

**Mr. Speaker:** No, no. Hon. Members have no right, except when I call them, on their own to make a statement in this House. They must give me notice and if I considered that that matter ought to be brought up here I would allow it. So far as this question is concerned, I called him as I called the various other hon. Members.

**Shri Vajpayee:** I am not putting any question in regard to this matter now. I have already given notice of a motion seeking to raise a discussion on the Government's decision to create a separate Naga State. The motion is there. You are to consider that motion.

**Mr. Speaker:** Very well. I will consider that motion, but not today.

12.43 hrs.

#### BANKING COMPANIES (AMENDMENT) BILL\*

**The Minister of Finance (Shri Morarji Desai):** Sir, I beg to move for leave to introduce a Bill further to amend the Banking Companies Act, 1949.

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

"That leave be granted to introduce a Bill further to amend the Banking Companies Act, 1949."

*The motion was adopted.*

**Shri Morarji Desai:** I beg to introduce the Bill.

12.44 hrs.

#### BUSINESS ADVISORY COMMITTEE FIFTY-SECOND REPORT

**The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha):** I beg to move:

"That this House agrees with the Fifty-second Report of the

Business Advisory Committee presented to the House on the 3rd August, 1960."

**Shri Braj Raj Singh (Firozabad):** May I make a submission in respect of item No. 7? 18 hours are allotted for the discussion on the Third Plan. I submit that it is not sufficient.

**Mr. Speaker:** Hon. Member has not tabled any amendment. What is the good of it? Only ten hours were originally allotted. Was the hon. Member in the Business Advisory Committee meeting? I think he was not present. There was a desire that we should have four days fully. I suggested fifteen hours—three days and then I said that we might sit every day for one hour more and thus have three hours more. Shrimati Renu Chakravarty said that it was very difficult to have quorum. Therefore, I said that these three hours might be added to the 15 hours. Thus, the time has been extended to 18 hours. I think it would be sufficient. The question is:

"That this House agrees with the Fifty-second Report of the Business Advisory Committee presented to the House on the 3rd August, 1960."

*The motion was adopted.*

12.47 hrs.

#### RELIGIOUS TRUSTS BILL—contd.

**Mr. Speaker:** The House will take up further consideration of the following motion moved by Shri R. M. Hajarnavis on the 3rd August, 1960, namely:—

"That the Bill to provide for the better supervision and administration of certain religious trusts, be referred to a Joint Committee of the Houses consisting of 45 members; 30 from this House, namely, Shrimati Mafida Ahmed, Pandit Braj Narayan "Brajesh", Shri V. Eacharan, Shri S. C. Gupta, Shri

[Mr. Speaker]

R. K. Khadilkar, Shri Krishna Chandra, Dr. Pashupati Mandal, Shri C. Krishnan Nair, Shri Ghanshyamlal Oza, Shri Chintamani Panigrahi, Shri C. R. Pattabhi Raman, Shri Khushwaqt Rai, Shri N. G. Ranga, Shri Jaganatha Rao, Shri M. Thirumala Rao, Shri K. R. Sambandam, Shri Bholi Sardar, Shri Ajit Singh Sarhadi, Lt. Col. H.H. Maharaja Manabendra Shah of Tehri Garhwal, Shri Prakash Vir Shastri, Shri Mahendra Nath Singh, Shri N. Siva Raj, Shri Nardeo Snatak, Shri V. N. Swami, Shri Ram Shai Tiwari, Shri Manikya Lal Verma, Shri Pendekanti Venkatasubbaiah, Shri Radhelal Vyas, Shri K. G. Wodeyar, and Shri Asoke K. Sen

and 15 members from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee, the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the end of the first week of the next Session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of members to be appointed by Rajya Sabha to the Joint Committee."

Shri Hajarnavis may continue his speech.

**The Deputy Minister of Law (Shri Hajarnavis):** Mr. Speaker, I was dealing yesterday with the definition of a 'person interested'. I mentioned that this person was an important figure in the functioning of this Act because upon his zeal, upon his sense of responsibility and integrity will depend the successful working of the scheme underlying the Act. We will meet

this person when we deal with clauses 7, 17, 18, 19 and 21. The definition is:

"any person who has a right to worship or to perform any rite, or to attend at the performance of any worship or rite in any religious institution connected with such trust, or to participate in any religious or charitable ministrations made under such trust,

(ii) the founder or any descendant of the founder or such trust, and

(iii) the trustee."

The other main definition is 'religious trust'. It has been defined to mean—

"any express or constructive trust existing or created for public purposes of a religious nature, whether associated with purposes of a charitable nature or not, but does not include a private endowment for religious purposes in which the public are not interested."

I may mention that there is a peculiar feature of Hindu law that there can be a private religious trust though such a concept is foreign to English law. In this definition, unlike the definition under the Bihar Act, we have expressly mentioned the word "for public purposes" so as to remove any kind of doubt and make it clear that the private religious trusts are not sought to be controlled or brought within the functioning of this Act. There was an analogous definition in the Bihar Act but there were no words like 'public purpose'. Yet on an interpretation of the definition and also consideration of the scheme of the Act which is like our scheme, the Supreme Court in the *Ram Swarup case* came to the conclusion that what was sought to be supervised under the Bihar Act was the public trust. We do not intend to take any chance and we do not want to leave any room for doubt. Therefore, in the definition we have said that these trusts must be for public purposes. I also mentioned that a

Commissioner is appointed under clause 3.

Under clause 4, it is said that an Advisory Board shall be appointed to advise the State Government in relation to the administration of religious trusts. The composition of this Advisory Board is given in sub-clause (2), where it is said:

- “(2) The members of the Advisory Board shall be chosen from amongst one or more of the following categories of persons, namely:—
- (a) members of the State Legislature and members of Parliament representing the State;
  - (b) persons connected with religious activities in the State;
  - (c) persons connected with social, charitable or educational activities in the State; and
  - (d) persons having special knowledge of administration, finance or law.”

It is also said in sub-clause (3) that the Commissioner shall be an *ex officio* member of the Advisory Board.

Clause 5 of the Bill gives the jurisdiction of the Commissioner. It says:

“(1) Subject to the provisions of this Act, the Commissioner may do all such things as may be reasonable and necessary to ensure that all religious trusts within his jurisdiction are properly administered and that the income thereof is duly appropriated and applied to the objects of such trusts and in accordance with the purposes for which such trusts were founded or for which they exist, so far as the objects and purposes can be ascertained.”

While I am at it, I hasten to point out that there is a right of appeal to the High Court against every order of

the Commissioner. Under clause 23 of this Bill, it is said:

“An appeal shall lie to the High Court from every order of the Commissioner made under this Act within a period of sixty days from the date of the order.”

So the Commissioner in exercising his functions is subordinate to the full appellate jurisdiction of the High Court. So far in many of the State Acts, there has been no provision for appeal to anybody outside the Commissioner. Therefore, if the High Court had to be brought in at all, it could only be brought in under the supervisory jurisdiction under article 226 or article 227. But here we have provided that every order made by the Commissioner shall be subject to an appeal to the High Court.

**Shri Kalika Singh (Azamgarh):** There must be a definition of the word “order”, otherwise even summoning a witness may come under appellate jurisdiction.

**Shri Hajarnavis:** My learned friend, who is a distinguished and acute lawyer, knows that the word “order” has a definite signification and it is not necessary to define it at all. Even in the Civil Procedure Code, the word “decree” has been defined and every other order that is made is said to be an order. The Civil Procedure Code has been functioning without that definition of the word “order”. An order is, I believe, a pronouncement of the court or authority which creates rights or imposes obligations on the party. This is its well-known significance and every lawyer is aware of this significance.

**Shri Kalika Singh:** Every lawyer is confronted with that difficulty everywhere.

**Shri Hajarnavis:** Not if he knows the law.

**Shri Khushwaqt Rai (Kheri):** There are lawyers who do not know law.

**Shri Hajarnavis:** Then, sub-clause (2) of clause 5 says:

[Shri Hajjarnavis]

“(2) without prejudice to the generality of the provisions of sub-section (1), the powers and duties of the Commissioner shall be—

- (a) to maintain a record containing full information relating to the origin, nature, extent, income and objects of all religious trusts in the State;
- (b) to ensure that the accounts of religious trusts are properly maintained and audited;
- (c) to ensure that the income from every trust property is properly applied to the objects of the religious trust and the surplus is invested in accordance with the provisions of this Act;
- (d) to give directions, wherever necessary, for the proper administration of any religious trust in accordance with the law governing such trust and the wishes of the founder, in so far as such wishes can be ascertained;
- (e) to settle schemes of management for religious trusts in accordance with the provisions of this Act;”

Then, by clause 6 a duty has been imposed upon the trustee of every religious trust to make an application to the Commissioner for the registration of the trust. In that application for registration, he will mention the designation by which the religious trust is or shall be known or the name of the trust, the names and addresses of the trustees and the manager, the mode of succession to the office of the trustee, the movable and immovable properties forming the subject matter of the trust and a description thereof sufficient for their identification, the approximate value of the movable and immovable trust-property, the gross annual income from such property, an

estimate of the expenses annually incurred in connection with such religious trust etc. It is also said that every such application shall be accompanied by a copy of the trust deed or, if no such deed has been executed or a copy thereof cannot be obtained, the application shall contain full particulars, as far as they are known to the applicant, of the origin, nature and object of the trust.

Then, in clause 7, it is said:

“On receipt of an application under section 6, the Commissioner shall, in the prescribed manner, make such inquiries as he thinks fit in respect of the application and the correctness of the particulars therein and may, in particular, make an inquiry in respect of all, or any of the following matters, namely:—

- (a) whether there is a trust and whether such trust is a religious trust;”

Therefore, when a dispute arises or a controversy is raised between any person who is administering a trust and the other party, whether it is a public trust or not, the Commissioner in the first instance will give a finding whether it is a trust, whether it is a religious trust. On that, as I have already pointed out, there is a good first appeal to the High Court on this question. Then the sub-clause further says:

- “(b) whether any property is the property of such trust;
- (c) whether the whole or any substantial portion of the trust property is situated within his jurisdiction;
- (d) the names and addresses of the trustees and the manager;
- (e) the mode of succession to the office of the trustee;
- (f) the origin, nature and object of such trust;”

When these things mentioned in (e) and (f) are determined, there shall be very little room for any kind of dispute arising later on.

**Shri Tyagi (Dehra Dun):** In case the trustee does not give a full list of the properties of the trust, will there be any clause to penalise him for it?

**Shri Hajarnavis:** I will deal with that question also.

Then, the other matters also may be enquired into. Clause 8 says that a register shall be maintained and whatever information is obtained as a result of the enquiries they may be entered in the register. Now, on this point, I may draw the attention of the House to clause 27 which says:

"The Commissioner may, on an application made to him in this behalf by any person, furnish to the applicant copies of any extract from the register maintained under section 8, on payment of such fee as may be prescribed and subject to such conditions as may, from time to time, be determined by the Commissioner."

Therefore, whatever information there is relating to the trust and which has been finally ascertained by the Commissioner after enquiry, subject to such appeals to the High Court as may have been filed by the parties, it is open to public scrutiny. If anyone wants to have the information as to who the trustees are, what the property is, what the objects of the trust are, any person can have it immediately by obtaining a certified copy under clause 27.

Clause 9, naturally, provides for amendments also to be entered in the register. Clause 10 prescribes that where there are State Acts and under the State Acts a religious trust has been already registered that registration would be regarded as having been done under this Act and it is not necessary to go over the whole process once again.

Clause 11, I submit, is again a salutary provision. It says:

"The trustee of every religious trust shall prepare every year, in such form and within such time as

may be prescribed, a budget of the estimated income and expenditure of such trust for the next financial year and shall forthwith send a copy thereof to the Commissioner:

Of course, this will not apply to very small trusts where the income is less than Rs. 5000. In sub-clause (2), it is said:

"The Commissioner may, after giving notice to the trustee in the prescribed manner and after considering his representation, if any, make such alterations or modifications in the budget as the Commissioner thinks fit."

This is subject to a very important limitation under sub-clause (3). Sub-clause (3) says as follows:

"Nothing contained in subsection (2) shall be deemed to authorise the Commissioner to restrict or prohibit the observance of any religious practice or the performance of any act in pursuance of any religious belief to alter or modify any budget in a manner or to an extent inconsistent with the wishes of the founder of the trust so far as such wishes can be ascertained or with the provisions of this Act."

So, whatever power he might have to alter the budget, he cannot question any sum which is set apart for religious purposes or which is proposed to be expended in accordance with the wishes of the founder of the trust.

### 13 hrs.

Then the trustee shall keep regular accounts and the accounts shall be in the form which may be prescribed and will contain such particulars as may be prescribed so that the Commissioner may find it easy to see what the income of the trust is and in what manner it is being expended and so on.

Sub-clause (3) of clause 12 says:

"For the purpose of ensuring the proper maintenance of accounts of any religious trust, the Commissioner may, after consulting

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the trustees of the religious trust, appoint a person to keep accounts for the trust."

But this shall not be exercised unless the annual income of the trust is Rs. 25,000 or more.

Then I submit that clause 13 is again a wholesome provision. It says that wherever there is no immediate use for any money, then it shall be secured, that is, it shall be invested in securities. This provision is in line with the provisions under the Trusts Act which applies to private trusts with which I am sure every Member of the House is acquainted. So, the money shall be invested in securities of the Central Government or the State Governments, and also:

"stocks, shares or debentures of companies, the interest or dividend on which has been guaranteed by the Central Government or any State Government; and

debentures of other securities for money issued by or on behalf of any local authority or corporation in exercise of the powers conferred by any Central Act or any Provincial or State Act."

So, any money which is not immediately required to be expended shall be secured by being invested in what we call approved securities. But this of course does not apply to any investment made before the commencement of this Act. In the absence of such a provision, the trustee may keep the money in deposit with a firm which he thinks is quite solvent but probably may be unable to return the money when the money is called for. Therefore, it is necessary to secure the trust funds and this is a provision analogous to the provisions contained in the Trusts Act.

Now, keeping the accounts leads logically to the auditing of accounts. Auditing is provided for in clause 14. Under clause 14, if the income is not less than Rs. 5,000, then one of the

chartered accountants shall be appointed, as usual, after consultation with the trustee. The auditors shall have access to the accounts and get all facilities for the purpose of effecting the audit. The cost of audit shall be borne by the State Governments. This of course comes out of the fee which the Government collects from all the States, but the cost will be borne by the State Governments.

Clause 15 confers the usual power, enabling the Commissioner to go into and enter upon and inspect any property or to call for or inspect any book, records or correspondence.

**Mr. Speaker:** Are we going clause by clause at this stage? What is expected at this stage is to make a general statement as to what exactly the principle is, how it has to be worked out, etc.

**Shri Hajarnavis:** I am grateful to you, Mr. Speaker, for your kind direction. I was about to come to clause 16 which is an important feature of this Bill, by which no transfer, by a trustee, of any immovable property can be made by way of sale, mortgage, gift or exchange for a term exceeding three years, and it shall not be valid, unless it is made with the previous sanction of the Commissioner.

These are the basic requirements of the Bill. We are not in any way trying to interfere with the management of the religious trusts in accordance with the tenets of religion or denomination which has created the trusts. The trustees will also carry out the will of the founder of the trust. As a matter of fact, all these provisions are intended to ensure that the whole machinery created by this Bill will work in aid of carrying out the objects of the Trust. The other provisions are merely ancillary to this scheme, and I commend the principles of this Bill to the acceptance of the House.

**Sardar A. S. Saigal (Janjgir):** On a point of information. I want to know

from the Minister a clarification about clause 34. Sub-clause (a) of clause 34 says:

“(a) any Sikh Gurdwara to which the Sikh Gurdwaras Act, 1925, applies;”

That is, the provisions of this Bill will not apply to any Sikh Gurdwara to which the Sikh Gurdwaras Act applies. As the Sikh Gurdwaras Act applies only to Punjab, may I know if the provisions of this Bill will apply to the gurdwaras outside Punjab?

**Mr. Speaker:** Wherever the Sikh Gurdwaras Act does not apply, this religious Trusts Bill, if it is enacted, will apply.

**Sardar A. S. Saigal:** But there is no provision like that in this Bill,—that this Bill will apply to gurdwaras which are situated outside Punjab.

**Mr. Speaker:** The provisions of this Act shall not apply to any “Sikh Gurdwara to which the Sikh Gurdwaras Act, 1925, applies.” For all the others, to which the Sikh Gurdwaras Act does not apply, the provisions of this Bill, if enacted, will apply. Motion moved:

“That the Bill to provide for the better supervision and administration of certain religious trusts, be referred to a Joint Committee of the Houses consisting of 45 members; 30 from this House namely, Shrimati Mafida Ahmed, Pandit Braj Narayan “Brajesh”, Shri V. Eacharan, Shri S. C. Gupta, Shri R. K. Khadilkar, Shri Krishna Chandra, Dr. Pashupati Mandal, Shri C. Krishnan Nair, Shri Ghanshyamal Oza, Shri Chintamani Panigrahi, Shri C. R. Patabhi Raman, Shri Khushwaqt Rai, Shri N. G. Ranga, Shri Jaganath Rao, Shri M. Thirumala Rao, Shri K. R. Sambandam, Shri Bholi Sardar, Shri Ajit Singh Sarhadi, Lt. Col. H. H. Maharaja Manabendra Shah of Tehri Garhwal, Shri Prakash Vir Shastri, Shri Mahen-

dra Nath Singh, Shri N. Siva Raj, Shri Nardeo Snatak, Shri V. N. Swami, Shri Ram Sahai Tiwari, Shri Manikya Lal Verma, Shri Pendekanti Venkatasubbaiah, Shri Radhelal Vyas, Shri K. G. Wodeyar, and Shri Asoke K. Sen and 15 members from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the end of the first week of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of members to be appointed by Rajya Sabha to the Joint Committee.

I have received notices of two amendments: one from Shri Naushir Bharucha and the other from Shri Khushwaqt Rai. The amendment of Shri Naushir Bharucha says that the Bill be circulated for the purpose of eliciting opinion while the amendment of Shri Khushwaqt Rai says:

“that the Joint Committee may also consider the question of applying the provisions of the Bill to the Charitable Trust.”

For charitable trusts, there is a separate entry in the seventh schedule to the Constitution. In the concurrent list, “Trust and Trustees” is a separate entry. Charitable trusts and charitable institutions come under another entry. The hon. Member wants to enlarge the scope of

[Mr. Speaker]

the Bill by the addition of charitable trusts. Therefore, his amendment is out of order. All the same, I will give him an opportunity to speak.

**Shri Khushwaqt Rai:** May I say a few words?

**Mr. Speaker:** I will allow him later.

**Shri Khushwaqt Rai:** I only want to say something in favour of the amendment which I gave notice of I do not want to speak.

