

Despite these short-comings, we are of the opinion that the country possesses a number of newspapers of which any country may be proud."

With that I end, Madam I am very grateful to the various Members for their suggestions. After all this Bill aims at rectifying the conduct of those newspapers and journalists who have erred against professional standards; that is precisely the object of this Bill.

Thank you, Madam.

THE DEPUTY CHAIRMAN: I shall now put the amendment to vote. The question is:

"That the Bill to establish a Press Council for the purpose of preserving the liberty of the Press and of maintaining and improving the standards of newspapers in India be referred to a Joint Committee of the Houses, consisting of 45 Members; 15 Members from this House, namely—

1. Shrimati Violet Alva
2. Shri Arjun Arora
3. Shri K. Damodaran
4. Shri R. R. Diwakar
5. Shri U. S. Dikshit
6. Shrimati Indira Gandhi
7. Dr. Gopal Singh
8. Shri Akbar Ali Khan
9. Shri A. D. Mani
10. Shri Lokanath Misra
11. Shyam Nandan Mishra
12. Shri Narla Venkateswara Rao.
13. Shri Mulka Govinda Reddy
14. Pandit Bhawaniprasad Tiwary
15. Shri A. B. Vajpayee (Mover)

and 30 Members from the Lok Sabha:

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

That in other respects, the Rules of Procedure of this House relating

to Select Committees shall apply with such variations and modifications as the Chairman may make;

That the Committee shall make a report to this House by the first day of the next session; and

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

The motion was adopted.

THE DEPUTY CHAIRMAN: We go to the next item on the Order Paper—

The Wakf (Amendment) Bill, 1964.

THE WAKF (AMENDMENT) BILL, 1964

THE MINISTER OF PETROLEUM AND CHEMICALS (SHRI HUMAYUN KABIR): Madam, I move:

"That the Bill further to amend the Wakf Act, 1954, as passed by the Lok Sabha, be taken into consideration."

I have, Madam, great pleasure in introducing this Bill in this House, for it deals with a type of activity which is of great importance not only to the Muslim community but, I think, to the entire nation. In fact, the institution of Wakfs is one of the greatest contributions which Islam has given to world civilisation and culture in some ways. It is perhaps the first type of legal trusts of which we have evidence in history, and from the very beginning these trusts have aimed at benefiting all members of the human family without regard to caste, creed or community. From the very outset these Wakfs in Islamic countries, and in countries where Islam was introduc-

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and later, have served members of different religions and have offered the benefits to all regardless of their particular nationalities. It was therefore natural that in India also, during the days when there were a number of rulers in different parts of the country, they also introduced the system of Wakfs, and in this way served humanity at large. We have in various parts of the country properties which have been dedicated for the service of education, for the service of charity, and for the service of offering relief in various other forms, and as a result we find that these Wakfs have spread throughout India. Recently, a survey of the Wakfs in India has been undertaken. This survey is not yet complete, but even this incomplete survey indicates that the estimated number of Wakfs in India is almost a hundred thousand, and the value of these Wakfs has been estimated at about 150 crores of rupees. The House will probably be interested to have some idea of where these Wakfs are distributed. Punjab seems to lead and it certainly reflects very well on the generous and brave people of Punjab, who have in many respects made a great contribution to national life. In respect of Wakfs also we find that in Punjab, in Western Punjab, which was a part of what was the original Punjab as we knew it before the partition of the country and attainment of independence, and which is Eastern Punjab today in India, even in that smaller area there are about 25,000 properties valued at Rs. 20 crores. Andhra Pradesh comes second with about 20,000 Wakfs valued at about Rs. 10 crores, second in number of Wakfs but not in valuation. In valuation we find that in Rajasthan there are only about 16,000 Wakfs but the valuation is about Rs. 20 crores, or perhaps a little more. And this will again be of interest to Members of the House that a very large number of Wakfs created in Rajasthan were created by non-Muslims for durgahs, mazars, mosques and for

