि अदालत के मुताल्लिक कहा गया है, तो मैं आपको बतलाऊं कि वहां पर यह होता है कि एक बड़ा fraud होता है और एक आदमी किसी वक्फ़ पर मुझदमा लाता है और कुछ दिन मुकदमा चलता है, उसके बाद वह मुतवल्ली उससे आपस में समझौता कर लेता है और बात मान लेता है और लाख, दो लाख रुपया या पचास हजार, जितना भी रुपया तय हो जाता है, मुद्दई और महालय ला जाते हैं और कम्प्रो-माइज डिग्री पास हो जाती है। मुझे इस तरह के बिलों को पास कराने का काफ़ी तजुर्बा है, हिन्दु चेरिटेबिल इंडाउमेंट एक्ट को पास कराया, रिलीजस इंडाउमेंट के मुताल्लिक दो वर्ष लग गये, सिक्खों और जैनियों ने बहुत मुखालफ़त की, जैनियों ने बहुत शदीद मुखालफ़त की, दोनों दिगम्बरों और क्वेताम्बरों के सम्प्रदायों ने मुखालफ़त की, सिक्खों ने भी मुखालफ़त की और उसके पास कराने में दो वर्ष लग गये और किसी तरह राजी नहीं होते थे कि हिन्दू रिलीजस इंडाउमेंट ऐक्ट में शामिल किये जाय। आज जो यह बिल पेश है, उसका मक़सद सिर्फ़ इतना है कि जो रुपया जाया हो रहा है, उसकी निगरानी की जा सके, में जानता हं कि जब हिन्दू रिलीजस इंडाउमेंट बिल वहां पास किया जा रहा था तो इसी तरह जो रुपया ट्रस्टीज के द्वारा जो महन्त आदि होते थे, खर्च होता था, उन लोगों ने भी ऐसे बिल की सख्त मुखालफ़त की थी और पास न होने देने के लिये काफ़ी रुपया लर्च किया, और कांग्रेस गवर्नमेंट ने बड़ी मुश्किल से इसको पास किया, इसलिये मेरा कहना है कि आज जब हम यह मुस्लिम वक्फ़ एक्ट पास करना चाहते हैं तो मुतवल्लियों की तरफ़ से यह तार और मुखालफ़त कुदरती है क्योंकि वह जो रुपया जाया कर रहे हैं,

Muslim Wakfs Bill

उस पर सरकार रोक लगाने जा रही है. इसलिये मेरा तो कहना यह है कि इसको मेहरबानी करके सेलेक्ट कमेटी में जाने दीजिये ताकि यह जल्दी पास हो और जिससे आज जो इतना रुपया वनक का जाया हो रहा है वह बचाया जा सके, जो लोग इसके बदले दूसरा बिल लाने की सोच रहे हैं उनसे मैं कहना चाहुंगा कि इसको सेलेक्ट कमेटी में जाने दीजिये, क्योंकि काफ़ी देर हो चुकी है और इसकी पास कराने में अब देर न होनी चाहिए, एक साल से यह बिल पेश है और इसमें कोई ऐसी चीज नहीं है जिसके वाक़ई कोई भी खिलाफ़ हो, हां वेस्टेड इंटरेस्ट वालों की मुखालफ़त और परेशानी तो समझ में आने बाली चीज है। अलबत्ता जब यह बिल सेलेक्ट कमेटी को जा रहा है तो वहां हम सब मिल कर इसपर खुब सोच विचार करेगें और इसको और बेहतर बनाने की कोशिश करेंगें, मुझे उम्मीद है कि हाउस इस मामूली और इन्नोसेंट चीज पर और जयादा मजीद बहस न करके इसको सेलेक्ट कमेटी में भेजने को सिफ़ारिश करेगा, वहां से लौटने के बाद हाउस को फ़िर इस पर गौर करने का मौका होगा। लेकिन इस वक्त इसको सेलेक्ट कमेटी में भेजा जाय और मुझे उम्मीद है कि हाउस को इसमें कोई उपा नहीं होगा।