**Mr. Speaker:** I have ruled it out.

**Shri Khushwaqt Rai:** But I wanted to say a few words before you ruled it out.

**Mr. Speaker:** I will allow him to say afterwards.

**Shri Kalika Singh:** About the charitable endowments, the position is clear. Clause 37 of the Bill says:

"The following enactments, namely:—

(i) The Religious Endowments Act, 1863;

(ii) The Charitable Endowments Act, 1890;" etc.

shall not apply to any religious trust to which this Act applies."

So, the point is clear.

**Shri Naushir Bharucha** (East Khandesh): I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st October, 1960."

**Shri Khushwaqt Rai:** May I say a few words now? I do not want to speak at length as I am on the Joint Committee. I only wanted to enlarge the scope of the enquiry by the Joint Committee.

**Mr. Speaker:** I have ruled out his amendment. I will allow him later.

**Shri Khushwaqt Rai:** It cannot be helped then.

**Raja Mahendra Pratap** (Mathura): I would also like to speak a few words about the trusts.

**Mr. Speaker:** Yes; hon. Members who are on the Joint Committee will not be allowed to speak. Others may speak. Shri Bharucha's amendment is before the House with the motion.

**Shri Naushir Bharucha:** While I have moved that the Bill be circulated for purposes of eliciting public opinion thereon by the 31st October, 1960, let me make it clear at the outset that I fully welcome the provisions of this Bill. There is no doubt that there has been considerable mismanagement of religious trusts and misappropriation of funds. As far back as 1950, the Bombay State took up this matter and enacted the Bombay Public Trusts Act, the provisions of which are much more severe and stringent than the provisions of this Bill. As you, Sir, have rightly pointed out, it will not be possible for us to enlarge the scope of this Bill so as to include charitable trusts, though I wish it had been possible for this House to entertain the amendment to this effect moved by my hon. friend, Shri Khushwaqt Rai.

So far as the scheme of the Bill is concerned, it appears to be on the whole well thought-out. There is provision for a Commissioner, Deputy Commissioners and Assistant Commissioners of religious trusts, but the powers that have been given to these Commissioners, to my mind, for ensuring the proper administration of the trusts, do not appear to be adequate. For instance, clause 5 defines the powers of the Commissioner. Clause 7 relates inquiries for registration. There are also certain powers given under clause 19, to which I will come later on. These powers are inadequate and I hope the Joint Committee will arm the Commissioner and his Deputy and Assist-



ant with adequate powers to deal with mismanagement of trusts and malpractices.

Naturally, for the purpose of this Bill, registration of trusts becomes necessary. But I am here doubtful about this point that there will be numerous border-line cases where a trust may be participating of the character either of a religious trust or of a charitable trust. For example, clause 7 deals with this type of trusts. Where there is a trust which participates even of charitable objects which are not of a religious character, but if such charitable objects are associated with religious objects, then it is regarded as a religious trust.

There may be many composite trusts and it will be extremely difficult to find out whether a trust is a religious or charitable trust. I submit, therefore, that the definition of a religious trust may be suitably amended and the Joint Committee might look into it and remedy it by some such amendment that a religious trust means:

“any express or constructive trust existing or created for public purposes of a religious nature, whether associated incidentally with purposes of a charitable nature or not...” etc.

The word ‘incidentally’ should be there. If it is substantially associated with purposes of a charitable nature and if the religious object is merely incidental, then I really doubt whether we have power to enact such a type of legislation merely by enacting the definition of ‘religious trust’ in a particular way. I desire that this aspect may be looked into.

One other defect, which is a serious matter, relates to clause 10, dealing with special provisions for trusts where trusts have been registered under other enactments. In Bombay State—if I may confine my observations to that State—we have got a separate Public Trusts Act and all

charitable as well as religious trusts have been registered under it. Under clause 10, it is pointed out that registration under, for instance, the Bombay Public Trusts Act, would be deemed to be registration under this Act. So, actually you are subjecting one trust to dual authority. Is the trust to comply with the directive issued by the Commissioner in Bombay or with the directive issued by the Commissioner of Religious Trusts under this Act?

Secondly, should such trusts also again pay the contribution required to be paid by the trusts? Already in Bombay we are paying 2 per cent. on the gross value of the trust. I should like to know whether in addition, they have to pay 3 per cent. more, which would really mean an intolerable burden. So, I hope the Joint Committee will look into it in greater detail and see whether there is any purpose served by means of clause 10 by exposing the trusts to dual control, dual registration and dual contribution. I think that point requires to be clarified. Otherwise, the trusts will be unnecessarily burdened. So far as Bombay State is concerned, our Act is much better than this Act which is proposed to be enacted. What is the charm in having an Act which is less stringent for a purported better administration when the trust is already working under a better Act? I submit that this dual control, dual supervision and dual contribution will create difficulties and put an unnecessary burden on the trusts.

**Shri Kalika Singh:** The Central Act will not apply where there is already a State Act.

**Shri Naushir Bharucha:** There is no such provision in this Act. In fact, clause 10 is very clear. It says:

“Where any religious trust has been registered in a State before the commencement of this Act under any other enactment relating to trusts in force in that State, the religious trust shall be

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deemed to have been registered under this Act as from such commencement."

That point has to be carefully looked into.

There is another rather serious defect to my mind, though I wish it would be possible for us to enact clause 11, providing for budgets being submitted. When an Act requires the preparation of a budget which should be submitted to the Commissioner and empowers the Commissioner to alter or amend the budget....

**Dr. M. S. Aney** (Nagpur): Under clause 35, power is given to the Commissioner to exempt from this Act any religious trust for which there is some other enactment.

**Shri Naushir Bharucha**: I do not think clause 35 includes power to the Commissioner to exempt trusts in violation of clause 10. The fact must remain that as soon as this Act comes into force, it will be applicable to all these trusts registered under other Acts. What may happen subsequently is different.

**Shri Hajarnavis**: Clause 1 (3) seems to have escaped the hon. Member's attention. It says:

"It shall come into force in a State on such date as the State Government may, by notification in the Official Gazette, appoint."

13.18 hrs.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*].

**Shri Naushir Bharucha**: That does not cover my point, because once it is brought under the purview of this, you are subjecting it to dual control.

**Shri Hajarnavis**: If they want to retain their own Act, they may not make the notification.

**Shri Naushir Bharucha**: What is the charm in enacting an Act when

there is a much better Act in force already?

**Shri Hajarnavis**: At present certain States do not have these provisions. Certain States have more advanced provisions. It is certainly not the intention of the Government or the House that more advanced law should be replaced by one which does not go far enough. It is left to the State Government.

**Shri Naushir Bharucha**: Supposing the Bombay Government chooses to apply this Act?

**Mr. Chairman**: This may be clarified by the Joint Committee whether we should allow two jurisdictions to compete with one another.

**Shri Hajarnavis**: We will keep that in mind in the Joint Committee, but we have not been oblivious of this difficulty.

**Shri Naushir Bharucha**: Clause 11 requires that the trustees of a religious trust should prepare every year the budget and the Commissioner may, after giving notice to the trustees, make such alterations or modifications as the Commissioner thinks fit. The hon. Minister in charge of the Bill, while making his motion, said that they do not want to interfere with the religious affairs of any denomination. May I point out that article 26 of the Constitution provides that every religious denomination shall have the right to manage its own affairs in the matter of religion? Now when we give the Commissioner the power to alter the budget of a trust, we are really giving him power very effectively to interfere with the management of the trust. He can dictate saying that he will approve of this policy and not that policy, he will approve of this religious practice and approve money to be spent on this and disapprove another religious practice where permission to spend money may not be given. That is absolutely within the purview of the Commissioner. If the trustees, rightly or wrongly, differ

from the opinion of the Commissioner, they cannot spend money on any religious practice or ceremony or on whatever they think fit.

**Shri Hajarnavis:** Is that not covered by sub-clause (3)?

**Shri Naushir Bharucha:** It says:

“Nothing contained in subsection (2) shall be deemed to authorise the Commissioner to restrict or prohibit the observance of any religious practice or the performance of any act in pursuance of any religious belief to alter or modify any budget ....”

He will say “according to my opinion that practice is not a religious practice covered by this and so you shall reduce that expenditure”. Who decides that? Therefore, giving power to the Commissioner to alter or amend the budget, which he may do extensively, is not proper. Assume for a moment that there is a religious practice which has to be followed for ten days. He may say “you may follow it for one day”. He can do this by restricting the amount to be spent on this. Therefore, my submission is that this clause will have to be very carefully looked into, and sub-clause (3) will have to be worded much more comprehensively. The point I am making is that anybody who has got the control over the budget, in this case the Commissioner, can effectively interfere with the affairs of the trust. They may not be interfering in form but they may be interfering in fact. So, all these things require to be looked into very carefully.

**Mr. Chairman:** This interference can be brought about by exercising powers under clause 18 also. Suppose a *mahant* or somebody else is extravagant in his personal expenses. When the budget is sent for approval his personal expenses are curtailed. So, both these provisions empower the Commissioner to interfere with the expenses of a particular institution. Suppose clause 11 is taken

away. Even then, clause 18 gives power to the Commissioner to interfere and modify the budget by setting a new scheme. He can settle a scheme which is not liked by the institution and entails expenses or increases them on particular activities. These are really safeguards against extravagant expenditure on unnecessary items.

**Shri Naushir Bharucha:** So far as settlement of schemes is concerned, that is a different point. My submission is that unless clause 11 is suitably amended it will be possible, for instance, for a Commissioner by so controlling the purse-strings of the trust that he may effectively interfere with the religious practices though not in form. That is all what I wanted to say.

Coming to the provisions relating to maintenance of accounts, investment of trust money, audit of accounts, inspection and returns and alienation of immovable property, they are all right and acceptable.

Coming to the doctrine of *cy pres*, here it is provided that all persons interested may make an application—I am referring to clause 17—to the Commissioner. But I think that in order to prevent frivolous applications being made additional safeguards are necessary. For instance, I would put down “not less than five persons of the same denomination”.

**Shri Hajarnavis:** “person interested” is defined. It is not simply one who says he is interested.

**Shri Naushir Bharucha:** We should provide that not less than five persons should make an application. Secondly, provision should be made, in order to discourage frivolous applications, for deposit by the applicant for costs. Otherwise, what would happen is that there would be long litigation where the costs involved would be heavy. Subsequently, the burden will fall on the religious trust to recover the costs and when it files an application it will

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find that the applicant is a bankrupt. These things do happen and so I submit that some such provision should be there for safeguarding the trusts from frivolous applications.

Then, the phrase used in clause 17 is "in the opinion of the Commissioner". It reads:

"Where on an application made in this behalf by two or more persons interested in a religious trust or otherwise, the Commissioner is of opinion that any object of the religious trust has ceased to exist or is incapable of achievement...."

I would submit that the interpretation of the word "is of opinion" is not a justiciable issue. Where the words "is of opinion" are used, it means that absolute discretion is given to the Commissioner. I think there should be some such words as "the Commissioner has reasonable grounds to believe".

**Mr. Chairman:** If "is of the opinion" is taken away and the word 'finds' is substituted, absolute discretion would be taken away.

**Shri Naushir Bharucha:** My submission is, so far as I understand when the expression used is "is of the opinion" no court can interfere to find out whether the Commissioner has sufficient grounds for forming that opinion. That has been repeatedly held by the courts. Therefore, I want some such words as "reasonable grounds" introduced so that light-heartedly an enquiry should not be started. Because, these are very long drawn out cases and when they are fought the expenses are extremely heavy and they will be ruinous so far as small trusts are concerned.

Coming to clause 19, it reads:

"Where on receipt of any report of the auditor in respect of a religious trust or on an application made in this behalf by two or more persons interested in the

trust or otherwise, the Commissioner has reasons to believe that the affairs of the religious trusts are being mismanaged...."

I am of the opinion that some greater power should be vested in the Commissioner. In cases where affairs are mismanaged if a show cause notice is issued there is every possibility of the trustees doing away with incriminating evidence, or suppressing evidence which might go against them. I do not see why the Commissioner should not be given power, on a affidavit filed by persons, to order seizure or search of the trust premises. It is very desirable that power is there. Otherwise, what might happen is that in many cases of mismanagement the moment a trustee is made wiser of it by the issue of show-cause notice, it will do away with the incriminating evidence and this provision will not be of any use.

Then I come to clause 20, which relates to the power to remove trustees. There again the wording is rather vague. It says:

"Notwithstanding anything contained in the deed of a religious trust, the Commissioner may.... if the Commissioner is satisfied that the trustee—

(a) has been convicted more than once of an offence punishable under this Act;...."

The offence may be of a trivial nature as not filing returns. A trustee may err in this respect. Surely there is not a ground for removal. So, just saying "more than once of an offence punishable under this Act" is not quite fair. Then, sub-clause (b), reads:

"has been convicted of an offence of criminal breach of trust or any other offence involving moral turpitude".

What may be moral turpitude from the religious point of view may not be moral turpitude from the secular

point of view. It is very difficult to find what is moral turpitude. I think this clause requires to be recast in a more precise form.

**Sbri Hajarnavis:** Which clause is it?

**Shri Naushir Bharucha:** Clause 20.

Then regarding the appointment of trustees, the Commissioner is rightly given the power to appoint them. But what has been done is that trustees as far as possible of that religious denomination may be appointed. I cannot reconcile myself with sub-clause (2) of clause 21 which says :

“In appointing a trustee under sub-section (1), the Commissioner shall, as far as possible, select a person of the religious denomination or section to which the trust belongs.”

I do not see why the words “as far as possible” should be inserted here. Surely in any community or religious denomination half a dozen people can be found for this purpose of acting as trustee.

**Shri Hajarnavis:** Suppose, they are not willing.

**Shri Naushir Bharucha:** You cannot find men in the whole community?

**Shri Hajarnavis:** Suppose, in case they are not willing.....

**Shri Naushir Bharucha:** It is most surprising that in the whole community there would not be anyone. I am not prepared to accept it. This may give a handle to somebody to play mischief and import some person who is not of the same religious denomination as the trust is. It is not that I am personally against this type of management, but after all we have got to respect the sentiments of people in a type of trust where religious questions are involved. Surely, speaking of my community, I would like the trustees to be Parsis of Zoroastrian religion. That is

natural. It is not that I would object to anybody coming in, but he would not understand the spirit of the religion and the traditions of the community as well as one belonging to the same denomination would. So, my submission is that that also requires revision.

One more point that I shall take up before concluding is that under clause 30 it has rightly been laid down that the Commissioner shall be made a party to certain suits of certain character, not the ordinary suits for arrears of rent or other things. It says:

“In every suit or proceeding.... in respect of any religious trust or property belonging to such trust, whether instituted by a trustee or by any other person, the court shall issue a notice of the institution thereof to the Commissioner.”

This is necessary. But, I think, a simpler and more convenient provision achieving the same purpose can be inserted. It should be provided that whenever a suit is filed against a religious trust the plaintiff filing a suit should automatically serve upon the Commissioner a copy of the plaint and proceedings and if the Commissioner so desires he may apply then to the court for being made a party to the suit. Now, what would happen here is that every time the court will issue a notice. In most of the cases the Commissioner may not be interested but he will have to go and explain this to the court every time. Therefore all this unnecessary procedure and unnecessary delay is avoided if the procedure is simplified by making it obligatory on any plaintiff filing a suit against a religious trust to furnish to the Commissioner a copy of the plaint and proceedings and leaving it to the Commissioner whether he would like to be made a party to it or not.

These are some of the things that require revision. I think on the

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whole the Bill has been well drafted. But it will require certain careful scrutiny at the Joint Committee stage. The Bill, in my opinion, does not go far enough. The Commissioner should have some more power. But at the same time I also feel that in a matter of this type the Centre should also have the view point of the trusts and it is very desirable that the Bill should be circulated for eliciting public opinion. I do not say that you should surrender your main principle. The trusts should be controlled. But surely there are many things on which the trustees of different types of religious trusts would have viewpoints to offer. Those viewpoints should be understood so that we may reconcile their viewpoints without abandoning our principles. I therefore submit that my motion for eliciting public opinion should be accepted.

**राजा महेन्द्र प्रताप :** सभापति महोदय, मैं मथुरा से आया हूँ और मथुरा तथा वृन्दावन धर्म केन्द्र हैं, इस लिये आवश्यक है कि मैं आप की सेवा में वहाँ के लोगों के विचार प्रकट करूँ। मथुरा वृन्दावन में मन्दिर बहुत हैं। खास तौर से वृन्दावन में कोई पांच हजार मन्दिर हैं। हर एक घर में आम तौर से मन्दिर हैं। आम तौर पर मन्दिरों के लिये नियम हैं और कुछ ट्रस्ट भी हैं जो उन का काम चलाते हैं। बड़े ट्रस्ट भी हैं। जैसे रंग जी का मन्दिर है, उस में करीब लाख डेढ़ लाख रु० आमदनी है। वहाँ पर यह भावना है कि सरकार बिना बात हमारे धर्म के कामों में हस्तक्षेप करती है। बिहारी जी का वहाँ पर मन्दिर है। उस में अब सरकारी इन्तजाम है। जहाँ तक मुझे मालूम है वहाँ के लोग उस इन्तजाम से सन्तुष्ट नहीं हैं। ऐसी हालत में क्या यह अच्छा नहीं होगा कि हमारी सरकार, जो कि सेकुलर स्टेट होने का दावा करती है, धर्म के कामों में हाथ न डाले और यह कौशिश करे कि जो जिस धर्म के मानने वाले हैं वही इकट्ठे हो कर अपने आप अपने नियम बनायें।

मैं यहां अपने ही यहां की बात कहता हूँ। अगर आप मेहरबानी कर के वृन्दावन, मथुरा, गोकुल और गिरिराज में ऐसी संस्थाएँ बनायें जिन में वहाँ के पुजारी हों, महन्त हों, गोस्वामी हों और वही मिल कर वहाँ काम चलायें, तो बड़ा अच्छा हो। वहाँ पर एक मन्दिर नहीं है, बहुत से मन्दिर हैं, उन में ट्रस्ट नहीं हैं, लेकिन उन में चढ़ावा आता है और उन की कान्नी आमदनी होती है, उन के बारे में मेरा निवेदन यही है कि ज्यादा अच्छा होगा कि तीर्थ स्थानों के जो बड़े पुजारी, महन्त और गोस्वामी वगैरह, हैं उन्हीं लोगों का इकट्ठा किया जाये और उन को सारे अधिकार दे दिये जायें।