various other social purposes. In fact we find throughout India that in these Wakfs there is a great deal of give and take between the communities, and in this way the Wakfs have served as a great unifying factor among the different communities in the country, and I have no doubt in my mind that in the coming years also, after these Wakfs are properly developed and utilised, they will again serve as a great factor for cementing the bonds of friendship between the different communities of this country. After the decay of Mughal rule, for almost a hundred years, Wakfs were neglected, and perhaps this was not surprising. This was partly perhaps because the British had taken the attitude of what they called complete neutrality or non-involvement in all matters relating to the religions of the different communities of India, and partly because they did not understand or perhaps they were not interested in them. And to some extent there might also be some element of competition between these Wakfs and many of those missions which were established in all parts of the country. Here we should admit that many of these missions have rendered signal service in various social activities, in the educational field, in running hospitals and various kinds of relief work. But unfortunately there was, whatever may be the reasons, neglect of the Wakfs for almost a hundred years. As soon as political consciousness in the country began to grow and we had the beginnings of self-government in 1921, discussions and interest about the reform of the Wakfs began and the first Central Wakf Act was passed in the year 1923. That was soon after followed by Wakf Acts in other parts of the country. Bengal was the first Province to have its own Act and it was passed in 1934. That was followed by U.P. in 1936. In Delhi there was an Act in 1943 and in Bihar in the year 1947. While these Acts did render very great service and the Central Act was also useful, never-

theless, after the attainment of Independence, it was felt that some kind of a Central Act was necessary so that the work of these Wakfs in different parts of the country could follow, more or less, on a uniform pattern. As a result, a great deal of interest was taken by a number of legislators. Particular mention should be made in this connection, of the late Mr. Kazmi who rendered yeoman service in bringing forward a Bill. But it will not be unfair to his memory if I say that perhaps the moving spirit of the Central Act of 1954 was Maulana Azad and under his leadership Parliament passed the Central Act and placed on the Statute Book a permanent legislation which would make the administration of Wakfs throughout the country uniform and indicate the lines in which future development would take place. This Act applies to the whole country, but it is not in operation in certain States because in order that the Central Act may be operative in a particular State, the consent of the State Government is necessary. There are separate Acts in Bengal, Bihar and U.P. Jammu and Kashmir also is outside the purview of the Central Act. There are also certain parts of Maharashtra and Gujarat and certain other parts of the country which are governed by the Central Act. We are now holding discussions with all the State Governments so that a uniform Act may apply throughout the country and in this way there will be not only gain in uniformity of administration but as a result of exchange of experience and knowledge of the operations in different parts of the country, each Province, each State, will gain as a result of the experience of the others.

Since, 1954, while there have been many improvements in the administration of the Wakfs, there has also been a feeling that more reforms are necessary. Wakf Boards have been set up in different States and these Boards do not always have the powers that are necessary and there were certain lacunae observed in the course of

time. Therefore discussions have been held which began almost immediately after the Wakf Act was passed. In December 1960, Hazrat Mohammad Iqbal Sahib convened an Inter-State Conference and in this conference again there was exchange of opinions and information among people interested in Wakfs from all over the country. State Ministers, Secretaries to State Governments, Chairman of Wakf Boards from different States and Members of Parliament and a number of distinguished persons from various States participated in the discussions and laid down the general lines on which further reform was desirable. The recommendations of this Conference were considered by the Central Advisory Council and by various *ad hoc* committees. Last year I had the opportunity of discussing some of these proposals with Members of Parliament and I was very happy to find there was almost unanimity. In fact there was only one member—not here but in another place—who had certain reservations and objections. All the other members agreed that the lines in which the new Bill was being drafted were the right and proper lines. Therefore, I was very happy when I introduced this Bill to find unanimous support to the Bill. The present Bill which has been, as I have already stated, passed unanimously by the other House, is the result of these discussions which have taken place for almost ten years.

The Wakf Boards were established in 1954 and some of these Boards have already rendered signal service in the cause of Wakfs. They have also undertaken constructive activities. I will give only one or two examples. One of the Wakf Boards has a proposal to establish a technical institution near Doon in the Mao area which has till now been educationally backward. In Andhra, the Andhra Wakf Board has undertaken certain programmes for providing unemployment relief and also for giving technical training so that these people can find gainful occupation after they have received