श्री टंडन (जिला इलाहाबाद पश्चिम): अध्यक्ष महोदय, में इस बिल पर अधिकार के साथ तो कुछ कह नहीं सकता। लेकिन जो बातें में ने अभी सुनी उनके आधार पर मुझे कोई ऐसी बात नहीं लगती जिससे इस बिल के सेलेक्ट कमेटी में जाने में हम बाधक बनें। यह ठीक है, और में भी इसका स्वागत करूंगा, कि एक ऐसा बिल आवे कि जो देश भर के सब दानों के लिए लागू हो, लेकिन में अपने दोस्त डाक्टर महमूद से सहमत हूं, कि मुमकिन है कि इस तरह का बिल आने में

बहुत वर्ष लगें। मुझ को भी अपने सुबे में कुछ तजुर्वा है कि वहां इस बात की कोशिश हई कि धर्मादि और मठों आदि के पास जो जो सम्पत्ति है उसका ठीक २ उपयोग किया जाय। परन्तु हमारे रास्ते में बहुत कठिनाई आई। अगर हमारे मुसलमान भाईयों ने अपने वक्फ़ों का ठीक इन्तजाम कराने के लिये एक रास्ता सोचा है, तो महज इस वजेह से कि वह सिर्फ़ मसलमानों के लिये है और उस में सब शामिल नहीं हो सकते, हम उसमें रुकावट डालें यह बात मुझको बिल्कुल गलत मालूम होती है। आखिर मजहबी रास्ते पर काम पुराने समय से हैं; वह बहुत जल्दी तो नहीं बदल जायंगे, हिन्दओं के लिये भी तो आप उनके ब्याह शादी के मताल्लिक एक अलग कानून बनाने का यत्न कर रहे हैं। वह बिल हिन्दू नाम से आ रहा है कुछ हिन्दू शादियों के लिये एक कानून को जरूरत पड़ जाती है; वैसे मैं पसन्द करूंगा कि जहां तक हो सके अलग २ मजहबों के ऊपर हमारे कानून न बनें, लेकिन वह चीज एकबारगी तो हो नहीं जायगी। मुस्लिम वक्त बहुत पुराने वक्त से चले आ रहे हैं और यह भी मुझ को अन्दाजा हो रहा है कि मतवल्ली लोग उनका ठीक इन्तजाम नहीं कर रहे हैं और उनका विरोध इस बिल के बारे में ठीक उसी प्रकार से है जैसे हमारे कुछ महन्तों ने हिन्दू धर्माद और मठ सम्बन्धी प्रस्तावित कानून का विरोध किया था। इस बिल के पास होने से यह होगा कि वह पैसा जो अब तक मुतवल्लियों द्वारा बेजातौर से खर्च होता है वह पैसा अब गरीब भाईयों के काम में आयगा। इसलिये मुझे तो कोई ऐसी वजह नहीं मालूम होती कि हम महज़ इस बिना पर कि यह सिऊँ मुस्लिम वक्फ़ के लिये है; विरोध करें। जब एक मिली जुली चीज हमारे सामने आयेगी तब हम उसका स्वागत करेंगे।

# श्रीटंडन]

अभी मौलाना अबुल कलाम आजाद साहब ने फ़रमाया था कि यह चीज कोई रकावट नहीं डालेगी। मुझ को भी कोई बुरी बात इस में समझ नहीं पड़ती। यह भी सदा कहा जा सकता है कि जरूरत होने पर यह कानून समाप्त किया जाय। हमारे एक भाई ने कहा कि बम्बई में कोई इस तरह का कानून है जो हिन्दु मुसलमान दोनों पर लागु होता है और शायद उस पर इस का असर अच्छा न पडे। अगर ऐसी शंका हो भी तो सेलेक्ट कमेटी में इस पर गौर कर लिया जायगा । मगर हम इस बिल को सेलेक्ट कमेटी में न जाने दें यह बात मुझको सही नहीं मालूम होती। मैं इस बिल को यह सहारा देना चाहता हूं कि यह बिल सेलेक्ट कमेटी के हवाले किया जाय और वहां पर इस में जो परिवर्त्तन जरूरी समझे जायें किये जायें।