इस के साथ मैं यह भी निवेदन करना कि आज इस बात की बड़ी आवश्यकता है, और मैं स्वयम् भी मानता हूँ, कि जो धार्मिक स्थान हैं उन में सदाचार बहुत ऊँचे दर्जे का होना चाहिये। मुझे दुःख के साथ कहना पड़ता है कि हमारे त्रज में बहुत सी बातें गलत होती हैं, जैसे होली का हुल्लड़ है, इपी तरह का और भी बातें होती हैं। अभी मथुरा में एक वारदात हो गई। कोई आदमी आया था, उस को कुछ पन्डे अपने घर ले गये, वहाँ पर उन्हें पता चला कि उस आदमी के पास बहुत रुपये हैं। इस पर उन्होंने उसे मार डाला। अब इस बारे में मुकदमा चल रहा है। जो इस तरह की बातें हो रही हैं, वह इस जगह पर आप के कानून बनाने से नहीं रक सकती। इस के लिये मैंने पहले भी कई दफा अर्ज किया है कि ऐसी समितियाँ हूँनी चाहियें जो कि सदाचार सिखलायें। मैंने श्रीमा पंडित पन्त की सेवा में भी अर्ज किया था, मैंने भी एक चीज बनाई हुई है जिसे कहते हैं "सदाचार गुट"। आप कृपा कर के लोगों का यह अधिकार दें कि वे अपना सदाचार गुट बनायें और पुलिस की भी मदद करें। पुलिस कोई हमारी दुश्मन थोड़े ही है। मगर आज भी वह ही भावना है जो अंग्रेजों के जमाने में थी कि पुलिस तथा सरकार हमारी शत्रु हैं।

यह गलत भावना है। तो देखना होगा कि किन धर्मों में कौन सी बुराई होती है, कौन सी खराबियां चल रही हैं, इस की लोग पुलिस को इत्तला देंगे और अगर पुलिस में भी कोई बुराई है तो वे उस की बड़े अधिकारियों को इत्तला देंगे। मेरा मतलब यह है कि हमारा समाज सुधरे, धर्म बड़े और सदाचार बढ़े, विशेष रूप से धर्म केन्द्रों के द्वारा यह बड़ी आसानी से किया जा सकता है। इस लिये इस तरह के नियम नहीं बनाये जाने चाहियें जैसे कि आज बनाये जा रहे हैं। इस में दूसरे धर्म वालों को भी आपत्ति हो सकती है। जैसे कि हमारे पारसी भाई हैं जो कि पारसी धर्म के मानने वाले हैं। भले ही इस धर्म के मानने वाले बहुत थोड़े लोग हैं, मगर यह बड़ा प्राचीन धर्म है, बड़ा ऊंचा धर्म है। फिर पारसियों में अक्ल भी ज्यादा होती है, दिमाग भी ज्यादा होता है, जहां जाते हैं वहीं पर पैसा बनाना भी खूब जानते हैं। इसलिये अगर पारसियों के अन्दर से ही पारसियों को संगठित किया जाय तो वह ज्यादा अच्छी तरह पारसी धर्म के नियम बना सकते हैं। आज हमारे पंजाब में बड़ा अन्धेर मचा हुआ है। कुछ सिख कहते हैं कि पंजाबी सूबा चाहिये, कुछ सिख कहते हैं कि गुरुद्वारों में किसी को जाना ही नहीं चाहिये। कोई कहते हैं कि गुरुद्वारों में अपराधी घुसे हुए हैं। यह हालत है। लेकिन आखिर यह हालत क्यों है? यह इसलिये है कि सिख धर्म वाले सिख धर्म के सिद्धान्तों पर संगठित नहीं हैं, कोई सिख चला गया कांग्रेस में, कोई चला गया स्वतन्त्र पार्टी में और कोई चला गया जनसंघ में। आखिर यह क्या अन्धेर है? जो सिख भाई हैं, जिन को सिखों का पुराना इतिहास मालूम है, उनको इस समय यह काम करना है कि सिख इकट्ठे हों और कोई खराबी सिखों में न आये। मैं आपसे कहूँ कि मैं तो वृन्दावन का हूँ। मैं तो खास तौर से वैष्णव लोगों की तरफ से बोल रहा हूँ कि हमारे वैष्णव धर्म में कुछ ऐसी बातें रखी हैं कि उसमें मुसलमान भी बड़ी खुशी से आये और धर्म का मान किया है।

आपको मालूम होगा कि हमारे वृन्दावन में बड़े बड़े मुगल बादशाह आए और उन्होंने धर्म को जब देखा तो मंदिरों में गांव चढ़ा कर चले गए। ऐसी अजीब चीज है इस धर्म में। तो मैं कहता हूँ कि आप मेहरबानी करके धर्मों में हस्तक्षेप मत कीजिये। जैन धर्म है, और भी धर्म हैं। जैन धर्म बड़ा प्राचीन धर्म है। दूसरे लपजों में कहने का मतलब यह है कि हिन्दू धर्म के नेतागण हिन्दू धर्म के कानून बनाएं हिन्दू धर्म के लिये, अपने मंदिरों का अच्छा प्रबन्ध करने के लिये। इसी तरह से सिख धर्म के सब लोग मिल कर सिख धर्म के लिये ऐसे नियम बनाएं कि ये जो झगड़े आज मचे हुए हैं, राजनीतिक या अराजनीतिक, वह दूर हों। मैं तो यह कहने को तैयार हूँ कि सिख धर्म राजनीति से अलग नहीं रह सकता। हमारे गुरु गोविन्द सिंह साहब ने राजनीति में कदम उठाया और राज बनाया। तो मैं कहता हूँ कि अगर कोई गुमराह सिख कांग्रेस के नाम पर यह कहे कि राजनीति और चीज है और धर्म अलग चीज है, तो वह ऐसा नहीं कह सकता। मेरा तो ऐसा विश्वास है। तो मेरे कहने का मतलब यह है कि सिख धर्म मानने वाले गुरुद्वारों के लिये नियम बनाएं। हमारे मुसलमान भाई इकट्ठे होकर इस्लाम के लिये कुछ कानून बनाएं। इस संसद में तो हमारे मुसलमान भाई बहुत थोड़े हैं। क्या हक है हमको कि हम मुसलमानों के धार्मिक ट्रस्टों के लिये वहां नियम बनायें। तो मेरे कहने का मतलब यह है कि हर धर्म वाले अपने अपने धर्म के सुधार के लिये, अपने अपने समाज के सुधार के लिये नियम बनायें। क्या अच्छा हो कि मसजिदों में ऐसे लोग हों जो रोज इस बात का विचार करें कि हमारे यहां मुसलमानों में कोई चोर तो नहीं पैदा हो गया, कोई डाकू तो नहीं हो गया, कोई व्यभिचारी तो नहीं हो गया, कोई शराबखोर तो नहीं हो गया। इस तरह का विचार उन लोगों को करना चाहिये। तो मेरे कहने का मतलब यह है कि हमारी सरकार मेहरबानी करके इधर ध्यान दे और धार्मिक प्रश्नों में

## [राजा महेन्द्र प्रताप]

अपना हाथ न डाले। और यह कोशिश करे कि प्रत्येक धर्म वाले अपने अपने धर्म के सुधार के लिये वह आप ही धार्मिक नियम बनायें।

सरदार अ० सि० सहगल : धार्मिक ट्रस्टों का जो यह कानून लाया गया है यह बहुत उपयोगी है और भिन्न भिन्न प्रदेशों की सरकारें इसके पास होने के बाद इसको अपने यहां लागू करेंगी। जो अधिकार चैप्टर ३ में और क्लॉज ६ में दिए गए हैं यानी Application for registration of of religious trust और accompanied by such fees का जो प्रावजन दिया गया है उसके बारे में कुछ अर्ज करना चाहता हूं। जहां तक फीस का सवाल है वह उस हिसाब से होनी चाहिये कि जितनी किसी धार्मिक जगह की आमदनी हो। यह फीस आमदनी के आधार पर लगायी जानी चाहिये। जहां तक लैजिस्लेशन का सवाल है वह धार्मिक स्थानों के लिये कम्पलसरी होना चाहिये। अगर कोई इस कानून से बचना चाहे तो हमारे पास ऐसी पावर होनी चाहिये कि ऐसा न होने दें।

इसके बाद मैं आपका ध्यान क्लॉज १३ की तरफ दिलाना चाहता हूं जिसमें कि Investment of trust money क जिक्र किया गया है। यह पेज ८ पर है। मैं चाहूंगा कि यह बिल जो सिलेक्ट कमेटी के सामने जाए तो उसके माननीय सदस्य इस बात पर गौर करें कि इसका कितना हिस्सा या कितना फी सैकड़ा उपयोगी कामों पर लगाया जाए। मान लीजिये कि किसी एक ट्रस्ट की आमदनी एक लाख रुपया है तो उसमें से ४० फीसदी के हिसाब से एजुकेशन के लिये और इंडस्ट्रीज के लिये देना चाहिये ताकि जो पैसा हो उसका शुभ कार्य के लिये उपयोग हो सके। आज होता यह है कि वह पैसा जिस कार्य में लगाना चाहिये उसमें नहीं चगाया जा रहा है। इसलिये हम चाहते हैं

कि जितना पैसा खर्च के बाद बचे उसका ४० फीसदी उपयोगी कामों में लगाया जाए। इससे फायदा यह होगा कि हम इस पैसे को एक अच्छे काम में और देश के लोगों की भलाई के लिये लगा सकेंगे।

इसी तरह से क्लॉज ३४ जो है उसमें यह लिखा है :

“The provisions of this Act shall not apply to—

(a) any Sikh Gurdwara to which the Sikh Gurdwaras Act, 1925, applies.”

अब यदि आप गौर करें तो आपको मालूम होगा कि १९२५ का जो कानून है वह पूरे पंजाब पर लागू है। मेरी इस सिलसिले में अर्ज है कि गवर्नमेंट के सामने पहले से ही एक आल इंडिया गुरुद्वारा बिल पेंडिंग है। और इसलिये मेरा निवेदन है कि उस बिल को भी अपने सामने रख कर सिलेक्ट कमेटी इस बिल पर विचार करे। सिखों का एक ऐक्ट पंजाब में लागू है। आप हजूर साहब गुरुद्वारे को देखें। वहां के इन्तजाम के लिये अलग ही कानून है। उसी के साथ साथ पटना साहब का जो गुरुद्वारा है उसको बहुत सेक्रेड माना जाता है। खास कर नादेड़ और पटना साहब के गुरुद्वारों के लिये भी अलग कानून है। ये हमारे तख्त गुरुद्वारे माने जाते हैं। इनके अलावा हिन्दुस्तान में बहुत से गुरुद्वारे हैं जिनकी आमदनी काफी है। मेरी अर्ज है कि जो सिख गुरुद्वारे हैं उन पर आप इस कानून को न लादें। अगर आप ऐसा करेंगे तो इससे दूसरी समस्याएँ उपस्थित हो जाने की सम्भावना है। इसलिये मैं अर्ज करना चाहता हूं कि इन सब बातों से बचने के लिये यह जरूरी है कि जब गुरुद्वारों के लिये अलग कानून है तो उनको इस कानून में नहीं लाना चाहिये। अगर आप ऐसा करना चाहते हैं तो आप से मैं यह निवेदन करूंगा कि आप आल इंडिया गुरुद्वारा बिल को भी अपने सामने रखें और दोनों के लिये एक



कमेटी बनायें जोकि इस पर विचार करे तो मुझे कोई एतराज नहीं होगा। अगर आप ऐसा नहीं करेंगे तो मेरी ऐसी धारणा है कि हमारे गुरुद्वारे भी आप के रिलीजस ट्रस्टों में आ जायेंगे। हो सकता है कि यह धारणा और दोस्तों की न हो। लेकिन यदि मेरी धारणा सही है और ये गुरुद्वारे रिलीजस ट्रस्टों में आ जाते हैं तो आप का और हमारा फर्ज है कि जब इस बिल पर विचार किया जाये तो आप आल इंडिया सिख गुरुद्वारा बिल को भी अपने सामने रखें और दोनों को साथ ले कर चलें। गवर्नमेंट का फर्ज है कि जितनी चीजें उस के सामने हों उन सब पर गौर करते हुए विचार करे। ऐसी समस्या नहीं पैदा होने देना चाहिये जिस से कि किसी खास धर्म के मानने वालों के प्रति पूरा न्याय न हो सके।

इसी तरह से मैं आप का ध्यान एडवाइजरी बाडीज की तरफ दिलाना चाहता हूँ। इस में दिया हुआ है :

“The members of the Advisory Board shall be chosen from amongst one or more of the following categories of persons, namely”.

मैं आप से अर्ज करना चाहता हूँ कि आप जो भी एडवाइजरी बोर्ड बनये उस को ईश्वर के नाम पर राजनीतिक क्षेत्र से दूर रखें।

इनको राजनैतिक क्षेत्र का अखाड़ा न बनने दें। मैं आप से अर्ज करना चाहता हूँ कि जिस वक्त यह बोर्ड बनाया जाते हैं तो वहां पर राजनैतिक चीजें आती हैं। धार्मिक स्थानों में राजनैतिक चीजों को लाना मैं समझता हूँ कि यह वाजिब नहीं है। हम यदि धार्मिक स्थानों में पूजा करते हैं, धार्मिक स्थानों में रहते हैं, और धार्मिक स्थानों में जाते हैं तो हमारा यह कर्तव्य होना चाहिये कि जो भी बोर्ड के मेम्बर

हों या जो भी बोर्ड बनें उन के लिये इस बिल में एक इस तरह का क्लॉज रख देना चाहिये कि वहां पर धार्मिक चीजों के अलावा और कोई राजनैतिक वातावरण बगैरह उपस्थित नहीं किया जायेगा। इस तरह की व्यवस्था की बहुत अधिक आवश्यकता इसलिये प्रतीत हो रही है क्योंकि आज हम जो वहां वातावरण देखते हैं और जो चीजें वहां पर चल रही हैं उन को देख कर मुझे दुःख मालूम होता है। मैं आप से अर्ज करना चाहता हूँ कि इन धार्मिक स्थानों को आप इन चीजों से बालाये ताक रखें तो ज्यादा अच्छा होगा।

इस बिल का क्लॉज नम्बर १४ आडिट और एकाउण्ट्स के बारे में है। इसमें आपने लिख दिया है कि हर एक वह रिलीजस ट्रस्ट जिसकी कि सालाना आमदनी ५००० रुपये से ऊपर होगी या ५००० होगी उसके एकाउण्ट्स का आडिटर द्वारा सालाना आडिट होगा। आप उनका सालाना आडिट करायें मुझे इसमें कोई एतराज नहीं है। लेकिन मैं आपसे पूछता हूँ कि बहुत से ऐसे ट्रस्ट्स हैं, बहुत ऐसे से धार्मिक स्थान हैं जिनकी कि ४००० रुपये की इनकम है, ४५०० रुपये की इनकम है या ३००० रुपये की इनकम है और जहां पर कि आमदनी कम होती है उनके लिये आप कम से कम दो साल का आडिट रखिये या तीन साल का आडिट रखिये। मैं चाहता हूँ कि ज्वायंट कमेटी जिसको कि यह बिल जा रहा है वह क्लॉज में इस तरह की व्यवस्था रखने के बारे में अवश्य विचार करे। ज्वायंट कमेटी को इस बारे में विचार करके इस तरह का प्राविजन इसमें शामिल करना चाहिये। धार्मिक स्थानों में जो भी पैसा आता है वह ठीक तरीके से खर्च किया जाता है या नहीं किया जाता है इसकी सारी जिम्मेदारी हमारे सिर पर है और यह जो आपका आडिटर होगा उसके ऊपर है। अब यदि दो या तीन साल के बीच में हमने यह तय किया कि हमें आडिट करना चाहिये तो आप बेशक आडिट कर सकते हैं लेकिन इसका क्लॉज इसमें जरूर रहना चाहिये कि

[सरदार अ० सि० सहगल]

ऐसे रैलीजस ट्रस्ट जिनकी कि आमदनी कम हो, ५००० रुपये से जिनकी कि आमदनी कम हो और जो कि ५००० के नीचे आते हों उनके एकाउण्ट्स को दो या तीन साल में औडिट करायेंगे।

इस बिल के १६ नम्बर क्लॉज में यह दिया हुआ है :—

"No transfer by a trustee of any immovable property of a religious trust by way of sale, mortgage, gift or exchange or by way of lease for a term exceeding three years shall be valid,....."

अब सभापति जी चूँकि अखबारों में इस तरह का लेजिस्लेशन आने की चर्चा थी इसलिये लोगों ने इस कानून के आने से पहले ही अपनी अपनी चीजों को जैसे उन्हें सेल, ट्रान्सफर या डिस्पोज औफ करना था वे कर चुके हैं। मेरा कहना यह है कि आप यह तीन साल की मियाद क्यों लगाते हैं। आप कहिये कि हम फंलाने साल से लेंगे और जब तक आप इस तरह की व्यवस्था इसमें नहीं रखेंगे वे लोग आपके इस कानून के नीचे नहीं आ पायेंगे। इसलिये मेरी आप से यह अर्ज है कि इन सारी चीजों पर विचार करते हुए आपको इस तरह का कानून बनाना चाहिये ताकि इसके शिकंजे से कोई निकल न सके।

इसके अलावा मैं तो यही कहूँगा कि इन सारी चीजों पर विचार करते हुए हमें इस कानून को दूसरे धर्म वालों पर जिन पर कि यह लागू नहीं होना है उनको हमें अगर वे चाहें तो स्वयं इसमें शामिल हो जाने की छूट देनी चाहिये लेकिन आपको इस बात का सदा ध्यान रखना चाहिये कि उनके जो धार्मिक खयालात हों उनको किसी किस्म का कोई धक्का न पहुंचे। इन शब्दों के साथ मैं इस बिल को ज्वाएंट कमेटी में भेजने के लिये समर्थन करता हूँ।

**Shri Vasudevan Nair (Thiruvella):** Mr. Chairman, I am glad that the Government has come forward with a Bill like this. Perhaps, such a legislation was long overdue. Why is it necessary that there should be such a piece of legislation covering the whole of the Indian Union? It is quite obvious that various religious trusts are not functioning in a satisfactory way. I do not make any general allegation against religious trusts as such. But, it is a fact that on several occasions, it has come to the notice of the public that many trusts are not managed well. So, Government has found it necessary to bring forward a comprehensive legislation like this in order to have efficient supervision and better management of the religious trusts in our country.

I would very much like to support the idea suggested by some of the previous speakers that it would have been better to have a more comprehensive Bill covering charitable trusts also. Unfortunately, now, in this Bill we cannot bring it as the hon. Speaker has ruled out the amendment which was moved by my hon. friend on this side. Because, the dividing line between religious trusts and charitable trusts is so thin that on many occasions, the scope of both overlaps. It would have been much better even from the point of view of legislation to have a comprehensive Bill for both.

I am not a lawyer. I do not propose to approach this legislation from that point of view. I propose to suggest certain things from the layman's point of view. Such a legislation is necessary in the interests of the large number of people, millions of our countrymen and women who are so much interested in these religious trusts. They are to be benefited by these religious trusts. So, it is in their interests that there should be such a legislation.

At the same time, from another angle also, I welcome this Bill. Unfortunately, there were many instances where the trustees or managers or those who are controlling these trusts are so powerful and have a lot of money with them and they have dabbled in unnecessary things. There were many occasions when the trustees or managers or those who are in possession of this large wealth have used these funds for political purposes. There were such allegations all over the country. I hope that this legislation will help a lot in preventing such misuse. Also in a secular State like ours, it is very essential to prevent the mis-use of funds belonging to religious institutions, especially trusts like these. From all these points of view, I have great pleasure in welcoming this legislation.