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their training. The present Bill which seeks to strengthen the scope of these constructive activities gives additional powers to the Boards and it will, I am sure, be of great value to the Indian community in many ways. It will be of value because, firstly it will provide greater impetus for education and service of Muslims and will thus be strengthening one of the important sections of the Indian community and will thus strengthen the nation as a whole. Simultaneously it will also provide service to all the other communities, and what is more, it will bring the communities nearer by providing these common social services. I will give one or two examples to show the way in which this will work for bringing the communities nearer in this regard. Institutions for education, both general and technical, are the crying need of the country. Every day we hear that there is inadequate provision and there is no denying that non-official organisations, voluntary organisations, organisations based on humanitarian and charitable principles, can run these educational institutions with a degree of devotion and dedication which is not always found when they are run purely on bureaucratic methods or by the State. We may not like it, but it is a fact that many of these institutions because they are run by private voluntary organisations, seem to attract greater credit; they seem to attract greater popularity from the mass of the people. It is obvious that when educational institutions of this type are organised, they offer service to all. The Wakf funds can play a major part in creating such institutions as many Christian missions have already done, and in this way it can serve the entire nation; and they will certainly serve the Muslim community which in education and many other ways, has up till now not always been able to keep pace with the more advanced fellow citizens. The second way in which these Boards can help is in the establishing of hospitals and nursing homes. Here again service is offered to everyone and I think my friends

from Calcutta will remember the great service that the Islamia Hospital is rendering to all citizens. In fact, I have found that very often there is special attraction to these hospitals which are run on a charitable or voluntary principle and patients from all communities are not only catered for there but they seem to have a special attraction for these hospitals. The third way in which they can help is by establishing hostels and *musaffarkhanas* in various places where people can dwell. A fine example of it is the Indian Hospits in Jerusalem which I had the privilege of visiting about three years ago, and I am also happy I was able to help them in a way. These institutions founded some 200 or 300 years ago have been rendering yeoman service. There men and women of all creeds and communities from any part of the world can come and find hospitable accommodation for up to about a week. In all these various ways, Wakfs by providing these various services strengthen the community which it directly serves and simultaneously helps to bring together the different communities and thus strengthen the whole basis of national solidarity in our country.

Now Madam, I come to some of the major clauses of the Bill which I shall broadly divide into two divisions. Some of the clauses introduce some new ideas, not new in the sense that they are original, but new in the sense that they were not in the existing Act. The first is with regard to the definition of "Wakf". Under the existing Act there are many Wakfs which are outside its purview. One of the reasons given was that they were Wakfs created by non-Muslims and in this way the scope of activity of the Wakf was limited in certain cases. So the definition of Wakf has been broadened so that in future endowments made by non-Muslims also, for support of Muslim religious and pious institutions will come under the purview of this Act. Then in sub-clause 2(v) and clause 21 we have

in this way broadened the definition of Wakf so that all funds given to religious or charitable purposes under Islamic law will in future be governed by the Wakf Act. This is in accordance with Muslim law and is also in conformity with the local amendment which was made by the Madras State some time ago in order to include these Wakf funds within the purview of the Wakf Act.

The second explanation is in respect of the definition of beneficiaries. Under the existing Act, so far as the individuals are concerned, man or woman of any religion or community could be served by Wakfs but there are certain institutions or bodies under the existing Act which are limited to serve only if they are members of the Muslim community. It has been held that it is inconsistent with the spirit of Islam for under Islam charity must be universal and charity which is in any way restricted is to that extent not Islamic charity and, therefore, the definition of beneficiaries is being broadened so that in future these services and advantages will be available to all according to the principles of Islamic law. You will find it in clause 2(1)—“any object which is served by Muslim law” would be the extension which takes place as a result of this amendment. In clause 4, we are providing for a Central Wakf Council as a statutory body. Today, there is a kind of an advisory *ad hoc* body but it has no authority in law. Under section 62 of the existing Act, the Central Government is required, in certain cases, to issue directives to State Wakf Board but so long there was no way of consulting public opinion as to what should be the directives that should be issued and we felt that it would be desirable to have reactions of public opinion and to associate persons from public life with the Central Wakf Council so that there is a greater interplay of contacts between the Government and public opinion in giving any guidance to any of the State Boards. Clause 4 also pro-