Shri Pataskar (Jalgaon): I had no desire to speak on this Bill because I am not opposed to its being referred to a Select Committee. But I want to bring to the notice of the House one matter about which I would like to place some information before the interpretation. place some information before them. In the State of Bombay sometime in the year 1948 or so a Committee was appointed presided over by an eminent High Court Judge to formulate proposals to enquire into all possible religious Trusts, whether Muslim, Jain or otherwise. That Committee made a detailed report and in conformity with that report they have passed mity with that report they have passed the Bombay Public Trusts Act XXIX of 1950. I was a member of the Bomof 1950. I was a member of the Born-bay Legislative Assembly when that Act was passed and I can, therefore, say that clause 13 of Section 2 of that Act makes it applicable to all trusts, whether they are Jain, whether they are Muslim, whether they are Hindu or whether they are of any variety. Not only that, but Charity Commis-sioners have been appointed.

Mr. Chairman: Is there no option?

Shri Pataskar: No option. I will, therefore, quote the opinion which the Bombay Government have forward-

"I am to state that the Govern-ment of Bombay have already en-

acted a law known as the Bombay Public Trusts Act (Bom. XXIV of 1950). This Act is made applicable to all public trusts which are defined in clause (13) of section 2 to mean, express or constructive trusts for either a public, religious or charitable purpose or both and include a temple, a math, a wakf (a dharmada) or any other religious or charitable and or any other religious or charitable and over the construction of the construction o ligous or charitable endowment etc.

Accordingly by section 85 of the Act, the Mussalman Wakf Act 1923, as amended by Bombay Act No. XVIII of 1935 ceased to apply to wakfs in the State of Bombay 100 ceases and 1935 ceased to apply to wakfs in the State of Bombay 100 ceases 1935 ceas

Not only that, but they have also said that the Muslim Wakfs Act has not remained applicable to wakfs so far as Bombay State is concerned, because they have introduced uniformity in all this legislation. Not only that. Some people took up this matter to the High Court of Bombay saying that this Act came in the way of certain fundamental rights, but even then it has been upheld by the High Court of Bombay. In their opinion the Bombay Government has also stated: Government has also stated:

"The Bombay Public Trusts Act has been upheld by the Bombay High Court as constitutional in its entirety and it is, therefore, apparent that none of the freedoms guaranteed by the Constitution are in the least affected".

Of course, I do realise that it may not be possible just now to pass a legislation applicable to the whole of India and applicable to all the communities thereof. It might take some years. I do not also want to stand in the way of the Muslims of any particular part having an Act passed so far as they are concerned, because subsequently it may be repealed. But so far as the Bombay State is concerned. there is already an Act existing.

Shri Kazmi: We have already exempted places which have got their own Acts, such as Uttar Pradesh and Bihar, and if the Select Committee thinks it necessary, we can very well exempt others also on that ground.

Shri Pataskar: My point is a little different. I would, therefore, like to read in full again, to bring it to the notice of the House, the opinion of the Government of Bombay. It is clearly mentioned there. They have a better legislation, a legislation which is in conformity with article 44 of the Constitution a legislation which is already in tution, a legislation which is already in operation, a legislation whose validity had been challenged and established in

the High Court of Bombay and which is already working whatever controversy there might have been before the Act was passed as regards Jains, Hindus, Christians etc. I would therefore like to bring to the notice of the House that whatever they do, they should not try to make this present legislation applicable only to the Muslims of Bombay, because we are already advanced. So far as Bombay to the Muslims of Bombay, because we are already advanced. So far as Bombay to concerned, we have already an Act which is made applicable to all sections irrespective of any distinction of religion. And after all possible tests, controversies and opposition that Act is already working very smoothly and there are now no complaints. Therefore, I would suggest that in any case, it should not apply to Bombay, because this Bill when passed, being a Central legislation, might supersede the Bombay Act which is a legislation by a State, and unnecessary conflicts would arise. Therefore, I would appeal to the Members of the Select Committee and to the hon. Mover of this Bill—'Whatever you do, please see that under no circumstances will this Act be made applicable to the State of Bombay which has already got a legislation which is better and which is more in conformity with the Constitution. (Interruption). I will again under it:

"Accordingly by section 85 of the Act, the Mussalman Wakf Act, 1923. as amended by Bombay Act "XVIII of 1935 ceased to apply to wakfs in the State of Bombay".