I come to the proposed machinery for the better management and supervision of religious trusts. In clause 3, there is provision for appointing the Commissioner of Religious Trusts. In clause 4, there is a provision for constituting an Advisory Board in the States. I think these are the two main limbs of the administrative machinery proposed in this Bill as far as religious trusts are concerned. But, unfortunately, I found throughout this Bill that the role of the Advisory Board is not specifically mentioned. What is it for? I should say that virtually this Advisory Board will have no function to perform as the Bill exists at present. I would like a provision to be made in this clause for the Advisory Board to have more responsibilities. I will come to certain details about that later.

#### 14 hrs.

In Clause 3(3) it is said that a person shall not be qualified for appointment as the Commissioner unless he is, or has been, a district judge or is qualified for appointment as a Judge of a High Court. I have an objection to this and would like the Minister to explain why the Government is trying to restrict the

scope of persons who can be appointed as Commissioners for Religious Trusts. Of course, I appreciate the necessity of the Commissioner possessing a lot of legal knowledge etc., but that alone should not be the guiding principle, because there may be other people who are devoted to such institutions and very much interested in such kind of work, whose services can be made use of. So, I hope the Joint Committee will enlarge the scope of persons who can be appointed.

Coming to the Advisory Board, I have a doubt whether it will be possible for a single composite Advisory Board in a State to look after the problems of religious trusts which belong to various regions and various denominations. I am not looking at the problem from a narrow point of view, but fortunately or unfortunately, in our country we have to take into consideration the sentiments of the people and such other things. So, is it not better that there is a provision for more than one Board mainly for the major religious denominations? That point should also be considered by the Joint Committee.

I was very much concerned about Clause 13 of the Bill, dealing with investment of trust funds. The Clause has to be redrafted because I feel that there is a lot of restriction here again. It is stated that subject to any direction contained in the deed of trust, the surplus money can be invested in three categories. We know there are instances where the trust deeds are drafted in such a way that it is not easily possible to get those funds for other useful purposes. There are cases of even religious trusts, and of course many charitable trusts, where some clever rich people, in order to dodge Government taxes, prefer to put their money in a trust, speculate with it in the market and make a lot of profit. These things are, I should say, even common features in our present-day society. I am sure the hon. Deputy

[Shri Vasudevan Nair]

Minister of Finance who is now in charge of the Bill....

**The Deputy Minister of Finance (Shri B. R. Bhagat):** Temporarily.

**Shri Vasudevan Nair**.....for his colleague, is in the know of such practices. Naturally, such people, when they prepare a trust deed, will be very careful to see that the money that they put in the trust to avoid income-tax etc., is not taken away for other useful purposes. So, this proviso, "subject to any direction contained in the deed of trust", is a very dangerous one and should be looked into.

Coming to the three categories in which such money can be invested, I am opposed to such money being invested in private companies. Of course, it is said that the Government will stand guarantee as far as the dividend or other things are concerned, but we have a lot of experience with regard to other kinds of investments where, with all the inspection from the Government side, people have bungled and gone wrong and money has been utilised in wrong channels resulting in heavy loss by such investments. When we are in need of resources, internal and external, for our development, why not we mobilise such resources entirely for State purposes? I suppose these trusts are not hungrily running after high dividends, and we know that the money deposited in such trusts runs into millions and millions of rupees. If we can, without doing harm to the religious purposes for which these trusts are formed, use the surplus money for our development projects, then I am for it. Instead of that, there is a provision in sub-clause (b) that this money can be invested in stocks, shares and debentures of private companies.

Then I come to Clauses 19 and 20 about mismanagement, misappropriation etc., by trustees or managers. I would like the Government to have

more stringent provisions with regard to the people who mismanage such funds or misappropriate them. In clause 19, the Commissioner is given various choices of dealing with such people :

"...the Commissioner may, without prejudice to any other action that may be taken against the trustee, make an order giving directions to the trustee for the discharge of the obligations imposed on him by the deed of trust or for the proper management of the trust, or removing the trustee from his office, or directing the trustee to pay to the trust fund such amount not exceeding the amount of loss caused to the trust as the Commissioner thinks fit."

When a case of misappropriation especially comes to the notice of the Commissioner,—mismanagement and misappropriation have to be differentiated—he should immediately remove the trustee from that position. There is no question of retaining him or asking him to deposit the money he has misappropriated, or asking him to act according to the instructions given by the Commissioner, because these funds belong to the public, and public trusts cannot be treated like this. So, we should have stringent provisions to deal with proved cases of misappropriation. Of course, I know the normal procedure of going to the courts, and I hope this is subject to that, but such a gentleman should not be allowed to continue in the trust as manager or trustee after the case of misappropriation is proved.

Coming to clause 21, I find that there is power to appoint a trustee when a vacancy occurs. I agree with my hon. friend Shri Naushir Bharucha when he says that there should not be a clause like this, especially sub-clause (2) which reads thus:

"...the Commissioner shall, as far as possible, select a person of the religious denomination or

section to which the trust belongs.”.

It will be a very mischievous sub-clause, if it is going to be kept there. In our country, as the situation exists at present, we cannot afford to have such luxuries, for, we all know that the backward sections of our people will not be able to appreciate such a thing. It will create trouble, if we appoint a gentleman belonging to another region or another denomination to a trust belonging to a particular denomination or religion. Of course, the hon. Minister has raised the point that nobody may be prepared to take up the post. In that case, I think there should be some provision in this Bill for Government to run such a trust for some time. That will be better than entrusting the trust to be run by somebody who belongs to a different denomination or religion or community.

There is another point that I have to draw the attention of the House to in this connection. I am for stringent provisions. I am for giving powers to the commissioner, but there should be a limit to giving powers to a particular individual or a particular officer. But, here, I find that the ultimate authority to appoint a new trustee in a vacancy is given to the commissioner. I am against it. There, the role of the advisory board should come in. In the very beginning of my speech, I was referring to the provision for the appointment of an advisory board, and I was pointing out that practically the advisory board will have no powers or responsibilities, according to the Bill as it is framed now. Why should we not ask the commissioner to send a panel of names to the advisory board, so that the advisory board may advise the commissioner to choose a particular gentleman? Or, I am even prepared to accept the formula that the commissioner can send a panel to Government, and Government can choose one from that panel.

**Shri Ranga (Tenali):** That is where the trouble comes. Why does

my hon. friend want Government to come in?

**Shri Vasudevan Nair:** Of course, my hon. friend is always against Government interference in anything. But, unfortunately, in the present circumstances, we have to put up with Government.

**Shri Ranga:** Perhaps, my hon. friend wants Government to step in, so that they may give him a chance.

**Shri Vasudevan Nair:** Of course, I agree with my hon. friend that there will be a lot of harm by way of nepotism and other things. Of course, I am speaking in that framework. I am not one who feels that with a Bill of this character everything will be all right. But, even then, I would say that the power to appoint a new trustee should not be given to a particular officer. Let there be some other check on him. Let the advisory board be brought into the picture, or, if that is not possible, let Government be brought into the picture. Some such safeguard should be there, and that power should not entirely be left to the commissioner but it should be left to Government.

I now come to clause 34 where large exemptions are made. I do not know why entire communities and entire religions are exempted from the scope of this Bill. Religious trusts belonging to Christians, Jews and Parsis and so on are completely exempted from the provisions of this Bill. The hon. Minister may enlighten us in his reply why Government have chosen to exempt such communities or religions from the scope of this Bill. Are Government of the view that all the religious trusts belonging to these communities are running quite well, that the people there do not misbehave, that there is no misappropriation and that the funds are all used for religious purposes only? If that is Government's view, then I submit that I cannot at all agree with the position of Government. I do not see any reason why such exemptions should be made,

[Shri Vasudevan Nair]

when we are making a legislation to cover the entire country.

All these points have to be taken into consideration by the Joint Committee, and I hope a better Bill will emerge out of the deliberations of the Joint Committee.

**Shri Aurobindo Ghosal (Uluberia):**  
In spite of the fact that there are many Trusts Acts in various States and there are separate Acts to govern the administration of those trust properties, I welcome this Bill, because this Bill contains some salient features. In spite of the various Acts, we have been hearing of complaints in regard to the administration of the trust properties and corruptions therein. Therefore, some sort of legislation for better supervision of these trust properties is necessary, and it is for that reason that this Bill has been brought forward before this House.

But this Bill is very restricted in its scope. For, as has been pointed out by my hon. friend Shri Vasudevan Nair, Sikh Gurdwaras, the Durgah Khawaja Saheb, wakf properties of Muslims, and the trust properties of the religious institutions of Christians, Jews and Parsis have been excluded. It is well known that the management of these trust properties is not free from corruption, and yet, it is inscrutable why the trust properties of these religious denominations have been excluded. Especially, in my State, in spite of the Bengal Wakf Act, we have found mismanagement of the wakf properties, and though there is a wakf commissioner, the annual returns are rarely submitted, and rarely expenditure is incurred in a proper manner; and the mutawalis rather misappropriate the funds or the earnings of these trust properties. So, I would request the Joint Committee to consider whether the wakf properties could also be brought within the purview of this Bill.

As regards the Christian trusts also, the same thing is applicable. For, we

have heard complaints several times both within the House and outside that much of the income sometimes is diverted for political propaganda and other purposes which are completely secular and political. So, for the proper management and supervision of these trusts and for having a check as to whether the income of these trust properties is being spent for the purpose for which the trust was created, these trust properties should also be brought within the purview of this Bill.

Regarding the right of the beneficiary, of course, in the Trusts Act, the definition of the word 'beneficiary' is there, and also the rights and duties have been provided there. In this Religious Trusts Bill also, there are some beneficiaries. The commissioner should be empowered to look after the interests of the beneficiaries and see whether the moneys of the trust are being spent for the ideals and purposes of the trust. That has also to be looked into by the commissioner.

The commissioner has been given wide powers in this Bill. Though there is provision for the appointment of an advisory board, I do not know why it has been treated as a non-entity. It has not been given any powers at all in this Bill. There is only a provision laying down how this advisory board will be formed. I do not object to the composition of the advisory body, but I object to the status that has been given to it. It should have been given more powers to look after trust properties. Specially points like the removal of trustees and appointment of new trustees, provided for in clauses 20 and 21, should be looked after or decided by this advisory body which should be composed of public men. If you want to maintain the 'trust' character of the trust management, you must give powers to the advisory body on important points like removing trustees and appointing new trustees, for better supervision and better judgment. It should not be left to the sweet will of one government officer.

Fourthly, regarding the appointment of a person under clause 12(3) for looking into the accounts of the trust properties, the condition for such appointment has been laid down there. A trust must have an annual income of at least Rs. 25,000. In my opinion, this is a big amount and the limit should be reduced to Rs. 10,000. I request the Joint Committee to consider whether the appointment of an accountant will not be necessary for those trust properties which will have an annual income of Rs. 10,000.

Fifthly, in clause 14(5), it has been provided that the cost of this audit would be borne by the State Government. When the trust properties will have some income, I do not know why the State Government should be saddled with the responsibility of these audit expenses.

**Shri Supakar** (Sambalpur): The State Government will realise 3 per cent.

**Shri Aurobindo Ghosal**: Because there are other expenses like the appointment of Commissioner, Deputy Commissioner and so on, which will be met from the 3 per cent which has been levied here, naturally the audit expenses should also have been borne by the trust from the earning of the trust properties.

The next point I want to make is about the appeal against the order of the Commissioner. It has been provided in clause 23 of the Bill that the forum should be the High Court. But to my mind, this will be very costly. There is also no necessity for spending a big sum of public money in expensive High Court litigation. Specially in my State where the system of solicitorship exists, if the trustees go to the High Court on the Original Side, a huge amount of money will have to be spent for even small things. Naturally, even if there is any real grievance against the Commissioner's order, they will, for financial reasons, not be able to go to the High Court. For that reason, I submit that the civil courts, the courts of District Judges,

should be given the power of entertaining cases. Already in section 34 of the Trusts Act and section 4 of the Charitable and Religious Trusts Act, provision is there for having the decision or direction or advice of the civil court by a petition. That has been provided for because the main purpose is not to saddle the trust properties with expenses of litigation. Naturally, here also District Judges should be empowered to entertain petitions or cases at least when important disputes on title matters crop up.

Then I would say that private trusts which also suffer from bad supervision, which are rather considered as private properties of the trustees, should also come within the purview of this Bill.

I would also submit that there are so many Trust Acts in different States and at the Centre. There are Religious Endowments Acts and Charitable Endowments Acts and Charitable and Religious Trusts Acts as also Trusts Acts. All these should be consolidated and a definite policy regarding trust properties in general should be laid down by Government. So I would request Government to consider whether the time has not come to see that all the trust properties of different types which are being mismanaged and the income of which is being misappropriated by the trustees, should be considered together and general principles laid down for a comprehensive legislation on trust properties.

Lastly, I would request the Joint Committee to consider the question of the composite character of trust properties. Where religious and charitable trusts are combined in one trust or the character of a trust is both religious and charitable, what would be the attitude of the Government, or what would be the nature of interference by the Commissioner? This has not been provided for in this Bill. So I request the Joint Committee to take this also into account.

**Shri Mohammed Imam** (Chitaldrug): I have heard with interest the elaborate speech of the Minister advocating supervision and effective control of religious trusts. I regret I have to strike a different note. I feel that this Bill or enactment is unnecessary and uncalled for.

In the first place, I have no disapprove of the practice of the Central Government to legislate for the States laws which have to be implemented and administered by the States. I feel this is rather an encroachment on the rights and responsibilities of the States. I may also state that such legislation casts a reflection on State administrations indicating that the States are incapable of managing their affairs or taking such action as is necessary. It is desirable that in such matters the States are consulted as they are the best judges as to whether such laws should be implemented in their States or not. I am not sure if the hon. Minister consulted the various States and what their opinion is.

It has been pointed out by previous speakers that there are local laws enacted by the State Governments wherein they have the power of supervision and control without interference in religious matters. The State of Mysore has its own law, the Religious and Charitable Endowments Act passed long ago. So far as I know, this Act has been working satisfactorily without giving offence to any institution; and there are no complaints of interference by the State in religious matters.

**Shri Hajarnavis:** May I make a submission for the consideration of the hon. Member that this Act will not be applied unless the State Government notifies its intention to do so? It is the decision of the State Government to apply or not to apply this. If they are quite satisfied with their own laws and are implementing them, then, this shall not be regarded as an obstacle at all. They will have to repeal their own Acts and apply this.

**Shri Mohammed Imam:** Then I fail to see why this House should take such pains to enact this law when there are already local laws.

**Shri Ranga:** On all subjects you can have model laws made here.

**Shri Hajarnavis:** All States do not have this law; there are States which do not have such a law.

**Shri Ranga:** But they have their legislatures.

**Shri Hajarnavis:** It should not be forgotten that there are Union territories also for which we have to enact.

**Shri Ranga:** Then, why not have a law for the Union territories just as we are having so many other laws? Why make ourselves the legislature for all other States and turn those legislatures into city corporations?

**Shri Mohammed Imam:** When a piece of legislation is passed by the Centre, the States, rightly or wrongly, feel that it is their obligatory duty to implement it and they adopt that law. Otherwise, they will be displeasing the Central Government. Anyhow, as it is, there was no need for this legislation when most of the States have their own laws which empower them to supervise these trusts effectively. If there are States which do not have such a law, then, we could have asked them to enact their own laws. Anyhow, I submit, this Act casts an extra burden and extra financial liability on the States. To implement this law they have to create a new department; they have to appoint a Commissioner, a Deputy Commissioner, and Assistant Commissioner and a full network of officials. And that cost has to be borne by the State Governments. I cannot understand why there should be such a huge machinery and such an elaborate arrangement. The States have to incur extra expenditure which they cannot, taking into consideration their present slender resources.

Secondly, I must submit that this Bill aims at maximum interference in



religious affairs. It is true that there are a number of trusts, both big and small, throughout the country. It is true that most of these trusts at present are managed efficiently and to the satisfaction of the public. We have not heard any complaint either through the Press or from the platform that the money of these trusts is being misused or misappropriated. There is no public demand for such a piece of legislation, that the Government should step in and exercise control. When there is no such public demand and when the States have not asked for it. I cannot see the logic of the Central Government in bringing in this legislation.

It is true that there may be some instances of mal-practice here and there. But that does not mean that the whole system must be condemned and Government must take power to interfere to the maximum extent so as to convert all these religious institutions into quasi-government institutions. In fact, that will be the case if this legislation is going to be enforced. The gentleman or the authority who formed the trust took care to appoint trustees. Society also takes care to see that the trustees behave properly and honestly. And, these trustees are invariably men of standing, with integrity and character. They know their business very well. So far as I know, they have been behaving very well and managing the trust properties to the satisfaction of the public. In spite of these Acts, there might be some isolated instances here and there. But to brand the entire system and trustees as dishonest, whose dishonesty has provoked the Central Government to bring in this legislation seems rather unfair.

**Shri Hajarnavis:** Do I understand the hon. Member as advocating, for instance, the repeal of the Muslim Waqf Act where the provisions are even more stringent than this?

**Shri Mohammed Imam:** For some institutions where it is necessary, the Muslim Waqf Act is going to be ap-

plied, where the local laws do not apply. Anyhow, I must submit that apart from this Bill, there are ordinary remedies open or ordinary laws under which a trustee who misbehaves or commits an offence may be punished. For example, if a trustee commits a breach of trust or commits misappropriation, he can be prosecuted under the ordinary penal laws and can be convicted or a suit may be filed against him.

Again in many States they have got what we call the Muzari department which effectively controls and supervises these trusts. They are vigilant and if any trustee commits an offence or if any trustee forfeits the confidence of the public this department takes action. But this piece of legislation is such that it practically makes the trustees the servile tools of the Commissioner. All their powers have been taken away. In fact, I do not think any trustee with some self-respect would care to serve under these circumstances under a Commissioner.

What are the powers given to the trustees? They cannot prepare their own budgets. And, if they prepare the budget the Commissioner has the power to alter it. And, whatever the Commissioner dictates has to be accepted. The Commissioner can impose his own schemes; and if his wishes are not carried out, he can apply the doctrine of cypres. He can appoint an accountant and what is more, on flimsy grounds, he can dismiss a trustee. These are really very humiliating circumstances under which no decent man or no man with some self-respect can work under the Commissioner.