vides for the establishment of a Central Wakf Fund. We have thought it necessary to have this provision because without a Central Wakf Fund many of the purposes which I mentioned earlier especially in the educational field, in the field of medical services, in the field of providing accommodation, could not be carried out. We have also broadened the scope of this Fund. Under the existing Act, there is no Central Fund. There are the State Funds but the State Funds consist only of amounts which are paid by the different Wakfs as a proportion of their income. They have no authority to receive benefactions, donations or charitable gifts from any one else and we felt that if we had a Fund of this type, both at the Central level in Delhi and in every State capital, this would be the source which would attract benefactions and donations from charitably-minded people and in this way build up a corpus by using which the charitable purposes I mentioned earlier could be fulfilled. In this connection, I would make a passing reference to one source of money which has not till now been utilised but which may prove a very useful source for augmenting the funds of the amount of the Wakf Fund. There are certain interests which are lying in banks and which are not used on religious grounds. There are certain individuals and certain institutions, certain wakfs which do not draw those interests. I have been advised that the religious divines have also now held that this money can be utilised for charitable purposes and when this money is made available to this Wakf Fund we shall start with a fairly substantial amount and some of the purposes that I have mentioned earlier can be more easily fulfilled.

Similarly, clause 7 again is not a new one but extends the principles which already exist in the existing Act. Under the existing law where the object of a Wakf fails, a State Wakf Board could divert money to some parallel, charitable, religious, social or educational purpose. Of

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course, where the purpose can be fulfilled—it is one of the first conditions of any trust and to that extent Wakfs are also trusts—the purpose for which it was created, it cannot be diverted and must first of all be fulfilled but if the objects are not there then the money can be diverted under the law of Cy-pres but there may be a case where the object does not fail but becomes inoperative in which case there is at present no way of dealing with the Funds excepting to go to a court. Since the State Wakfs and the Central Wakf Council will consist of representative members of the community it is desirable that they should have the power of utilising the funds for the service of the community and the country without having to go to a court on every single occasion. The proposed amendment will give this power to the Central Wakf Council and also to the State Wakf Boards. I have already referred to the major changes . . .

SHRI SYED AHMAD (Madhya Pradesh): What about clause 11?

SHRI HUMAYUN KABIR: Clause 11 is not an extension.

SHRI SYED AHMAD: You are adding a new section.

SHRI HUMAYUN KABIR: That is about administration and I will come to that in a moment.

I now come to this clause which deals with improvement of administration and the first clause I propose to take up is clause 11 which deals with the methods of recovery of Wakf property which has in the past been illegally alienated. In law, a Wakf property can never be alienated because it is not the property of any individual; it is the property which belongs to God; that is the theory. It

is just like a trust which cannot be alienated but in the past either through lack of knowledge or for worse reasons some of the persons who were in charge of Wakfs have allowed Wakf properties to be alienated or sometimes they have been alienated by themselves and the only remedy in the past was to go to the civil court. Now, all of us, Madam, are aware that when we go to a civil court not only is there a long and tedious process but very often we are not sure of the results. There are so many lacunae, so many qualifications. I do not know who described it but it is said that law at any one time is like the suit of clothes which you have given to a growing child the year before. It is always short; the pants do not fit at all. The child has outgrown them. Society is continually changing and it may have a set of laws which may have been established at some particular time. Therefore, it is not only a long and tedious process but it is also not certain. What we are now providing is an alternative method by which where it is a declared Wakf property and if such property is alienated, the Wakf can apply to the Collector and the Collector could issue a certificate to give possession but at the same time we are also taking care to see that nobody's just rights are in any way alienated. So, while on the one hand we are giving the Boards this authority to submit a requisition to the Collector, at the same time we are providing for an appeal against such an order by any particular individual who feels aggrieved. On the one hand we have tried to expedite the process of law and safeguard the interests of the Wakf property and on the other hand we have taken care to see that nobody's legitimate interests are harmed.

Clauses 12 and 13 strengthen the provision for removal of a mutawalli and clause 19 is a simplification of the procedure for instituting suits. It has been held at least by one High Court that permission is required both

from the Wakf Board and also from the Advocate-General. In future only the permission of the Wakf Board will be necessary.

These are the provisions of the Bill which I have the honour to present before the House and I hope, as they are intended, they will lead not only to improvement in the administration of the Wakfs but will also enable the Wakfs to perform that excellent social purpose for which they were instituted, namely, service of humanity, the creation of public funds for social service, provision of medical relief

and religious services and charitable services in accordance with the principles of Islamic law which want to extend these services to all members of the human community.

The question was proposed.

THE DEPUTY CHAIRMAN: The House stands adjourned till 11 A.M. tomorrow.

The House then adjourned at five of the clock till eleven of the clock on Wednesday, the 16th September, 1964.