That is the present position legally, as the Government itself has communicated to us in their opinion.

"In enacting this law the Government of Bombay have followed irrective principle contained in article 44 of the Constitution, namely, that the State shall endeavour to secure for the citizens a uniform Civil Code throughout the territory of India. The problems concerning control of administration of the property of religious trusts, be they wakfs, temples or any other kind of religious trusts, are the same and ought to be dealt with in the same manner consistent with in the freedom guaranteed by articles 25 and 26 of the Constitution. The Bombay Public Trusts Act has been upheld by the Bombay High Court as constitutional in its entirety and it is, therefore, apparent that none of the freedoms guaranteed by the Constitution are in the least affected. Moreover, sufficient provision has been made in the Bombay Public Trusts Act of 1950 to see that in-

ternal management and even the control by the Charity Commissioner on the administration of property etc. is effected in accordance with public opinion of the religion concerned".

They have taken all possible steps. Therefore, I gave the history of this legislation. They had appointed a very strong Committee presided over by an eminent High Court Judge and they spent a good deal of money over this. That report was published. It was circulated for eliciting public opinion. All possible objections were raised. Then the Bill was passed and now that legislation, which I think is more consistent with the principles of our Constitution and about which now there is no complaint and it is smoothed working, should not in the least be disturbed by anything which we might choose to do in this House.

I realise the force of the argument that if a Bill on the lines of the Bombay Act was to be passed and made applicable to the whole of India, probably it might lead to so many complications and might mean only delay of this legislation. So in the meantime, I do not mind it. But they have got their own separate legislation which is uniform. So far as Bombay is concerned, they have taken all possible steps in this matter and have got in their Statute book a law which is consistent with the Constitution and which is far better from every point of view. So I do not think it would be desirable and proper for our House in any way to give ground for upsetting that piece of legislation which is working so very well and smoothly. If any one has any doubts on the matter, he can easily get the information from the Government of Bombay.

But. as I have said, the fact is—and the fact has been admitted by the Government of Bombay—that there is an Act which is applicable to all, which has passed through all possible tests, and it would not be proper on any ground whatsoever to disturb the state of law as it exists there. Therefore the Bombay State should be naturally excluded from the operation of any Act or provisions which the Select Committee or this House might itself pass subsequently.

श्री रघुनाथ सिंह: सभापति जी, जो कुछ हमारे राजर्षि जी ने कहा है मैं उसका हृदय से समर्थन करता हं। हमें उस्ल को देखना है। जैसा कि हमारे व्यास जी ने कहा इसमें जाति की कोई बात नहीं है। उनको यह