**Shri M. C. Jain (Kaithal):** All these orders are appealable.

**Shri Mohammed Imam:** If this Bill becomes law, I am afraid, it will give rise to more litigation and more friction. It empowers that any two persons who are interested can appeal to

[Shri Mohammed Imam]

the Commissioner. If the commissioner takes sides, he can do havoc and this will certainly give rise to a lot of litigation and create a lot of unhealthy complications. The mere fact that an appeal is provided to the High Court does not protect the trustees; it does not in any way protect the people who act with bona fide intentions. But the fact is that the commissioner under this Act is all powerful; he can do anything; he can dismiss a trustee. In many cases, I can point out that a trustee enjoys a better status than the commissioner himself and I am afraid that all these are going to become quasi-government institutions under the commissioner who will be under the Government and advantage may be taken by the ruling parties or the political parties to divert the resources and energies for the advantage and advancement of the party or for political advantage.... (An Hon. Member: No). It may be wrong. Implement this Bill and perhaps the future will show what it is. Anyhow that fear and apprehension is there that these religious institutions and religious trusts which till now enjoyed a sort of autonomy are going to become quasi-government bodies and they will be entirely under the patronage, protection and guidance and supervision of the Commissioner and other officials. There is a feeling that these institutions and their reserves and funds might be diverted to purposes other than those to which they were intended. Let us see the experience of some trust Acts that were passed. I speak subject to correction and I think the Gurudwara Act that was passed recently did give rise to a lot of litigation, friction and partisanship. If this law is applied to important and big institutions where till now respectable persons and persons of some standing are working, no man with any self-respect will agree to serve as a trustee and the institution will go into the hands of people without means or standing or character and it will become the hot-bed of intrigues and conspiracy.

Again, it is proposed to impose—I may call it—a tax of three per cent on the gross income. Many religious institutions were exempt from the income-tax and now the Government wants to take a slice of that income which is rather unfair. Apart from this, it is going to cast an extra burden on the State exchequers. I submit that this Bill is not in consonance with modern spirit and modern times. In a democracy you must trust the people. Unless we trust the people, no institution or democracy will work. Every religious trust is being managed by people with character and with some means, why not trust them. If you go on distrusting democracy will not work.

**Shri Hajarnavis:** That is exactly what we say: do not distrust the Government.

**Shri Mohammed Imam:** After all the Ministers are sitting here and they are the trustees of the country.. (Interruptions).

**Shri Ranga:** We have no fears about the Ministers. What about their officers?

**Shri Mohammed Imam:** The Ministers are the trustees of the country; they are as good or as bad trustees that had been appointed. We trust them. In a democracy, it is trust that plays an important part. If you go on distrusting or view everybody with suspicion, no democracy can work.

This Bill casts a reflection on our public. It says that our public, however eminent or efficient they may be, are unfit to manage even a small institution like a religious trust. That is why the Government wants to step in and have effective control. Why do we not trust them? The presumption seems to be that everybody is a criminal until the contrary is proved. On the other hand, I submit that the Government must trust the people and give them due credit and the presumption should be that every

citizen of India is an honourable fellow and a patriot and a man with character until the contrary is proved. For the reasons that it makes for interference in religious matters which it ought not to, it casts additional financial burdens and it casts a reflection on the people of India, I feel that this Bill should not be passed and I regret I have to oppose the spirit of this Bill.

श्री रामकृष्ण मुप्त (महेन्द्रगढ़) : सभा-पति महोदय, रैलीजस ट्रस्ट्स बिल इस मकसद के लिये पेश किया गया है कि रैलीजस ट्रस्ट्स का बेहतर इंतजाम किया जाये, उन के इंतजाम में जो डिफिक्ट्स और खामियां हों उन को दूर किया जाये। जहां तक इस मौजूदा बिल के मकसद का ताल्लुक है वह सही है और ठीक है और इस की सब से ज्यादा जरूरत थी लेकिन मैं यह महसूस करता हूँ कि इस बिल के पेश करने से यह मकसद पूरा नहीं होगा और सब से ज्यादा दुःख इस बात का है कि जिस बात की सब से ज्यादा जरूरत थी उस को तो बिलकुल छोड़ दिया गया है। मेरे कहने का मतलब यह है कि हिन्दुस्तान के अन्दर रैलीजस ट्रस्ट्स का मामला इतना संगीन नहीं है जितना कि चैरिटेबिल ट्रस्ट्स का मामला है। हर एक राज्य के अन्दर जितने भी बड़े बड़े बिजनेसमैन हैं उन्होंने बड़े बड़े इस तरह के ट्रस्ट्स बनाये हुए हैं। यह मामला दो, चार दफे पहले भी हाउस में आया था और इसी मकसद को मद्देनजर रखते हुए मैंने चैरिटेबिल एंड रैलीजस ट्रस्ट्स ऐक्ट १९२० के लिये अमेंडमेंट बिल पेश किया था। मेरे कहने का मकसद यह था कि जो यह चैरिटेबिल एंड रैलीजस ट्रस्ट्स बनाये जाते हैं वे ज्यादातर इसलिये बनाये जाते हैं कि वे अपनी इनकम का काफी बड़ा हिस्सा छिपा कर रख सकें और उस को अरार और कामों में खर्च करें। इसलिये मैं महसूस करता हूँ कि आज सब से ज्यादा जरूरत इस बात की है कि इस मामले को हाथ में लिया जाये। मुझे पूरा भरोसा है कि ज्वाएंट कमेटी इस बात पर विचार करेगी

और इस बिल को इस ढंग से अमेंड करेगी ताकि यह चैरिटेबिल ट्रस्ट्स पर भी लागू हो जाय . . . . .

Mr. Chairman: Order, order. The hon. Member was perhaps not present in the House then. An amendment to include charitable trusts was moved and the hon. Speaker ruled it out. This matter now cannot be sent to the Joint Committee.

श्री रामकृष्ण मुप्त : दूसरी बात जो कि मैं इस सिलसिले में कहना चाहता हूँ वह यह है कि इस बिल के जो ३४ और ३५ सेक्शन हैं उन को देखने से पता चलता है कि बहुत सी कम्युनिटीज को इस से एग्जैम्प्ट कर दिया गया है। मैं इस के हक में नहीं हूँ क्योंकि मैं यह महसूस करता हूँ कि ऐसा करने से देश के अन्दर कम्युनल और सेक्शनल फीलिंग्स बढ़ने का अन्देश है। आज जरूरत इस बात की है कि ऐसा बिल पास किया जाये जोकि युनिफार्म हो और वह तमाम कम्युनिटीज पर एक सा लागू हो। मैं यह भी महसूस करता हूँ कि इस वक्त इस से यह भी भ्रमना लगाया जा सकता है कि एक हिन्दू कम्युनिटी के अलावा दूसरी कोई ऐसी कम्युनिटी नहीं है जिस के कि रैलीजस ट्रस्ट्स के इंतजाम में कोई खामियां हैं और इसलिये भी यह बहुत जरूरी हो जाता है कि इस बिल को अमेंड किया जाय और ज्वाएंट कमेटी इस बात के ऊपर भी विचार करे ताकि इस बिल का मौजूदा स्कोप ज्यादा बढ़े।

इस बिल के क्लॉज ३५ में यह भी कहा गया है :-

"The State Government may, by notification in the Official Gazette, exempt any religious trust or class of religious trusts to which any special enactment applies from the operation of all or any of the provisions of this Act."

मैं समझता हूँ कि स्टेट गवर्नमेंट को इतनी बसीय पावर्स देना और यह अधिकार देना कि वह जिस रैलीजस ट्रस्ट को चाहे उस को

[श्री रामकृष्ण गुप्त]

इस कानून से एगजम्प्ट कर दे, यह भी प्रच्छा नहीं होगा। इसलिये मेरी सब से ज्यादा अपील यह है कि इन तीन चार बातों पर पूरा विचार किया जाय और इस बिल का जो स्कोप है, उस को बढ़ाया जाये, ताकि यह ज्यादा इफ़ेक्टिव साबित हो सके।

**Shri Supakar:** Sir, I think Government should have thought twice before bringing forth a legislation of this type without taking into consideration the Acts that are in force at present in the different States and without consulting the various State Governments about the desirability of introducing such a Bill which, to my mind, is rather defective and does not compare favourably with some of the State Legislations.

Therefore, my first question would be, what would be the effect of passing this Bill so far as the State laws are concerned some of which, the Deputy Minister rather conceded, are much better than the present proposed legislation? Though the Deputy Minister has said that the different States are free to bring into force this Bill whenever they are pleased to do so and so long as they do not choose to bring into force this piece of legislation in their respective States the State laws would prevail, I would most respectfully submit that this raises a very important constitutional issue.

I would, first of all, refer you, Sir, to clause (1) of article 254 of the Constitution. Admittedly, this is a subject matter under the concurrent jurisdiction of the States and the Centre. Therefore, so far as State legislations and the present legislation are concerned clause (1) of article 254 of the Constitution will immediately come into operation as soon as this Bill is passed into an Act. Sir, I would take the liberty of reading out the provision in clause (1) of article 254. It says:

"254(1). If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2) . . ."—clause 2 does not apply to the present case—" . . . the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void."

Now, Sir, my submission would be that as soon as this piece of legislation is passed and it becomes a law it would make the existing laws that are in vogue in the States void, and if the case is brought before a court of law it cannot be argued by the respective State Governments that since they have not invoked the provision under sub-clause (3) of clause (1) of the present Bill, namely, inasmuch as they have not brought into force the central law in their States, their laws would prevail as against the central law. If that were the position it would be easy for the States to evade the provisions of the Constitution and it would also be easy for the Centre to evade the provisions of the Constitution by encroaching unnecessarily on the State legislations, which are perhaps better, by merely stating that the States may bring into force the central law as and when they desire. I hope when the hon. Deputy Minister replies to this discussion he will reply to this very important question relating to the Constitution.

Apart from the constitutional aspect, my submission would be that this Bill is only giving some responsibility to the States. The Centre has nothing to do with the actual implementation

of the Act. The Commissioner will be appointed by the State. The actual implementation of the law will be done through the State by the Commissioner. The States will have even the option to bring into force this Act as and when they please. Therefore, instead of bringing such a Bill, if the Centre think that there is a good deal of merit in this Bill, they should have persuaded the State Governments, especially in those States where there are a large number of religious trusts, to adopt such a measure as their own and bring these things into force. That would have been more logical, I would submit. Merely passing an Act with some pious wish that the States will adopt that as against their own Act, where there may be conflict, is not, I would submit, a very wise thing to have done.

Another point that I wish to bring to your notice is, this is not the opportunity moment to bring this Bill before this House. On 1st March, 1960 the Government of India appointed a Commission of Enquiry to enquire into the affairs relating to Hindu religious endowments, and that Committee is expected to submit its report by early 1961. I do not know whether the hon. Deputy Minister will try to make a fine distinction between religious trusts and religious endowments, but it is quite evident that there is very little difference between religious trusts and religious endowments in our country. Therefore, it is inevitable that a Commission of Enquiry like the C. P. Ramaswami Aiyar Enquiry Commission is bound to make certain very important observations and recommendations regarding religious trusts. It would have, therefore, been better if a Bill of this nature were brought before this House after the accumulated experience of the different religious trusts and endowments throughout the country were pooled together by that Commission of Enquiry and their recommendations made available to the Members of this House who could

have then made a more effective contribution to the debate.

Now, as I have stated, many of the States have their laws on Hindu religious endowments. Many States also have their Wakfs Acts. What is the intention of Government so far as this Bill is concerned? Is it their intention that over and above the Commissioner of Religious Endowments who functions in many of the States, it is proposed to ask the State Governments to have another Commissioner for Religious Trusts. As was rightly pointed out by some hon. Members, particularly Shri Khushwaqt Rai and Shri Rama Krishan Gupta is this measure intended to be applied only to religious trusts and not to charitable endowments also. Even if we concede that, is it the intention of Government to have another Commissioner, namely, Commissioner of Charitable Endowments or Charitable Trusts?

15 hrs.

As the House knows most of the trusts in the different States do all these functions. I personally do not find any distinction between religious trusts and religious endowments or charitable trusts. But even supposing for the sake of argument that there is some legal distinction between these three types, it is evident that most of the endowments, by whatever name we may call them, temples for example, *mutts* for example, they carry on the same functions. They are religious endowments, they do charity and they discharge the functions of religious trusts. So should we say that each of these *mutts* or temples which fulfil these three requirements should be under the jurisdiction of three different Commissioners; a Commissioner of Religious Endowments, a Commissioner of Religious Trusts and a Commissioner of Charitable Endowments or Charitable Trusts, as it may be. I have the experience of the state of Orissa. There there is a Commissioner of Religious Endowments and to meet

[Shri Supakar]

the expenses of his office and to enable him to discharge his functions properly and efficiently all these charitable endowments have to pay 3 per cent of their income for defraying the expenditure of the establishment of the Commissioner of Religious Endowments. This Bill also provides that religious trusts will have to pay 3 per cent of their income for defraying the expenses of the establishment of the Commissioner of Religious Trusts. If they pay three plus three plus three per cent, one to the Commissioner of Religious Endowments, one to the Commissioner of Religious Trusts and one to the Commissioner of the Charitable Endowments, who is likely to come into the picture in the near future.....

**Shri Ranga:** And to a lot of middlemen.

**Shri Supakar:**.....what religious work, or charitable work will they be doing?

Apart from the fact that the trust or the endowment has to pay 3 per cent to the Commissioner, the trustees or the persons in charge of such religious endowments or religious trusts have to incur a lot of other expenditure like litigation, appearing before the endowments commissioner, engaging lawyers etc., etc. The expenditure is not really 3 per cent, but much more. If they have to go through this process, I do not know what will be the fate of charities or religious endowments after all that.

These are some of the points which strikes one at first sight. Another important aspect is the exemption of Mohammadan wakfs, institutions governed by the Sikh Gurdwara Act of 1925, the Parsees, the Jews and the Christian community. We were reassured in the morning when we learned that so far as the Sikh Gurdwara Act of 1925 is concerned, that is confined to the state of Punjab and there-

fore those gurdwaras which are outside that State will come under the purview of this piece of legislation. So far as Mohammadan wakfs are concerned there is another law, but no reason has been put forward either in the Statement of Objects and Reasons or in the opening speech of the hon. the Deputy Minister why the Christian, the Parsee and the Jew communities were exempted from the provision of this Act.

**Shri Ranga:** This is only a beginning.

**Shri Supakar:** We know that the Bombay Act which was passed in the year 1950 did not exempt the Christian, Parsee and Jew religious community in spite of the fact that there is a large section of them living in that State. If Government want to make an exception in the case of these three communities I wish to know for certain the reason behind it. If Government contends that their religious trusts are better administered and there is no lacuna so far as the administration of their trusts is concerned, I have no quarrel, because I do not know the details of the trusts of these communities. But theoretically speaking, even if we agree with the contention that their trusts are very well managed, still there is no reason why an exception should be made in their favour. Government should come out with very strong reasons why an exception is being sought to be made. As we have seen during the past decade or so, even before India attained independence, though our Government poses itself to be a secular State and caters to the needs of all the communities of India, we feel that it is only the Hindu community and the Jains, because they are governed by this Act, are guilty of mismanaging their religious or charitable endowments and the other communities are not so. If that contention is true, I wish to know the reasons, with statistics, if any available, to justify such an assumption. I stand wholeheartedly for secularism, but secularism must

mean even justice for all communities and not only justice but equal treatment. If the Government wants to be the guardian or the patron for best management of such religious trusts or charitable endowments, there is no reason why such a guardianship and such an overall auditing and principles of good management should not be extended to other communities.

I had many other points to make but I would not press them at the present moment. I do hope that the Deputy Minister, at the time of reply, will make it a point at least to reply to the point made about the applicability of article 254 of the Constitution and satisfy this House whether after the passing of this Bill, the State Acts which are in force in the States now will not be repealed or become void to the extent of the repugnancy and also whether any such repugnancy could be avoided or the State laws becoming void could be avoided by merely saying that they will not bring into force the present measure after this is passed.

**Shri Maniyaganadan** (Kottayam): As regards this Bill, I am of the view that in a secular State like India, where all religions and religious institutions are expected to be protected, it is rather a dangerous ground for the Government to step in to bring in a legislation for controlling religious activities. This Bill is confined purely to religious trusts. Religious trust has been defined in sub-clause (e) of clause 2. The "person interested" in relation to a religious trust has also been defined in clause 2 (c). The definition is:

"any person who has a right to worship or to perform any rite, or to attend at the performance of any worship or rite in any religious institution connected with such trust, or to participate in any religious or charitable ministration made under such trust."

If these things are going to be controlled by a Commissioner or other

officer appointed by Government in a country like India where there are various religious customs, I am afraid the action of the Commissioner is likely to be mistaken or even objected to. Anyhow, I do not say that this Bill is unnecessary. There are other pieces of legislation which will cease to exist by the passing of this Bill. It was stated here that there are other pieces of legislation now in force in various States in India. Maybe there were very serious complaints regarding the management of religious trusts. The only justification for the Government to step in would be the receipt of very serious complaints by persons belonging to those religious or beneficiaries of the trusts that the trusts are being mismanaged and that some protective measures are necessary. Maybe there were such complaints and the Government might be justified in bringing in such a legislation. But, all the same, I would submit that certain provisions of this Bill are very stringent.

15.14 hrs.

[SHRI MULCHAND DUBE in the Chair]

Take, for example, clause 11 which deals with the budget. The Commissioner is given powers, of course subject to sub-clause (3), to modify the budget. Here we must remember that the object of the trust is only concerning religious matters, and the trustees who are generally persons interested in carrying out the objectives of the trust prepare the budget, and power is being given to a Government officer to modify it. It may happen that that person has no interest in the trust; he may belong to another religion. In the circumstances, such wide powers given to the Commissioner are, according to me, too much.

There is provision for a board. As regards the personnel of the board, they are respectable people, but how much they are interested in carrying out the objectives of the trust has not been mentioned in the Bill. If the budget has to be modified, my submission is that it must be modified on

[Shri Maniyangadan]

the advice of the board but there must be a provision in the Bill to the effect that the board is really interested in carrying out the provisions or the objects of the Bill.

Take next clause 19 of the Bill. When there is mismanagement, the Commissioner is given certain powers but the term "mismanagement" has not been defined in the Bill. What exactly is mismanagement must be specifically mentioned. Otherwise, the Commissioner may be exercising his powers unnecessarily. Among other things, clause 19(1) says:

"...the Commissioner has reasons to believe that the affair of the religious trusts are being mismanaged or that the trustee is neglecting or failing to discharge the obligations imposed on him by the deed of trust,..."

So, if the trustee fails to discharge the obligations imposed on him by the trust, I can admit his mismanagement, but something more is contemplated by this provision. Over and above the failure, mismanagement is also included. I would like to know what exactly is mismanagement by a trustee of a religious trust contemplated under this provision.

Regarding clause 34, some of my hon. friends expressed their disapproval to certain provisions whereby certain religions have been exempted from the provisions of this Bill. As I submitted earlier, a law of this nature should be brought into force or the Government should contemplate the bringing into force such a piece of legislation only if there is a demand from persons who are interested in such things. My hon. friend from Thiruvella stated that there are complaints both inside and outside this House that certain religious trusts have mismanaged their powers and they have funds at their disposal for political and other purposes. I do not know to which religion he referred.

We come from the same State, and I do not know if he refers to the religion to which he claims he belongs or to some other religion.