# श्री रचुनाय सिंह ]

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समझना चाहिये कि जाति और धर्में में फ़र्क है। हिन्दु धर्म में भी भिन्न भिन्न जातियां हैं। धर्म एक मौलिक चीज है। जब हम इस देश में रहते हैं तो यहां तो हिन्द भी है, ईसाइ भी हैं और मुसलमान भी हैं, और दसरी जातियों के लोग भी है। हम को हर धर्म के लोगों को यह अधिकार देना चाहिये कि वह अपनी धार्मिक बस्तुओं का प्रबन्ध कर सकें। आप काशी में चिलिए, गाजीपुर में चलिए, बलिया में चलिए मैं आपको दिखाऊंगा कि वहां वड़ी बड़ी इमारत खड़ी है, लाख लाख रुपये की एक एक इमारत खड़ी है, लेकिन उनका कोई प्रवन्ध नहीं है । लोग उन के ईट पत्थर को उठा उठा कर ले जाते हैं। इस वास्ते हमको कुछ न कुछ इस तरह का युनीफ़ार्म ला सारे हिन्दुस्तान के लिये बनाना चाहिये ताकि इन इमारतों का प्रबन्ध हो सके । कहा गया है कि कई एक स्टेटों में इस प्रकार के कानन हैं। अगर कई स्टेटों में इस प्रकार के कानून हैं तो फ़िर इसमें क्या हर्ज है कि एक केन्द्रीय नियम 'सारे हिन्दुस्तान के वास्ते बन जाय कि जहां त्तक वक्फ़ों का सवाल है युनीफ़ारमिटी हो जाय। इस वास्ते में इस बिल का समर्थन करता हूं, और केवल इस वात पर नहीं कि इससे जातिबाद को किसी प्रकार का प्रोत्साहन मिलेगा। अगर हमारे किसी हिन्दू भाई के दिल में इस तरह का सन्देह हो तो वह इसको निकाल दे। मैं एक उदाहरण दूं। में खुद चाहता हूं कि काशी के लिए ऐसा बिल हो। काशी विश्वनाथ जी का जो मन्दिर है उसको बनवाने वाली अहिल्या बाई थीं। अब वह मन्दिर न उनके या उनके खानदान वालों के हाथ में है और न किसी खास आदमी के हाथ में है। वहां दो सौ बरस से लिटीगेशन होता आ रहा है और जो आमदनी आती है, उसे सब लोग सा जाते हैं। इसी प्रकार से

काशी विश्वनाय के मन्दिर में एक ज्ञानवापी की मास्क हैं। वह बहुत पुरानी मास्क है लेकिन , उसका इन्तिजाम कोई नहीं करता। लेकिन जिस मसजिद में चार पैसे की आमदनी हो नाती है उसके वास्ते हर तरह के लोग तैयार हो जाते हैं। इसलिये अगर कोई इस प्रेंकार का सेंट्रल ला बन जाय तो इससे हिन्दुस्तान का बहुत उपकार होगा।

दुसरे हमारे भाई व्यास जी ने सेक्शन ८ का हवाला दिया । जौ लोग वकालत करते हैं, और हम भी करते हैं, वह जानतें हैं कि आजकल अदालतों में मसजिदों और मठों के बहुत मुकदमे चलते हैं। खासकर जब से य० पी० में जमीदारी एबोलिशन कानन बन गया है तब से सिबिल कोर्टस में मठों और मास्कों के बहुत ही ज्यादा मुकदमें चलने लगें हैं। इससे बहुत परेशानी हो रही है। इसलिये इसी तरह का कोई न कोई बिल हिन्दुओं के लिये भी होना चाहिए। इसमें धर्म का कोई प्रदन नहीं है। जिसकी जो चीज अच्छी हो उसको मान लेना चाहिए। खास करके जब व्यास जी को और पाटस्कर जी को यह मंजूर है कि कानून होना चाहिए। ऐसी हालत में इसकी सिलेक्ट कमेटी में जाने दें और उसके सम्बन्ध में जो उनके सुझाव हों, उनको वह उसके पास भेज दें। उसमें अमेंडमेंट हो जायगा। व्यास जो ने जज के अधिकार के बारे में कहा। इस बिल में भी जज के अधिकार महफ़्ज़ हैं। इस वास्ते महफ़ुज हैं कि अगर कोई मृतवल्ली चार पैसे की भी चोरी करता तो यह अदालत में ले मामला जाया जा सकता है। आज हम क्या कर सकते हैं। आज कुछ भी नहीं कर सकते इस वास्ते हमारी प्रार्थना है कि इस बिल को सिलेक्ट कमेटी में जाने दें अंर जो कुछ सम्राव उस पर हों उनको आप सिलेक्ट

कमेटी के पास मेज दें सासकर ऐसी अवस्था में जबकि इस बिल को लाने वाले मेम्बर भी इसको मंजूर करते हैं, पाटस्कर जी भी मानते हैं और व्यास जी भी मानते हैं। इस बास्ते मेरी प्रार्थना है कि इसको सिलेक्ट कमेटी में जाने दें और जिस बक्त यह हाउस में आवेगा तो जो संशोधन करना होगा कर दिया जायगा।

# Lala Achint Ram rose-

Mr. Chairman: It has been sufficiently discussed. Does the hon. Member want to press any new point?