**Shri Vasudevan Nair:** To all religions.

**Shri Maniyangadan:** That is why many wild and vague allegations without any specific reason can be made against any person or community or religion or party. But that should not be the basis for legislation. There must be specific allegations and they must be based on facts.

Another friend said certain missions use their funds for political purposes. I have heard that allegation in this House and also outside. Here it is not for me to refute it or go into the function of missionaries. But I may submit it has been established beyond doubt that no mission utilise their funds for political purposes. Assuming for the sake of argument that some missionaries are utilising the funds at their disposal or their position for political purposes, I do not understand how it can be controlled by bringing the religions to which those missionaries belong under the purview of this Act.

This Bill as at present is only concerned with religious trusts. Funds may be at the disposal of persons from other sources. The question is whether those funds belong to religious trusts. I can understand my friend from Thiruvella pleading that all religions should be brought under the purview of this Act. There is a tendency in certain quarters to curtail the present freedom enjoyed by several religions in India. I must respectfully submit that if the religious activities of minority communities in India are interfered with by bringing legislations like this, it will be interference with religious freedom guaranteed by the Constitution.



Complete religious freedom, religious worship and religious propaganda are guaranteed by the Constitution. If in the name of religious trusteeship, these persons are attempted to be brought under the purview of Government legislation and Government officers are allowed to control their activities, I submit it is interference with religious affairs and it will be against the spirit and the provisions of the Constitution.

I submit that the exemptions provided for in the Bill should be retained. There has never been any complaint from any Member of the religions which are exempted that their affairs are being mismanaged, whether it be the Jew, Christian or Parsi community. There has been no complaint that their religious heads are mismanaging the affairs and the funds are being utilised for any purpose other than the purpose for which it has been intended. So, these exemptions are placed here with the best of intentions.

Personally I am of the view that no religious trust should be brought under the control of Government. But of course, if it is necessary, I am not objecting to it, but I only submit that religions which have hitherto given no reason for such interference should be exempted, and it has been rightly accepted in the provisions of this Bill.

The question is whether there has been any allegation of mismanagement. There may be vague allegations due to political motives. Anybody can make such allegations. But is there any demand from persons who are the beneficiaries of the trusts? For example, take the Christian religion. Is there any person belonging or claiming to belong to Christian religion who has hitherto demanded that their religious institutions should be brought under the control of Government? To my knowledge, no such instance has hitherto occurred. So, unless there is a strong public demand, Government should never interfere with the affairs of

other religions, in the name of religious trusts. These exemptions which are there in the Bill should be retained. I also submit that certain other provisions should be made more lenient. Also, the powers given to the Commissioner should not be so great as contained in some of these provisions.

I hope the Joint Committee will look into all these matters.

**Dr. M. S. Aney:** Sir, the Bill before this House is one which has evoked considerable interest and a very interesting debate also. Probably the mover of the Bill might not have thought that it will raise a storm of opposition to the extent which we have seen today. Member after Member has attacked this Bill on the ground that this Bill amounts to an interference with the religious actions of the people. Of course, the hon. Deputy Minister in charge of the Bill will no doubt give his own reply also.

I was one of those diehards in the old days—one of my old colleagues is sitting by my side and he will bear testimony to it. Whenever there used to be a Bill to legislate on any religious or social matter, I used to stand to oppose it invariably on the ground that it was a religious matter, which under an unwritten law, the British Government had admitted to be outside its jurisdiction. I used to feel pained when our own men used to bring in non-official Bills which would give them jurisdiction over these matters, which they never claimed. I did not allow the foreign Government to do anything of that kind as I did not want by bringing Bills of that kind to place before the whole world that we are unable to manage our own affairs. That was the ground on which I used to take strong objection to this interference by means of legislation in matters, religious and social.

Things have changed, times have changed and those dark days through

[Dr. M. S. Aney]

which we have lived have also ended. We have now a Government of our own creation. What strikes me most is that still we find that the general attitude of the people towards this Government is the same as it was towards the British Government. Why is it so? It is a reflection to a great extent that having ourselves ruled for nearly 12 years and run the administration of the country for 12 years, we have not been able to inspire among the people a sense that it is their own Government. It is more like the Government which we have fought against. We still feel that the Government is something like a foreign body, which should be kept aloof, particularly from the religious and social activities of the people. Let them dabble with economic and other matters, but at least the religious sphere should be kept sacrosanct and free from their encroachment. That tendency is still in our minds. At least the opposition now is a kind of proof of the old tendency of sticking to the practice, that is, non-interference in matters of religion by the Government, still surviving in the minds of all. Let us see.

I was really thinking of giving my whole-hearted support to this Bill but when I read the Bill I found, after all, the scope of this Bill is reduced to such an extent that it has remained for the Hindus of such States as might like to have it. That is what it has come to. If you read the clauses, in the first clause it has been stated: "It shall come into force in a State on such date....." It is all right. Then it says "It extends to the whole of India except the State of Jammu and Kashmir". I do not know why the "State of Jammu and Kashmir" was excluded but I find that in all our legislation we make it a point to exclude "Jammu and Kashmir".

**An Hon. Member:** Nagaland also.

**Dr. M. S. Aney:** That will come later on. That has not found even a place in the statute book yet. That will come later on. In the old laws we generally used to find it said "It shall not apply to Santhal Parganas and some other States". That used to be the invariable practice. When the scope of a Bill that was passed by the Imperial Legislative Council was defined it used to say "It shall come into force all over India except Santhal Parganas and some other States" because they were thought to be outside the scope of the legislative authority of the Legislative Councils of the Government of India.

**Shri Hajarnavis:** It is a political fact, not a legal argument.

**Dr. M. S. Aney:** The hon. Minister need not explain. It explains nothing more than our unwillingness to make laws for them for such time as our present understanding exists there. However, that is immaterial.

Secondly, I thought that at least for the whole of India for the first time a Bill is being brought, which was being introduced as a uniform law. Then I found, later on, it was not so. There were clauses 34 and 35 which reduce the scope of the Bill. It shall not apply to Sikh Gurdwaras to which the Sikh Gurdwaras Act, 1925 applies. It shall not apply to the Durgah Khawaja Saheb, Ajmer, to which the Durgah Khawaja Saheb Act, 1955 applies or to any other wakf as defined in the Wakfs Act, 1954 or in any Provincial or State Act relating to wakfs in the State. Then again, for any religious trust existing or created for the purpose of Christians, it shall not apply; for Jews it shall not apply; for Parsis it shall not apply. The only section that remains is Hindus and Neo-Buddhists. They are the new elements and these are the old things, whose religious endowments and trusts are going to be governed by this Act. Even in their case there has been room left here. In the first place, there is power in

the hands of the Commissioner to exempt a religious trust or class of religious trusts to which a special enactment applies from the operation of any other laws. Besides, other provincial or State laws are also mentioned here. My hon. friend himself has stated that it shall come into force only if any State Government wants to have it. Otherwise, it does not come into force there. So, this sovereign legislative body is making a law without knowing to whom it will apply and who are likely to get the benefit of it. In that position we are dealing with a very important question with which the Indian people are really concerned.

However, having said something about the very narrow and limited scope of this Bill, I shall deal with one or two other points which, in my opinion, are important. I admit the necessity of having some kind of central legislation to control matters which are religious. That is my own conviction nowadays. I think our country consists of so many people, divided among themselves in the name of religion, and if there is going to be any unifying force at all, it shall be only by the exercise of the power by the sovereign government. Then only can a unifying force be created among them so that they can have and practise religion and its usages and act up to their religion and carry on their religious activities in such a way as not to create any clash among themselves in a spirit of harmony. That spirit of harmony is to be introduced among the people of all religions if this democracy is to work properly in the country. If India is a democracy and this democracy has to work properly in this country in a true democratic spirit, a spirit of harmony among people professing different religions has to be created. Each religion left to itself without any guiding force, has a tendency to run away from the other. That is the tendency of religion. So, this tendency of running away from each other in the name of being more and more reli-

gious has to be curbed. Therefore, a central organisation under the control of the Central Government has to be created which shall bring about a kind of machinery that shall keep all these different religious forces in their proper position and make them work in a spirit of harmony and friendliness. I am of that opinion now.

That is one of the reasons why on more than one occasion I pleaded a Ministry of Religion should be established. Religion is such a big subject which covers so many matters that a Ministry of Religion should be established. It shall be the duty of the Ministry of Religion to tackle all the religious subjects in such a way as to create a situation convenient and congenial to all people following different religions. That has to be created.

I do not want to enter on this matter at length at this stage but one of the things I have been thinking for the last few years is that if this modern democracy is to be run and the ancient spirit of Indian culture is to be preserved then it has to be saved from foreign and alien ideas that have been coming into the country and if Indian culture is to be kept true and pure then some Ministry which shall be in a position to take a comprehensive view of the religious faiths and practices is necessary. It should devise and find out means so that all may be able to practise different religions without feeling or entertaining any bad feeling about the other and creating, on the other hand, a sense of harmony so that the existence of different religions, instead of being a source of impediment, will be a source of new strength and progress in the country. Some such thing is wanted.

Being of that view, the old attitude of mine of opposing any measure that amounted to some kind of interference with religious practice has considerably changed. I give this as my explanation for the support which

[Dr. M. S. Aney]

I am going to lend to the measure which my friend, the hon. Deputy Law Minister has brought before you now. But even while giving my support I want to know how they are going to have trusts registered, how are they going to appoint the Commissioner and give him an advisory body? These are the things that I want to know. The Commissioner is given all the powers. His powers in this case are—I do not want to use the word 'despot'—very wide and he is the sole master there.

**Mr. Chairman:** He may resume his seat if he has finished.

**Dr. M. S. Aney:** I will take only five minutes.

**Mr. Chairman:** He can take two more minutes.

**Dr. M. S. Aney:** The powers of the Commissioner, as defined in clauses 17, 18, 19 and 20, are such as shall have to be looked into very carefully by the Joint Committee.

Secondly, you have got these various advisory boards. I want to know as to what will be the function of these advisory boards? This whole Bill does not define that. It has been left to be defined by rules to be framed. I believe when you are going to give an advisory board to assist the Commissioner in carrying on the administration of these religious trusts, it is fair that this House should know as to what the functions are which the advisory board is going to exercise. Those are not mentioned here. At least an indication of those functions should be made clear in the Joint Committee which is to consider this Bill.

Thirdly, about the composition of the advisory board, I would like to say, having explained to you that the Bill virtually deals with Hindu religious trusts and nothing else, that it should be made incumbent upon the Commissioner, whoever he may be,

not to have on that advisory board anybody who does not belong to the faith of the trust to which it shall belong. If they are governing only Hindu religious trusts, the members of that board should be Hindus only, none else.

I am not enunciating a new principle. When this Buddhist affair was discussed as regards the Buddhist Temple at Gaya, our Buddhist friends insisted upon having only Buddhist members there but I succeeded in getting somehow or other one Hindu member on that board because at that time I happened to be the Governor.

So this being a religious body or religious concern, men who have got sympathy with the religion of the Hindus should be there. I shall give you one example and shall then resume my seat. There is a trust like that of a well-known religious institution in Vidarbha. I do not want to name the institution. It used to manage the affairs all right, but it used to collect every year some money which was lying with them in balance. There was a considerable amount of money. It so happened that there was an idea of having a church there. The missionaries wanted a church. The Commissioner was one of the members of that trust and it was decided that some portion of that surplus which they had should be given for this work because it was also building a temple of God, never mind whether it was a God which was not understood by people of other religions. All I would have said about this is that it was a kind of misappropriation that was being made by that board of which one of the big officers was the head.

Therefore, if you want to keep this trust with a view to see that it is carried on on the lines which the founders of that trust had in their mind, see that those men share in those convictions and those beliefs. This is another point which, I hope, the Joint Committee shall bear in mind. If you do not do that the

objects of the trust would be defeated because I find from the speeches of some of my hon. friends here that they oppose that the doctrine of *cypres* can be applied. Even that they do not like. Religious funds may be used for any good purpose which should be understood as a religious purpose in spite of the fact whether that purpose is consistent with the original purpose with which the trust was founded or not. Somebody may create a fund and say that out of this an *atithishala* should be run. Now you may think, "Let me give this money to some other charitable institution mentioning some other religious purpose". It may be good work, but that kind of thing will defeat the object itself.....

**Mr. Chairman:** The hon. Member's time is up. Even the extra two minutes are over.

**Dr. M. S. Aney:** I will sit down. This will be the last sentence

My submission is that these advisory boards or their members should be there to promote the objects with which the original trust was founded and not to do anything which will be inconsistent with it. I hope these remarks will be borne in mind by the hon. Members who are in the Joint Committee and they will see that the scope of the Bill, though narrow, does some good and that it will make things better.

**Shr Kalika Singh:** Mr. Chairman, Sir, the Constitution of India in article 26 provides a fundamental right which reads as follows:

"Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

(a) to establish and maintain institutions for religious and charitable purposes;

(b) to manage its own affairs in matters of religion;

(c) to own and acquire movable and immovable property; and

(d) to administer such property in accordance with law."

In clause (c) above, there is a provision that every institution shall have the right to own and acquire immovable property. Clause 16 of this Bill provides as follows:

"No transfer by a trustee of any immovable property of a religious trust by way of sale, mortgage, gift or exchange or by way of lease for a term exceeding three years shall be valid, unless it is made with the previous sanction of the Commissioner."

If the right of transfer is curtailed, the right of ownership is extinguished.

After the Madras Religious Endowments Act was passed, in 1953 the Supreme Court declared many of its sections as *ultra vires* and invalid only because they contravened the provisions of article 26 of the Constitution.

**Shri Hajarnavis:** May I assure the hon. Member that when the Bill was drafted every aspect was considered in the light of the pronouncement of the Supreme Court? If there is any particular aspect which, according to him, we have not taken into consideration it may be brought to our notice.

**Shri Kalika Singh:** The point that I was making was that in drafting this Bill and in enforcing its provisions we should always be reminded of the provision in article 26 of the Constitution.

**Shri Achar (Mangalore):** I may point out that there is such a provision in the Madras Religious Endowments Act and the Supreme Court has not held that as *ultra vires*. There is exactly the same provision in the Madras Act.

**Shri Kalika Singh:** The Madras Act has been passed again and now that has been held to be valid.

Here the Commissioner has been empowered to administer the religious trust; throughout India in all the States. Every State will now have a Commissioner and there will be Assistant Commissioners and Deputy Commissioners appointed under this Bill by the State; or by the Central Government. All the religious trusts shall have to apply to the Commissioner for registration. One thing is not made very clear here. The difficulty that crops up always is about public and private endowments. There is no distinction between the two because seldom have we trust deeds. In 95 per cent. of the cases of religious endowments—even in the case of very big ones—they are just oral and they have to be enquired into. Now, if the Commissioner calls upon the persons under this Bill to apply for registration, it will be very difficult for those persons to distinguish between public and private endowments because this Bill covers only public endowments and a 'religious trust' has been defined as a trust existing or created for public purposes of a religious nature. This question is always investigated by the courts of law and the test to determine whether a trust is a public trust or a private trust is so difficult that a volume of documents are produced on both the sides and then the court comes to the conclusion that it is a private trust or a public trust. But here there is a sweeping provision under clause 6 which says that "it shall be the duty of the trustee of every religious trust to make an application to the Commissioner for the registration of the trust".

**Shri Hajarnavis:** May I read for the hon. Member's benefit the very clear statement of law by Mulla about what constitutes a private endowment:

"When property is set apart for the worship of a family god in

which the public are not interested, the endowment is a private one".

This is a very simple question depending upon the facts which the Commissioner will enquire into, and if there is any one aggrieved by that order he can move the High Court. The matter is not complicated at all.

**Shri Kalika Singh:** That is not the point I am making out. I say that under clause 6 it will now be the duty of every person to get the trust registered. And clause 25 provides that if any person fails to apply for the registration of a religious trust within the time specified, he shall be punishable with fine which may extend to even one thousand rupees. It is that penal provision to which I am drawing attention to. And when the case goes to the court of law—the cases go up to the Supreme Court—it is very difficult for the courts to find out whether it is a public trust or a private trust. Now, suppose a general notification is issued and a person does not apply. He thinks that it is a private trust and therefore, why should he apply for registration? And some officer goes and says, "you did not apply within six months and so you are punished under this law". It is very difficult for a person to point out to the court that it is a private trust or a private religious endowment, that the provisions of the Religious Trusts Act do not apply and that therefore, he should not be punished. Therefore, that provision should be made more clear, that the Commissioner should find out, he should have some data, some criterion and only then the court should have a right to punish that person if he does not apply for registration.

Then there is another provision about the removal and the appointment of trustees. Section 92 of the Civil Procedure Code and section 14 of the Religious Endowments Act were the two provisions under which the States, which had not got their

own special laws, used to apply in the courts of principal jurisdiction. And the district judge used to remove the trustee for mismanagement or appoint a trustee. But here the provision for the appointment of a trustee is very stringent. Clause 21 which deals with this says:

"When there is a vacancy in the office of trustee of a religious trust and there is no one competent to be appointed as trustee under the terms of the deed of such trust or where there is a *bona fide* dispute as to the right any person to act as trustee or where there is a vacancy caused by the removal of the trustee under section 19 or section 20, the Commissioner may... appoint" etc.

Whether it is a vacancy caused by death or by removal or by resignation, all of them now come under this clause, and the Commissioner will appoint the trustee—like Lord Dalhousie. In those days, whenever a State had a vacancy, the power of appointment vested in the Governor. So here also I find that even if it is a case of a vacancy caused by death or by resignation, even then the Commissioner will have to appoint. It is a very large power that has been given. So far it has been the function of the courts to find out if there is any vacancy: so many heirs come and fight in the court of law, they prove their claim and they are declared as heirs of the last trustee. But here the jurisdiction of the civil courts is barred everywhere. Clause 20 says, "Notwithstanding anything contained in any other law for the time being in force, no civil court shall entertain any suit or proceeding in so far as it relates to any question or matter which the Commissioner is empowered by this Act to decide." So everywhere, where the Commissioner now functions, the jurisdiction of the civil courts is barred. If there is a question of succession or a question of transfer, if the Commissioner says that

"this property shall not be transferred" it means that that matter also cannot be taken to the court. The deed may provide that for such and such beneficial measures the trustee may have the right to transfer. In that case the jurisdiction of the courts ought not to have been barred, because barring the jurisdiction of the courts or controlling it too much may contravene the provisions of article 26 of the Constitution of India.

Then, clause 34 says that the provisions of this Act shall not apply to any Sikh Gurdwara to which the Sikh Gurdwaras Act, 1925, applies or any religious trust existing or created for the benefit of Christians, Jews or Parsis or any section thereof. I think clause 35 would have been sufficient. Clause 35 states that "the State Government may, by notification in the Official Gazette, exempt any religious trust or class of religious trusts to which any special enactment applies from the operation of all or any of the provisions of this Act." Clause 35 is already there under which the Government can exempt any class of trust or trusts. Therefore, by the provision of that very clause you could have excluded Christians, Jews, Parsis and Sikh Gurdwaras. But to legislate here in Parliament by clause 34 that the provision of this Act shall not apply to this and that community—some of my hon. friends pointed out rightly that we are again legislating only for Hindus, and not legislating for Muslims, Sikhs, Jains or Christians, Jews or Parsis—introduces an element of communalism. Therefore, Parliament should make a uniform law. There should be a safeguard and it should be for the Government under notification to exempt any trust under clause 35. Therefore, I suggest that clause 34 should be deleted.