लाला अचित राम (हिसार): मुहतरिम सदर जी, में एक बात दरियाफ्त करना चाहता हूं कि सिलेक्ट कमेटी के अन्दर यह मामला जायगा उस क्क्त अगर कोई साहब यह संशोधन पेश करना चाहें कि जो बम्बई का एक्ट है उसी को एक्सटेंड कर दिया जाय तो क्या वह ऐसा कर सकेंगे। यह कह कर तो उसको नामंजूर नहीं कर दिया जायगा कि वह तो मुस्लिम क्क्फ की चीज है। तो में यह जानना चाहता हूं कि अगर सिलेक्ट कमेटी में कोई यह तजवीज करना चाहे कि जो बम्बई का एक्ट है उसी को एक्सटेंड कर दिया जाय तो उस पर कोई एतराज तो नहीं होगा।

श्री रघुनाथ सिंह: यह कैसे हो सकता है।

Shri Biswas: That cannot be done.

Mr. Chairman: If the hon. Member does not want to make a reply he need not.

श्री काखमी: बम्बई के एक्ट के एक्सटेंशन का सवाल होगा तो उसके लिए तो दूसरा लैजिस्लेशन आपको लाना पड़ेगा। बम्बई का एक्ट इस बिल की मार्फ़त तो नहीं ला सकते हैं।

Mr. Chairman: Order, order. The talk should not be between two Members.

Shri Kazmi: He wanted an explanation; I gave the explanation.

Mr. Chairman: Certainly, I wanted to give him an opportunity but the hon. Member did not stand up. May I take it that he does not want to give any further explanation?

Shri Kazmi: I am very sorry I gave a very wrong impression to the hon. Law Minister. There is an overwhelming majority of opinions in favour. My friend objects that the report regarding the opinions given to him does not say so. I given to him does not say so. I have gone through the opinions very carefully and I have tried to understand them. The basic principle is that there should be some body to supervise the various waqfs. That is an axiom which is accepted by everybody. My friend quoted Uttar Pradesh as being opposed to the Bill. So far as the individual opinions from Uttar Pradesh are concerned, every one of them is in favour. So far as the Government is concerned, they one of them is in favour. So far as the Government is concerned, they say that by the creation of a Central Board the expenses will be doubled. Probably they have not fully considered the provisions of chapter III which provides only a co-ordinating Board. The apprehension of some of the gentlemen is that by creating a Central Board, the expenses of the Board shall be doubled. That is not so as we have tried our best not to invest the Board with any such functions that it will have to run a big office or anything like that. The Central Board will only be a sort of consulting body between the various State Boards so that there may be some supervision and some co-ordination. It is at the option of the Select Committee to accept it or not to accept it. It is only one chapter. the Government is concerned, they Select Committee to accept it or not to accept it. It is only one chapter. Persons from West Bengal say that they are perfectly satisfied with our Act. Similarly Bihar was satisfied with their Act. The Bill says that its provisions shall not apply to Bihar. Everyone accepts that supervision is necessary but persons interested in the Boards say 'We have a Board and we are working it satisfactorily'. They we are working it satisfactorily. They say they are satisfied with the work, while persons not so connected say that they are absolutely dissatisfied. We also say, 'if you are satisfied, we do not want to disturb you.' It need to be said to b not be followed in every province. Everyone agrees that legislation is absolutely necessary, but the difficulty is that when we start legislating, they begin to oppose it. Take, for example, Madras. Several attempts have been made to pass a wakf Bill, but they do not succeed due to the opposition of the Mutawallis. If we agree that there must be administra-

# [Shri Kazmi]

tion and that there must be some body to look after and supervise the Mutawallis, where is the question of any opposition? Whether the Government brings the Bill or a private Member brings it, it should not matter. Various State Governments have already enacted similar Acts. As a matter of fact, in our work we have the guidance of at least four States. The fifth one is Bombay. Everything is before us. After all, you have these various Members in the Select Committee and they can put their heads sincr and come to a particular onclusion.