**Shri Tyagi:** I have not much to say except that I congratulate the Government on such a nice measure that they have put before the House for their consideration. It was a much needed measure: the country as a whole was feeling its need for a long time past.

[Shri Tyagi]

But it is a pity indeed that there are some unnecessary provisions. I will take only one point. Clause 34 says that the provisions shall not apply to any Sikh Gurdwara to which the Sikh Gurdwaras Act, 1925, applies. I think it was not necessary to mention this. We could have said in vague terms that they would not apply to any such trusts as have been covered by other laws. That would have been much better, rather than mentioning that they do not apply to Sikhs, so that they may not get annoyed. And then it says that it shall not apply to the Durgah Khawaja Saheb, Ajmer. Very good. Logically it is all right, because we have already enacted a law for it. Therefore, two laws cannot apply to one institution. But why mention all that here? You could easily say that this shall not apply to any such charitable institution as is governed by any other law. That would have been better. It looks rather bad to say that "it will not apply to the Durgah Khawaja Saheb Act, 1955, applies or to any other wakf as defined in the Wakf Act, 1954, or in any Provincial or State Act relating to wakfs in any State"—then worse it is—"or any religious trust existing or created for the benefit of Christians, Jews or Parsis or any section thereof". What is this? Are we not the guardians of the interests of the Christians? Are we denying ourselves the honour of legislating for the Jews or Parsis? Are we a Hindu Parliament that we should enact only for the Hindus? It looks rather bad; it smacks of a sense of cowardice. This is something, every time trying to appease every section . . .

**Shri Naushir Bharucha:** If my hon. friend will not mind my intervention, so far as the Parsi community is concerned, there are about a thousand trusts which are already operating under an Act which is far more stringent than this Act, in Bombay. And ninety-nine per cent are covered.

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**Shri Tyagi:** Therefore, it would have been better if we had mentioned that it will not cover such charitable institutions as are covered by other Acts. Parsis, everybody would be covered.

**Shri Naushir Bharucha:** That is true.

**Shri Tyagi:** Because, they are already governed by some other Act of Parliament. We cannot have two Acts for one institution. Therefore, my suggestion is—I hope the hon. Minister would kindly consider this—not to mention by name Sikh Gurdawara. We may say, all those institutions which are covered by other Acts.

Then, it is said, not only those which are existing for the benefit of Christians, Jews or Parsis, but also those which may come hereafter. They too will not be governed. That does not look quite well in a State which we claim to be secular. If we at all enact, we must enact in such terms as may at least look secular in meaning or reading of it.

I have to point out only one thing. Otherwise, the rest of the Bill, I wholeheartedly welcome because the provisions are good and the State Governments are given enough power to exercise their discretion in all matters which they will do according to the Constitution and according to the conditions of each trust. There is one thing to which my hon. friend also referred that is about oral trusts. There are some religious trusts like *mandirs*. There are big *mandirs*. There is one Paspupathi *mandir* in the South,—I do not know what its name is—about which it is known that it has crores of rupees worth of gold put into a well. People go on making presents and they go into the well. There is the Nathdwara *mandir* in Rajasthan, a much reputed *mandir* for



its thefts. Many people are involved and quite a lot of scare was created in the press about the Nathdwara mandir. I do not know whether such trusts whose objects are not fully defined or mentioned in so many words will be covered. Will they also be covered? I do not know whether these mandirs will come under the definition of trusts at all. That may be made clear. It is not clear to me as a layman. I am doubtful about it.

There are other institutions where there are lots of properties entrusted to mahants who get it from father to son, hereditarily. Their functions are not at all defined. They carry on as if it is their private property. Will they be treated as trusts or will they continue as private property?

There is another thing which might be defined. The Commissioner may be in a position to make definite allotments for the personal use of the trustees. Could any provision be made that sum exceeding a certain percentage of the annual income of a trust cannot be used by a trustee for his own private purposes and the rest of the amount must go for charitable purposes? Because, in many institutions this distinction does not occur and it is left to the goodwill of the trustee, mahant or anybody in charge of such religious trust and he can spend as much as he chooses on his children or he may spend anything on charity or not at all spend. Is this Commissioner not going to have the right of defining as to how much will go to the trustee himself? At present, a trustee enjoys lakhs worth of income. Trustees are income-tax free. Their personal expenditure is also practically income-tax free because it is trust money. Trusts do not come under the Income-tax Act. Therefore, I suggest that further authority may be given to the Commissioner to authorise the States to define as to how much a trustee can utilise for his own personal purposes.

श्री शंकर देव (गुलबर्गा-रक्षित-अनुसूचित जातियाँ) : सभापति महोदय, इस रिलिजस ट्रस्ट बिल को देखने के पश्चात् मैं इस नतीजे पर पहुँचा हूँ कि इस बिल को लाने की कोई आवश्यकता नहीं थी और गवर्नमेंट की तरफ से धार्मिक स्वतंत्रता को कायम रखने के बारे में कुछ किया जाना चाहिये था। अब तक ऐसा समझा जाता रहा है कि धार्मिक क्षेत्र में भगवान निवास करता है और कानून का बंधा नहीं पर नहीं है। वहाँ पर अगर कोई किसी प्रकार का पाप करने के लिए आता था तो वह खुद परमात्मा से डरता था और पाप नहीं करता था। वहाँ पर भी अगर कानून का डंडा अब पहुँच गया तो मैं समझता हूँ कि वहाँ से भगवान भी डंडे के डर से भाग जाएगा। इसलिए मैं समझता हूँ कि वहाँ पर धार्मिक स्वतंत्रता रहनी चाहिये और उसमें कानून का दखल नहीं होना चाहिये। जब यह कानून पास हो जाएगा तो जो इंस्पेक्टर इत्यादि हैं वे वहाँ जायेंगे, हिसाब किताब पूछेंगे और जो जो चंदा देते हैं उनके नाम इत्यादि भी जानने की कोशिश करेंगे और हो सकता है कि गुप्तदान देने वाले भी दान देना बन्द कर दें। अब उनको तमाम एकाउंट्स इत्यादि रखने पड़ेंगे और धार्मिक स्थानों में भी वही तमाम खराबियाँ आ जाएंगी जो कि किसी कम्पनी इत्यादि में आती हैं। सके बाद आगे चल कर हो सकता है कि कम्पनियों की तरह वहाँ भी टैक्स इत्यादि लगाने जैसी चीजें आ जाएँ और वह भी एक बिजनेस की तरह से हो जाए। जब ऐसा हुआ तो इन स्थानों की पवित्रता जाती रहेगी, धार्मिक भावना खत्म हो जाएगी जो कि हमारे देश के लिए अच्छी चीज नहीं होगी। मैं समझता हूँ कि धार्मिक क्षेत्र के अन्दर किसी भी प्रकार का इंटरफीरेंस नहीं होना चाहिये और इसको यहाँ पर पेश करने से पहले इन सब बातों पर विचार किया जाना चाहिये था और इसको पेश नहीं करना चाहिये था। यह एक ऐसा क्षेत्र है जहाँ पर गवर्नमेंट का हस्तक्षेप कम से कम होना चाहिये।

### [श्री शंकर देव]

आज विनोबा भावे यही कहते हैं कि हम शासन रहित शासन चाहते हैं। शासन रहित राज्य की अगर स्थापना करनी है, अगर शासन रहित राज्य का प्रारम्भ करना है तो हम इसकी शुरुआत टैम्पल्स से, रिलिजस इंस्टीट्यूशंस से ही कर सकते हैं। वहाँ पर भी अगर गवर्नमेंट अपना शासन प्रारम्भ कर देगी तो मैं नहीं समझता कि शासन रहित राज्य की स्थापना कभी भी हो सकेगी।

मैं समझता हूँ कि अगर वाकई वे वहाँ पर कुछ बुराबियाँ थीं, और उन बुराबियों को दूर करने की आवश्यकता थी तो इसके दूसरे उपाय हो सकते थे और उनको अपनाया जा सकता है। अगर वहाँ पर कुछ कौरप्टन है, मिसप्रोप्रियेशन वगैरह है, तो उसका अन्त करने के लिए कानून की आवश्यकता नहीं थी, कमिश्नर को एवाइंट करने की आवश्यकता नहीं थी, इस बिल को मूव करने की आवश्यकता नहीं थी। उन चीजों को दूर करने का एक उपाय यह ही सकता था कि धार्मिक भावना रखने वाले जो बड़े बड़े लोग हैं, जो सन्यासी लोग हैं, विनोबा भावे जैसे लोग हैं, वे वहाँ पर जा कर प्रवचन करते और लोगों के अन्दर धार्मिक भावना जागृत करते और इन बुराइयों का इस तरह से अन्त अपने आप हो जाता। इस तरह से यदि कार्य होता तो उसके परिणाम जल्दी निकलने की आशा की जा सकती थी और वे स्थायी भी होते। इस तरह के कानून पास कर देने से हो सकता है कि उन स्थानों को भी पोलिटिकल अगुआ बना दिया जाए। हम देखते हैं कि गुड्डारों के अन्दर आज क्या हो रहा है। मास्टर तारा सिंह यही कह रहे हैं कि उनके प्रबन्ध में गवर्नमेंट श्वाहम्साह दखल दे रही है। इसलिए मैं अनुभव करता हूँ कि इन स्थानों में जहाँ पर पालिटिक्स अभी तक पड़ चुकी नहीं पायी थी, पालिटिक्स पड़ चुकी जाएगी, इसका प्रारम्भ हो जाएगा। इसलिए मैं इस बिल का अपने दिल से विरोध करता हूँ और चाहता हूँ

कि इस बिल को मूव करने से पहले गवर्नमेंट हज़ार बार इस पर गौर करती।

मेरी समझ में नहीं आया है कि गवर्नमेंट की क्या पालिसी है। एक तरफ तो म्युनिसिपल बोर्डों के अन्दर, लोकल बोर्डों के अन्दर, शासन के अन्दर अधिक से अधिक विकेन्द्रीकरण की, डिसेंट्रलाइजेशन की बात बह सीच रही है और कर भी रही है और दूसरी तरफ वह धार्मिक क्षेत्र के अन्दर घुस कर अपना दखल बढ़ाना चाहती है और उनके प्रबन्ध में भी अपना हाथ रखना चाहती है। एक तरफ तो विकेन्द्रीकरण का वह नारा लगाती है और दूसरी तरफ केन्द्रीकरण की प्रवृत्ति इतिहास हो रही है। उस क्षेत्र में जहाँ पर किसी भी प्रकार का शासन का इंटरफीरेंस होना ही नहीं चाहिये, जहाँ पर पालिटिक्स घुसना तक नहीं चाहिये वहाँ पर इंटरफीरेंस भी हो रहा है और पालिटिक्स भी घुसेगा। मैं समझता हूँ कि इस मामले में हम ज़बर्दस्ती करने की कोशिश कर रहे हैं और यह बात देश हित में नहीं होगी। हमें चाहिये कि जिस क्षेत्र में हमारा कार्रोंस, हमारा अन्तःकरण काम करता है उसमें हम लोगों को अधिक से अधिक स्वतंत्रता दें और उसमें धार्मिक स्वतंत्रता हर प्रकार की होनी चाहिये। ऐसी शूरत में मैं समझता हूँ कि इस बिल का कोई भी फायदा नहीं होगा।

जैसा पूर्व वक्ताओं ने कहा है कि इस बिल में डिफेक्ट हैं और उनको रिमूव किया जाना चाहिये। इस बिल को डाफ्ट करते समय मालूम पड़ता है कि हि दुर्गों का ही ध्यान रखा गया है, हिंदु धर्म को ही दृष्टि में रखा गया है और उनके धार्मिक स्थानों के सुधार को ही ध्यान में रखा गया है। हमारे त्यागी जी ने कहा कि दूसरों कर्मों में शायद वह कुछ डर रहे थे और मैं समझता हूँ कि यह बात दुस्त भी है। इस तरह के बहुत से डिफेक्टस बहुत सी कमियाँ गिनाई जा सकती हैं लेकिन फेडरल तौर पर मैं यही कहूँगा कि दूसरे

क्षेत्रों के मुकाबले में धार्मिक क्षेत्र में कम से कम कोरप्शन है। यह ठीक हो सकता है कि मिसएप्रोप्रियेशन बहुत सी जगहों पर होता है लेकिन उसको खत्म करने का यह तरीका बिल्कुल नहीं है। जहाँ पर कानून पहुँचेगा वहाँ पर कोरप्शन और मिसएप्रोप्रियेशन और भी अधिक बढ़ेगा और कम होने की तो आशा ही नहीं की जा सकती है।

इन शब्दों के साथ मैं इस बिल का विरोध करता हूँ और समझता हूँ कि इस बिल को यहाँ पर लाने की कोई आवश्यकता नहीं थी और उनकी स्वायत्तता को नष्ट नहीं होने दिया जाना चाहिये।

श्री अ० मु० तारिक (जम्मू तथा काश्मीर): जनाब चेयरमैन साहब, इस बिल को मैं, जिन मकासिद को पेशेनजर रखते हुए पार्लियामेंट में पेश किया गया है, खुशआमदीद कहता हूँ। लेकिन मुझे इंतहाई अफसोस है कि उस हिन्दुस्तान में जिस हिन्दुस्तान में महात्मा गांधी ने हमको यह सबक दिया था कि "ईश्वर अल्ला तेरे नाम, रघुपति राघव राजा राम" इस तरह के बिल को, जिसके मानी यह होते हैं कि इसका एक हिस्सा मुसलमानों पर लागू नहीं होगा, दूसरा हिस्सा पासियों पर लागू नहीं होगा, तीसरा हिस्सा सिखों पर लागू नहीं होगा, यहाँ पेश किया गया है। इसमें कहा गया है कि यह ईसाइयों पर लागू नहीं होगा और दूसरों कुछ और पर लागू नहीं होगा। मैं अर्ज करना चाहता हूँ, इत्तजा करना चाहता हूँ कि कम से कम इस बिल को लाते वक्त हमें अलफाज और अलफाज के मकासिद को तो पेशेनजर रखना चाहिये था और देखना चाहिये था कि दूसरी कौमों पर इसका किस कदर असर पड़ सकता है। आप किस वजह से मुझ पर एहसास कमतरी लाना चाहते हैं? क्या मैं इस मुल्क का बाशिन्दा नहीं हूँ, क्या हिन्दुस्तान की आजादी में मेरा हाथ नहीं है? अगर हूँ तो फिर क्यों आप मुझ पर यह हावी करना चाहते हैं कि त्यागी जी सुपीरियर हैं और मैं इनफीरियर हूँ या भरूचा साहब इनफीरियर हैं। भरूचा साहब ने अभी कहा कि पासियों के

यहाँ एक्ट है जो बहुत अच्छा है। मैं समझता हूँ कि वजीरे कानून का यह फर्ज था कि वह ऐसे तमाम एक्ट्स को जमा करते और जो उनमें अच्छी अच्छी बातें हैं, उनको इस बिल में जगह दे कर, इसको हाउस में पेश करते। एक नाकिस एक्ट जो मुझ पर हावी नहीं होता, भरूचा साहब पर हावी नहीं होता, सिर्फ त्यागी जी पर हावी होता है लाकर आप ठीक काम नहीं कर रहे हैं। उस सूरत में आप इसको हिन्दू एक्ट कह सकते थे, आप इसको जमहूरियत का एक्ट नहीं कह सकते हैं क्योंकि आप इसको गलत मानों में पेश करते हैं।

श्री त्यागी: इसको हिन्दू ट्रस्ट एक्ट कहा जाय।

श्री अ० मु० तारिक: हिन्दू ट्रस्ट बिल कहें, तो मुझे कोई एतराज नहीं होगा। मुझे एक एतराज है तो यह कि यह सिर्फ हिन्दुओं के लिए है।

मैं बहुत सी जयारतों के बारे में जानता हूँ जिन में हिन्दू पैसा देते हैं। मैं जानता हूँ कि अजमेर की दरगाह में मुसलमानों से ज्यादा हिन्दू जाते हैं और पैसा देते हैं, अकीदत रखते हैं। एक ऐसा एक्ट जो कि हिन्दू, सिख, मुसलमान ईसाई वगैरह सब पर हावी हो सकता इस हाउस में लाया जाना चाहिये था।

Shri Naushir Bharucha: Why not apply it to Jammu and Kashmir first?

श्री अ० मु० तारिक: उस में मैं कुछ नहीं कह सकता हूँ, वह आप समझ लें, आप का मसला है।

मैं वजीर साहब से यह तबक्कह रखता हूँ कि वह इस पर एक बार फिर गौर करें और कोशिश करें कि इस बिल को सैक्युलर शकल दी जा सके। मैं उनसे यह नहीं कहता कि वह मुसलमानों की सरपरस्ती करें। लेकिन मैं उन से और उन से ही नहीं बल्कि हकूमत चलाने वालों से यह तबक्कह रखता हूँ कि वे मुसलमानों, सिखों, ईसाइयों, पासियों वगैरह को अकलियतें तो मानें लेकिन इन सब को

[श्री अ० म० तारिक]

बराबर समझने की कोशिश करें और समझें कि ये सब इस मुल्क के बाशिन्दे हैं ।

इन अलफाज के साथ मैं उम्मीद करता हूँ कि इस मसले पर गौर किया जायगा और साथ ही साथ दफा ३५ और ३६ के बारे में फिर से सोच विचार होगा ।

शरी अ० - ایم - طارق - (جسوں اور کشمیر) - جناب چیئرمین صاحب اس بل کے مقاصد کو پیش نظر رکھتے ہوئے پارلیمنٹ میں پیش کیا گیا ہے - میں خوش آمدید کہتا ہوں - لیکن مجھے انتہائی افسوس ہے کہ اس ہندوستان میں جس نسلدہان میں ہی مہاتما گاندھی نے ہم کو یہ سبق دیا تھا کہ ایشور اللہ تیوے نام رکھتی راگھو راجا رام - اس طرح کے بل کو جس کے معنی یہ ہوتے ہیں کہ اس کا ایک حصہ مسلمانوں پر لاگو نہیں ہوگا - دوسرا حصہ پارسیوں پر لاگو نہیں ہوگا - تیسرا حصہ سکھوں پر لاگو نہیں ہوگا - یہاں پیش کیا گیا ہے - اس میں کہا گیا ہے کہ یہ عیسائیوں پر لاگو نہیں ہوگا اور دوسروں کچھ اور پر لاگو نہیں ہوگا - میں عرض کرنا چاہتا ہوں - التجا کرنا چاہتا ہوں کہ کم سے کم اس بل کو لاتے وقت ہمیں الفاظ اور مقاصد کو تو مد نظر رکھنا چاہئے تھا اور دیکھنا چاہیئے تھا کہ دوسری قوموں پر اسکا کس قدر اثر پڑ سکتا ہے - آپ کس وجہ سے مجھ پر احساس کمترین لانا چاہتے ہیں - کیا میں اس ملک کا باشندہ نہیں ہوں - کیا ہندوستان کی

آزادی میں میرا ہاتھ نہیں ہے - اگر ہوں تو پھر کیوں آپ مجھ پر یہ حاوی کرنا چاہتے ہیں کہ تیلاگی جی سپیریور ہیں اور میں انفریور ہوں یا بہروچا صاحب انفریور ہیں - بہروچا صاحب نے ابھی کہا کہ پارسیوں کے یہاں ایکٹ ہے جو بہت اچھا ہے - میں سمجھتا ہوں کہ وزیر قانون کا یہ فرض تھا کہ وہ ایسے تمام ایکٹس کو جمع کرتے اور جو ان میں اچھی لکھی باتیں ہیں ان کو اس بل میں جگہ دے کر اس کو ہاؤس میں پیش کرتے - ایک ناقص ایکٹ جو مجھ پر حاوی نہیں ہوتا - بہروچا صاحب پر حاوی نہیں ہوتا - صرف تیلاگی جی پر حاوی ہوتا ہے لاکر آپ ایک کام نہیں کر رہے ہیں - اس صورت میں آپ اسکو ہندو ایکٹ کہہ سکتے تھے - آپ اس کو جمہوریت کا ایکٹ نہیں کہہ سکتے ہیں - کیونکہ آپ اسکو غلط معنوں میں پیش کرتے ہیں . . .