As far as the present Bill is concerned, after drafting it, I submitted a copy to the Ministry of Law. They made some suggestions and I incorporated them. The hon. Law Minister will preside over the Select Committee and will be the guiding spirit. Anything suggested by the Select Committee will come up before the House. I myself am not in a position to give any undertaking or to say anything, but I want to say only this, that there must be some body to supervise the Wakfs and let us know the various defects pointed out by various States or individuals. We shall consider them all and if we think that it is not a workable scheme, then we will leave it; otherwise, we shall go ahead. This is all that I have to submit.

#### Mr. Chairman: 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, be referred to a Select Committee consisting of Dr. Syed Mahmud, Shri M. Hifzur Rahman, Shri Ahmed Mohiuddin, Shri Gurmukh Singh Musafir, Pandit Krishna Chandra Sharma, Shri Hira Vallabh Tripathi, Maulana Mohammad Saeed Masuodi, Col. B. H. Zaidi, Shri Mohanlal Saksena, Chaudhuri Hyder Husain, Shri Amjad Ali, Shri Syed Ahmed, Dr. N. M. Jaisoorya, Shrimati Subhadra Joshi, Shri C. C. Biswas, Shri S. V. L. Narasimham, Shri Atma Singh Namdhari. Shri Pyare Lal Kureel Talib, and the Mover, with instructions to report by the last day of the second week of the next session."

The motion was adopted.

# OKPHANAGE BILL

# भी एम० एल० द्विबेही (जिला हमीर

# पुर) : I beg to move:

"That the Bill to provide for bringing up, maintenance and education of children who have lost their parents and have no other person to look after them in proper manner, be taken into consideration."

सभापति महोदय, मैं सदन के सम्मुखः एक ऐसा बिल विचार करने के लिये रख रहा हूं जिसके द्वारा इस वात का इन्त-जाम किया जायगा कि वे बच्चे जिनके माता पिता स्वर्गवास कर गये है तथा जिनकी. देखभाल करने के लिये संसार में कोई उचित **अ्यक्ति नहीं है, उनका इन्तजाम सरकार** की तरफ से किया जाय। सदन को यह बताने की आवश्यकता नहीं है कि संसार में जितने देश हैं और जो सभ्य है, हर जगह ऐसे कानन बन चुके हैं, जहां पर इस क़िस्म के बच्चों की तालीम, शिक्षा तथा भरण पोषण के लिये इन्तजाम किया गया है। इंगलैंड में, अमेरिका में और बड़े बड़े मुल्कों में इस तरह के कानून मौजूद हैं जिनकी प्रतियां कुछ मेरे पास मौजृद हैं। जब तक हमारे देश का शासन क्योंजों के हाथ में था वह यह हालत गवारा कर सकते थे कि इस देश के बच्चे उपेक्षित रहें, क्योंकि इस देश के बच्चों की जागति में और उन का उचित प्रबन्ध करने में उन को कोई विषेश दिलचस्पी नहीं हो सकती थी। ऐसा उन्र के लिये तो माना जा सकता है। लेकिन जब से हमारा देश स्वतंत्र हो गयाः है, हमने एक नया विधान बना लिया है, तो इस बात की अत्यन्त आवश्यकता है कि हमारे देश के ऐसे बच्चे जोकि बिल्कुल अनाथ हैं, जिनके भरण पोषण का कोई उचित प्रबन्ध नहीं है उन का उचित प्रबन्ध किया जाय और उचित व्यवस्था की जाय। में सदन का घ्यान इस ओर आकर्षित करूंगा कि आम तौर से देखा जाता है कि