شری تیلاگی - اسکو ہندو ٹرسٹ ایکٹ کہا جائے -

شری اے - ایم - طارق - ہندو ٹرسٹ بل کہیں تو مجھے کوئی اعتراض نہیں ہوگا - مجھے ایک اعتراض ہے تو یہ کہ یہ صرف ہندوئوں کے لئے ہے -

میں بہت سی ذہانتوں کے بارے میں جانتا ہوں جن میں ہندو پیسہ

دیتے ہیں - میں جانتا ہوں کہ اچھیر  
کی درگاہ میں مسلمانوں سے زیادہ ہندو  
جاتے ہیں اور پیسہ دیتے ہیں عقیدت  
رکھتے ہیں - ایک ایسا ایکٹ جو کہ  
ہندو - سکھ - مسلمان - عیسائی وغیرہ  
سب پر جاری ہو سکتا اس ہائوس  
میں لیا جانا چاہئے تھا -

**Shri Naushir Bharucha:** Why not  
apply it to Jammu and Kashmir first?

شری اے - ایم - طارق - اس میں  
میں کچھ نہیں کہہ سکتا ہوں . وہ  
آپ سمجھ لیں - آپ کا مسئلہ -  
میں وزیر صاحب سے یہ توقع رکھتا  
ہوں کہ وہ اس پر ایک بار پھر غور  
کریں اور کوشش کریں کہ اس بل کو  
سیکولر شکل دی جا سکے - میں  
ان سے یہ نہیں کہتا کہ وہ مسلمانوں  
کی سرپرستی کریں - لیکن میں ان  
سے اور ان سے ہی نہیں بلکہ حکومت  
چلانے والوں سے یہ توقع رکھتا ہوں کہ  
وہ مسلمانوں - سکھوں - عیسائیوں  
پارسیوں - وغیرہ کو اقلیتیں تو  
مانیں لیکن ان سب کو برابر سمجھنے  
کی کوشش کریں اور سمجھیں کہ یہ  
سب اس ملک کے باشندے ہیں -

ان الفاظ کے ساتھ میں امید کرتا  
ہوں کہ اس مسئلے پر غور کیا جائیگا  
اور ساتھ ہی ساتھ دفعہ ۲۴ اور ۳۵ کے  
بارے میں پھر سے سوچ وچار ہوگا -

**Shri Hajarnavis:** I express my pro-  
found gratitude to the House for the  
reception which it has accorded to

this Bill. The one or two dissentient  
voices that have been heard opposing  
the principle of the Bill have only  
served to bring into bold relief the  
almost unanimous support which this  
measure has received from the House.

Some suggestions have been made  
to improve some provisions and the  
drafting. I am quite certain that the  
Joint Committee will take them into  
consideration. I will not carry long  
on them except to say that they will  
be placed before the Joint Committee.

One or two important points of  
criticism I must deal with. One was  
that this Bill seeks to trespass on the  
religious freedom of certain com-  
munities. I entirely deny the charge.  
If we concentrate our attention on  
the operative part of the Bill, Clause  
5, we will find that not only does the  
Bill not try to interfere with any  
trust but it tries to safeguard them.  
It tries to place at the disposal of the  
trusts the whole power of the State  
so that the trusts are executed in  
accordance with the objects for which  
they have been created. I will read  
Clause (5) again:

"Subject to the provisions of  
this Act, the Commissioner may  
do all such things as may be  
reasonable and necessary to  
ensure that all religious trusts  
within his jurisdiction are pro-  
perly administered and that the  
income thereof is duly appro-  
priated and applied to the objects  
of such trusts and in accordance  
with the purposes for which such  
trusts were founded...."

So, the basic power that has been  
granted to the Commissioner is to see  
that the administration of the trusts  
is carried on in accordance with the  
objects of the trusts. So long as the  
trusts are being executed in accord-  
ance with the original objects, the  
Commissioner has no power to inter-  
fere at all. The Commissioner can  
step in only if there is dereliction in  
the execution of the Trust. Even  
this power of the Commissioner is  
subject, as I pointed out, to the

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jurisdiction of the High Court. If there is any wider assumption of jurisdiction by the Commissioner, surely any such irregularity will be corrected by the High Court.

Then, I will again read Clause 11(3). Clause 11(1) does give power to the Commissioner to suggest and make changes in the Budget, but Clause 11(3) says that this power has to be exercised only in accordance with the original objects of the trust. It is also made clear:

"Nothing contained in subsection (2) shall be deemed to authorise the Commissioner to restrict or prohibit the observance of any religious belief...."

Therefore, the whole purpose of the Bill is to safeguard the religious beliefs of the persons who have created the trust, who have set apart a portion of their property for the creation of the trust. The persons who will be hit by this Bill are only those who intend to divert the funds to their own purposes instead of applying them to the objects of the trust. Therefore, the purpose of the Bill is to safeguard religious freedom and to see that once a religious trust is created, it continues to be executed year after year under the supervision of the Commissioner and under the judicial superintendance of the High Court in accordance with the purpose of the trust.

It was said that if you give the Commissioner power to find what the objects of the trust are and whether breaches have been committed, you are encroaching upon religious freedom. I have not been able to understand that argument at all. When we know that a person owes a certain duty in accordance with rights created, then there must be an authority to determine if he is exercising those rights in accordance with law, in accordance with the objects of the trust. So, that authority will, in the first instance, determine if the exer-

cise of power granted to the trustees is in accordance with the terms of the trust. Otherwise, he becomes a judge in his own case. Simply because he is a trustee of a religious trust, we cannot leave it open to him execute the trust in his own way as a matter between his conscience and his God. We cannot leave it to him to say whether the real objects of the trust are being fulfilled or not. There must be an external authority. No one has suggested, nor have I read any text in any religion which would deprive the State of its responsibility to see that property which has been imposed with a religious trust is managed well or which would prevent supervision and control by the State. The supervision is only undertaken for the purpose of respecting the trust.

The question to which the Commissioner addresses himself first is this. What are the objects of the trust? Having determined them, and having made a record of them, he continuously watches the administration of the trust to see whether the actual expenditure of the trust is or is not in accordance with the objects of the trust. If there is any deviation, he can certainly take action. If there is any complaint in regard to the determination of the Commissioner, then we have placed him under the appellate jurisdiction of the High Court. Therefore, an honest trustee sincerely discharging his duties is fully protected. There is no provision in the Bill which empowers any authority or enables any governmental authority, so long as the objects of the trust continue to exist, to divert any part of the funds to any purpose other than the objects of the trust.

Therefore, I respectfully submit that the whole object of the Bill is to see that the religious freedom which every person in this country enjoys, and which is guaranteed to him by the Constitution, is fully protected for him. If I may say so, it would indeed be a contradiction in terms to

say that a person shall be a trustee and he shall be the sole judge to consider whether he is administering the trust or managing the trust in accordance with the original creation. What the trust should be is for the person who creates the trust to determine; as to how the trust should be executed, discretion may be vested in the trustee. But whether that discretion is being exercised properly or not is a question which must be determined by an independent authority, namely the courts, and, therefore, the courts cannot be deprived of their authority at all.

The next point that was made was this. We have provided an advisory board to advise the Commissioner. It has been said that what exactly the scope of the advice should be is left to be determined by the rules. My hon. friend Dr. M. S. Aney has said that the advisory board should have larger powers. Speaking for myself, I think that the matter may be left as it is, allowing conventions to be developed to govern the relations between the advisory board and the Commissioner. I am quite sure that a Commissioner who intends to work harmoniously will be guided in most cases by the advice which he receives from the advisory board which will be composed of such distinguished persons. To say that he will pay due regard to the advice that he receives from the board is one thing, and to say that this board shall sit with him in a judicial capacity is quite another. I am not quite sure whether many members of the advisory board would be prepared to serve on the advisory board, if it were expected that they should discharge the judicial functions of the Commissioner and that they should be associated with him each time. He goes and makes the enquiries into the various cases, which the Bill will require him to do. That would mean that it would be a tribunal consisting of the Commissioner and such members of the advisory boards as probably may be prescribed by the rules, and they will have to sit throughout. From

there, the appeal will lie to the High Court. The question which then arises is whether we are going to burden the members of the advisory board with such onerous duties, and whether they will undertake to attend day to day the Commissioner's office in order to be concerned in these judicial proceedings. I respectfully submit to the House that I do not think many members, especially when we have members of the State legislatures and other members of Parliament, would be prepared to be associated with the day-to-day administration of this Act. I, therefore, think that the provision that has been made is a very workable provision.

Another question was raised as to why in spite of the fact that there are various State Acts covering various regions in various States, we should undertake a Central legislation. In the first place, Parliament alone is competent to legislate for the Union Territories, and, therefore, we have to legislate. It is also a fact that many of the laws such as the law in Madras or the law in Bombay or the law in Mysore are far in advance of this particular measure.

I was really surprised when I heard my hon. friend Shri Mohammed Imam, whom I know to be a very progressive person, criticising, after all his experience as a legislator and as a Minister in Mysore who probably administered this Act in Mysore, that the control of the trust is somehow or other trespassing into a region of religious liberty. He is aware that so far as the Muslim trusts are concerned, which are called wakfs, they are governed by the Muslim Wakfs Act and these provisions have been in force for a long time.

I must also tell my hon. friend Shri A. M. Tariq that it is not a question of Muslims being treated in an inferior manner. I might tell him that under the Muslim Wakfs Act, there are provisions very similar to those contained in this Bill. It is the other communities which did not get

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the benefit of this law. Therefore, there is no question of Muslims being treated differently. It is the other communities that are trying to rise to the level of the Muslims, that is, the enlightened level of the Muslim community. The Muslims have all along submitted themselves to the control of the State and the supervision of the State, so far as their own trusts are concerned, and they have never objected. Therefore, I am surprised that such an objection should have come from my hon. friend Shri Mohammed Imam. The most important part of his observation was that religious trusts shall be quasi-judicial, and that they should be thoroughly independent, and that they shall continue to be administered by the Trusts. I might submit that there would be only a supervising authority trying to see whether the law is being properly administered or not.

Then, my hon. friend Shri Supakar raised an objection under article 254. I am surprised that such an objection should come from such an experienced lawyer and such a keen student of constitutional law as my hon. friend.

**Shri Supakar:** I do not claim to be that.

**Shri Hajarnavis:** He will see, by reading article 254 and the marginal heading, that the application of article 254 arises only if there is inconsistency between two laws. To start with, I would say, there is only one law which applies; there cannot be two laws being applied in the same territory. If there are two Acts or enactments operating in the same territory, then one yields to the other. It may be that when two Acts are put together, some provisions of the one may apply and some provisions of the other may apply. So, if we are asked the question as to what the law is, we have to see what provisions we are considering. Here, Article 254 gives the test, namely that if there is a repugnancy between

the two Acts, the law made by Parliament or the State Act, as the case may be, shall prevail. The Supreme Court and the Privy Council have said that repugnancy arises if the two laws are inconsistent with each other in the sense that they cannot both be executed together. So that the conditions for application of article 254 of the Constitution are, if I may say so, two in number. In the first place, both laws must apply. Secondly, they must be repugnant to each other. In the Bill we have drafted, clause 1(3) says that it shall come into force only after notification by a State. Till a State has notified, this law does not apply at all to that State. Therefore, no question of repugnancy arises under article 254 till this law is applied to a State.

As I said, there are State laws. The law in the Bombay State is much more progressive than the Central Act. We have not been able to go as far as the Bombay Act which is working exceedingly well and has given satisfaction to all the communities; we have not been able to do that. As I see it, the Government of Bombay will refuse to apply this law; they are bound to say that their Act is very much better than our Act. But in case they find some virtue in this law, they will first have to repeal their own Act. After that, they will have to notify this law. I do not think that any State Government is, if it is rightly advised—I am not going to say, if it is in the right mind—while its own Act, which it considers better law, continues to be in force, going to notify this Act. So no question of repugnancy can ever arise. I do not see any difficulty at all there.

Secondly, as I said, there are communities which have laws of this kind. There are regions which have laws of this kind, better laws on this subject. What we are trying to do is to bring the States which have been lagging behind, or even the Union Territories, in line with other



States. After all, let us not forget that under article 44 of the Constitution, we are bidden to have one uniform civil code for the whole of India. Uniformity of laws is one of the strongest forces which will consolidate any people, any community. Now there is a movement not only in the legal field but in other fields under which nearly all the laws are falling into the same pattern. We started with various land tenures in various States. But land tenures are being simplified. After some time, I think after about five or ten years, I am quite sure that there shall be only one kind of land tenure, that of a holder from a State. All the distinctions in land rights that we used to know of, between *kuccha maurisi* and *pucca maurisi*, *sir* and *Khud-Kasht*, have already disappeared and shall further disappear.

As regards personal laws, similarly certain features are common to the whole society, irrespective of the community to which the members thereof belong. The Hindus did not recognise the right of a daughter to succeed. She has now been given that right. The point I am making is that there is now a movement afoot for unification or uniformity of law—subconsciously. This is one of the strongest elements of nationalism in this country. It ought to grow.

Therefore, the question, why we should have a Central legislation of this kind, is one which ought not to be asked. There should be more and more legislation of this type which would try to standardise the laws which are applicable to the whole of the country. After all, those subjects in which the States can have their autonomy are covered in List II. They have their own laws and their own patterns. Even in those matters, as I said, a new uniformity is emerging. One State profits by the experience of the other. If one State has industrial court of a particular type and finds that it works well, it will have legislation of the same type. So even unconsciously, even without

there being the necessity, uniformity is emerging. This is one country and one nation and we should have, as far as possible, one law. To make this a ground of criticism is something I have not been able to understand.

The other points are, if I may say so, suggestions in regard to drafting for which I am grateful to hon. Members. I am quite sure the Joint Committee will take due notice of those suggestions. I again express my gratitude to hon. Members who have extended support to the Bill; I am also thankful to them for drawing the attention of Government to the necessity for this Bill by their persistent interrogation. Though the goods were sometimes painful, we must acknowledge that but for them probably we would not have acted so promptly.

There is one other matter mentioned by one hon. Member to which I must refer before I close. We have now appointed a Committee under the chairmanship of that distinguished jurist and eminent public man, Dr. C. P. Ramaswami Iyer. It is only his high sense of duty and spirit of public service which have induced him to accept this office at this age. The law we are now trying to place before the House contains only the barest minimum. I am quite sure that when suggestions of the Committee come, we shall be able to place them before the House, take our decision and attempt to implement them. But we thought that having deliberated upon the question for so many years, we ought not to put off this elementary Bill which, as I explained earlier, is concerned only with registration and the maintenance of accounts which are basic duties which any trust may be expected to discharge.

**Shri Supakar:** May I ask one question? The idea of registration is apparently borrowed from the U.K. Act. But of what practical use, at least so far as statistical knowledge is concerned, will it be if we exclude

[Shri Supakar]

Christian, Parsee, Jew and other religious trusts? We do not get full information.

**Shri Hajarnavis:** It is not merely for statistical purposes that this is done. Registration enables us to locate the institution with which we have to deal, just as registration and taking out of a licence by a motor driver enables us to locate him.

**Mr. Chairman:** I shall first put the motion for circulation to the vote of the House. The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st October, 1960".

*The motion was negatived.*

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

"That the Bill to provide for the better supervision and administration of certain religious trusts, be referred to a Joint Committee of the Houses consisting of 45 members; 30 from this House, namely, Shrimati Mafida Arned, Pandit Braj Narayan "Brajesh", Shri V. Eacharan, Shri S. C. Gupta, Shri R. K. Khadilkar, Shri Krishna Chandra, Dr. Pashupati Mandal, Shri C. Krishnan Nair, Shri Ghan-shyamal Oza, Shri Chintamani Panigrahi, Shri C. R. Pattabhi Raman, Shri Khushwaqt Raj, Shri N. G. Ranga, Shri Jaganatha Rao, Shri M. Thirumala Rao, Shri K. R. Sambandan, Shri Bholi Sardar, Shri Ajit Singh Sarhadi, Lt. Col. H. H. Maharaja Manabendra Shah of Tehri Garwal, Shri Prakash Vir Shastri, Shri Mahendra Nath Singh, Shri N. Siva Raj, Shri Nardeo Snatak, Shri V. N. Swami, Shri Ram Sahai Tiwari, Shri Manikya Lal Verma, Shri Pende-kanti Venkatasubbaiah, Shri Radhela Vyas, Shri K. G. Wode-yar and Shri Asoke K. Sen and 15 members from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the end of the first week of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of members to be appointed by Rajya Sabha to the Joint-Committee".

*The motion was adopted.*

16.10 hrs.

#### PLANTATIONS LABOUR (AMENDMENT) BILL

**The Deputy Minister of Labour (Shri Abid Ali):** Sir, I beg to move that the Bill further to amend the Plantations Labour Act, 1951, be taken into consideration.

The proposed amendments are mostly based on the recommendations of the Industrial Committee on Plantations and have been drawn up in full consultation with the State Governments and the organisations of workers and employers.

One group of amendments relates to the scope and coverage of the Act. As hon. Members will recall, the principal Act is applicable to plantations of a prescribed minimum size as measured in terms of acreage and the number of workers employed. Unfortunately, there have been instances where estates have been split up into fragments smaller than the minimum